



Local governments working together for a better metropolitan region

Chesapeake Bay and Water Resources Policy Committee

Date: Friday, March 16, 2007

Time: 10:00 a.m. – 12 noon *

**Place: Room 1, Lobby Level
777 North Capitol Street, NE
Washington, DC 20002**

- District of Columbia
- Bladensburg*
- Bowie
- College Park
- Frederick
- Frederick County
- Gaithersburg
- Greenbelt
- Montgomery County
- Prince George’s County
- Rockville
- Takoma Park
- Alexandria
- Arlington County
- Fairfax
- Fairfax County
- Falls Church
- Loudoun County
- Manassas
- Manassas Park
- Prince William County

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

Meeting Agenda

- 10:00 **1. Introductions and Announcements**.....Hon. Martin Nohe
Chair, Prince William County
 - New Chesapeake Bay Program director
- 10:05 **2. Approval of Meeting Summary for Jan. 19, 2007**.....Chair Nohe
Recommended action: Approve DRAFT Meeting Summary (*Att. 2*).
- 10:10 **3. Review of Plans for Lawn Care Public Outreach**.....Jim King, vice president
Scotts Miracle-Gro Company
COG staff

Per committee guidance, COG and officials of the Scotts Miracle-Gro Company have worked out plans for a spring public education campaign. The campaign will feature half- to full-page print ads (*Att. 3*) in major urban newspapers in the Bay watershed (the *Washington Post*, the *Baltimore Sun*, and the *Virginia Pilot*) during the month of April. The ads link lawn care and water quality and provide tips for minimizing lawn care’s impact on the environment. As part of the campaign, Scotts has proposed that company and COG officials partner in further promoting this message in local media outlets, such as radio garden programs. Mr. King will detail plans for promoting the lawn care-water quality message.

Recommended Action: Provide guidance on plans for further promotion of the COG-Scotts lawn care outreach effort.

- 10:40 **4. State Legislative Update**.....COG staff

COG staff will brief members on the status of pending legislation in Maryland and final legislation in Virginia related to Bay restoration efforts (*Att. 4*). Two of the issues being discussed in Maryland’s General Assembly - a ban on phosphates in dish detergents and a new tax on impervious surfaces to create a “Green Fund” -- are likely to become regional issues. COG staff also will note the potential discussion of these issues in other COG venues, including the March 14 COG Board and Metropolitan Development Policy Committee meetings.

Recommended action: No recommendations for action at this time

- 11:00 5. **Report on Meeting with Congressional Bay Task Force**.....Hon. Penelope Gross,
.....COG staff

Ms. Gross will report on her discussion with Task Force members at a Feb. 16 meeting on federal funding for the Bay. COG staff will note linkages to COG Board priorities (Att. 5).

Recommended Action: Provide guidance on draft federal policy position.

- 11:15 6. **Plans for Committee Tour**.....Uwe Kirste, WRTC Chair
.....Prince William County DPW

Mr. Kirste will present preliminary plans for a tour of stormwater management sites in Prince William County.

Recommended Action: Provide guidance on schedule and format of tour.

- 11:30 7. **Plans for “CEC” Report to COG Board**.....Tanya Spano, COG staff

The committee has been directed by the COG Board to look into the concerns raised by the presence of so-called “compounds of emerging concern” in the Potomac River and their connection to findings of “intersex” fish and other abnormalities. COG staff has been gathering input from the Water Resources Technical Committee, regional experts and other sources. Following a January presentation to the committee, staff was directed to seek further input from health officials in the region. Ms. Spano will review discussions with COG’s Health Officers Committee and present plans for finalizing the report and presenting it to the Board.

Recommended Action: Agree to schedule for final review of the document.

- 11:45 8. **Committee Updates**.....COG staff

COG staff will present brief updates on various items of potential interest to the committee.

Trash-Free Potomac Initiative Developments/ Student Action Committee

Maryland’s “Bay Stat” Program

Plans for Addressing the Growth-Water Quality Issue

- 11:55 9. **New Business**Members

- 12:00 10. **Adjourn**

The next meeting is scheduled for Friday, May 18, 2007, 10 a.m. - 12 noon.

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

Enclosures/Handouts:

- Item 2 DRAFT meeting summary of Jan. 19, 2007
- Item 3 DRAFT of proposed COG-Scotts print ad
- Item 4 Maryland and Virginia legislative fact sheets
- Item 5 DRAFT COG Board “Policy Focus and Priorities”

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

DRAFT MINUTES OF JANUARY 19, 2007, MEETING

ATTENDANCE:

Members and alternates:

Chair Martin Nohe, Prince William County
J Davis, City of Greenbelt
Hamid Karimi, District of Columbia
Penelope Gross, Fairfax County
Sally Kurtz, Loudoun County
Bruce Williams, City of Takoma Park
Eric Olson, Prince George's County
Andy Fellows, College Park
John Dunn, District of Columbia Water and Sewer Authority
Uwe Kirste, Prince William County
Claudia Hamblin-Katnik, City of Alexandria
Bruce McGranahan, Loudoun County
Carole Larsen, Frederick County
J. L. Hearn, WSSC

Guests:

Peter Marx, Northeast-Midwest Institute
Hilary Falk, Northeast-Midwest Institute

Staff:

Ted Graham, DEP Water Resources Director
Nancy Rea, COG staff
Tanya Spano, COG staff
Steve Bieber, COG staff
Heidi Bonnaffon, COG staff
Karl Berger, COG staff

1. Introductions and Announcements

Chair Martin Nohe called the meeting to order at about 10:00 a.m. As the newly appointed chair of the committee, he briefly discussed his background and his intended approach to conducting committee business.

