



TRAFFIC and DRAINAGE PRO RATA

SPECIAL AUDIT

JANUARY 1, 2016 THROUGH DECEMBER 31, 2016

**CITY OF CHESAPEAKE, VIRGINIA
AUDIT SERVICES DEPARTMENT**

February 28, 2017

The Honorable Alan P. Krasnoff and
Members of the City Council
City of Chesapeake
City Hall – 6th Floor
Chesapeake, Virginia 23328

Dear Mayor Krasnoff and Members of the City Council:

We have completed our review of the Traffic and Drainage Pro Rata for January 1, 2016 – December 31, 2016. Our review was conducted for the purpose of evaluating pro rata practices in the City of Chesapeake (City) in all areas that received pro rata payments, any revenue related pro rata issues, and whether the City was complying with applicable department, city, state, and federal requirements and procedures related to pro rata procedures.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

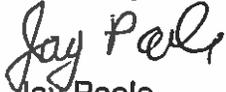
Pro rata was established by the Commonwealth of Virginia as a method to allow municipalities to have developers construct large water/sewer, and drainage, projects that benefited more than one development and share the cost with each subsequent developer. The City utilized pro rata for the construction of various water/sewer, drainage, and traffic projects within the City. As of September 30, 2016, the City held \$4,860,480 on deposit for drainage pro rata, and \$85,000 for traffic pro rata projects.

To conduct this audit, we reviewed and evaluated City and Department policies and procedures, and operations documents and reports, both internal and external, as well as State code. We also conducted interviews with various Public Works staff and conferred with the City Attorney's office.

Based on our review, we determined that Drainage Pro Rata procedures were functioning as expected. However, we did identify some issues related to tracking the length of time deposits were kept, viability of certain basins, and missing reference to the twelve year refund period in the departmental regulations. Our review of Traffic Pro Rata determined that the program was not in compliance with State Code.

This report, in draft, was provided to the Public Works Department for review and response. Their comments have been considered in the preparation of this report. These comments have been included in the Managerial Summary, the Audit Report, and Appendix A. Department management and staff were very helpful throughout the course of this audit. We appreciated their courtesy and cooperation on this assignment.

Sincerely,



Jay Poole
City Auditor
City of Chesapeake, Virginia

C: James Baker, City Manager
Robert Geis, Deputy City Manager
Eric Martin, Director, Public Works

Managerial Summary

A. Objectives, Scope and Methodology

We have completed our review of the Traffic and Drainage Pro Rata for January 1, 2016 – December 31, 2016. Our review was conducted for the purpose of evaluating pro rata practices in the City of Chesapeake (City) in all areas that received pro rata payments, any revenue related pro rata issues, and whether the City was complying with applicable department, city, state, and federal requirements and procedures related to pro rata procedures.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Pro rata was established by the Commonwealth of Virginia as a method to allow municipalities to have developers construct large water/sewer, and drainage, projects that benefited more than one development and share the cost with each subsequent developer.

The City utilized pro rata for the construction of various water/sewer, drainage, and traffic projects within the City. As of September 30, 2016, the City held \$4,860,480 on deposit for drainage pro rata, and \$85,000 for traffic pro rata projects.

To conduct this audit, we reviewed and evaluated City and Department policies and procedures, and operations documents and reports, both internal and external, as well as State code. We also conducted interviews with various Public Works staff and conferred with the City Attorney's office.

Major Observations and Conclusions

Based on our review, we determined that Drainage Pro Rata procedures were functioning as expected. However, we did identify some issues related to tracking the length of time deposits were kept, viability of certain basins, and missing reference to the twelve year refund period in the departmental regulations. Our review of Traffic Pro Rata determined that the program was not in compliance with State Code.

This report, in draft, was provided to the Public Works Department for review and response. Their comments have been considered in the preparation of this report. These comments have been included in the Managerial Summary, the Audit Report, and Appendix A. Department management and staff were very helpful throughout the course of this audit. We appreciated their courtesy and cooperation on this assignment.

Methodology

To conduct this audit, we reviewed and evaluated City policies and procedures, and operations documents and reports, both internal and external. We reviewed applicable City Ordinances and State Code. We also conducted interviews with various department staff. We observed various processes and records. We reviewed prior audits in Chesapeake and of other municipalities. We reviewed other municipalities oversight and control of pro rata. Finally, we reviewed data obtained from PeopleSoft.

B. Performance Information

The Commonwealth of Virginia and City Ordinances allowed the City to establish water and sewer improvement and/or drainage improvement plans for areas having related and common water and sewer and/or drainage conditions and where improvements were constructed by an initial developer to serve the demands generated by subdivisions and developments within that area. Subsequent subdividers or developers whose projects were served by such improvements would be required as a condition of subdivision or development approval to pay their pro rata share of the cost of providing such improvement.

