



CHESAPEAKE BAY AND WATER RESOURCES POLICY COMMITTEE
MEETING SUMMARY-DRAFT
January 18, 2019

LINK TO ALL MEETING PRESENTATIONS AND MATERIALS:

<https://www.mwcog.org/events/2019/1/18/chesapeake-bay-and-water-resources-policy-committee-meeting/>

ACTIONS:

1. Hold orientation luncheon for new CBPC members to meet with senior members. Date to be determined via Doodle poll.
2. Convene Legislative and Advocacy Work Group to track legislation in the general assemblies and to prepare CBPC positions as appropriate.
3. Members are requested to submit comments on COG's draft Potomac Water Quality report to Karl Berger by February 15.

1. OPENING REMARKS

- Chair Dyballa announced a few changes to the CBPC membership:
 - As of November, Hamid Karimi retired from DOEE. Jeff Seltzer and Katherine Antos will be the DOEE CBPC representatives.
 - Chair Dyballa welcomed new members including Joe Gill, Director of Prince George's County Department of the Environment, and Matt Ries, who will be the primary representative for DC Water.
 - Chair Dyballa invited Patty Bubar to make a Montgomery County announcement. Ms. Bubar announced that Adam Ortiz is slated to become the new Director of Environmental Programs for Montgomery County, pending his confirmation hearing is scheduled for January 29 [He was confirmed].
- Chair Dyballa shared that COG would like to hold a briefing breakfast or lunch at COG for new members to meet with staff and seasoned members on either February 27 or March 4. The date will be chosen via Doodle poll, followed by a Save the Date
- She referred members to the 2019 schedule of meeting dates and topics, and asked members to email Cindy and Heidi with any suggestions or changes.
- She stated her goals this year as chair are to: Increase member engagement, keep the CBPC emphasis on committee advocacy, and increase awareness of climate change.

2. CPBC APPROVAL

Cindy Dyballa, CBPC Chair

The Summary from November's CBPC Meeting was approved without changes.

3. MEMBER AND STAFF ANNOUNCEMENTS

A. Member Announcements

- Patty Bubar announced that Montgomery County met the requirements of their April 2018 MS4 permit consent decree ahead of the 2020 deadline. In February, Montgomery County will be reporting that they have met the required 20% impervious surface reduction requirement.

- Libby Garvey said she is grateful that COG will continue to focus on trees, and that the topic will be discussed by the CBPC in July. Steve Walz said CEEPC is developing a Resolution to form a CEEPC subcommittee, under the direction of Chair Sze.

B. WRTC Report out

Karl Berger shared highlights from the January 11th WRTC meeting concerning the Watershed Implementation Plan (WIPs) process. Draft WIPs are due to the Bay Program in April, and final plans in August 2019. The WRTC made three points about the WIPs:

- Nitrogen is the biggest challenge compared to phosphorus and sediment.
- In metropolitan Washington we have capacity for growth in wastewater which gives states flexibility for now, including via nutrient trading programs.
- We need to focus beyond 2025, to address growth, and climate change impacts.

Member discussion:

- Chair Dyballa mentioned that we had presentations on regional nutrient trading programs at the November meeting.
- A member expressed concern about future wastewater capacity, saying it would be helpful to have a review of regional capacity, given Region Forward's projected job and housing growth, and the potential future cost for rate payers. Steve Walz added it will be good to know whether flow or load will be the limiting factor.
- A member asked Karl why nitrogen is the biggest issue. Karl said that urban BMPs capture particulates—sediments and phosphorus— but nitrogen dissolves and moves through water. Also, vehicle emissions (NOx) and lawn fertilizers are urban nitrogen contributors.

C. General Updates

Heidi Bonnaffon drew attention to the General Updates noting that Karen Pallansch was Water and Finance's 2018 Award Winner. A link to her full interview can be found in the General Updates, Heidi mentioned the Chesapeake Bay Foundation's State of Bay Report was recently released giving the Bay a grade of D+.

4. STATE LEGISLATIVE FORECAST

Invited guests and Sam Rosen-Amy, on behalf of Councilmember Silverman, shared overviews of expected environmental legislation, in particular those items related to water resources.

A. Leslie Knapp, Legal and Policy Counsel, MACO

Mr. Knapp's presentation is posted to the CBPC website (link above). Highlights included a recap of the Maryland election, noting new General Assembly leadership for several environmental committees, as well as his notes about the WIP process and MS4 permit litigation and negotiations for the next round of permits. Karl Berger on COG staff has been closely working with the Maryland MS4s.

Bills that will come before the General Assembly include the following:

- For septic systems:
 - A proposal for statewide licensing for septic system installers and related professions.