2. Selection of committee vice chairs for 2007

The committee provisionally approved J Davis as vice chair from Maryland and Hamid Karimi as vice chair from the District of Columbia. Mr. Karimi noted that he would step aside if an elected official from the District becomes a regular participant in the committee.

3. Approval of Meeting Summary for Nov. 17, 2006

The committee approved the draft summary.

4. **Review of “Endocrine Disruptors” Draft Report**

Ms. Spano of COG staff presented several slides on this issue, noting that in November 2006, in response to several newspaper articles on the topic, the COG Board directed the committee to investigate the issue of “intersex” fish being found in the Potomac River and its potential link to so-called compounds of emerging concern (CEC) – and to provide a follow-up report to the Board. She noted that compounds with the potential to disrupt endocrine system functions in humans and other animals, such as various pesticides and hormones, are a subset of the overall CEC category.

The issue was first presented to the CBPC at its Nov. 19, 2006, meeting. Since then, staff has discussed the issue with the Water Resources Technical Committee (WRTC) and with other stakeholders throughout the region. COG also co-sponsored a technical forum in November and has plans to co-sponsor an informational forum in March and a technical workshop in the spring.

The staff research conducted to date, Ms. Spano noted, has indicated that there remains a lot of uncertainty about the impact of these compounds when present at the concentrations currently being detected in the Potomac River and other bodies of water. Although many scientists have linked the compounds to abnormal sexual characteristics or behavior in fish and other aquatic organisms, the correlation to potential human health impacts is far less certain, she said. Ms. Spano said that there are a number of research studies currently underway at both the national and local levels which address some of these questions. There also is a need for further research.

Ms. Spano said staff development of a draft report for the Board has been held up by some concerns raised by the WRTC at its meeting in January. In particular, the WRTC recommended that staff confer with regional health officials about any aspects of the report that deal with potential human health impacts. She noted that the WRTC also recommended that the report be confined to a statement of findings and needed further research. The WRTC members did not think that the report should recommend that the region take any immediate actions to try to reduce the levels of these compounds in regional water supplies.

Discussion:

Ms. Gross said that at the Bay Program’s Executive Council meeting in September, EPA Administrator Steve Johnson had noted that EPA earmarked several million dollars for research on this topic. She said it was important to emphasize that we are not calling for COG-funded research and that this is not merely a local problem.

Mr. Kirste expanded on the recommendations reached by the WRTC, noting that the question of potential human health impacts would more fittingly be addressed by health officials in the region. He said the WRTC’s disinclination to recommend any steps to address levels of these compounds at present reflects lack of knowledge about impacts and sources. It is important not to raise public concerns or expectations that may turn out not to be justified or are not achievable.

Emphasizing the global nature of this issue, Mr. Fellows said that local health officials should explore the applicability of the precautionary principle, a concept employed in Europe, to this issue. He said he would like to have a briefing on that principle for the Bay Policy Committee as well as the inter-relationship of health and environmental concerns. Ms. Gross added that this issue presents a great opportunity to bring together COG’s public health and environmental committees. Ms. Rea, who serves as staff to COG’s Health Officers Committee, said she will raise this issue to her committee.

Mr. Karimi noted that the issue has become more complicated the more we investigate it, having started with

water and environmental concerns and now including human health and potentially even issues of indoor air quality.

Mr. Dunn said that the District of Columbia Water and Sewer Authority (DC-WASA) is already getting calls to do something about the issue. Given the uncertainties surrounding the issue, he questioned the priority of any actions that might be taken in response. His agency already faces high costs for dealing with many other environmental issues, making it important to look at this issue in the context of all the other environmental priorities in the region.

Chair Nohe agreed with the recommendation to seek input from the region's health officials and expressed caution about recommending any direct actions.

Action Item: The committee directed COG staff to meet with COG's Health Officers Committee. To accommodate this request, staff requested and received permission to delay the presentation of a report to the COG Board.

5. Committee Focus for 2007

Chair Nohe reviewed the list of potential issues on which the committee should focus in 2007 as drafted by staff. He noted that staff had divided the issues into four items of longstanding focus – funding, compounds of emerging concern, nutrient use in urban areas and the Trash-Free Potomac Treaty – and an additional six items that would be relatively new to committee discussions.

Discussion:

Ms. Gross supported a continuing focus on all four of the longstanding issues, singling out the advocacy of more funding for Bay implementation at the federal and state government levels as the most important. She noted that funding was a critical issue when the committee was first organized in the late 1990s and has remained a primary focus since then.

Mr. Dunn noted the critical importance of funding to the efforts of DC-WASA to address environmental issues. He said that a plan to address the problem of combined sewer overflows is expected to cost \$2.2 billion to implement and efforts to further reduce nutrient discharges from the plant, as sought by the Bay Program, is expected to cost \$800 million to \$1.2 billion. To date, DC-WASA has received very little outside funding for these projects, but he singled out a recent advocacy letter to Congress from the Chesapeake Bay Commission as a positive step because it noted both needs and urged that funding for one project should not be at the expense of the other.

Much of the rest of the discussion focused on whether any of the additional items listed by staff should be included on the core list of priorities.