The pro rata drainage program was implemented in 1988 by Public Works. The pro rata program apportioned the cost of major infrastructure to the developers using the improvements. The intent was to encourage continued development in Chesapeake and equitably allocate those costs to the parties who received the benefit. For the pro rata drainage program, the City would develop a project once sufficient funds, generally over \$100,000, were available in the pro rata deposit account for the appropriate basin.

Traffic pro rata was used from approximately 1997 through 2014 and was subsequently discontinued after the completion of the Volvo Parkway and Independence intersection project. A total of \$85,000 remains on deposit. The pro rata sewer/water program was created in 1984 by Public Utilities and was noted in our FY 2016 audit.

C. Pro Rata Programs

1. Drainage Pro Rata

Finding - The City's pro rata drainage program had multiple pro rata deposits in drainage basins that may not be viable for future projects. The basins were located mainly in areas of the City that had already been developed making further development unlikely. There was no method in Public Works to track the length of time deposits had been received and not used. There was also no mention in Public Works Departmental Regulation 906 that drainage pro rata could only be kept for twelve years.

Recommendation – Public Works should set up an “aging schedule” or other method to track the length of time that pro rata deposits have been held by the City and review each basin to determine if there are any deposits that have been held for more than twelve years. If any such deposits are found, Public Works should work with the City Attorney's Office to determine what should be done with those deposits. The City may also wish to evaluate the future of the program in more fully developed areas or the possibility of funding stormwater quality retrofits in those areas.

Response - Public Works believes the drainage pro-rata program to be a very effective method of mitigating the impacts of new development on the existing drainage system and providing a pro-rata contribution to the costs of developing improved drainage infrastructure to support the development and surrounding area.

Comprehensive engineering drainage studies (Master Drainage) identify the ultimate drainage system configuration at city build-out in accordance with the approved City land use plan, these calculations are detailed in the Public Facilities Manual.

We concur that Public Works regulations outlining the program require updating to clearly show the 12 year limit and the process for reimbursing development as appropriate. Public Works, as we have done regularly in the past, will soon present a significant budget action to City Council to program additional projects to utilize drainage pro-rata funds and to reimburse the general fund and stormwater utility in order to maximize the use of the pro-rata contributions and ensure that few funds lapse under the 12 year limit. As part of our quarterly review we will continue to identify projects and reimbursements as additional pro-rata funds are received. (Note: the full text of their response is included in the audit report.)

2. Traffic Fee Pro Rata

Finding - The City continued to carry pro rata traffic fees on the general ledger even though it was not authorized to collect those fees, and Public Works maintained a policy for Pro Rata Traffic Fees even though the City was not authorized to collect them.

Recommendation – The City should remove the pro rata traffic fees from the general ledger, and Public Works should rescind its policy for Pro Rata Traffic Fees.

Response – This Audit report has conflated several items into one category “Traffic Pro-rata,” when really there has been three different types as follows:

1. Voluntary Road Cash proffers.
2. Proffered traffic signal contributions, sometimes called pro-rata because it is a proportionate share, as part of a conditional rezoning.
3. We did have an older requirement for traffic signal pro-rata for site development that was going through code compliance review. This program was not consistent with state code and had been discontinued many years ago.

We concur that the Public Facility Manual (PFM) Chapter 16 “Access Management” and Public Works Regulation 906 “Pro-Rata Fees” require updating to clarify these distinctions. During the last round of PFM updates in November of 2016, we removed the traffic pro-rata section from chapter 16 but we were contemplating making additional changes to this chapter and neglected to send out this chapter at that time. The revised chapter has now been posted for public comment. Public Works regulations will be updated to distinguish between voluntary cash proffers for road improvements and individually proffered contributions for traffic signals and clarify that the account is for “Traffic Signal/Improvements Cash Proffers” rather than “Traffic Signal Pro-rata”.

TRAFFIC AND DRAINAGE PRO RATA
SPECIAL AUDIT
JANUARY 1, 2016 TO DECEMBER 31, 2016

Table of Contents

<u>Contents</u>	<u>Page</u>
A. Objectives, Scope, and Methodology	1
B. Performance Information	2
C. Pro Rata Programs	3
Appendix A – Response from Public Works and City Attorney’s office	
Appendix B – Pro Rata Funds By Basin	

A. Objectives, Scope, and Methodology

We have completed our review of the Traffic and Drainage Pro Rata for January 1, 2016 – December 31, 2016. Our review was conducted for the purpose of evaluating pro rata practices in the City of Chesapeake (City) in all areas that received pro rata payments, any revenue related pro rata issues, and whether the City was complying with applicable department, city, state, and federal requirements and procedures related to pro rata procedures.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Pro rata was established by the Commonwealth of Virginia as a method to allow municipalities to have developers construct large water/sewer, and drainage, projects that benefited more than one development and share the cost with each subsequent developer. The City utilized pro rata for the construction of various water/sewer, drainage, and traffic projects within the City. As of September 30, 2016, the City held \$4,860,480 on deposit for drainage pro rata, and \$85,000 for traffic pro rata projects.

