

AT A REGULAR MEETING OF THE GLOUCESTER COUNTY BOARD OF SUPERVISORS HELD ON TUESDAY, MARCH 4, 2025, AT 6:00 P.M. IN THE COLONIAL COURTHOUSE, 6504 MAIN STREET, GLOUCESTER, VIRGINIA:

1. Call to Order and Roll Call

Mr. Smith called the meeting to order, and Ms. Steele took roll call.

THERE WERE PRESENT: Kevin M. Smith, Chair
Ashley C. Chriscoe, Vice Chair
Phillip N. Bazzani
Christopher A. Hutson
Kenneth W. Gibson
Michael A. Nicosia
Robert J. Orth

THERE WERE ABSENT: None

ALSO IN ATTENDANCE: Edwin "Ted" Wilmot, County Attorney
Carol Steele, County Administrator

2. Invocation and Pledge of Allegiance – Reverend McKibbon – New Freedom Worship Center and Devyn Hurling - Peasley Middle School

Reverend McKibbon of New Freedom Worship Center gave an invocation.

Devyn Hurling, an eighth grade student at Peasley Middle School then led all in attendance in the Pledge of Allegiance to the Flag of the United States of America.

3. Approval of the Minutes - January 21, 2025

Mr. Hutson moved, seconded by Mr. Chriscoe, to approve the minutes of the January 21, 2025, meeting as presented. The motion carried and was approved by a unanimous voice vote.

4. Adoption of the Agenda

Mr. Chriscoe moved, seconded by Dr. Orth, to adopt the agenda. The motion carried and was approved by a unanimous voice vote.

5. Approval of the Consent Agenda

Mr. Hutson moved, seconded by Dr. Orth, to approve the consent agenda. The motion carried and was approved by a unanimous voice vote.

a. Resolution Proclaiming March 9-15, 2025, as Flood Awareness Week in Gloucester County – Quinton B. Sheppard – Community Engagement & Public Information Director

RESOLUTION PROCLAIMING MARCH 9-15, 2025, AS FLOOD AWARENESS WEEK IN GLOUCESTER COUNTY

WHEREAS, Gloucester County is a coastal community that has experienced severe weather in the past in the form of extreme rainfall or tropical system events resulting in flooding in low-lying areas of the County; and

WHEREAS, this flooding has caused damage and flood losses to homes and buildings in all areas whether they are high-risk special flood zone hazard areas or low to moderate risk flood zones; and

WHEREAS, Gloucester County is a voluntary participant in the National Flood Insurance Program that provides residents with the opportunity to protect themselves against flood loss through the purchase of flood insurance at reduced insurance premium rates as well as setting higher regulatory standards to reduce the flood risk and potential flood damage to their property; and

WHEREAS, the reduction of life and property damage can be achieved when appropriate flood preparedness, control, and mitigation measures are taken before a flood; and

WHEREAS, public education and awareness of potential weather hazards and methods of protection are critical to the health, safety and welfare of residents, per guidance of the Virginia Floodplain Management Association and the U.S. National Weather Service, Gloucester County has declared March 9-15, 2025 as Flood Awareness Week to promote awareness and increase knowledge of flood risk, the availability of flood insurance, flood protection methods, and how to prepare for emergencies.

NOW, THEREFORE, BE IT RESOLVED this 4th day of March 2025, by the Gloucester County Board of Supervisors, Gloucester County, Virginia, undersigned, declares March 9-15 as Flood Awareness Week in Gloucester County, Virginia. Residents are encouraged to know their security risks by determining their flood zone and taking necessary steps to protect personal property.

6. Matters Presented by the Board

Dr. Orth stated that a gentleman had expressed concern at an earlier Board meeting about the water quality at his house. This was a condition that the utilities staff needed to address. He advised that staff started to dig on Friday to address it. He reviewed the work that was completed. He noted that he hoped the Board would now have good news from that citizen. He stated that the staff worked all day long, they were professional, and ensured that there were no leaks. He noted that we should be thankful for the dedicated staff in utilities. He thanked Ms. Legg for her great staff.

7. County Administrator Items

Ms. Steele reminded everyone that it was restaurant week in Gloucester. She stated that Clean Gloucester Day was coming up on March 29. Prior to that, every resident would be receiving a flood awareness guide. March 9-15 was Flood Awareness Week. She noted that Gloucester was a CRS (Community Rating System) Class 5 rated community with 25% discount on flood insurance for any citizens who have that insurance. The awareness guide provided continuing education to the public which was one of the factors that contributed to the County's rating through CRS.