Chair Nohe said growth issues are very important to his constituents in Prince William County and he advocated for the inclusion of the issue of how growth affects water quality on the core list. He also said that the impact of septic systems on the environment is important in his county as well, where about one-third of all new houses are being developed using such systems. However, he said he sees the issue of septic systems as a subset of the water quality-growth issue. He also expressed interest in the issues of forest and farmland declines, both of which are important in Prince William County, he said.

Ms. Davis noted that forest cover is an interest in already developed communities such as Greenbelt, where the issue is maintaining or sometimes increasing the tree canopy. She said Greenbelt is currently involved in a pilot program to increase its tree canopy. Other members, including Mr. Karimi and Ms. Gross, also noted the importance of this issue in urbanized areas.

The members did not express as much interest in two other listed topics: the impact of global climate change policy on water quality and the effect of deer overpopulation on forest cover and water quality. They also agreed that the septic system, forest cover and farmland preservation issues should be listed as a subset of the water quality and growth issue.

Mr. Berger said that COG staff would use the members' priority rankings to determine on which topics to focus future briefings. Staff would plan to introduce new topics gradually throughout the year.

Action Item: The committee directed COG staff to revise the focus document according to the preferences expressed at the meeting.

6. Update on Federal Funding Prospects

Committee members heard from Peter Marx and Hilary Falk of the Northeast-Midwest Institute, who serve as staff to the Congressional Chesapeake Bay Watershed Task Force. The task force, which consists of the representatives of each of the 41 districts located in whole or in part in the watershed, is getting big enough to become a potential voting block, Mr. Marx noted.

The task force meets on a regular basis to review federal budget requests and status. It sent a letter to the administration in October 2006 outlining its requests for the federal fiscal budget that begins in October 2007. The requests include full funding for the Bay Program's longstanding \$40 million appropriation, funding for various farm bill programs and a request for \$66 million to assist DC-WASA in paying for nutrient upgrades at the Blue Plains wastewater plant. Mr. Marx, noting earlier comments by Mr. Dunn on this issue, said the task force members deliberately chose to concentrate on the nutrient need and ignore the combined sewer need. They did this because of the concern that asking for both would be regarded as completely unrealistic, he said.

Mr. Marx noted that the congressional environment remains difficult for new spending. Although the new Congress is more environmentally oriented than its predecessor, he said, it also faces formidable fiscal constraints. A new farm bill expected to be debated and potentially approved in 2007 is one vehicle for funding Bay-related efforts. He said the Task Force would meet on this issue Feb. 16. Ms. Gross noted that COG representatives have met with the Task Force before. Mr. Marx urged the members to get involved with congressional budget efforts, either at joint meetings of the task force or through individual meetings with members.

7. CBPC Policy Actions: Chesapeake Bay State Legislative Initiatives

Mr. Berger of COG staff briefly reviewed a COG staff summary of legislation in Virginia, noting that the administration has proposed and the General Assembly is considering another one-time appropriation to the Water Quality Improvement Fund to help pay for wastewater plant upgrades. He noted that in 2006 the committee recommended that the Board support a proposed one-time appropriation to the WQIF in that year while also asking for a long-term funding source for the fund. The two one-time appropriations would provide one-half to 2/3 of the state's projected share of wastewater plant upgrades in the Bay watershed, but not provide for restoration measures in other sectors, he noted.

Action Item: The committee agreed to make a similar recommendation to the Board this year, that is, support for the one-time appropriation while again asking for the establishment of a long-term funding source for the WQIF.

CBPC Policy Actions: Federal Farm Bill Policy Position

Mr. Berger of COG staff briefly reviewed the letter drafted by COG staff to advocate for more spending on conservation programs, particularly the Conservation Security Program, in a new farm bill.

Action Item: The committee approved sending the draft letter.

8. Committee Updates

Three of the four items noted in the agenda -- on the State of Chesapeake Forests Report, the Student Action Committee for Trash Free Potomac Watershed Initiative, and COG's Green Building Policy --- were deferred. Mr. Graham briefly noted that plans to commemorate in 2007 the historic voyage of John Smith to the Chesapeake Bay and dedicate a National Historic Trail will include several venues in the COG region.

9. New Business

Ms. Kurtz requested that COG staff prepare a list of committee accomplishments for 2006 that she can use to inform her fellow supervisors/

Action Item: COG staff was directed to prepare a brief summary of 2006 CBPC accomplishments.

10. Adjourn

The meeting was adjourned at 12:15 p.m..

Healthy Lawns. Clean Waters. Protecting the Bay Starts in Your Backyard.

For most of us, our home is our greatest investment. It's our sanctuary, our castle and our kingdom. And it's with great pride that each of us plants and landscapes our little corner of the world.

Yet it's important that we maintain our personal green spaces with the rest of the environment in mind. Especially in the Chesapeake Bay watershed.

While healthy lawns prevent erosion and reduce storm sewer runoff, impermeable surfaces like roads, sidewalks and driveways do not. Which is why it's important to sweep lawn fertilizer back onto the lawn if it lands on any hard surface.

If you use lawn and garden products follow the directions. And never put unused products, even organic fertilizers, down the storm sewer.

Green space has countless benefits. Let's maintain it in a way that also protects our environment.