To conduct this audit, we reviewed and evaluated City and Department policies and procedures, and operations documents and reports, both internal and external, as well as State code. We also conducted interviews with various Public Works staff and conferred with the City Attorney's office.

Major Observations and Conclusions

Based on our review, we determined that Drainage Pro Rata procedures were functioning as expected. However, we did identify some issues related to tracking the length of time deposits were kept, viability of certain basins, and missing reference to the twelve year refund period in the departmental regulations. Our review of Traffic Pro Rata determined that the program was not in compliance with State Code.

This report, in draft, was provided to the Public Works Department for review and response. Their comments have been considered in the preparation of this report. These comments have been included in the Managerial Summary, the Audit Report, and Appendix A. Department management and staff were very helpful throughout the course of this audit. We appreciated their courtesy and cooperation on this assignment.

Methodology

To conduct this audit, we reviewed and evaluated City policies and procedures, and operations documents and reports, both internal and external. We reviewed applicable City Ordinances and State Code. We also conducted interviews with various department staff. We observed various processes and records. We reviewed prior audits in Chesapeake and of other municipalities. We reviewed other municipalities oversight and control of pro rata. Finally, we reviewed data obtained from PeopleSoft.

B. Performance Information

The Commonwealth of Virginia and City Ordinances allowed the City to establish water and sewer improvement and/or drainage improvement plans for areas having related and common water and sewer and/or drainage conditions and where improvements were constructed by an initial developer to serve the demands generated by subdivisions and developments within that area. Subsequent subdividers or developers whose projects were served by such improvements would be required as a condition of subdivision or development approval to pay their pro rata share of the cost of providing such improvement. Each pro rata share would be based upon the impact a subdivision or development had upon the rate of flow of water, sewage, or drainage through such improvements, with the impact expressed as a percentage of the total rate of flow those improvements were intended to service. That percentage would then be applied to the total cost of designing and installing the improvements to determine the value of the pro rata share required.

The pro rata drainage program was implemented in 1988 by Public Works. The pro rata program apportioned the cost of major infrastructure to the developers using the improvements. The intent was to encourage continued development in Chesapeake and equitably allocate those costs to the parties who received the benefit. For the pro rata drainage program, the City would develop a project once sufficient funds, generally over \$100,000, were available in the pro rata deposit account for the appropriate basin.

The City was divided into 53 drainage basins, with each basin able to develop pro rata projects. The most active drainage basins were in the underdeveloped parts of the City such as the Hickory and Butts Station areas. In areas that had already seen intensive development such as South Norfolk, there was not as much activity in developing drainage projects through the use of pro rata. The total on deposit as of September 30, 2016 across all basins was \$4,860,480.

Traffic pro rata was used from approximately 1997 through 2014 and was subsequently discontinued after the completion of the Volvo Parkway and Independence intersection project. A total of \$85,000 remains on deposit. The pro rata sewer/water program was created in 1984 by Public Utilities and was noted in our FY 2016 audit.

C. Pro Rata Programs

Our review of the Drainage pro rata determined that procedures were functioning as expected. However, we did identify some issues related to tracking the length of time deposits were kept, viability of certain basins, and a missing reference to the twelve-year refund period in the departmental regulations. Our review of Traffic pro rata determined that the program was not in compliance with State Code.

1. Drainage Pro Rata

Finding - The City's pro rata drainage program had multiple pro rata deposits in drainage basins that may not be viable for future projects. The basins were located mainly in areas of the City that had already been developed making further development unlikely. There was no method in Public Works to track the length of time deposits had been received and not used. There was also no mention in Public Works Departmental Regulation 906 that drainage pro rata could only be kept for twelve years.

Virginia Code Section 15-2-2243, Payment by subdivider of the pro rata share of the cost of certain facilities, allowed pro-rata payments for utility and storm water drainage projects. Chesapeake City Code Section 70-123 authorized pro rata fees for public utilities and storm water drainage. The pro rata drainage policies and procedures were contained in Public Works Departmental Regulation 906.

Virginia Code Section 15-2-2243 also stated:

"All bonds, payments, cash escrows or other performance guarantees hereunder shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established water, sewer and drainage programs is not commenced within twelve years from the date of the posting of the bond, payment, cash escrow or other performance guarantee."

