

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

**MINUTES OF MARCH 20, 2009, MEETING**

**ATTENDANCE:**

**Members and alternates:**

Chair Cathy Drzyzgula, City of Gaithersburg  
Vice Chair Barbara Favola, Arlington  
Vice Chair Hamid Karimi, District of Columbia  
Tim Lovain, City of Alexandria  
Penelope Gross, Fairfax County  
Bruce Williams, City of Takoma Park  
J Davis, City of Greenbelt  
Beverly Warfield, Prince George's County  
Meo Curtis, Montgomery County  
Mohsin Siddique, District of Columbia WASA  
J. L. Hearn, WSSC  
Karen Pallansch, Alexandria Sanitation Authority  
Mark Charles, City of Rockville

**Staff:**

Stuart Freudberg, DEP  
Ted Graham, DEP  
Tanya Spano, DEP  
Steve Bieber, DEP  
John Snarr, DEP  
Tomlyne Malcolm, DEP  
Nicole Hange, Legal Department

**Visitors:**

Dana Minerva, Executive Director, Anacostia Restoration Partnership  
Tommy Wells, District of Columbia City Council  
Charles Allen, Chief of Staff to Mr. Wells  
Glynn Rountree, National Association of Home Builders  
Del. Adam Ebbin (via conference call)

**1. Introductions and Announcements**

Chair Drzyzgula called the meeting to order at approximately 10:05 a.m. and conducted a round of introductions.

Mr. Graham noted that the next meeting of the Chesapeake Executive Council will be May 12 in Mount Vernon, Va. The committee will stick with its regular May 15 date for its next meeting.

**2. Approval of Meeting Summary for Jan. 16, 2009**

The members present approved the draft summary.

**3. Proposed Policy on Carryout Bags**

Mr. Freudberg introduced this issue by noting that COG's Recycling Committee had conducted a lengthy workshop on this issue March 19 at which proponents and opponents of legislation to address this issue spoke. He also noted that there is pending legislation on this issue in the District of Columbia and Maryland and that Del. Adam Ebbin had introduced a related bill in the Virginia General Assembly.

Mr. Snarr, who staffs COG's Recycling Committee, summarized the discussion from the committee's workshop on this issue the previous day. He noted that according to trash monitoring data collected by COG staff in the Anacostia watershed plastic bags are one of the two most prevalent types of litter along with plastic bottles. He also noted that trash in the Anacostia is now subject to a TMDL regulatory process and that the region's local governments were signatories to the Trash Free Potomac Treaty coordinated by the Alice Ferguson Foundation, which established a 2013 deadline for a "trash-free" Potomac. He also said that the impact of plastic trash in the water is not only aesthetic; the plastic can break down into smaller particles and harm aquatic and bird species. Bay manufacture also has energy and air emission impacts.

Mr. Snarr said that a number of other countries and some cities or metropolitan regions in the United States have adopted measures to address the issue. These include targeted recycling efforts, bans on certain types of bags and the imposition of fees on the use of certain types of bag. Mr. Snarr also summarized several bills introduced in Annapolis, Richmond and the District of Columbia to address this issue. Finally, he noted that representatives of the paper and plastic bag makers, as well as a representative of Giant Foods, who participated in the workshop expressed opposition to the imposition of either bans or fees. These panelists questioned whether such efforts could truly be successful in reducing litter, which they said was a behavioral issue.

Ms. Minerva presented data collected by the Anacostia Watershed Society for the District of Columbia Department of the Environment on the amount of trash in various tributaries of the Anacostia River and in the river itself. She noted that plastic bags comprise roughly half the amount of trash found by the survey in the tributaries and about 20 percent of the trash items found in the river itself. She also noted that the trash TMDL in the Anacostia watershed is just the second such regulatory action nationwide and that it requires action on the part of state and local governments to reduce trash in the waterways. In reference to the fees charged by prospective legislative measures, she said that governments are already paying for clean-up efforts, so the issue is how to best direct government resources.