*The Metropolitan Washington Council of Governments
The Scotts Miracle-Gro Company
Partners in protecting Chesapeake Bay.*



7 Tips on Lawn Care Stewardship:

- 1 If you apply fertilizer in the spring, do so after the third mowing when your grass is actively growing.
- 2 Apply fertilizer at the spreader setting shown on the bag.
- 3 Sweep fertilizer off hard surfaces to prevent it from entering the storm sewer.
- 4 Keep grass clippings, tree leaves and pet waste off hard surfaces to prevent them from entering the storm sewer.
- 5 Mow at the highest setting of your lawn mower.
- 6 Leave grass clippings on your lawn to improve its health and quality.
- 7 Fall is the best time to fertilize your lawn, for quickly improved vigor and a healthier, greener lawn the next spring.

**METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
LEGISLATIVE COMMUNIQUE**

Version from: (X) COG Staff; () Technical Committee; () Policy Committee
Date: March 9, 2007

BILL IDENTIFICATION:

- **Legislative Body:** Maryland House of Delegates; Senate **Bill Number:** House Bill 1220; Senate Bill 901
- **Committee/Subcommittee:** Environmental Matters
- **Name:** Chesapeake Bay Green Fund
- **Primary Sponsor(s):** Del. Maggie McIntosh (Identical bill by Sen. Conway)
- **Status of Bill:**

House Action

2/21 First Reading House Rules and Executive Nominations
2/26 Re-referred Environmental Matters
2/27 Hearing 3/7 at 1:00 p.m.

Senate Action

2/22 First Reading Senate Rules
3/2 Re-referred Education Health and Environmental Affairs & Budget
and Taxation

PURPOSE OF BILL: This bill would establish a Chesapeake Bay Green Fund, effective January 1, 2008, to provide funding to various State agencies and the Chesapeake Bay Trust for bay restoration and growth management activities. The fund would be administered by the Comptroller and would be financed by an impervious surface fee of \$2 per square foot of “new impervious surface” development outside of existing priority funding areas (PFAs) and \$0.25 per square foot of “new impervious surface” development inside existing PFAs. State and local governments are exempted from paying the fee although mitigation is required on government projects that include the construction of impervious surfaces. The bill would also establish a Chesapeake Bay Green Fund Oversight and Accountability Committee. As presently written, the bill would take effect on July 1, 2007.

REGIONAL IMPACT:

The Department of Legislative Services estimates that the proposed tax would generate approximately \$125 million a year – roughly twice the amount of money raised annually by the Chesapeake Bay Restoration Fund – a dedicated fund, financed by wastewater treatment plant users, that is used to help finance improvements to sewage treatment plants.

This bill would impose a mandate on local governments in Maryland. According to the Maryland Department of Legislative Services, local governments would incur further administrative costs to collect the impervious surface fees, required data, and generate reports. This increase in costs would be partially compensated for by the bill’s provision authorizing local governments to use 5% of fees collected for administrative expenses

related to fee collection. According to the Maryland Association of Counties (MACo), this may not fully offset the increase in costs for some counties.

It should be noted that some State agencies (e.g., Maryland Department of Agriculture, Maryland Department of Planning, and Maryland Department of the Environment) would be using 5% or more of their allocation of the fee just to hire new State employees. Any costs in addition to payroll costs would drive those percentages even higher. This is in conflict with the 5% cap placed on local governments for use of fees collected.

It is estimated that the proposed tax would increase the costs of building a home outside of a PFA by several thousand dollars. For example, an analysis conducted for the Home Builders Association of Maryland found that the proposed fee on a Baltimore County house located outside the designated growth area with a footprint of 4,000 square feet would be \$20,000 once all impermeable surfaces, including the driveway and sidewalk, are counted.

House Environmental Matters Committee Chairwoman Maggie McIntosh, D-Baltimore City, the bill's chief sponsor, is on the record as being open to amending the bill to address the concerns of stakeholders. For example, she has plans to exempt affordable and work force housing from the fee, and to provide a limited amount of the revenues to local governments for infrastructure upgrades.

RELATIONSHIP TO COG STRATEGIC PLAN/EXISTING COG POLICIES: Unsure. Development impact fees or excise taxes are solely a local revenue source that are often dedicated to specific purposes (e.g., infrastructure or land preservation).

SPECIFIC JURISDICTIONAL IMPACT (IF ANY) / JURISDICTION CONTACT: According to the Department of Legislative Services Fiscal Note, "Montgomery County reports that costs would increase by \$75,000 in fiscal 2008 and \$150,000 annually thereafter to implement the bill." Other jurisdictions would face similar costs (e.g., Harford County estimates local costs to exceed \$1 million in fiscal year 2008).

POSITIONS TAKEN BY COG MEMBERS OR RELATED ORGANIZATIONS:

- The MML Legislative Committee has discussed various concerns with the proposed legislation and elected to hold the bill at their last meeting pending the outcome of discussions with the sponsors of the legislation.
- MACo is on record as supporting with amendments. A few of the changes MACo is seeking include:
 - Funding should be retained locally for Smart Growth infrastructure;
 - Any funding for agriculture should be dedicated to agricultural easement acquisition;
 - Any State agency funding should be fully dedicated to filling voids in existing Smart Growth related programs and existing affordable/work force housing programs;
 - Should allow workforce housing outside of PFA's;

- Has both collection & enforcement components, making implementation more convoluted than flush fee. Compounded by definitional vagueness (e.g. impervious surface).
 - Sufficient funding must be provided “on top” of other distributions;
 - Need assurance in regulations that offset is consistent with county water quality management programs and that, at least, county comment be solicited prior to any offsets being granted.
-
- House Speaker Michael E. Busch, the O'Malley administration, and environmental groups have thrown their support behind the bill.