The City was divided into 53 drainage basins based on the City's Master Drainage Plan, the Virginia Department of Transportation Drainage Manual, and the Virginia Stormwater Management Handbook. These basins covered Chesapeake in its entirety from the undeveloped southern portions of the City to areas such as South Norfolk where there was no longer any major development. As these areas were developed, the developers paid a pro-rata share for the needed drainage projects that were identified in the Master Drainage Plan. The money was then put on deposit until such time as a project was undertaken.

Public Works needed at least \$100,000 on deposit for a project to be considered viable for construction. Of the 53 drainage basins, 44 basins had funds on deposit. Of those 44 basins, 32 (or 73%) had less than \$100,000, with 15 of 32 (47%) having less than \$20,000. Only 12 of 44 basins (27%) had funds on deposit in excess of \$100,000. Of the total \$4,860,480 in funds on deposit at 9/30/2016, the majority (\$2,937,777.10, or 60%) had been received for projects representing just 6 of the 53 total basins (11%). Furthermore, Public Works Departmental Regulation 906 did not include a twelve year window for refunds. (Note: A listing of the basins is included in Appendix B)

The situation occurred because the City collected funds citywide without regard to potential future projects. While this was certainly understandable, there had been no tracking methodology established to quickly determine the length of time that deposits were outstanding. Also, Public Works Departmental Regulation 906 did not mention a twelve year window for refunds.

The basins with deposits of less than \$100,000 ran the risk of never reaching a level of viability for project construction. This meant that the City risked having deposits on the books for years that later needed to be refunded in the form of tax credits (with interest) on the affected properties. Also, since the City was not tracking the twelve year requirement, it risked continuing to hold funds on properties for which tax credits were due without being aware of the impending credits. Finally, increases in interest rates may increase the amounts the City has to provide in credits.

Recommendation – Public Works should set up an “aging schedule” or other method to track the length of time that pro rata deposits have been held by the City and review each basin to determine if there are any deposits that have been held for more than twelve years. If any such deposits are found, Public Works should work with the City Attorney’s Office to determine what should be done with those deposits. The City may also wish to evaluate the future of the program in more fully developed areas or the possibility of funding stormwater quality retrofits in those areas.

Public Works, together with the City Attorney’s Office, should review the pro rata City Ordinances and Departmental Regulations. Public Works Departmental Regulation 906 should be updated to indicate that the pro-rata drainage fees can only be held for twelve years. In addition, all City websites referencing the pro rata drainage should be updated to reflect these changes. The City may also wish to evaluate the continued use of pro rata drainage in areas of the City that are already developed and may not be viable for future construction of drainage projects, particularly given the risk that such deposits may have to be repaid at (potentially) higher future interest rates. The City may also consider the possibility of constructing stormwater quality retrofits in those areas.

Response – Public Works believes the drainage pro-rata program to be a very effective method of mitigating the impacts of new development on the existing drainage system and providing a pro-rata contribution to the costs of developing

improved drainage infrastructure to support the development and surrounding area. Comprehensive engineering drainage studies (Master Drainage) identify the ultimate drainage system configuration at city build-out in accordance with the approved City land use plan, these calculations are detailed in the Public Facilities Manual.

Contributions to each of the drainage basins are tracked in the financial system and are reviewed quarterly by the Public Works Stormwater engineering and accounting staffs. When appropriate, new projects are identified to be funded in whole or in part by drainage pro-rata funds. In many cases individual pro-rata contributions are credited to on-site improvements made by that developer for master drainage facilities on or adjacent to their development. While many of these improvements cost the developer in excess of their credit the city's contribution is capped at the identified drainage pro-rata contribution. In some cases the City will make master drainage improvements with stormwater utility or general funds, which can be reimbursed by future developer pro-rata contributions. On a regular basis Public Works requests appropriation of these reimbursement funds back to the General fund or Stormwater Utility. As part of the Audit review we have closely reviewed the aged contributions and are confident that we have accounted for them and have previously expensed the oldest contributions or have a plan to do so by basin.

Public Works previously maintained a comprehensive aged list of contributions in the mainframe database by drainage basin. With the retirement of the mainframe, the list of contributions is being modified with additional reporting to support staff review of aged contributions nearing the 12 year return requirement. As mentioned above most basins have had master drainage projects performed using city / stormwater funds and so the oldest money contributed has regularly been reimbursed.

There remain some basins that are more fully developed where pro-rata contributions alone may not support a necessary study update or construction project. In some cases Public Works will supplement the pro-rata funds with stormwater utility funds to utilize the pro-rata funds before they expire. However, as the Audit observed there are a few well developed drainage basins with minimal development which will not generate enough pro-rata contributions before the expiration of old contributions. Public Works intends to request that some of these drainage basins be sunsetted from the pro-rata program and the requirement for contributions removed. Based on a review of the applicable basins there may be a limited amount of funds (>\$30,000) that have exceeded the 12 year period and will be processed for a refund to the development. Public Works will coordinate with the City Attorney to effect these reimbursements.