8. Scheduled Presentations

a. Mid-Year Financial Report for Fiscal Year 2025 (Unaudited) – Maria Calloway – Chief Financial Officer

Ms. Calloway stated that she was presenting the mid-year unaudited financial report and noted that a full copy of the financial statements was in the packet. She began her review with real estate tax revenue. She reviewed that as the real estate tax revenue target had been missed in FY23 and FY24, the budget for FY25 had been

reduced to ensure that the target would be met. She noted that as of mid-year 49% of the taxes had been collected. She reviewed personal property tax revenue. She noted that it was at 44% of collection so it was lagging slightly from last year. She stated that the values of the vehicles were what drove revenues. She showed the vehicle value trend from 2021-2024. She advised that the increasing exemptions for veterans were also impacting this revenue number. She then reviewed other local taxes, noting the percentage of those taxes that had been collected to date. She showed a graph indicating the leveling off of the percentage of growth for the lodging, meals, and sales taxes. She then discussed interest revenue, noting that until interest rates spiked, that had not been a revenue source. She reviewed the spike in FY24 and noted that interest rates were also leveling off. She reviewed the general fund revenue sources. She showed a comparison of revenue sources from FY15 and FY25. She then discussed general fund expenditures. She noted in total that the budget was about 46% spent. The general government administration line was over 50% spent. She advised that this line included the County insurance which was paid upfront at the beginning of the fiscal year. She reviewed the current General Fund savings in vacancies and health insurance. She discussed that in more detail. She then moved to unassigned fund balance. She noted that the projected excess over the fund balance policy was \$3.2 million. She then reviewed the school sales tax fund.

Dr. Orth asked where the school sales tax fund was held.

Ms. Calloway stated that this was more of a Treasurer matter. However, she did know that the County banked with Chesapeake Bank. The County was limited on where it could invest funds. There was an investment pool that was available, but Chesapeake Bank would generally match the interest rate. She then continued her presentation. She provided a look forward. She advised that the revenue lines were leveling off and real estate growth was decreasing. On the expenditure side, inflation was increasing. Under personnel costs, she advised that the initial estimate for the health insurance increase was 26.1%, and it was now down to a 12.5% increase. Still a substantial increase, but not as high as originally projected. She noted other personnel issues that could increase expenditures. She reviewed items that would provide no or minimal negative impacts to include the smaller than expected increase in property and workers compensation insurance, potential increases in state funding for schools, and the anticipated positive fund balance at the end of FY25. Finally, she reviewed the next steps.

Dr. Orth asked what was causing the taxes to level off.

Ms. Calloway stated that COVID had the unexpected spending frenzy that no one anticipated. She also noted some of the trends in lodging. She stated that generally when there was a spike in growth, there was a dip back to a more consistent level.

9. Public Comment Period

FRANK ZOLL - ZOLL VINEYARD

Mr. Zoll stated that he owned Zoll Vineyard. He noted that he had tried to participate in the Daffodil Festival for several years and was told that it was on County property and no alcohol could be served. He noted that he would love to see the Board consider allowing the sale of alcohol on county property during special events. He noted that there was a lot of tourism potential from those outside of the County that want to come to Gloucester. He felt that if the Board was willing to consider that it would allow the County a lot of opportunities that do not currently exist. He stated that they had different opportunities as a farm winery than a brewery. He reviewed the differences. He asked the Board to consider the change.

DIANE JONES - WARE DISTRICT

Ms. Jones stated that there was a pool of water in her backyard, and she had not had any response from utilities. She said someone came out several months ago and said it was the fault of the water company, but no one had come out to fix it. She asked the Board to look into it as well. She stated that if the Board oversaw the school system, she was hoping they would get rid of DEI (Diversity, Equity and Inclusion), and CRT (Critical Race Theory) programs in the school and concentrate on teaching students to read, write, do math, and to write in cursive. She noted that there were a lot of positive things going on in the schools and she hoped the Board would look into not continuing those other destructive things.

The following comment was submitted through the alternate submission methods and was read by the Deputy Clerk.

KENNY HOGGE – GLOUCESTER POINT DISTRICT

Mr. Hogge stated that the use of the water treatment plant will continue to grow as will the sludge from the treatment process. He encouraged the Board to consider replacing the current lagoon sludge drying method with a solar sludge drying method. He stated that if not, the only other option to address violations would be to construct a sewer pumping station at the plant with a force main line to the pump station near Home Depot. He recommended a complete asset management inventory of Utilities. He stated that a plan of action, including additional staff, for maintenance of the utilities assets, was needed. He noted that the old GIS (Geographic Information System) had a good map of water and sewer assets, but the new one was lacking.

10. Public Hearings - 6:00 p.m.

a. Public Hearing to Consider a Conditional Use Permit Application for a Working Waterfront Marina – Anne Ducey-Ortiz, AICP, CZA – Director of Planning, Zoning & Environmental Programs

Ms. Ducey-Ortiz stated that this was a conditional use permit (CUP) application for a working waterfront marina at the end of Aberdeen Creek Road. She reviewed that the location was currently a vacant seafood processing plant. In 2013 commercial watermen asked about using the site to access the water only and that was allowed without establishing a use. She reviewed the surrounding land uses. She

advised that the proposed use would be for a working waterfront marina with three floating piers and a total of 34 boat slips. The owner planned to rebuild the bulkhead and boat launch, and to construct a rip rap structure and living shoreline. She reviewed other features of the plan. She stated that the site users would not be those utilizing a traditional marina but would be commercial watermen. She showed the list of conditions for the CUP. She reviewed that the property was in the single family (SF-1) zoning district. One of the solutions for this property was to allow the working waterfront marina by CUP. She reviewed the Comp Plan guidance. She advised that the Comp Plan also focused on working waterfronts and encouraged traditional uses to be continued.

