

Chesapeake Bay Policy Committee

Date: Friday, January 21, 2005

Time: 9:45 a.m. – 11:45 a.m. *

Place: Third Floor Board Room

777 North Capitol Street, NE

Washington, DC 20002

**Lunch will be available for committee members and alternates after the meeting.*

Meeting Agenda

- 9:45 **1. Opening Remarks, Introductions**Hon. John R. Lovell
Chair, Frederick County
- 9:55 **2. Announcements**Chair Lovell
- 2005 committee schedule
 - COG Board connections
- 10:00 **3. Approval of Meeting Summary
for Nov. 19, 2004**.....Chair Lovell
- Recommended action: Approve DRAFT Meeting Summary (Att. 3).
- 10:05 **4. Report on Funding Initiatives**
- **Board Action re Blue Ribbon Panel Report**.....Hon. Bruce Williams
Hon. Penelope Gross
 - **Executive Council Meeting**Ted Graham
COG Water Resources
Director

The COG Board approved Resolution R2-05 (Att. 4.a) on January 12, 2005, calling for COG's member governments to review and comment on the recently released report of the Chesapeake Bay Blue Ribbon Funding Panel and charging the Bay Policy Committee with considering these comments in developing a proposed COG position on the report by the March Board meeting. Mr. Williams and Ms. Gross, who briefed the COG Board, will report on the Board discussion.

Mr. Graham will note developments at the Jan. 10, 2005, meeting of the Chesapeake Executive Council as they relate to this major funding initiative, including the approval of Directive 04-01 (Att. 4.b), calling for the creation of a committee to determine the details of a regional financing authority.

Recommended action:

- Provide recommendations for distributing report to COG membership
- Formulate plan for developing COG position on report

10:45 **5. Bay-related Legislative Initiatives for 2005**.....Pat Stuntz, MD
Director,
Chesapeake Bay
Commission

Ms. Stuntz will brief the members about legislation introduced in the Maryland and Virginia general assembly sessions that addresses Chesapeake Bay issues

Recommended action: Receive briefing.

11:05 **6. Update on Tributary Strategy Developments**.....COG staff

- Maryland
- Virginia

Various COG staff will brief the committees on the latest developments in the state tributary strategies in Maryland and in Virginia.

Recommended action: Receive briefing.

11:20 **7. Update on Maryland Bay Restoration Fund Advisory Committee**J. L. Hearn, WSSC staff

In 2005, Maryland established a surcharge on wastewater customers and septic systems owners statewide to raise funds to benefit its Bay restoration efforts. Mr. Hearn, who represents WSSC on the advisory committee created to make recommendations on the future direction and current uses of the fund, will note issues facing the committee.

Recommended action: Receive briefing.

11:30 **8. Update on Regulatory Developments**.....Tanya Spano, COG staff

The Bay Program has developed new water quality standards which, if met, should bring the Bay into compliance with the water quality goals of the Clean Water Act. To become effective, the standards must be implemented by the states with jurisdiction over tidal waters of the Bay. Ms Spano will report on the status of efforts to implement the new standards in various states and will also note the recently released EPA strategy for permitting wastewater plants in the Bay region, which continues the ongoing conversion of achieving Bay Program goals to a more regulatory environment. The Water Resources Technical Committee is developing technical comments on Maryland's version of the standards, which were recently released for public comment.

Recommended action: Send letter emphasizing the need for EPA leadership in actually implementing the proposed nutrient trading component of the permitting policy.

11:35 **9. Old Business**.....COG staff

- Regional Water Fund Budget Process
- Public Outreach Efforts

11:40 **10. New Business**.....Members

11:45 **11. Adjourn**

The next meeting is scheduled for Friday, March 18, 2005, 9:45 a.m. – 11:45 a.m.

(Remember: COG will reimburse members and alternates for Metro fares.)