 - The bill is opposed by some Republican leaders and homebuilders who object to increased costs for homebuyers – especially for homes built outside of a PFA.

 - 100% of the tax would be collected by local governments. Unclear how much of the revenue would be returned to local governments. 35% would be allocated to farmers (MDA).

STAFF RECOMMENDATION: No position at this time. However, request amendments to the bill that:

- Provide for the equitable allocation of the funds collected, both geographically and among state and local agencies.
- Recognize the reality that existing impervious surfaces have runoff and pollution effects on local waterways and the Chesapeake Bay, just like new impervious surfaces do. The cost of paying for impervious surface impacts should be allocated equitably among existing and new impervious surfaces.
- Provide incentives to jurisdictions adopting local building codes that would help meet clean water goals, such as:
 - LEED green building practices;
 - Environmental site design and better onsite stormwater management;
 - Home systems for water conservation (e.g., gray water collection and reuse).

TECHNICAL COMMITTEE RECOMMENDATION: To be added

Water Resources Technical Committee

Comments to be added

Planning Directors Technical Advisory Committee

Comments to be added

Other

POLICY COMMITTEES RECOMMENDATION:

Chesapeake Bay Policy Committee

Comments to be added

Metropolitan Development Policy Committee
Comments to be added

Others

POSSIBLE COG BOARD ACTION(S):

- Receive Information
- Refer to COG Jurisdiction(s)
- Refer to COG Committee for
 - for Information
 - for Action _____

-
- Proposed COG Board Resolution
 - Supporting Bill
 - Opposing Bill

**METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
LEGISLATIVE COMMUNIQUE**

Version from: (X) COG Staff; () Technical Committee; () Policy Committee
Date: March 8, 2007

BILL IDENTIFICATION:

- **Legislative Body:** Maryland House of Delegates; Senate
- **Bill Number:** HB 1131 (SB 766)
- **Committee/Subcommittee:** Environmental Matters
- **Name:** Environment-Phosphorus-Dishwashing Detergent
- **Primary Sponsor(s):** Del. James W. Hubbard and Barbara Frush (Identical bill by Sen. Brian E. Frosh)
- **Status of Bill:** In House Committee
 - **Next Major Action Expected or Proposed:**
 - Senate hearing was held on March 2, 2007 at 1:00 p.m.
 - House hearing on March 16, 2007 at 1:00 p.m.

PURPOSE OF BILL: Proposed legislation would modify current phosphorus ‘ban’ legislation (implemented in the mid to late 1980’s) to require a reduction in phosphorus for both household and commercial automatic dishwasher detergents – which previously were exempt from the original ‘ban’.

The bill would prohibit a person from, “...using, selling, manufacturing, or distributing for use or sale within the state any detergent used in a commercial or household dishwashing machine that contains more than .5% phosphorus by weight”, beginning December 1, 2008.

REGIONAL IMPACT: This bill would apply only to products used, sold, manufactured or distributed in Maryland.

The Chesapeake Bay Commission intends to propose similar legislation in Pennsylvania, Virginia and the District of Columbia.

- **Water Quality Impacts**
Impact would be minimal to COG’s wastewater treatment plants because they already operate at the limits of technology for phosphorus removal. Maryland Department of the Environment anticipates more significant impacts on smaller wastewater treatment plants that discharge at higher phosphorus levels.

The impacts on land applied biosolids are uncertain at this time, but it is anticipated to be minimal.

- **Cost & Impact to Consumers/Industry**

At the hearing, **Sen. Frosh** cited a Consumer Report (March 2005) study which stated that some brands of available dishwasher detergent that do not contain phosphorus were no more expensive than some brands that did; some dishwasher detergent brands that did not contain phosphorus were ranked just as effective or more in cleaning.

This issue did not appear to be a deciding factor at the hearing.

The manufacturers and the restaurant association that attended the hearing did not challenge the Consumer Report cited but they did emphasize that the detergents that do not contain phosphorus were not suited for commercial applications.

The manufacturers and the restaurant association were against an immediate effective date because they stated they will need more time to develop new products. They requested an implementation date of 2010, or for commercial operations such as hospitals, restaurants, etc. a delay in the effective date.

In Vermont, a Lake Champlain report (February 2004) referenced a 2003 study that determined , through laboratory testing and consumer purchases, that non-phosphorus dishwasher detergents have a satisfactory performance and can be successfully substituted for phosphorus based dishwasher detergents. The report also states that there was a per-household cost increase of between \$6.30 and \$10.90 annually with an average of \$8.65, if consumers switched to non-phosphorus dishwasher detergent.

- **Cost , Impacts or Savings to Wastewater Treatment Plants**

No specific cost estimates were available from WSSC.

Maryland Department of the Environment estimates that automatic dishwasher detergent accounts for about 8% to 34% of the phosphorus influent levels at sewage treatment plants. Assuming Maryland/WSSC's current flow of 130 mgd to Blue Plains, Maryland's share of the estimated savings would be in the range of \$700,000 to \$2.9 M per year, based on cost savings information received from DC WASA.

RELATIONSHIP TO COG STRATEGIC PLAN/EXISTING COG POLICIES: Unsure.
This does not appear to pose any strategic issues regarding local government voice or equity.