Ms. Ducey-Ortiz then reviewed the traffic impacts. She advised that the site was located at the end of Aberdeen Creek Road and there was generally not a lot of traffic on the road except seasonally when the working watermen were out working on the dock. The applicant felt that most using the marina would be the watermen currently utilizing the County dock next to the site. She reviewed that the fiscal impact was positive. The site had been vacant so it would increase in value once it was developed. She noted that one of the conditions of use proposed by the owner was to allow emergency access to the water from the site. In addition, the owner proposed allowing a 25 foot wide dredging area around the site. This was related to the proposed dredging of Aberdeen Creek. She reviewed the environmental impacts and advised that the improvements would need to be reviewed by the Wetlands Board and VMRC (Virginia Marine Resources Commission). She continued her review of the impacts. She then advised that the purpose of the conditional use permits was to provide for certain uses that were not generally permitted in a zoning district. She stated that it allowed for uses to be reviewed on a case by case basis and to be evaluated on specific criteria. She showed the approval criteria. She stated that based on that review, staff recommended, and the Planning Commission supported, a recommendation for approval. She advised that the Board had the opportunity to revise the proposed conditions that were recommended by the Planning Commission and agreed to by the applicant. She stated that at the Planning Commission public hearing, one neighbor across the water spoke in favor of the project. She then reviewed the conditions.

Mr. Smith opened the public hearing for public comment.

As there were no speakers for the public hearing, Mr. Smith closed the public hearing and turned the matter over to the Board.

Dr. Orth stated that this was a great use of the property. He felt that the applicant would be very good at bringing the property back to a good use. He did ask for clarification on the access ramp for emergency vehicles.

Ms. Ducey-Ortiz agreed there would be a ramp.

Mr. Gibson echoed Dr. Orth's comments and stated that this was a great opportunity for the community and to support the watermen. He noted that he appreciated the hard work of the applicant and staff on this project.

Mr. Hutson moved to approve the resolution approving the conditional use permit, Dr. Orth seconded the motion. The motion carried and was approved by the following roll call vote: Mr. Bazzani, Mr. Chriscoe, Mr. Gibson, Mr. Hutson, Mr. Nicosia, Dr. Orth, and Mr. Smith - yes.

**A RESOLUTION OF APPROVAL FOR A CONDITIONAL USE PERMIT
FOR A WORKING WATERFRONT MARINA- APPLICATION CUP-24-02**

WHEREAS, a Conditional Use Permit application (CUP-24-02) has been submitted to permit the establishment of a Working Waterfront Marina by Aberdene Aquatic, LLC, property owner of Tax Map Parcel 37-49, identified as RPC No. 12871; and

WHEREAS, the Gloucester County Planning Commission held a public hearing on the application on February 6, 2025; and

WHEREAS, at its Public Hearing, the Gloucester County Planning Commission determined that the application for a CUP met the approval criteria outlined in Section 14-3(6) of the Zoning Ordinance; and

WHEREAS, at its Public Hearing, the Gloucester County Planning Commission voted 6-0 (1 absent) to forward application CUP-24-02 to the Board of Supervisors with a recommendation of approval with a set of conditions of use; and

WHEREAS, the Gloucester County Board of Supervisors has held a duly advertised public hearing; and

WHEREAS, the Gloucester County Board of Supervisors finds that the proposed CUP in accompaniment with the following conditions of use promotes an industry (Working Waterfront Marina) that is culturally and historically significant by preserving Gloucester's cultural, historical, and natural resources; and

WHEREAS, the Gloucester County Board of Supervisors finds that the application in accompaniment with the following conditions of use encourages and promotes the adaptive reuse of historically or culturally significant buildings and structures; and

WHEREAS, the Gloucester County Board of Supervisors finds that the proposed CUP in accompaniment with the following conditions of use discourages the loss of historically or culturally significant structures through "benign neglect" or natural causes by encouraging the repair and maintenance of these structures in a stable and secure condition; and

WHEREAS, the Gloucester County Board of Supervisors further finds that the proposed CUP in accompaniment with the following conditions of use works to ensure that development and redevelopment results in minimal negative impact on road systems and traffic patterns within the County.

NOW, THEREFORE, BE IT RESOLVED by the Gloucester County Board of Supervisors that application CUP-24-02 is hereby approved with the following Conditions of Approval:

1. The property shall be developed in accordance with a site plan approved pursuant to Chapter 15.5 of the County Code, which shall occur prior to issuance of a Zoning Permit for the improvement listed in Phase 2 of Condition 3. The Conceptual Plan included with this CUP application is a

preliminary rendering of the Project and does not include all of the features described in the applicant's narrative.

2. The use of the property shall be classified as a "Working Waterfront Marina", which shall permit the uses detailed in the definitions of "Marina" and "Aquaculture Facility" in Section 2-2 of the Zoning Ordinance. The following components of a "Marina" use (as defined in Section 2-2 of the Zoning Ordinance) shall not be permitted: boat and boat motor sales or rental, boat repairs and/or construction, marine fuel and lubricant sales, marine supplies sales, and restaurants or refreshment facilities. Although storage of aquatic organisms is permitted within structures on the site, the processing (preparing, altering, and/or packing) of seafood (defined as "Seafood Processing" in Section 2-2 of the Zoning Ordinance) shall not be permitted.
3. The project may be developed in one or more phases based on an approved site plan. The Phasing Schedule is as follows:
 - a. Phase 1: Repair of existing bulkheads and boat launch and addition of floating docks.
 - b. Phase 2: Repair of the existing building.