Enclosures:

- | | |
|----------|--|
| Item 3 | DRAFT Meeting Summary of Nov. 19, 2004 |
| Item 4.a | COG Board Resolution R2-05 |
| Item 4.b | Chesapeake Executive Council Directive 04-01 |

CHESAPEAKE BAY POLICY COMMITTEE
777 North Capitol Street, N.E.
Washington, D.C. 20002

DRAFT MINUTES OF NOVEMBER 19, 2004, MEETING

ATTENDANCE:

Members and alternates:

Vincent Orange, District of Columbia, Chair
Penelope Gross, Fairfax County, Vice Chair
Thomas Dernoga, Prince George's County
J Davis, Greenbelt
Bruce Tulloch, Loudoun County
Carole Larsen, Frederick County
Andy Fellows, College Park
Hamid Karimi, District of Columbia
Beverly Warfield, Prince George's County

Interested parties:

Craig Fricke, WSSC
Shahram Mohsenin, Fairfax County
Mohsin Siddique, District of Columbia Water and Sewer Authority

Guests:

Rebecca Hanmer, EPA Chesapeake Bay Program
Reggie Parrish, EPA Chesapeake Bay Program

Staff:

Stuart Freudberg, DEP
Ted Graham, DEP
Steve Bieber, DEP
Karl Berger, DEP

1. Welcome, Introductions and Announcements

Chair Vincent Orange opened the meeting at 10:05 a.m. by conducting a round of introductions. Mr. Orange welcomed Rebecca Hanmer, Director of EPA's Chesapeake Bay Program Office, back to COG.

2. Approval of Meeting Summary for Sept. 17, 2004

The draft summary was approved.

3. Report of Blue Ribbon Finance Panel

Ms. Hanmer reviewed the recently released report of the Chesapeake Bay Blue Ribbon Finance Panel. She noted the

previous decisions on water quality goals that are driving the Bay Program's call for steep reductions in

nutrients and sediment. She also noted some of the cost estimates for meeting these goals through implementation of the various state tributary strategies, estimates that range as high as \$28 billion in capital costs and another 2.* million in annual operations and maintenance.

The Blue Ribbon Panel was formed in response to this funding need by the Chesapeake Executive Council in 2004, she said. Its 15 members were appointed by the governors and other high-ranking officials of the Bay Program partners and include Penelope Gross of COG and Fairfax County. The panel was charged with evaluating existing funding sources, exploring new opportunities and emphasizing how to better integrate funding across the various jurisdictional lines. The panel was not charged with second guessing the Bay Program's commitment to meet water quality goals by 2010, Ms. Hanmer added.

The panel concluded that current funding sources, which could contribute about \$6 billion between now and 2010, is very inadequate to meet the needs and is also poorly prioritized and directed, Ms. Hanmer said. The panel came up with 22 recommendations, but its primary recommendation was for the creation of a Chesapeake Bay Financing Authority that would be charged with coordinating all restoration funding and which would be capitalized by a six-year \$15 billion investment derived 80 percent from the federal government and 20 percent from the states. Ms. Hanmer noted that this ratio is the same one currently used in the existing federal-state revolving loan fund program under the Clean Water Act.

The panel's other recommendations covered the major sources of pollution, including agriculture, wastewater and development, she noted. They include a recommendation to develop a nutrient trading program among wastewater treatment plants and a call for local governments to establish stormwater utility fees to fund stormwater management programs.

Finally, Ms. Hanmer noted that the Bay Program has responded to the panel's report by developing a proposed Executive Council directive calling for the creation of a committee to draft the details of such a financing authority in the next year and by several other measures. Ms. Hanmer then invited Ms. Gross to share her thoughts on the panel's report.

Ms. Gross noted that the cost of cleaning up the Bay keeps increasing. The panel began with an estimate of \$18 billion, which was subsequently raised to \$28 billion. The panel decided to focus on \$18 billion, she said, and, more particularly, on \$15 billion in what it considered to be hard costs whose expenditure would achieve most of the water quality improvement sought by the Bay Program.

Ms. Gross also said that at the upcoming Executive Council meeting, the governors are expected to make a commitment to jointly lobby Congress for this money. She noted that similar federal sums have been spent on the Florida Everglades restoration project. There will have to be an all-out legislative effort by the region's congressional representatives to get Congress to approve the money, she said. Locally, she noted, the Virginia General Assembly has begun discussion of a flush tax similar to the one the Maryland General Assembly enacted last year.

Mr. Tulloch noted that the legislators at a recent briefing in Loudoun County indicated that flush tax legislation will not pass the Virginia General Assembly this year. Ms. Gross expressed the view that even if it does not pass this year, such legislation eventually will be approved. She also noted that she has been invited to present the views of local governments at a hearing on Chesapeake bay issues being hosted by MD Congressman Wayne Gilchrest in December.