Mr. Wells discussed the bag legislation he along with 12 co-sponsors, has introduced in the District of Columbia City Council to address this issue. He said he spent eight months in researching the issue and meeting with various stakeholders, including business interests, before introducing his bill, which he characterized as neither a ban nor a recycling bill. He said the data indicate that plastic bags comprise half of the trash in streams and that recycling efforts alone will not work. He, too, summarized the measures being used in other areas to address this issue.

In summarizing the provisions of his bill, Mr. Wells noted that it would impose a fee of five cents a bag on all recyclable bags, whether paper or plastic, provided by grocery stores and certain other types of retail businesses. However, it would ban certain types of plastic bags that are not recyclable. The bill offers affected retailers the option to retain either one or two of every five cents depending on whether they offer the consumer a credit. The bulk of the fee would be used to establish a clean-up fund for the Anacostia. According to Mr. Wells, the District's Department of the Environment has estimated that imposing a bag fee would result in a 47-percent reduction of trash in local streams and a 21-percent reduction in the river's main stem. He also noted that the District is currently spending what he said was about \$50 million/year on trash clean-up efforts in the Anacostia.

Discussion: Chair Drzyzgula asked that each jurisdictional representative at the meeting provide feedback on what COG can do as a region to address this issue

Action: In the meantime, a draft resolution prepared by COG staff endorsing the establishment of a fee-system and partial ban similar to the Wells legislation was proposed by Vice Chair Karimi and seconded by Mr. Williams.

Mr. Lovain said that Alexandria supports the overall policy, but it may not have the power under Virginia's Dillon Rule to take such action itself.

Ms. Curtis said that discussions among Montgomery County staff indicate support for the overall policy as well. However, the staff still has questions about the effectiveness of bans, the impact on small businesses and the administrative costs of implementing such a program. She said the county could not support the resolution as it is currently worded.

Mr. Charles said Rockville also supports the overall policy, but has questions about some specific aspects of the approach being proposed.

Mr. Williams said Takoma Park could support the resolution as is.

Ms. Gross also cited the Dillon Rule in saying that Fairfax County would be prohibited from pursuing its own county action. She proposed substitute language for the resolution under which COG would pledge its overall support for local or regional action, members would be encouraged to assess their options for addressing the litter issue and COG staff would be directed to report back to the Board in three months with more detailed information on the effectiveness of similar measures in other areas.

Action: Ms. Favola moved to substitute Ms. Gross's proposed language for that originally proposed.

Further discussion: Ms. Davis said that Greenbelt could support this revised resolution.

Mr. Siddique said that the District of Columbia Water and Sewer Authority also could support.

Mr. Karimi indicated his support for the revised resolution and expressed the hope that passage of a bill in the District would serve as a catalyst for action throughout the region.

Ms. Warfield said that Prince George's could support the revised resolution.

Ms. Pallansch, representing the Alexandria Sanitation Authority, and Mr. Hearn, representing the Washington Suburban Sanitary Commission, indicated support for the revised resolution.

Ms. Gross asked Mr. Ebbin for his view of the issue. He indicated that his legislation, which is similar to Mr. Wells' bill, faces a very uphill battle in the Virginia General Assembly, but he believes that the COG resolution, as amended, will help its cause.

Ms. Curtis indicated her support for the revised resolution and noted that Montgomery County staff has already begun to do some background research, which it will be happy to share with the rest of the region.

Action: The committee unanimously approved the revised resolution for consideration by the COG Board.

#### **4. Update to COG's Bay Policy Principles**

Mr. Graham presented a draft resolution and accompanying memo updating COG's Bay policy principles. The COG Board originally adopted the principles in 1997. Staff is recommending changes, Mr. Graham noted, to bring them into line with changes in the Bay Program since that time, particularly its increasingly regulatory nature. The major change involves what was previously a commitment to a voluntary Bay Program. Instead, staff is recommending that this become a "holistic" principle that advocates for the need for regulatory action to take into account a "multi-sector analysis of costs and benefits as well as technical feasibility." In addition, Mr. Graham said the principles were changed to apply not just to policies relating to the Bay restoration effort, but to any regional water quality issue.