We concur that Public Works regulations outlining the program require updating to clearly show the 12 year limit and the process for reimbursing development as appropriate. Public Works, as we have done regularly in the past, will soon present a significant budget action to City Council to program additional projects to utilize drainage pro-rata funds and to reimburse the general fund and stormwater utility in order to maximize the use of the pro-rata contributions and ensure that few funds lapse under the 12 year limit. As part of our quarterly review we will continue to identify projects and reimbursements as additional pro-rata funds are received.

2. Traffic Fee Pro Rata

Finding - The City continued to carry pro rata traffic fees on the general ledger even though it was not authorized to collect those fees, and Public Works maintained a policy for Pro Rata Traffic Fees even though the City was not authorized to collect them.

Per Section 70-123 of the Chesapeake City Code, pro rata fees were only authorized for public utilities and storm water drainage. The City Code did not address the collection of pro-rata traffic fees. Also, Virginia Code Section 15-2-2243 allowed for pro-rata for utility and storm water drainage projects. Pro rata traffic fees were allowed under Virginia Code Section 15-2-2242 but only for selected municipalities. Chesapeake was not one of the municipalities given the authority to collect pro-rata traffic fees.

In 1997, the City collected \$25,000 in pro rata traffic fees for an Emerald Lakes Estates project. However, in 2009, the City deposited \$150,000 in cash proffers into the pro rata account and later appropriated and expended them for traffic improvements at the intersection of Volvo Parkway and Independence Parkway. The funds were described on an internal City reconciliation form as "Pro rata traffick(sic) deposits" in error. Similarly, in 2014, \$60,000 in cash proffers associated with a third project were deposited into the pro rata account. The remaining balance of \$85,000 was still carried on the City's general ledger as a pro rata traffic fee. Public Works indicated that the use of pro rata traffic fees had been discontinued; However, Public Works Departmental Regulation 906 continued to reference policy and procedures for the collection of pro rata traffic fees.

This situation occurred because Public Works had started collecting pro rata traffic fees under the mistaken belief that it was authorized to do so. It appears that a misinterpretation of the Virginia Code led to this belief even though the City Code did not authorize the collection of pro rata traffic fees.

Since the City had collected money from these fees without the appropriate authorization to do so, the funds collected created some risk for the City, and the City was still carrying pro rata traffic fees on the general ledger that it lacked authority to obtain or spend. In addition, maintaining outdated policy and procedures could potentially create misunderstandings and errors, as evidenced by the misclassification of the 2009 and 2014 cash proffers.

Recommendation – The City should remove the pro rata traffic fees from the general ledger, and Public Works should rescind its policy for Pro Rata Traffic Fees.

The City Attorney's Office should be consulted to determine what should be done with the pro rata traffic fees that remained on hand. Also, the City should remove the pro rata traffic deposits from the City financial statements, and Public Works Departmental Regulation 906 should be updated to remove all mentions of pro rata traffic fees.

Response – This Audit report has conflated several items into one category “Traffic Pro-rata”, when really there has been three different types as follows:

- 1. Voluntary Road Cash proffers. This has been the source of most funds from developers, and is collected on a per unit basis in accordance with the City Proffer Policy (similar to schools, libraries, EMS). Program has been discontinued for residential development due to recent changes in State law. We can still accept proffered funds for traffic improvements from non-residential re-zonings.**
- 2. Proffered traffic signal contributions, sometimes called pro-rata because it is a proportionate share of a new signal's cost, as part of a conditional rezoning. The \$150,000 referenced for Volvo and Independence Parkways intersection, was a proffered contribution from Oak Crest at Battlefield / Gateway development. The \$60,000 was proffered from Plantation Greens rezoning, later changed name to Tattersall Apartments, for a traffic signal at Grassfield Parkway/Cahoon Parkway. These traffic signal contributions are consistent with state code for voluntary proffers.**
- 3. We did have an older requirement for traffic signal pro-rata for site development that was going through code compliance review. This program was not consistent with state code and had been discontinued many years ago. The latest fee collected under this type is many years old, and it appears to have only one collection in the fund from 1997. We will work with the City Attorney to have this \$25,000 contribution returned {Emerald Lakes Estates Sect. 3A 1997}.**

We concur that the Public Facility Manual (PFM) Chapter 16 “Access Management” and Public Works Regulation 906 “Pro-Rata Fees” require updating to clarify these distinctions. During the last round of PFM updates in November of 2016, we removed the traffic pro-rata section from chapter 16 but we were contemplating making additional changes to this chapter and neglected to send out this chapter at that time. The revised chapter has now been posted for public comment. Public Works regulations will be updated to distinguish between voluntary cash proffers for road improvements and individually proffered contributions for traffic signals and clarify that the account is for “Traffic Signal/Improvements Cash Proffers” rather than “Traffic Signal Pro-rata”.