The members briefly discussed agricultural issues, with Ms. Gross noting the need to stop pointing fingers at each other and for urban and rural interests to talk to each other. She also noted the panel's debate over whether to recommend a tax on home fertilizer sales, which was eventually approved, she said, by a seven-to-six vote. Although such a tax will raise only about \$6 million a year, it was viewed as important to send a message to the people responsible for that particular source of pollution. Ms. Gross said that we have to look at smaller things as well as larger ones.

Action Item: As moved by Mr. Tulloch, the committee approved the recommended actions:

- Request COG Board Chair to circulate report to COG's members and seek feedback to enable the Board to formally comment at its January 2005 meeting.
- Transmit letter to the Executive Council applauding the work of the Blue Ribbon Panel and indicating COG's intention to provide feedback in early 2005.
- Urge the Local Government Advisory Committee to widely circulate the report among local governments in the Bay watershed and seek comment.

The committee also directed staff to prepare a letter for the Chair's signature that would request local government representation on the committee the Bay Program intends to form to develop the details of the proposed authority.

4. Results of CBF Public Opinion Survey

Mr. Berger of COG staff noted that the Chesapeake Bay Foundation recently issues a news release touting the results of a public opinion survey it conducted of the attitude of voters within the Bay watershed toward pollution and specifically Bay-related pollution. The survey indicated that substantial majorities see pollution as a major issue and expect government to take action to address the problem. The CBF web site contains further details for that portion of the survey conducted in Virginia and indicates that two-thirds of those polled would support a \$50 "user fee" to be used for clean-up measures.

Ms. Davis noted that other studies also show that voters are opposed to any new taxes or fees.

5. Enhancing Public and Media Awareness

Mr. Graham of COG staff noted that Howard Ernst had recently received a lot of coverage from the Washington Post and other media for his book, "Chesapeake Bay Blues," which advances the thesis that the Bay Program has made virtually no progress in cleaning up the Bay in its 20 odd years of existence. There have been a number of other stories along the same lines, Mr. Graham noted. During the November COG Board meeting, the progress made by local governments in reducing nutrients that flow to the Bay, particularly those from wastewater treatment plants, was once again noted. However, Board member Nancy Floreen of Montgomery County said this is a message that has just not been heard by most people in the region and that COG should come up with some new ideas for publicizing this message.

In response, Mr. Graham noted, staff worked with CBPC Vice Chair Penny Gross to craft a response to Ernst that was eventually published as a letter to the editor in the Post. Ms. Gross said that COG representatives need to do more to reach out to editorial boards for the Post and other local media and need to come up with other ways of getting this message out. Mr. Graham said that COG staff intends to work with COG's Public Information Officers Committee to address this issue.

Mr. Fellows suggested that the COG effort focus on a positive message, acknowledging that even if the Bay as a whole has not yet seen water quality improvements, that water quality in the Potomac River has improved as a result of local government efforts.

Ms. Davis added that one of the justifications for the Ernst thesis is that it picks a particular point in time from which to measure progress and a lot of progress already had occurred before then. What remains to be done is both difficult and costly, she said. COG's public outreach message should also note that the region nevertheless intends to do more and why.

Mr. Tulloch said COG and its member governments should be careful in crafting public messages. He cited a program in Loudoun County approved by the previous board of supervisors that created overlay districts with specific restrictions as a means to protect river and stream corridors. Although the goal of this program is worthwhile, he said, the means of implementing the policy was mistaken and was subsequently overturned in the courts. He urged committee members to look up the issue on the Loudoun County web site.

6. Review of BMP Nutrient Reduction Potential and Cost Efficiency

Mr. Bieber of COG staff provided an update on his efforts to document the relative cost effectiveness of various restoration measures known as "BMPs" for those practices which would be of use in the COG region. He provided data on a watershed-wide analysis that was conducted by the Chesapeake Bay Commission that indicates that five agricultural BMPs and upgrading nutrient removal technology at wastewater treatment plants are the most cost effective practices to pursue. He noted that in the urban-dominated COG region the wastewater practice is clearly the most important practice to pursue. Achievement of so-called enhanced nutrient removal by all of the major wastewater plants in the COG region would achieve about 70 percent of the nutrient reduction goals now being sought by the Bay Program. He also noted that reductions in nitrogen emissions from power plants in the region that are being sought primarily for air quality reasons have the potential to help the region meet its water quality goals as well. A proposed consent decree with Mirant, owner of four coal-fired plants in the region, has the potential to reduce Nox emissions by 29,000 tons by 2010, he noted.

Mr. Fellows asked COG to conduct some further analysis to document the amount of nitrogen reduction potentially available through air quality improvements.