Approval of the CUP application does not supersede the requirement for approval from any other Boards or Commissions for improvements listed in Phases 1 or 2. Development of the improvement listed in Phase 2 may occur concurrent with or following the improvements listed in Phase 1 as long as any improvements are properly permitted by all appropriate departments, Boards, or Commissions for all applicable local, state, or federal entities.

4. Prior to site plan approval and use of the site as a working waterfront marina (as defined in Condition 2), the applicant shall demonstrate that all private wells and drainfields are appropriately sized to serve the uses on the property.
5. Permanent toilet facilities shall be provided on site in accordance with the requirements of the Gloucester County Building Department and Virginia Department of Health prior to the establishment of the use of the property as a working waterfront marina (as defined in Condition 2). Upon completion of repair of the existing building (as detailed in Phase 2 of Condition 3), at no time shall temporary toilet facilities be used to satisfy the requirements for permanent toilet facilities.
6. Construction activities shall only occur between the hours of 7 AM and 5 PM, Monday through Saturday.
7. The following hours of operation shall apply to the property's use as working waterfront marina (as defined in Condition 2):
 - a. Weekdays: 7 AM to 7 PM
 - b. Weekends: 7 AM to 7 PM

However, vehicles (including motor and boating vehicles) are exempt from these hours of operation, provided the vehicles comply with the applicable sections of Chapter 11 (Noise Control) of the Gloucester County Code.

8. The components of the use within Aberdeen Creek shall contain no more than 34 boat slips and 3 floating piers, subject to approval by the Virginia Marine Resources Commission (VMRC) and the Gloucester County Wetlands Board.
9. The applicant shall be responsible for maintaining a 25-foot dredging buffer around the project site, including any structures within waterways. All dredging within the 25-foot buffer shall be the sole responsibility of the applicant and shall not be the responsibility of Gloucester County or the U.S. Army Corps of Engineers.

10. Dumpsters and other types of waste receptacles shall not be visible from adjacent properties and shall provide screening from view from adjacent properties if visible from adjacent properties without screening.
11. The property shall be screened from adjacent residentially used properties pursuant to Article 9C of the Zoning Ordinance.
12. No lighting from this property shall trespass onto adjacent properties or properties across any waterways. Lighting on structures, docks, and piers shall be fitted with opaque shields to prevent direct visibility of the lamp to persons on public waters or adjacent lands more than 50 feet beyond the structure.
13. The applicant shall allow VMRC, local law enforcement, and the local Fire & Rescue services to access waterways through their property for emergency services. The applicant will work with these agencies to provide access to the property during and after all hours of operation. A statement to this effect shall be included on the approved site plan.
14. Prior to any site development, the applicant shall receive approval from all appropriate departments, Boards, or Commissions for all applicable local, state, or federal entities. Prior to any Final Certificate of Occupancy, the development shall be designed and constructed in a manner that meets all applicable local, state, or federal regulations.
15. Where there is a conflict between the Conditional Use Permit's written conditions or other local, state, or federal regulations, the most stringent condition shall apply.
16. The site may continue to be used for loading and offloading of aquatic organisms caught offsite. Establishment of the use on the site, as required by Section 14-3(14) of the Zoning Ordinance, shall commence upon issuance of a Zoning Permit for the improvement detailed in Phase 2 of Condition 3. This improvement shall begin within 24 months of approval of the site plan required by Condition 1, which may be extended by not more than 6 months subject to the requirements of Section 14-16(a) of the Zoning Ordinance. This improvement shall be completed within the time frame specified in Section 15-4 of the Zoning Ordinance.

AND BE IT FURTHER RESOLVED that the Working Waterfront Marina shall be established through a Zoning Permit for the improvement detailed in Phase 2 of Condition 3 issued within twenty-four months of approval of a site plan, as specified in Condition 16.

AND BE IT FURTHER RESOLVED that the granting of a conditional use permit does not exempt the applicant from obtaining a Building Permit, a Certificate of Occupancy, or complying with all other requirements of the Zoning Ordinance or any applicable County, state or federal law, as detailed in Section 14-3(10) of the Zoning Ordinance.

AND BE IT FURTHER RESOLVED that amendments to this Conditional Use Permit shall occur in the manner specified in Section 14-3(14) of the Zoning Ordinance.

AND BE IT FURTHER RESOLVED that this Conditional Use Permit may be immediately revoked at any time pursuant to Section 14-3(15) of the Zoning Ordinance.

11. Regular Agenda

Mr. Wilmot noted that although it was out of order, there was an individual who tried to speak during the public hearing on a different topic and asked if the Board wanted to consider allowing her to speak.

The Board agreed by consensus to allow the comment.