SPECIFIC JURISDICTIONAL IMPACT (IF ANY) / JURISDICTION CONTACT: Unsure.
Again, this does not appear to pose issues that are specific to a particular COG member jurisdiction. Should it pass, it would set up a standard in Maryland not practiced elsewhere in the region, but it is likely that advocates would pursue similar action in Virginia and the District of Columbia.

POSITIONS TAKEN BY COG MEMBERS AND OTHERS:

WSSC has not taken a position at this time.

Prince George's County and Montgomery County's positions are unknown at this time.

The Chesapeake Bay Foundation, Chesapeake Bay Commission, Maryland Department of the Environment, Department of Natural Resources and several other environmental groups testified in support of the bill at the hearing on March 2nd.

STAFF RECOMMENDATION: to be determined.

TECHNICAL COMMITTEE RECOMMENDATION: not applicable

POLICY COMMITTEES RECOMMENDATION: to be determined

POSSIBLE COG BOARD ACTION(S):

- Receive Information
- Refer to COG Jurisdiction(s)
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 - for Action _____

- Proposed COG Board Resolution
 - Supporting Bill
 - Opposing Bill

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS LEGISLATIVE COMMUNIQUE

Version from: (X) COG Staff; () Technical Committee; () Policy Committee
Date: March 9, 2007

BILL IDENTIFICATION:

- **Legislative Body:** Maryland House of Delegates; Senate **Bill Number: HB 786 (SB 784)**
 - **Committee/Subcommittee:** Environmental Matters
 - **Name:** Stormwater Management Act of 2007; provides for greater emphasis on and use of environmental sensitive site design for stormwater management
 - **Primary Sponsor(s):** Del. Jane Lawton et al.; Sen. Rosapepe et al.
 - **Status of Bill:** In House Committee
 - **Next Major Action Expected or Proposed:**
 - House hearing on March 14 at 1:00 p.m.
 - Senate hearing on March 20 at 1:00 p.m.
-

PURPOSE OF BILL:

- The general purpose of the bill is to expand the use of “low impact development” for controlling stormwater.
- It requires local governments to update zoning ordinances to allow for the implementation of environmental site design techniques in specified stormwater management practices.
- It requires MDE to adopt regulations that establish a model ordinance or model regulation for specified purposes.
- It requires MDE to adopt regulations that specify criteria for stormwater management plans and stormwater control ordinances.

REGIONAL IMPACT:

- The bill would affect Maryland localities with site design oversight responsibilities.

RELATIONSHIP TO COG STRATEGIC PLAN/EXISTING COG POLICIES:

- It's intended to strengthen control of urban stormwater, but has no direct connection to existing COG policies.

SPECIFIC JURISDICTIONAL IMPACT (IF ANY) / JURISDICTION CONTACT:

- The bill would impact each of the Maryland COG members with planning and zoning authority and those with stormwater management regulatory responsibilities.

POSITIONS TAKEN BY COG MEMBERS OR RELATED ORGANIZATIONS:

- MACO – Oppose
- The House hearing is not until March 14 and we have no information on any official positions taken by COG member jurisdictions. One county staff person indicated that they were prepared to recommend support of the intent of the legislation but that

amendments are needed. COG staff will track members' positions as they become available.

STAFF RECOMMENDATION:

- None at this time, pending receipt and assessment of COG member jurisdictions' positions.

TECHNICAL COMMITTEE RECOMMENDATION:

- None at this time

POLICY COMMITTEES RECOMMENDATION:

- None at this time

POSSIBLE COG BOARD ACTION(S):

- () Receive Information
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-
- () Proposed COG Board Resolution
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2007 COG staff summary of final Virginia General Assembly legislation addressing Chesapeake Bay restoration issues

Final as of February 24, 2007

Approved with amendments:

SB 771/ HB 1710 Virginia Public Building Authority; water treatment. Authorizes the Virginia Public Building Authority to issue bonds in an amount not to exceed \$250 million for grants to be used solely for the purpose of funding the installation of nutrient removal technologies at specified publicly owned treatment works and non-significant discharges to implement the Commonwealth's Chesapeake Bay Tributary Strategies.

Note: The total amount of state funds to be made available under this mechanism, including an amount from last year's General Assembly session, is now about \$500 million. The bill provides for a review of future needs after the \$500 million has been expended.

See <http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb1710> for full text.

HJR 692/ SJR 401 Study; continues the joint subcommittee studying long-term funding for the purchase of development rights to preserve open-space and farmlands; report. Continues for an additional year the joint subcommittee studying long-term funding sources for the purchase of development rights to preserve open-space land and farmlands. In conducting its study, the joint subcommittee shall review recent funding for the preservation of open-space and other conservation land; the future needs of the Commonwealth for open-space and other conservation land, including but not limited to: working farms and forests, wildlife habitat and gamelands, natural areas, parks, and historic resources; the mix of programs best suited to meet such needs, including but not limited to Purchase of Development Rights programs; the cost of such needs; and long-term funding to pay the costs. In addition, the joint subcommittee shall develop a plan for the sharing of the costs of land preservation among the Commonwealth and its local governments. Further, the joint subcommittee shall identify strategies for increasing land preservation, water supply protection and the availability of large parks to serve Northern Virginia. Incorporates HJR 576 (Lewis). This resolution is identical to SJR 401 (Hanger).

HB 1847 Waste load allocations. Allows the State Water Control Board to grant waste load allocations for the Chesapeake Bay watershed nutrient credit exchange program to facilities operating under a Virginia Pollution Abatement permit under limited conditions.