- Mr. Knapp noted it is important to protect the Bay Restoration Fund (BRF) septic account and expand uses to encourage adoption of county Septic Stewardship Programs.
- Recycling: Watch for new mandates and requirements due to market fallout from China.
- Statewide polystyrene/foam ban: It did not pass last year but has better odds this year.
- Plastic straw legislation for the first time.
- Forest Conservation Act
 - Legislation introduced in 2017 and 2018 failed.
 - New approach for 2019 includes three bills:
 - Study legislation
 - Changing “No Net Loss of Forest” definition to remove tree canopy
 - Fee-In-Lieu legislation
- Climate bills include:
 - Recommendations for a new Greenhouse Gas Reduction Act Plan to reach 40% reduction by 2030.
 - Renewable Portfolio Standard
- A bill is expected that would recommend amending the Maryland Constitution to create a right to “clean air, ‘pure’ water, etc.”

B. Lisa Ochsenhirt, Deputy General Counsel, AquaLaw

Ms. Ochsenhirt opened by saying Northern Virginia has strong committee presence, on the Agriculture, Chesapeake, and Natural Resources Committee (7/21 members are from our region). Then she stepped through a series of water bills that are being formulated or sponsored in Virginia. Details are in Ms. Ochsenhirt’s summary posted to the CBPC website (link at the top of summary) and highlights are provided below.

- The Administration has proposed a Stormwater Local Assistance Fund (SLAF) proposal of \$50 M. It is contingent on using added revenue from tax law funding changes. It is unclear whether General Assembly will support this added revenue [The General Assembly supported \$10 M].
- HB 1822 by Delegate Bulova would direct DEQ to conduct a SALF needs assessment and report it to the General Assembly and Governor.
- There will be a bill forthcoming by Senator Hanger that propose limiting SLAF funding for non-MS4s to 20%, which is something COG could support.
- Another bill would require properties with stormwater management facilities to disclose them at point of sale, but relators will probably oppose.
- Senator Peterson, via SB 1400, proposes to expand C-PACE loans (for clean energy improvements) to include loans for stormwater management improvements.
- Wastewater—send smaller plants flow to larger plant; grant funding for wastewater
- Environmental Justice bill, SB 2696, would require the state of Virginia to establish a policy that state departments would have to examine regulations and policies for environmental justice impacts before acting.
- HJ 597 litter study—would request DEQ to study the impacts of litter to farming, fishing, and water quality in urban streams. It proposes a short timeline for DEQ to do the full study and it is of interest to MS4s.

- SB 1534 (Surovell) is a proposal to allow electric utilities to recoup costs of coal combustion residuals remediation over a 25-year period. This is one of five bills concerning coal ash remediation.

C. Sam Rosen-Amy on behalf of Councilmember Silverman

- District legislation, new council period for the next two years. Everyone was reelected, no changes in leadership.
 - Councilmember Cheh is leading the Environmental Committee
- Last year's legislation that will be implemented:
 - Clean energy. 100% renewable electricity by 2032; all DC buildings to become LEED certification phased in. The District is planning to put more money into the District's Green Bank, to fund start up projects such as solar.
 - Clean Rivers Tunnels to retain stormwater, there is a need for equity around financing to reduce economic impacts on low-income and non-profits. Office of People can now represent rate payers and may affect DC Water. Residential relief program has 3 tiers. This program is for 2019, but the Council is looking for longer term solutions.

Member discussion:

- A member asked about the District's LEED performance and efficiency standard for buildings: Is it for existing building? Yes, every building will get a LEED score, based upon size, which will be averaged. Every existing building will need to raise up to the average score (excluding Federal building) or increase its efficiency by 20%.
- Regarding China limiting recycling, and the proposed Styrofoam ban, could Styrofoam be reused in building material? A member asked for more information to be covered about recycling at a future CBPC meeting: It would be beneficial to know more regionally on how to achieve localized materials recovery.
- A member stated the Potomac Roundtable perspective that the impact of trash and recyclables on Potomac water quality is an issue.

5. AMERICA'S WATER INFRASTRUCTURE ACT & CONGRESSIONAL ENGAGEMENT

Kristina Surfus, Legislative Director, NACWA presented highlights of the America's Water Infrastructure Act, and then homed in on what NACWA is doing, and what local governments could do, to advocate for appropriations.

