



County of Fairfax, Virginia

MEMORANDUM

DATE: July 8, 2021

TO: Board of Supervisors

FROM: Bryan J. Hill
County Executive *[Signature]*

SUBJECT: Local Stormwater Management Grant Program (Code of Virginia § 15.2-2114.01)

Introduction:

The purpose of this memorandum is to recommend that the Board of Supervisors (Board) provide additional support to an existing Northern Virginia Soil and Water Conservation District (NVSWCD) grant program based on recent state legislation. On March 12, 2019, the Virginia governor approved a bill allowing localities to create a local Stormwater Management (SWM) fund to grant moneys to a property owner for SWM or erosion prevention (Code of Virginia § 15.2-2114.01 – copy attached), including for maintenance of existing SWM facilities. In September 2019, the Fairfax County (County) Department of Public Works and Environmental Services (DPWES) convened a work group to evaluate the feasibility of a local SWM grant program including staff from DPWES, Office of the County Attorney, Department of Management and Budget (DMB), Land Development Services (LDS), and the NVSWCD. The group identified multiple SWM areas of need that could benefit from the grant funds. For the first phase of the grant program, the group recommends using the local SWM fund legislation to support additional projects selected through the successful NVSWCD-administered Conservation Assistance and Virginia Conservation Assistance Programs (<https://www.fairfaxcounty.gov/soil-water-conservation/cap-community>).

Background:

While this bill enables localities to directly fund a SWM grant program, NVSWCD already administers two popular stormwater incentive-based programs in the County. The NVSWCD administers both the local Conservation Assistance Program (CAP) and the local implementation of the statewide Virginia Conservation Assistance Program (VCAP) which provide cost-share and technical assistance for the voluntary installation of environmental best management practices (BMPs). Since starting the program in fiscal year (FY) 2015, NVSWCD has completed 54 projects under CAP that support water and energy conservation practices on property owned by the County, civic and homeowner associations and places of worship (eight energy conservation projects and 46 watershed-related projects). Stormwater BMPs that are part of the program include pavement removal and/or replacement with pervious surfaces, conservation landscaping, rain gardens or bioretention facilities, bioswales, green roofs, and cisterns.

Similar to CAP, VCAP is a state-funded initiative that supports the installation of water conservation projects by individual property owners, homeowner associations, or places of worship in the County, the City of Alexandria (Alexandria), and the City of Fairfax (City). Both CAP and VCAP are cost-share programs that reimburse up to 75 percent of the project costs with the maximum amount per application ranging from \$3,500 for vegetative practices such as conservation landscaping and rain gardens, to \$15,000 for engineered structural practices such as infiltration trenches and permeable pavement. The SWM BMPs eligible under the CAP program also qualify under VCAP and require a 10-year maintenance agreement as a condition of awarding the grant. Since 2016, NVSWCD has supported the implementation of 116 VCAP projects.

Program Benefits

After evaluating project need, benefits, and costs, the working group recommends establishing a pilot local SWM grant program to supplement stormwater BMP projects under CAP and VCAP. CAP and VCAP align with the County's watershed management plans that suggest establishing a cost share program with property owners on BMP projects located on private land. The BMPs installed under CAP and VCAP help address private drainage and erosion issues, improve water quality, and support long-term stewardship of the County watersheds by building awareness of the importance of watershed protection.

Current CAP and VCAP Program Overview

NVSWCD's established VCAP and CAP process provides a simple and straightforward path to integrate supplemental local SWM grant funds. Each VCAP and CAP application undergoes a detailed review and selection procedure. NVSWCD ranks the projects using the VCAP practice ranking spreadsheet where it must meet a minimum point threshold. The NVSWCD's multi-disciplined Technical Review Committee (TRC) and Board of Directors review project applications and designs before authorizing the allocation of funds for CAP projects or submitting VCAP projects to the state for review and funding approval. Upon project approval, the applicant works with a contractor to install the project or completes it with the guidance provided by NVSWCD staff. Upon project completion, NVSWCD conducts a final inspection before issuing reimbursement. The project then enters the 10-year maintenance cycle. Maintenance is the responsibility of the homeowner, and each application includes a maintenance plan prepared by the property owner and verified by NVSWCD's TRC. If the property owner chooses to withdraw from the program before the end of the 10-year agreement, they must return the funding received at a prorated amount. The property owner may also elect to voluntarily stay in the CAP or VCAP program for another 10-year cycle. If the property changes ownership or management, the maintenance responsibility is transferable to the new owner or management firm.