We appreciate the review performed by the Audit staff and will incorporate the comments recommended, as noted above.

APPENDIX A

RESPONSE FROM PUBLIC WORKS OFFICIALS

MEMORANDUMDepartment of Public Works
Post Office Box 15225
Chesapeake, Virginia 23328
(757) 382-6101

TO: Jay Poole, City Auditor

FROM: Eric J. Martin, P.E., Director of Public Works 

DATE: March 3, 2017

SUBJECT: Public Works Drainage and Traffic Signal Pro-rata Audit

The Public Works staff with input from the Department of Development and Permits and the City Attorney's Office have reviewed the audit report prepared by your office and concur with many of the findings.

Your assessment that the drainage pro-rata program is functioning as intended is accurate. The program has been an important part in developing the necessary drainage infrastructure for the City. The engineering studies that form the basis of the program establish the needed improvements to support the ultimate build out of the city in accordance with the approved land use plan. The drainage pro-rata program provides the opportunity for land developers to either contribute towards or participate in the construction of the improvements. Tracking of the funds contributed has always been important and the Public Works staff regularly reviews the accounts for opportunities to fund needed improvements or pre-design studies. With retirement of the mainframe database, the tracking of funds and reporting of aged accounts can be further refined as suggested in the audit. Based on the latest comprehensive review of the accounts, Public Works will be tendering a request to Council to re-direct and appropriate funds from the pro-rata accounts for reimbursement of previous city expenditures or establishment of new projects. This will continue our regular process of expending the accumulated funds before their statutory expiration.

The traffic pro-rata audit findings required additional clarification as the term "traffic pro-rata" has been assigned to three separate programs. We concur that one older element of the collection of traffic signal pro-rata funds was inappropriate and was previously discontinued by Development and Permits and Public Works. We agree that clarification in the Public Facilities Manual and Public Works regulations is appropriate. Other ascribed "traffic pro-rata" programs involve the voluntary contribution of proffer funds. The city retains the authority to collect such funds but clarification on how accounts are designated would eliminate confusion. A comprehensive review of the accounts did identify one expired contribution which will require distribution back to the property. We will coordinate with the City attorney to effect that distribution.

We appreciate the audits staff's close look at the Public Works administered "pro-rata" programs and your recommendations for improvement. Please call me at 382-6380 if you have any questions.

cc: Earl Sorey, P.E., Assistant Director Public Works
Jay Tate, P.E., Director of Development and Permits
John Mundy, Public Works Fiscal Administrator

"The City of Chesapeake adheres to the principles of equal employment opportunity.
This policy extends to all programs and services supported by the City."

PUBLIC WORKS RESPONSE TO AUDIT FINDINGS – MARCH 3, 2017

1. Drainage Pro Rata

Finding - The City's pro rata drainage program had multiple pro rata deposits in drainage basins that may not be viable for future projects. The basins were located mainly in areas of the City that had already been developed making further development unlikely. There was no method in Public Works to track the length of time deposits had been received and not used. There was also no mention in Public Works Departmental Regulation 906 that drainage pro rata could only be kept for twelve years.

Recommendation – Public Works should set up an “aging schedule” or other method to track the length of time that pro rata deposits have been held by the City and review each basin to determine if there are any deposits that have been held for more than twelve years. If any such deposits are found, Public Works should work with the City Attorney's Office to determine what should be done with those deposits. The City may also wish to evaluate the future of the program in more fully developed areas or the possibility of funding stormwater quality retrofits in those areas.

Response – Public Works believes the drainage pro-rata program to be a very effective method of mitigating the impacts of new development on the existing drainage system and providing a pro-rata contribution to the costs of developing improved drainage infrastructure to support the development and surrounding area. Comprehensive engineering drainage studies (Master Drainage Studies) identify the ultimate drainage system configuration at city build-out in accordance with the approved City land use plan, these calculations are detailed in the Public Facilities Manual.