HB 2082 Harvest quota on menhaden; penalty. Establishes an annual menhaden harvest quota of 109,020 metric tons for the Virginia portion of the Chesapeake Bay. Fisheries shall receive a credit to be applied in the following year if the actual harvest does not meet the harvest quota and a

deduction if the actual harvest exceeds the harvest quota. Orders by the Secretary of Natural Resources setting a date of closure for the fishery will be exempt from the requirements of the Administrative Process Act. Any person harvesting menhaden for reduction purposes after receiving notice that the quota has been met shall be guilty of a Class 1 misdemeanor. This bill incorporates HB 1624

Left in Committee

SB 626 Water Quality Improvement Fund; revenues from lodging shall be deposited thereof.

Summary as introduced:

Taxes and fees for the Virginia Water Quality Improvement Fund. Establishes a \$1 per day lodging fee on the sale of hotel, motel, and similar rooms and provides that such revenues plus \$40 million annually in recordation tax revenues shall be deposited into the Virginia Water Quality Improvement Fund for funding of water quality.

HB 2680 Chesapeake Bay Preservation Act; impact fees for public facilities related to development.

Summary as introduced:

Impact fees for public facilities related to residential development. Provides that any locality that has designated Chesapeake Bay Preservation areas and that includes within its comprehensive plan a calculation of the capital costs of public facilities necessary to serve residential uses may impose and collect impact fees to cover the costs of issuing permits for residential uses in amounts consistent with the methodologies used in its comprehensive plan to defray the capital costs of public facilities related to the residential development. A locality imposing impact fees pursuant to the provisions of this bill shall allow credit against the impact fees for cash proffers collected for the purposes of defraying the capital costs of public facilities related to the residential development. In addition, a locality imposing impact fees pursuant to the provisions of this bill may require that such impact fees be paid prior to and as a condition of the issuance of any necessary building permits for residential uses.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

Board of Directors

Proposed 2007 Policy Focus and Priorities

DRAFT

COG Board of Directors Leadership – 2007

CBPC 03/16/07 att. 5

Chairman Vincent C. Gray, Council of the District of Columbia

Vice Chairman Michael Knapp, Montgomery County Council

Vice Chairman Penelope Gross, Fairfax County Board of Supervisors

Background

COG's Vision: The members of the Metropolitan Washington Council of Governments (COG) envision the National Capital Region as the best place to live, work, play and learn.

COG's Mission: COG fosters regionalism – by promoting regional partnerships, developing best practices, applying cutting-edge technologies, and providing a forum for discussion and decision-making. The COG Board of Directors is responsible for overseeing COG's mission and implementing its work program and activities.

The most challenging issues facing the metropolitan Washington region require a long-term vision and commitment to action. As a voluntary association of local governments, COG educates area policy officials as to the regional challenges and identifies and encourages the implementation of solutions built around consensus. While COG has an impressive record of achievement using this approach, solutions are not often easily reached and rarely can be completed in the one-year term of office for its policy boards and committees.

Beginning in 2004, the COG Board of Directors committed to a **multi-year policy focus on growth and development**. The foundation for this policy focus is COG's adopted Strategic Plan and the goals and strategies centered on growth issues. This focus does not preclude COG's leadership and involvement on a wide-range of policies and programs; rather, it is intended to help provide a framework for potentially disconnected actions and better organize COG's ongoing and new work. This focus also complements and leverages the priorities and activities of COG's two independent policy boards, the National Capital Region Transportation Planning Board (TPB) and the Metropolitan Washington Air Quality Committee (MWAQC).

Goal: Promote balanced, sustainable growth and livable communities.

Strategies: Identify and disseminate best management principles, practices, and policies for sustainable growth and livable communities; establish regional consensus on principles, practices and policies for sustainable growth and livable communities; and facilitate dialogue among competing stakeholders.

The adopted policy focus embraces partnerships with organizations and stakeholders with varied perspectives on this issue. The policy focus also acknowledges that there is no "one size fits all" approach to balanced, sustainable growth, and that COG's efforts in this area will address the needs of core, inner suburban and outer suburban jurisdictions. However, COG believes that sharing information, challenging past assumptions, and educating public officials on best practices and new growth and development tools holds great promise for the balanced, sustainable growth and livable communities we seek.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

Board of Directors

Proposed 2007 Policy Focus and Priorities

Policy Focus and Priorities – New for 2007

Regional Housing Continuum

Almost since its inception, affordable housing has been a policy focus for COG. In more recent years, COG launched the Washington Area Housing Partnership to complement its work centered on local government planning and housing and community development agencies. The Partnership published a well-received compendium of affordable housing best practices in late 2005 and sponsored several outreach workshops throughout 2006. At COG's December 2006 annual membership meeting, former HUD Secretary Cisneros challenged COG members to re-examine their regional and local housing policies to address a seven-point housing continuum, ranging from shelters and transitional housing for the homeless to move-up and long-term homeownership. Affordable housing is closely linked to overall regional growth and development policies and the absence of affordable housing near regional employment centers exacerbates transportation congestion.

Anticipated Outcomes, Products or Deliverables

- Committee review of COG's 2001 affordable housing policy action.
- Compendium of each COG jurisdiction's current status/action on seven-point continuum.
- Examine the regional distribution of affordable housing and unmet needs.
- Develop policy goals and strategies for action by the COG Board of Directors using Secretary Cisneros' seven-point housing continuum as a framework.