Through their project selection process, NVSWCD sets local targets and priority areas consistent with DPWES SWM and the County equity objectives. NVSWCD targets portions of the County for CAP and VCAP funding based on environmental and socio-economic considerations. They also identify specific communities that would benefit from combined

efforts between NVSWCD and DPWES Stormwater. DPWES Stormwater staff is a part of the NVSWCD TRC.

Funding

The County's Stormwater Program, financed by the Stormwater Service District, proposes providing an initial \$150,000 towards the local SWM grant pilot program that would be administered and managed by NVSWCD for projects in the County. NVSWCD already receives funding under the Stormwater Management Program budget to improve the environmental quality and general welfare of County residents. The local SWM grant would be a new line item in the NVSWCD annual budget. Roughly 80 percent of the grant funds would be used to supplement reimbursements for projects selected under CAP and VCAP. About 20 percent of the funds would be allocated towards NVSWCD staff support to administer and manage the program. This phase of the local SWM grant will require no additional County staff resources.

Funding CAP and VCAP through a local SWM grant will make the program more sustainable. In previous years, CAP was funded through the County Environmental Improvement Program (EIP). The grant funds would supplement the EIP funding and allow NVSWCD to administer additional BMP projects. VCAP is administered by the Virginia Association of Soil and Water Conservation Districts and is funded through the Department of Conservation and Recreation from the state General Fund. In FY 2021, Virginia allocated \$500,000 for VCAP to be applied statewide. As of September 2020, all state funds available for FY 2021 were allocated to projects located in other parts of the Commonwealth. By providing an additional stable funding source, NVSWCD can continue its efforts to provide high quality service and solutions to meet the high program demand, and the County can continue to benefit from the success of the popular program.

While NVSWCD administers the VCAP program in both Alexandria and the City, County supplementary funds would only apply to projects located in the County and the Town of Herndon, the Town of Vienna, and the Town of Clifton as contributories to the County's Stormwater Service District. CAP projects include both water and energy conservation practices, but funding from the County would only be used for stormwater BMPs. Any local SWM grant funds not spent at the end of the fiscal year would carry into the next year.

Conclusion:

The Board can expand on the proven success of CAP and VCAP by authorizing supplemental funding through a newly-enabled local SWM grant program. CAP and VCAP support the County's environmental vision and watershed management objectives and help property owners proactively address private drainage and erosion issues. The established CAP and VCAP project selection process ensures the County stormwater funds will be well spent and provide additional support for two popular programs with a history of successful stormwater BMP installations, while requiring no additional County staff resources. This topic will be presented at an upcoming Environmental Committee on July 20, 2021.

The working group will also evaluate future phases of the SWM local grant program, including the use of funds to support maintenance of non-functioning private SWM facilities (where the County determines the property owner is not at fault) and the restoration or stabilization of eroding streams on private property. Additionally, the state passed legislation in the 2021 General Assembly that allows jurisdictions to grant funds to private entities to address flood mitigation. If supported by the Board, the group will evaluate the feasibility and costs to implement a County flood mitigation grant program as a future phase. Any recommendations on future phases of the SWM local grant program will be presented to the Board through a separate memorandum and Environmental Committee presentation.

Attachment: Code of Virginia § 15.2-2114.01

cc: Rachel Flynn, Deputy County Executive
John Kellas, Acting Director, Department of Public Works and Environmental Services (DPWES)
Christina Jackson, Director, Department of Management and Budget (DMB)
Laura T. Grape, Executive Director, Northern Virginia Soil and Water Conservation District
Eleanor Ku Coddling, Deputy Director, DPWES, Stormwater and Wastewater Divisions
Marc Gori, Assistant County Attorney
Galena Nedelcheva, DMB, Budget Analyst III
Craig A. Carinci, Director, DPWES, Stormwater Planning Division (SWPD)
Karlee Copeland, Chief, DPWES, Stormwater Management Branch, Maintenance and Stormwater Management Division
Catherine S. Torgersen, Planner IV, DPWES, SWPD

2019 SESSION

CHAPTER 344

An Act to amend the Code of Virginia by adding a section numbered 15.2-2114.01, relating to a local Stormwater Management Fund.

[H 1614]

Approved March 12, 2019

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2114.01 as follows:

§ 15.2-2114.01. Local Stormwater Management Fund; grant moneys.

Any locality may by ordinance create a local Stormwater Management Fund consisting of appropriated local moneys for the purpose of granting funds to an owner of private property or a common interest community for stormwater management and erosion prevention on previously developed lands. Grants from such fund shall be used only for the construction, improvement, or repair of a stormwater management facility or for erosion and sediment control.