JOANNE HAMLIN - PETSWORTH

Ms. Hamlin stated that she was advocating for an off leash dog park. She noted that it was needed now and not five years from now. Ark Park had two back fields. Brown Park and Beaverdam also had areas that could work. She noted that she had visited off leash dog parks in Williamsburg. She noted that those locations had requirements and rules in place. Both parks had separate park space for dogs of various sizes. She stated that off leash dog parks were good for dogs, dog owners, and were attractive to visitors who come to the County.

a. Draft Consent Order for VPDES Permit DEQ VA0078778 – Ted Wilmot – County Attorney and Katey Legg – Director of Public Utilities

Mr. Wilmot stated that this was the opportunity for the Board to decide whether to agree to the Department of Environmental Quality (DEQ) consent order regarding the notice of violation issued to the County in May 2024. He advised that DEQ alleged that the County exceeded its permitted amount of chloride emission levels. He stated that the consent order sought to resolve that violation. He advised that the Board was not required to accept the consent order, but it was an attempt to resolve the situation between the County and DEQ. The order called for payment by the County of a civil penalty for the three months that the County was alleged to have exceeded the chloride level. He noted that the order called for the County to address the situation and to make efforts to comply with the permit. There were three options for the path to comply. He stated that the County had tried to negotiate the terms of the order with DEQ, however, they were not amendable to revisions. He advised that his goal was to protect the County and to ensure that the consent order addressed all of the chloride emission violations either perceived or real. DEQ was not of a mind to do that. However, they did say that they would not cite the County with another chloride violation if the County was diligently pursuing the actions under the consent order. If the Board chooses not to approve, then DEQ could pursue the violations administratively or judicially. He advised that his recommendation was to accept the order, but only if there was a comfort level that the County could do what was required.

Ms. Legg stated that she believed the County could comply. She noted that the first seven or eight pages of the consent order contained boiler plate language and then there was a schedule of compliance in very general terms. She reviewed the schedule. She noted that within 180 days after full execution of the consent order, the County had to provide one of three options to DEQ for the chloride mitigation project. She noted that the goal of all of the options was to demonstrate long term durable compliance with the permit levels. In response to a question about the outfall, she advised that the sampling point for outfall 001 was changed immediately with the approval of DEQ. She stated that the chloride level at the new sampling point was lower but not much lower. She continued her review of the options. She

stated that the third option was the one staff was most interested in and felt confident that the County could comply. She advised that an interim mitigation plan had to be provided within 30 days. She noted that staff had begun that already. She reviewed the connector project that would allow staff to monitor in real time the flow over the spillway and the chloride coming from the outfall so that staff could automatically adjust how the reverse osmosis plant was being used. She advised that the spillway project would be the next step in the interim mitigation plan. Her hope was that they could provide the concept engineering report to DEQ on this interim plan to make this the long term durable compliance plan. She advised that there were other options and steps that could be taken but they were costly.

Ms. Steele noted that one of the other things that was discussed was that legislative assistance could be requested if necessary.

Dr. Orth asked Ms. Legg to go over the amounts of the projects.

Ms. Legg reviewed the connector project. She stated that outside of this issue, utilities had to abandon well number two and outfall 003. In addition, they have to abandon outfall 002. Everything that went to outfall 002 would go to 001. That project was happening now at a cost of about \$125,000. She stated that the next piece for the interim but potentially long term solution would be to add the spillway project. That would add the flow meter and chloride meter connected to SCADA (supervisory control and data acquisition) to allow real time monitoring of the chloride level. If the chloride level was too high and not enough water was coming over the spillway, the RO (reverse osmosis) plant would not be used. That project would be an additional \$250,000-\$300,000. She stated that this project was already budgeted for this year. The next potential step could be drawing in raw water from the reservoir and potentially mixing before going to the outfall. That cost could be another \$800,000-\$900,000.

There was a brief discussion on the penalties, chloride exceedance levels, and the timing of the violations.

After the discussion, Mr. Chriscoe moved, seconded by Mr. Bazzani, to approve the resolution approving the consent order. The motion carried and was approved by the following roll call vote: Mr. Bazzani, Mr. Chriscoe, Mr. Gibson, Mr. Hutson, Mr. Nicosia, Dr. Orth, and Mr. Smith - yes.

**A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO
EXECUTE AN ORDER BY CONSENT WITH THE VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY IN REFERENCE TO
VPDES PERMIT NO. VA0078778**

WHEREAS, Gloucester County owns and operates a water treatment plant to produce potable water to serve Gloucester County citizens; and

WHEREAS, Gloucester County is required to maintain a Virginia Pollution Discharge Elimination System (VPDES) permit to discharge unused treatment water within permitted limitations and such permit was issued December 2019; and

WHEREAS, Gloucester County received Warning Notices in January, February and March 2024 for allegedly exceeding permit limitations, resulting in a Notice of Violation in May 2024; and

WHEREAS, Va. Code § 62.1-44.23 of the State Water Control Law provides for an injunction for any violation of the State Water Control Law, any State Water Control Board rule or regulation, order, permit condition, standard or any certificate requirement or provision; and

WHEREAS, the Virginia Department of Environmental Quality is authorized by Va. Code § 62.1-44.15 to issue orders to any person to comply with the State Water Control Law and regulations, including the imposition of a civil penalty; and

WHEREAS, the Virginia Department of Environmental Quality has issued an order by consent to Gloucester County for the Gloucester County Water Treatment Plant; and

WHEREAS, the Board of Supervisors deems the terms of the Order by Consent to be an acceptable resolution of the matters it covers.