Contributions to each of the drainage basins are tracked in the financial system and are reviewed quarterly by the Public Works Stormwater engineering and accounting staffs. When appropriate, new projects are identified to be funded in whole or in part by drainage pro-rata funds. In many cases individual pro-rata contributions are credited to on-site improvements made by that developer for master drainage facilities on or adjacent to their development. While many of these improvements cost the developer in excess of their credit the city's contribution is capped at the identified drainage pro-rata contribution. In some cases the City will make master drainage improvements with stormwater utility or general funds, which can be reimbursed by future developer pro-rata contributions. On a regular basis Public Works requests appropriation of these reimbursement funds back to the General fund or Stormwater Utility. As part of the Audit review we have closely reviewed the aged contributions and are confident that we have accounted for them and have previously expensed the oldest contributions or have a plan to do so by basin.

Public Works previously maintained a comprehensive aged list of contributions in the mainframe database by drainage basin. With the retirement of the mainframe, the list of contributions is being modified with additional reporting to support staff review of aged contributions nearing the 12 year return requirement. As mentioned above most basins have had master drainage projects performed using city / stormwater funds and so the oldest money contributed has regularly been reimbursed.

There remain some basins that are more fully developed where pro-rata contributions alone may not support a necessary study update or construction project. In some cases Public Works will supplement the pro-rata funds with stormwater utility funds to utilize the pro-rata funds before they expire. However, as the Audit observed there are a few well developed drainage basins with minimal development which will not generate enough pro-rata contributions before the expiration of old contributions. Public Works intends to request that some of these drainage basins be sunsetted from the pro-rata program and the requirement for contributions removed. The attached map shows the amounts historically collected from each basin. Based on a review of the applicable basins there may be a limited amount of funds (>\$30,000) that have exceeded the 12 year period and will be processed for a refund to the development. Public Works will coordinate with the City Attorney to effect these reimbursements.

We concur that Public Works regulations outlining the program require updating to clearly show the 12 year limit and the process for reimbursing development as appropriate. Public Works, as we have done regularly in the past, will soon present a significant budget action to City Council to program additional projects to utilize drainage pro-rata funds and to reimburse the general fund and stormwater utility in order to maximize the use of the pro-rata contributions and ensure that few funds lapse under the 12 year limit. As part of our quarterly review we will continue to identify projects and reimbursements as additional pro-rata funds are received.

2. Traffic Fee Pro Rata

Finding - The City continued to carry pro rata traffic fees on the general ledger even though it was not authorized to collect those fees, and Public Works maintained a policy for Pro Rata Traffic Fees even though the City was not authorized to collect them.

Recommendation – The City should remove the pro rata traffic fees from the general ledger, and Public Works should rescind its policy for Pro Rata Traffic Fees.

Response – This Audit report has conflated several items into one category “Traffic Pro-rata”, when really there has been three different types as follows:

- 1. Voluntary Road Cash proffers. This has been the source of most funds from developers, and is collected on a per unit basis in accordance with the City Proffer Policy (similar to schools, libraries, EMS). Program has been discontinued for residential development due to recent changes in State law. We can still accept proffered funds for traffic improvements from non-residential re-zonings.**
- 2. Proffered traffic signal contributions, sometimes called pro-rata because it is a proportionate share of a new signal’s cost, as part of a conditional rezoning. The \$150,000 referenced for Volvo and Independence Parkways intersection, was a proffered contribution from Oak Crest at Battlefield / Gateway development. The \$60,000 was proffered from Plantation Greens rezoning, later changed name to Tattersall Apartments, for a traffic signal at Grassfield Parkway/Cahoon Parkway. These traffic signal contributions are consistent with state code for voluntary proffers.**
- 3. We did have an older requirement for traffic signal pro-rata for site development that was going through code compliance review. This program was not consistent with state code and had been discontinued many years ago. The latest fee collected under this type is many years old, and it appears to have only one collection in the fund from 1997. We will work with the City Attorney to have this \$25,000 contribution returned {Emerald Lakes Estates Sect. 3A 1997}.**

We concur that the Public Facility Manual (PFM) Chapter 16 “Access Management” and Public Works Regulation 906 “Pro-Rata Fees” require updating to clarify these distinctions. During the last round of PFM updates in November of 2016, we removed the traffic pro-rata section from chapter 16 but we were contemplating making additional changes to this chapter and neglected to send out this chapter at that time. The revised chapter has now been posted for public comment. Public Works regulations will be updated to distinguish between voluntary cash proffers for road improvements and individually proffered contributions for traffic signals and clarify that the account is for “Traffic Signal/Improvements Cash Proffers” rather than “Traffic Signal Pro-rata”.

We appreciate the review performed by the Audit staff and will incorporate the comments recommended, as noted above.