Discussion: Chair Drzyzgula noted that she has received nothing but favorable comments on the proposed changes and asked for action to recommend the new set of principles to the COG Board.

Action: Upon a motion by Vice Chair Karimi and a second by Mr. Williams, the committee approved the recommendation of the new set of principles to the COG Board for adoption.

## **5. Chesapeake Bay Program Developments**

Ms. Spano of COG staff discussed Bay Program progress toward developing a Bay-wide TMDL. She noted that there actually will be 92 separate TMDLs for each of the water quality modeling segments of the Bay. The Bay Program and its partners are trying to accelerate the development of this complicated process to meet the 2011 deadline set by earlier litigation over this issue, she said. At the same time, new modeling information emerging from the Bay Program staff indicates that the restoration effort will fall short of meeting water quality goals by the 2011 deadline and will have a very difficult job developing an adequate reduction budget under a TMDL-based approach.

Discussion: Ms. Pallansch asked when the Bay Program would issue its loading caps by sector and geographical boundary under the TMDL approach. Ms. Spano said it is not clear given repeated delays in the process.

Mr. Karimi said that this might be the right time to communicate concerns about the allocation process and the possibility that these assumptions for how much nutrient reduction can be achieved by the different sectors in different areas may not be grounded in reality.

Ms. Gross expressed concern that there will be a new set of goals for 2020. When the Executive Council established the current set of goals – goals that are not being reached -- its members set up local governments and others for failure. Those goals were too ambitious for the amount of time given to achieve them. She said local governments should try to communicate this concern to the EC at its May meeting, perhaps through the LGAC report.

## **6. Federal/State Legislative and Budget Developments**

Mr. Bieber summarized several federal and state legislative matters, including the potential use of federal fiscal stimulus money in local water quality projects, the prospects for water infrastructure funding in the new federal budgets now under discussion, the fate of funding in the Virginia General Assembly for wastewater improvement efforts and the status of several water-related bills in the Maryland General Assembly. He noted that bond funding was authorized for wastewater improvement under Virginia's Water Quality Improvement Fund. He also noted that there are bills in Annapolis addressing septic system upgrades, stormwater utility funding and phosphorus in lawn-care fertilizer that COG staff is tracking. As the legislature in Maryland is still in session, staff will provide a

final report in May.

Action: The committee directed COG staff to further investigate the septic issue and explore whether COG should adopt a legislative position on this issue in the future.

## 7. Staff Updates

- **FY 2010 Regional Water Fund work program and budget** – Mr. Graham noted that staff expects to have a draft ready for a committee decision on approval at the May 15 meeting.
- **Potomac Water Quality report** – Mr. Bieber noted that staff intends to have review draft ready by the next meeting of the committee and to present a final report to the Board in June.
- **Regional outreach efforts – infrastructure and water resource protection initiatives** – Mr. Freudberg said that COG staff is working with public information officers from the water utilities to expand the current outreach campaign, which focuses around the slogan, “wise water use,” to other issues. These include the need for infrastructure maintenance; the need to minimize the presence of fats, oils and grease in the sewer system; and the need to address the issue of emerging contaminants in the water supply. He said that the group will meet shortly and provide an update on the goals of the campaign at the May CBPC meeting.
- **Updated 2009 policy focus document** – Chair Drzyzgula noted that staff updated the committee’s 2009 focus document based on comments at the January meeting and asked if there were further comments. Given that there were no further comments, she said the document would now stand as final.

## 8. New Business

Chair Drzyzgula indicated that staff wants to gauge the members’ willingness to use a new method of distributing meeting materials. As is now done with several other COG committees, staff proposes to circulate only the agenda as an email attachment. All other meeting materials would be posted on the COG web site or available at the meeting.

Ms. Curtis indicated that several environmental groups launched yesterday a legal challenge to the municipal stormwater permit that Montgomery County was due to receive shortly. She noted several issues that were raised in the legal motion for a contested case hearing before the Maryland Department of the Environment.

## 9. Adjourn

The meeting was adjourned at approximately 12:05 p.m.