NOW, THEREFORE, BE IT RESOLVED by the Gloucester County Board of Supervisors that the County Administrator is authorized to execute the Order by Consent, substantially as attached hereto, and to take all necessary and appropriate actions on behalf of the County with reference to the Order.

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Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Stefanie K. Taillon
Acting Secretary of Natural and Historical Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

ENFORCEMENT ACTION - ORDER by CONSENT

ISSUED to

Gloucester County

FOR

Gloucester County Water Treatment Plant

VPDES PERMIT No.

VA0078778

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15 for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the terms used in this Consent Order have the meanings assigned to them in Va. Code § 62.1-44.2 *et seq.* and 10.1-1182 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

Responsible Party:	Gloucester County		Facility:	Gloucester County Water Treatment Plant	
Facility Address	Street Address:		8214 Reservoir Ridge Road		
	City:	Gloucester County	VA	Zip Code:	23061
Inspection Date(s):	February 15, 2024	Receiving Water Information:	Beaverdam Swamp, Beaverdam Swamp Reservoir, and UT to Beaverdam Swamp Chesapeake Bay Small Coastals		
Warning Letter(s) and Notice(s) of Violation:	Notice of Violation No. W2024-05-P-0001 (May 15, 2024)				
Permit Issuance and Expiration Information:	Issued: December 1, 2019 Expired: November 30, 2024 (Administratively Continued)				

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Va. Code § 62.1-44.5 and 9VAC25-31-50 state: Except in compliance with a certificate issued by the Department, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.
The Responsible Party is a “person” within the meaning of Va. Code § 62.1-44.3.
The Permit authorizes the Responsible Party to discharge to the receiving water in strict compliance with the terms and conditions of the Permit.
Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
The receiving water is a surface water located wholly or partially within the Commonwealth and is a “state water” under State Water Control Law.

Violation	Observations and Legal Requirements	Civil Charge			Subtotal
✓	In submitting its DMRs, as required by the Permit, the Responsible Party has indicated that it exceeded the discharge limits contained in Part(s) I(A)(1 &2) of the Permit as described in the table below.	Serious	# of Occurrences	Serious Subtotal	\$ 7,938
		\$ 1,323	6	\$ 7,938	
		Moderate	# of Occurrences	Moderate Subtotal	
		\$ 712		\$ 0	
		Marginal	# of Occurrences	Marginal Subtotal	
		\$ 305		\$ 0	

Parameter & Outfall #	Observations - DMR Monitoring Period and Relevant Reported Monitoring Results									Legal Req. *
	Jan 2024	Feb 2024	Mar 2024							
Outfall 001- 145- Chlorides- Avg. Conc (mg/L)	3,648	3,204	2,976							390
Outfall 001- 145- Chlorides- Max. Conc (mg/L)	3,648	3,204	2,976							390

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Violation	Observations and Legal Requirements	Civil Charge		Subtotal
	Failure to submit Discharge Monitoring Report(s). Permit Part(s)	\$ 0		\$ 0
		# of Occurrences		
	Failure to submit Discharge Monitoring Report(s) on time. Permit Part(s)	\$ 0		\$ 0
		# of Occurrences		
	Failure to follow the sampling and/or monitoring requirements in the Permit. Permit Part(s)	\$ 0		\$ 0
		# of Occurrences		
	Failure to submit a report as required by the Permit. Permit Part(s)	\$ 0		\$ 0
		# of Occurrences		
✓	Failure to properly operate and maintain the Facility and systems of treatment and control. Permit Part(s) II(Q)	\$ 305		\$ 305
		# of Occurrences	1	
	Failure to develop and maintain an operations and maintenance manual that meets all the requirements of the Permit. Permit Part(s)	\$ 0		\$ 0
		# of Occurrences		
	Failure to implement provision(s) of the operations and maintenance manual. Permit Part(s)	\$ 0		\$ 0
		# of Occurrences		
✓	Unauthorized discharge into state waters. Va. Code § 62.1-44.5(A) 9 VAC 25-31-50(B)	\$ 1,323		\$ 1,323
		# of Occurrences	1	
	Failure to report a discharge into state waters to the Department or the coordinator of emergency services appointed for the political subdivision. Va. Code § 62.1-44.5(B) 9VAC25-31-50(B)	\$ 0		\$ 0
		# of Occurrences		
Violation Component Civil Charge Subtotal		\$ 9,566		

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Aggravating Factors		
	Additional Civil Charge Assessment	Subtotal
Major Facility	No	\$ 0.00
Consent Order in another media Program within 36 months	No	\$ 0.00
Consent Order in the same media program within 36 months	No	\$ 0.00
Degree of Culpability	Moderate	\$ 2,391.50
Aggravating Factors Subtotal		\$ 2,391.50
Civil Charge Subtotal and Aggravating Factor Subtotal		\$ 11,957.50
Flow Reduction Factor	No	\$ 0.00
Gravity Based Component Subtotal		\$ 11,957.50
Cooperativeness and Quick Settlement	30%	-\$ 3,587.25
Economic Benefit of Noncompliance	Yes	
In accordance with 62.1-44.15(8d), the Responsible Party's Ability to Pay was evaluated and it was determined that there is an ability to pay.	Yes	
Total Civil Charge		\$ 8,370.25
Based on the results of staff observations, the Department concludes that the Responsible Party has violated the Va. Code and Regulations as identified herein.		