Action Item: COG staff will attempt to finalize its cost effectiveness report by the end of the year and report back to the committee.

7. Bay Milestones, Committee Schedule for 2005

Mr. Graham introduced a COG staff document that notes expected Bay Program developments for 2005 and anticipates potential actions by the committee and the COG Board. Mr. Berger presented a proposed schedule of meetings for the year. Several members, including Ms. Gross and Mr. Tulloch, expressed concern with not sticking

CBPC minutes of Nov. 19, 2004

Page 5 of 5

to the same meeting date (i.e. third Fridays) throughout the year. After consultation with other COG staff, it was agreed to return to a third Fridays schedule for the months of January, March, May, September and November under a plan in which lunches would be shared with COG's Public Safety Policy Committee and meeting times would be adjusted to last from 9:45 to 11:45 a.m.

8. New Business

None was offered.

9. Adjourn

The meeting was adjourned at 12:00 noon.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
777 North Capitol Street, NE
Washington, DC 20002-4239

**RESOLUTION DIRECTING THE CHESAPEAKE BAY POLICY COMMITTEE TO SEEK
REGIONAL REVIEW AND COMMENT AND PREPARE A PROPOSED REGIONAL POSITION
ON THE REPORT AND RECOMMENDATIONS OF THE CHESAPEAKE BAY PROGRAM'S
BLUE RIBBON FINANCE PANEL**

WHEREAS, the Metropolitan Washington Council of Governments (COG) supports the expeditious attainment of the Chesapeake Bay Program's water quality goals in the Chesapeake Bay and the Potomac River; and

WHEREAS, COG has consistently advocated reliance on the cooperative approach to achieving those goals, an approach that was demonstrably effective prior to the signing of the Chesapeake 2000 (C2K) agreement in June 2000 and forms the heart of the water quality section of C2K; and

WHEREAS, COG demonstrated its early support for achieving water quality goals in the Chesapeake Bay and the Potomac River by the passage of Resolution R37-92 in 1992; and

WHEREAS, through Resolution R25-97, COG endorsed four basic principles for effectively achieving the Bay Program's goals, namely: (1) the value of relying on voluntary actions as opposed regulatory actions; (2) the importance of equity of effort; (3) the need for accurate, adequately documented scientific information; and (4) the critical value of local government voice; and

WHEREAS, COG recognizes that the cost of attaining these goals will require many billions of dollars and that much of the responsibility for program implementation will fall on local governments; and

WHEREAS, COG believes that the financial burden of program implementation should be equitably shared among the federal, state and local government levels; and

WHEREAS, through Resolution R39-03, COG committed to "explore other means of providing financial assistance to support local government programs and policies that implement watershed management measures to benefit the Bay and local water quality, including the development of a regional authority for the Chesapeake Bay region under federal law;" and

WHEREAS, on December 2, 2003, the Chesapeake Executive Council adopted Directive No. 03-02 that called for establishment of a Chesapeake Bay Watershed Blue Ribbon Panel "... to consider funding sources to implement the tributary strategies basinwide and to make recommendations regarding other actions at the federal, state and local level ...;" and

WHEREAS, the Blue Ribbon Panel, Chaired by former Virginia Governor Gerald L. Baliles, issued its report on October 27, 2004 which called for the creation of a regional Chesapeake Bay Financing Authority "... that uses funding on a regional basis to address critical needs throughout the watershed ...;" and further makes twenty-two additional supplementary recommendations "... to help close the funding gap ...;" and

WHEREAS, on January 10, 2005, the Chesapeake Executive Council directed the Chesapeake Bay Program's Principals Staff Committee to convene a committee to provide a specific proposal, by July 1, 2005, for the establishment of a Chesapeake Bay Financing Authority;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS THAT:

1. COG seeks comment from the COG membership on the report and recommendations of the Chesapeake Bay Watershed Blue Ribbon Finance Panel, thereby enabling consideration of a regional position for transmittal to the Chesapeake Bay Program Executive Council; and
2. COG directs the CBPC to receive member feedback and craft a proposed regional position for the Board's consideration not later than March 2005; and
3. COG directs the CBPC to communicate such approved regional position to the Chesapeake Executive Council to ensure that local government concerns are considered when decisions are made on how to proceed with the Blue Ribbon Panel's recommendation for the creation of Chesapeake Bay Financing Authority.