APPENDIX B

PRO RATA FUNDS BY BASIN

PRO RATA FUNDS PER BASIN 9-30-16

	DRAINAGE BASIN	PRORATA COLLECTED	APPROPRIATED AMOUNTS	BALANCE REMAINING PER BASIN
BAILEY CREEK 0 UNSTUDIED	BC-0	17,972.33		17,972.33
BAILEY CREEK 1 : GUM ROAD	BC-1	70,308.67	4,095.75	66,212.92
WESTERN BRANCH	BC-2	57,757.00		57,757.00
JESTER GARDENS	BC-3	128,175.45	116,843.00	11,332.45
BELLS MILL CREEK UNSTUDIED	BM-0	1,524.05		1,524.05
HERRING DITCH	BM-1	417,969.58	417,174.99	794.59
WATERS ROAD	BM-2	374,257.26	264,948.99	109,308.27
HORSE RUN DITCH WEST	BM-3	110,863.55	100,174.99	10,688.56
BELLS MILL ROAD BRIDGE	BM-4	479.22	17,174.99	(16,695.77)
COOPERS DITCH	CD-1	3,218,738.19	2,501,362.31	717,375.88
POPLAR BRANCH	CD-2	2,194,751.33	1,288,750.03	906,001.30
FENTRESS	CD-3	692,111.33	451,077.31	241,034.02
MAINS CREEK	CW-1	62,512.50	49,934.18	12,578.32
HODGES CREEK	CW-2	58,963.30	10,857.24	48,106.06
NEWTON CREEK	CW-3	321.90	321.90	0.00
GALBERRY ROAD	DC-1	108,190.13	108,189.77	0.36
DEEP CREEK	DC-2	299,839.82	232,443.28	67,396.54
DEEP CREEK LOCKS	DC-3	55,485.30	20,000.00	35,485.30
SHELL ROAD	DC-4	8,815.33	20,136.27	(11,320.94)
DRUM POINT CREEK UNSTUDIED	DP-0			0.00
PUGHSVILLE	DP-1	391,877.77	19,065.03	372,812.74
BRUCE ROAD	DP-2			0.00
GOOSE CREEK	GC-0	128,769.00	128,769.00	0.00
DOCK LANDING ROAD	GC-1	74,492.65	5,917.51	68,575.14
JOLLIFF ROAD	GC-2	144,640.69	41,191.70	103,448.99
BOWERS HILL	GC-3	205,655.53	18,256.04	187,399.49
WASHINGTON MANOR	GL-1	103,604.76	75,877.99	27,726.77
OAK MANOR	GL-2	75,159.30	79.74	75,079.56
HORSE RUN DITCH UNSTUDIED	HR-0	275.59	275.59	0.00
HORSE RUN DITCH EAST	HR-1	308,750.74	170,759.95	137,990.79
GEORGETOWN	IR-1			0.00
GREENBRIER	IR-2	745.00		745.00
INDIAN RIVER PARK	IR-3	28,961.51	1,657.36	27,304.15
MILLDAM CREEK	MC-1	551,412.95	535,543.17	15,869.78
NEW MILL CREEK - Unstudied	NM-0	8,891.60	0.00	8,891.60
NEW MILL CREEK	NM-1	314,580.03	308,607.83	5,972.20
LINDSEY CANAL	NM-2	200,198.62	87,464.53	112,734.09

GRASSFIELD	NM-3	150,489.91		150,489.91
SHILLELAGH ROAD	NM-4	107,029.91	66,962.55	40,067.36
NORTHSIDE CANAL UNSTUDIED	NS-0	8,895.00		8,895.00
NORTH CENTERVILLE TURNPIKE	NS-1	347,436.52	869.60	346,566.92
BUTTS STATION ROAD	NS-2	496,941.74	400,809.54	96,132.20
OAK GROVE UNSTUDIED	OG-0	22,906.43		22,906.43
OAK GROVE	OG-1	642,689.67	288,703.43	353,986.24
SOUTHERN CHESAPEAKE UNSTUDIED	SC-0	33,426.79		33,426.79
12 FOOT DITCH	SC-1	73,992.24	27,157.84	46,834.40
HOMESTEAD OUTFALL	SC-2	386,672.00	386,672.00	0.00
ST. BRIDES DITCH	SC-3	594,289.29	539,076.91	55,212.38
CAMELOT	SJ-1	287,396.97	208,871.17	78,525.80
JONES CREEK	SN-1	114,097.46	112,082.52	2,014.94
BEDFORD	SS-2	47,796.08	9,690.92	38,105.16
STERNS CREEK	ST-0	63,217.16		63,217.16
DUNEDIN	ST-1	143,764.14	61,760.66	82,003.48
TO BE DETERMINED	TBD	21,994.00		21,994.00
ZZ ACCOUNTING TBD SEE EDITH	ZZ-1	0.00		0.00
Not Applicable	NA	0.00	(0.44)	0.44
As of 9/30/2016	TOTAL	13,960,087.29	9,099,607.14	4,860,480.15