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Department orders the Responsible Party, and the Responsible Party agrees to:

- ☒ Perform the actions described in Appendix A of this Order if this box is checked and
- Pay the total civil charge of \$ \$ 8,370.25 in settlement of the violations cited in this Order in accordance with the following:
- ☐ Within 30 days of the effective date of the Order, or
- ☐ In accordance with the following payment schedule:

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Due Date	Amount

If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Responsible Party. Within 15 days of receipt of such letter, Responsible Party shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

Payment shall be made by either credit card at www.deq.virginia.gov or check, certified check, money order or cashier’s check payable to the “Treasurer of Virginia,” and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, VA 23218

The Responsible Party shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Responsible Party shall be liable for attorneys’ fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Order with the consent of the Responsible Party for good cause shown by the Responsible Party, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, the Responsible Party admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Order.
4. The Responsible Party consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Responsible Party declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding

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authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Order.

6. Failure by the Responsible Party to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Responsible Party shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. The Responsible Party shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Responsible Party shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and The Responsible Party. Nevertheless, the Responsible Party agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after the Responsible Party has completed all of the requirements of the Order;

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- b. The Responsible Party petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order;
or
- c. The Director or Department terminates the Order in his or its sole discretion upon 30 days’ written notice to Responsible Party.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Responsible Party from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by the Responsible Party and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of the Responsible Party certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind the Responsible Party to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Responsible Party.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, the Responsible Party voluntarily agrees to the issuance of this Order.

And it is so ORDERED.

DEQ Signee Signature

Date

Jerome A. Brooks

DEQ Signee Name

Regional Director

Title

I hereby certify that I am the Responsible Party or duly appointed representative/officer of the Responsible Party.

RP Signee Signature

Date

Carol E. Steele

RP Signee Name

County Administrator

Title

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Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Stefanie K. Taillon
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

In re:	Gloucester County
	6489 Main Street
	Gloucester, VA 23601
	Facility Name: Gloucester County Water Treatment Plant
NOV No.	W2024-05-P-0001 (May 15, 2024)

EA No. PR24-0512
Reg. No. VPDES VA0078778

APPENDIX A

SCHEDULE OF COMPLIANCE

This Schedule of Compliance (“SOC”) is developed to identify certain requirements necessary to address violations of the Virginia State Water Control Law, including violations of Va. Code § 62.1-44.5(A), 9 VAC 25-31-50 and Virginia Pollutant Discharge Elimination System Permit No. VA0078778. The SOC is also developed to promote Gloucester County’s (Gloucester) independent evaluation of long-term, durable compliance. Gloucester and the Virginia Department of Environmental Quality (DEQ) agree that in order for Gloucester to achieve long-term, durable compliance, it is necessary for Gloucester to complete a Water Treatment Plant Chloride Mitigation Project capable of meeting the requirements of Virginia Pollutant Discharge Elimination System Permit No. VA0078778.

Gloucester shall take the following actions:

- 1. **Conventional Water Treatment Process Utilization.** Immediately upon the effective date of this Order, Gloucester Water Treatment Plant shall maximize use of the conventional water treatment process (i.e. surface water plant) and minimize use of the reverse osmosis system. Maximizing the conventional water treatment process will mitigate chloride concentrations discharged to receiving waters. Gloucester shall keep a daily log of the Water Treatment Plant’s use of each treatment process in gallons per day. This daily log shall be made available to DEQ upon request.
- 2. **Water Treatment Plant Chloride Mitigation Project.** Within 180 days of the effective date of this Order, Gloucester shall submit to DEQ either:
 - a) An approvable Concept Engineering Report (CER) of upgrades/ expansion of the Water Treatment Plant’s conventional water treatment process and/or reverse osmosis

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process which demonstrates that Gloucester can achieve long-term durable compliance with VPDES Permit No. VA0078778; or
b) An approvable CER of construction for a new outfall which would allow Gloucester to discharge to brackish/ salt waters (salinity greater than 1.0 parts per thousand) and demonstrates long-term durable compliance with VPDES Permit No. VA0078778, applicable regulations, and State Water Control Law; or
c) An approvable CER which demonstrates Gloucester can achieve long-term durable compliance with VPDES Permit No. VA0078778, applicable regulations, and State Water Control Law.

The approved CER will become an enforceable provision of this Order.