CHESAPEAKE EXECUTIVE COUNCIL

DIRECTIVE NO. 04-01

Funding the Restoration of the Chesapeake Bay Watershed

In December 2003, the Executive Council directed the Chesapeake Bay Program to “establish and convene a Chesapeake Bay Watershed Blue Ribbon Panel to consider funding sources to implement the tributary strategies basin-wide and to make recommendations regarding other actions at the federal, state and local level to the Executive Council.” The panel was formed and given the charge to:

- evaluate possible funding sources and financing mechanisms for reducing nutrient and sediment pollution throughout the Bay watershed;
- assess and explore financing opportunities from federal, state, local and private sources; and
- emphasize financing efficient pollution reductions from storm water, air emissions, agriculture and sewage treatment plants.

The Blue Ribbon Panel submitted its report to the Executive Council in October 2004 that outlined several conclusions and presented a set of recommendations. As noted by the Chairman of the Blue Ribbon Panel:

- The Chesapeake is a national treasure and a resource of worldwide significance.
- The Chesapeake is a powerful economic engine for the entire mid-Atlantic region.
- The Chesapeake is a rich depository of our culture and history.

The central conclusion of the Panel’s deliberations was that current funding does not meet the needs for restoring Chesapeake Bay water quality by 2010 because the Chesapeake Bay Program does not have a permanent funding base sufficiently large enough to fund the necessary management measures. Restoring the Chesapeake Bay will cost many billions of dollars and requires an unyielding commitment from federal, state

and local governments, private individuals and industry to obtain these funds.

“The Panel believes that restoring the Chesapeake Bay and its watershed depends on a strong regional financing mechanism aimed at coordinating funding and implementation of concrete clean-up plans, built on the state’s Tributary Strategies and based on coordinated timing and performance. . . . Business as usual will not accomplish the task before us.”

The Blue Ribbon Finance Panel proposed the following major action:

“By January 1, 2007, the six Bay watershed states and the District of Columbia should create a Chesapeake Bay Financing Authority, capitalized by the federal and state governments, with the capacity to make loans and grants.”

The Blue Ribbon Finance Panel outlines the conceptual framework for this Authority. Thus, it is necessary to explore the regionally-specific details of developing such an Authority before taking action. This review must identify potentially sustainable funding streams at both the state and federal level and the mechanisms needed to create and manage a permanent, multi-state cooperative fund.

THEFORE, in furtherance of our commitment to attain the nutrient and sediment load reduction goals of *Chesapeake 2000* in order to remove the Chesapeake Bay from the EPA list of “impaired waters” and the need to secure substantial and sustainable funding for the implementation of our tributary strategies, the Chesapeake Executive Council and the Chief Executives of Delaware, New York and West Virginia direct the Principals’ Staff Committee to convene a Committee of federal, state and

regional finance and legal experts to provide a specific proposal for the establishment of a Chesapeake Bay Financing Authority.

In the development of such proposal, the Committee should address the following:

- The governance structure for the Authority;
- Regulatory and/or legislative changes necessary (state and federal);
- Specific examples of funding mechanisms that could generate necessary revenue streams;
- Decision-making mechanisms relative to the allocation of loan and grant funds.

In support of the committee, we will provide senior-level state liaisons that will facilitate access by the Committee to each state's head of Budget and

Management (or similar state agency), their Gubernatorial, Congressional and state legislative leadership, and other staff, as necessary. We will also work in parallel with the Committee to assist with the identification of necessary state regulatory and/or legislative changes and Congressional actions necessary to implement such an Authority.

This effort will be a substantial undertaking, yet time is of the essence. We direct the PSC to provide a report to the Executive Council as soon as possible but not later than July 1, 2005. The Committee shall provide the Executive Council with sufficient details and background information from their efforts to enable the Executive Council to make an informed decision on how to proceed with the Panel's recommendation for the creation of a Chesapeake Bay Financing Authority.

January 10, 2005

CHESAPEAKE EXECUTIVE COUNCIL

FOR THE COMMONWEALTH OF VIRGINIA



FOR THE STATE OF MARYLAND



FOR THE COMMONWEALTH OF PENNSYLVANIA



FOR THE DISTRICT OF COLUMBIA



FOR THE UNITED STATES OF AMERICA



FOR THE CHESAPEAKE BAY COMMISSION



FOR THE STATE OF DELAWARE



FOR THE STATE OF NEW YORK



FOR THE STATE OF WEST VIRGINIA