- WRDA, an Army Corps mechanism, has created 30 new water programs (9 of them wastewater), including a new EPA Stormwater Infrastructure Funding Task Force. NACWA will track for COG.
- NACWA is advocating for appropriations for EPA's new Water Workforce Competitive Grants program.
- NACWA is advocating for CSO grant program appropriations. The program has been reauthorized for two more years and broaden to include stormwater and water reuse programs
- WIFIA pilot status was removed and it was reauthorized on January 14th. This is a big deal.
 - It provides legislative certainty to communities seeking to develop an Integrated Plan to manage costs and prioritize their clean water investments.

- It makes clear via statute It directs EPA to support the use of green infrastructure in permits, consent decrees and settlement agreements.
- Establishes a Municipal Ombudsman office within EPA to act as a liaison between EPA and the municipal regulated community for the first time.
- NACWA will be working with EPA and Congress on next steps.
- Federal Budget/Funding
 - FY '18 omnibus - increased SRFs (Clean Water & Drinking Water) by \$300M each - 21% increase for Clean Water SRF
 - Water Infrastructure Finance & Innovation Act (WIFIA) funded at \$63M
 - FY '19: likely result is maintained strong SRF funding levels
- NACWA priorities for the 116th Congress include:
 - Advocating for new Appropriations for new WRDA programs
 - CWSRF reauthorization
 - Making sure the Federal infrastructure package includes water
 - Affordability
- Ms. Surfus briefly reviewed the Farm Bill, noting its positive water protection measures, including market-based approaches for nutrients.
- She noted the Annual NACWA/WEF Legislative Fly-in, in DC, will be from March 31-April 4 this year. This is one of the big national water advocacy events.

Member discussion:

- A member said we should pay attention to affordability issues. Affordability is tied to household income, and while our region has high household incomes and has invested a lot in infrastructure, we need to remain sensitive to the low-income segment of the population.
 - Ms. Surfus and EPA are working on examining, how affordability is calculated and NACWA will keep COG abreast.
- A member asked whether integrated planning framework could include drinking water in the future, since right now it includes stormwater and wastewater?
 - Ms. Surfus said EPA has been reluctant to pair them; funding competition between the two. The Clean Water Act is housed under the transportation and infrastructure committee whereas the Safe Drinking Water Act is under another committee's oversight and there is little appetite for reaching across the committees.
- Ms. Pallansch stated that the WRDA bill's work force development grants are very important for our region, and housing affordability is another key issue. She suggested in the future COG and NACWA could potentially involve Virginia Tech's incoming Innovation center.

6. POTOMAC REPORT

Karl Berger provided highlights of COG's Potomac Water Quality Report both in terms of water quality monitoring efforts and putting water quality trends in context.

- This is an update to COG's 2014 Potomac Report.
- Karl gave the CBPC a homework assignment first (slide 10), requesting members to review the report and executive summary and provide him with comments.
- Karl presented executive summary to the WRTC the week prior, so the draft report and executive summary are subject to both WRTC and CBPC comments and revisions. Comments are requested by February 15.
- Karl plans to prepare a 2 -page summary for the COG Board (timing to be determined)

- If unadjusted for flow, in the graphs of nitrogen fluctuate up and down, based on rain fall. In that case, 2018 would approach 1996 conditions, so COG looks at flow-adjusted nutrient trends.
- Some water quality parameters (dissolved oxygen, chlorophyll a, and clarity) are improving and some are degrading.
- The Potomac is a complex estuary, and lag times are a factor.
- Karl made a clarification for his Slide 6: Green is good, yellow means more work, so there is still more progress needed.
- The Chesapeake Bay Foundation Report Card was based on real time data, so the water quality was subject to the high flows from the record 2018 rainfall. Karl said their grading is somewhat subjective, but they arrived at the same message as COG: There is more to be done.

7. ADJOURNMENT OF MEETING

Chair Dyballa adjourned the meeting at 12:05 p.m.

ATTENDANCE

Members and Alternates:

Amy Jackson, Alexandria
Libby Garvey, Arlington County
Elissa Sliverman, District of Columbia
Sam Rosen-Amy, District of Columbia
Penny Gross, Fairfax County
J. Davis, Greenbelt (phone)
Bill Goddard, Laurel
Cindy Dyballa, Chair, Takoma Park
Karen Pallansch, Alexandria Renew
Matt Ries, DC Water (phone)
Patty Bubar, Montgomery County
Joe Gill, Prince George's County

Mark Charles, Rockville (phone)
Shannon Moore, Frederick County (phone)
Joel Caudill, WSSC (phone)

Guests:

Les Knapp, MaCO (phone)
Lisa Ochsenhirt, AquaLaw (phone)
Kristina Surfus, NACWA

COG Staff:

Heidi Bonnaffon, COG DEP
Karl Berger, COG DEP
Steve Walz, COG DEP