3. **Water Treatment Plant Chloride Mitigation Project Schedule.** Within 30 days of receiving approval of a CER by DEQ, Gloucester shall complete and submit to DEQ, a Water Treatment Plant Chloride Mitigation Project Schedule (Project Schedule). The Project Schedule shall include, but shall not be limited to a line-item description of:
- a) Task Description,
 - b) Status,
 - c) Start Date,
 - d) End Date,
 - e) Anticipated Duration, and
 - d) Comments.
4. **Interim Chloride Mitigation Plan.** Within 30 days upon the effective date of this Order, Gloucester shall submit an approvable Interim Chloride Mitigation Plan to DEQ to mitigate potential effects of chloride on Beaverdam Swamp throughout the duration of this Order or until such time that the final compliance project is complete and operational. Upon DEQ’s approval, Gloucester shall immediately implement the Interim Chloride Mitigation Plan through the duration of this Order.
5. **Water Treatment Plant Chloride Mitigation Project Quarterly Reporting.** Gloucester shall complete a Project Schedule Quarterly Report that includes the information described in SOC Number 3. Gloucester shall submit such Project Schedule Quarterly Report to DEQ for review and coordination on or before the first day of January, April, July, and October for each year the Order is effective. The report must provide reasonable and sufficient professional information to determine compliance with SOC Number 3, Water Treatment Plant Chloride Mitigation Project Schedule.
6. **Water Treatment Plant Chloride Mitigation Project Completion.** Within 1,200 days of effective date of this Order, Gloucester shall complete the Water Treatment Plant Chloride Mitigation Project and conduct the necessary staff training to achieve long-term durable compliance with VPDES Permit No. VA0078778, applicable regulations, and State Water Control Law.
7. **DEQ Contact.** Unless otherwise specified in this Order, all documents and other information required by this Order shall be submitted to:

Matt Richardson
DEQ-PRO/Enforcement Office
4949-A Cox Road
Glen Allen, Virginia 23060
EM: Matthew.Richardson@DEQ.Virginia.gov

Mr. Chriscoe thanked Ms. Legg for her hard work, for keeping the Board informed, and for keeping the water flowing. He asked her to thank her staff as well.

b. Board Appointments

COMMUNITY POLICY & MANAGEMENT TEAM

Mr. Hutson moved, seconded by Mr. Chriscoe, to reappoint Ms. Pritchett to the Community Policy & Management team. The motion carried and was approved by a unanimous voice vote.

COMMUNITY POLICY AND MANAGEMENT TEAM

WHEREAS, the Gloucester County Board of Supervisors has previously appointed the Community Policy and Management Team to administer the Children’s Services Act in Gloucester County; and

WHEREAS, the Gloucester County Board of Supervisors has learned that an appointment is necessary on the Community Policy and Management Team; and

WHEREAS, the Gloucester County Board of Supervisors is now prepared to make this appointment to the Community Policy and Management Team.

NOW, THEREFORE, BE IT RESOLVED by the Gloucester County Board of Supervisors that the following individual be hereby reappointed to the Gloucester Community Policy and Management Team as the private provider representative for a term which shall expire on April 30, 2027.

Jenny Pritchett
Private Provider

TOURISM COMMITTEE

Mr. Gibson moved, seconded by Mr. Chriscoe, to appoint Sarah Burney as the Chamber of Commerce representative to the Tourism Committee. The motion carried and was approved by a unanimous voice vote.

TOURISM COMMITTEE

WHEREAS, the Gloucester County Board of Supervisors has created the Tourism Advisory Committee to advise the Board concerning the development of tourism in our community; and

WHEREAS, the Gloucester County Board of Supervisors is the appointing authority for said committee; and

WHEREAS, the Gloucester County Board of Supervisors has learned of an appointment that is needed to this Committee.

NOW, THEREFORE, BE IT RESOLVED by the Gloucester County Board of Supervisors that the following individual be hereby appointed to the Gloucester County Tourism Committee as the Chamber of Commerce representative for a term which shall begin immediately and shall expire February 28, 2028.

Sarah Burney
Chamber of Commerce Representative

12. County Attorney Items

There were no County Attorney items.

13. Boards and Commissions Reports

There were no board or commission reports.

14. Supervisors Discussion

Dr. Orth brought up the comments made by Mr. Zoll. He asked if this was something the Board wanted to address.

Mr. Wilmot stated that the Board should have received Mr. Zoll's letter and his response to the Board. He noted that the history of the Daffodil Festival had been that no alcohol sales had been allowed at the event. He stated that this decision had been made by administration with the Board of Supervisors' consent. This had gone very well over the years and it was a practice that the Board should consider carefully before dictating a change. He appreciated Mr. Zoll's business and his efforts to expand his business. He noted that the Daffodil Festival was held primarily on County property and portions were held on State owned property.

Mr. Chriscoe asked when the application process for vendors opened for the Daffodil Festival. He noted that there was no way the Board could make this change in time for this year's Daffodil Festival. If the Board wanted to contemplate a change, then a conversation needed to be held in time for next year's event.

Ms. Legg stated that applications usually opened in September/October with final selections made in the middle of January.

Ms. Steele stated that some years ago there was discussion in the Parks and Recreation Advisory Committee about bringing a possible ordinance change to the Board to consider allowing alcohol in parks for events. She thought that if the Board wanted to consider something, it may be best to think beyond just the Daffodil Festival. She reviewed some of the things that the Board may want to consider.

Mr. Wilmot stated that the only thing he would add was that there was an ordinance about prohibiting alcohol in County parks, but the Daffodil Festival was not a park and fell under the County Administrator's purview in facility use.

Mr. Chriscoe stated that he wanted to make sure that if the Board wanted to consider this that it did so in a timely fashion.

There was a brief discussion on options and a consensus to consider this in the future.

16. Adjournment

Mr. Chriscoe moved, seconded by Dr. Orth, to adjourn. The motion carried and the meeting was adjourned at 7:26 p.m. by a unanimous voice vote.

Kevin M. Smith, Chair

Carol E. Steele, County Administrator