Regional Focus on Climate Change

Global, national, state and local initiatives are underway or planned to examine and respond to evidence that human activity is having an impact on climate, with a resulting wide range of known and unknown consequences. COG will examine the regional dimensions of this response by integrating ongoing and new work proposed for 2007. Collateral ongoing work activities include the 2006 adopted Regional Energy Strategic Plan, MWAQC's regional air quality plan, transportation planning, the Alternative Fuels Partnership, and the green building initiative begun by the COG Board of Directors in 2006.

Anticipated Outcomes, Products or Deliverables

- COG Board of Directors action on regional climate change policy goals.
- Improved integration of existing work program activities and collaboration with other policy boards and committees, e.g. MWAQC and TPB.
- Identification of regional and local strategies in support of adopted goals.
- Best practices reports, conferences or other information-sharing tools to assist local governments in implementing local goals and strategies, including measuring progress.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

Board of Directors

Proposed 2007 Policy Focus and Priorities

Census 2010

COG and its member local governments have a great need for accurate and timely data published by the U.S. Bureau of the Census in conjunction with the decennial census and other surveys. COG is a co-state data center for U.S. Census information and products. COG and its member local governments were very involved in preparation for Census 2000 and as a result, secured higher rates of Census participation compared with previous Census years.

Anticipated Outcomes, Products or Deliverables

- COG Board of Directors action on Census 2010 goals and COG work program.
- Establishment of an ad hoc Complete Count Committee or similar panel to oversee Census 2010 efforts in the National Capital Region.

Envision Greater Washington

COG, the Greater Washington Board of Trade and the Community Foundation of the National Capital Area jointly agreed in 2006 to examine the feasibility and benefits of launching a multi-year, multi-sector regional visioning campaign, following the release of a report calling for such an effort by an ad hoc organizing committee. COG has been working with these and other organizations to develop a business plan to complement and expand on the report of the organizing committee. Several of COG's ongoing and planned work program activities could be integrated with the Envision Greater Washington effort, including alternative growth scenarios that are expected to include economic development, affordable housing, and environmental impact assessments, and the update of the regional activities centers maps.

Anticipated Outcomes, Products or Deliverables

- COG Board of Directors action on Envision Greater Washington policy goals and business plan.
- Identification of ongoing and expanded work program activities to support action by the COG Board of Directors and other organizations on Envision Greater Washington or to incorporate expanded work program activities into ongoing COG policy and program priorities.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

Board of Directors

Proposed 2007 Policy Focus and Priorities

Policy Focus and Priorities – Continuing in 2007

Metro Dedicated Funding

COG, the Greater Washington Board of Trade and the Federal City Council jointly established a “blue ribbon panel” in late 2004 to examine the need for dedicated funding for Metro. The panel released its report in January 2005 calling for a regional approach to dedicated funding for Metro, which was subsequently endorsed by the COG Board of Directors and the TPB. Throughout 2005 and 2006, the COG Board of Directors has supported a broad range of coordination and information-sharing activities to advance Metro dedicated funding legislation at the federal and state levels.

Anticipated Outcomes, Products or Deliverables

- Continued COG outreach in support of congressional and state action on Metro dedicated funding, either as a “stand alone” action or as part of a comprehensive transportation funding package in Maryland and Virginia.

Chesapeake Bay Restoration

The COG Board’s involvement in the cooperative program to restore and protect the Chesapeake Bay and its tributaries goes back more than 20 years. In 1998, the Board established the Chesapeake Bay and Water Resources Policy Committee, reflecting the major significance of the Bay restoration program to the COG membership. COG was a strong advocate for the Chesapeake 2000 agreement signed in June 2000 by the Mayor of the District of Columbia, the governors of the Bay states, and U.S. EPA. This agreement has more than 100 commitments designed to meet water quality standards, restore and protect habitat and protect living resources in the Bay. Many of these commitments directly affect COG members’ programs in wastewater, storm water and land use; thus COG has a keen interest in the policy development for the Bay program, and to insure it is properly funded. The Board has regularly endorsed legislative and policy initiatives in the past several years reflecting the interests of COG’s membership in the Bay, and also the Potomac River Trash Treaty. The Board is also focusing on contaminants of emerging concern with a report expected in March that addresses the “intersex fish” that were observed in the Potomac in the past year and became the subject of substantial media interest.

Anticipated Outcomes, Products or Deliverables

- Advocate for funding at the federal and state levels to insure resources are available to COG’s members for upgrading wastewater treatment facilities and storm water management programs necessary for meeting Chesapeake Bay goals and targets.
- Partner with private business and industry on a healthy lawn care initiative that will include radio and print ads on how to maintain lawns in an environmentally responsible manner.
- Endorse COG member participation in the second Potomac Trash Summit expected in June, 2007, and endorse further actions to meet the Trash Treaty goal of a “trash free Potomac by 2013.”
- Adopt report on contaminants of emerging concern and “intersex fish” that will inform the region of ongoing research on this environmental health concern.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

Board of Directors

Proposed 2007 Policy Focus and Priorities

Anacostia Restoration

The Anacostia River is one of the most polluted in the Chesapeake Bay Watershed. COG's interest in restoring the Anacostia reflects the river's broader impact on the Potomac River and the Chesapeake Bay. In June, 2006, under the leadership of then-Mayor Williams, the COG Board of Directors facilitated the creation of a new governance structure to guide the restoration of the Anacostia River in the District of Columbia and suburban Maryland. The "Anacostia Restoration Partnership" has been created and is being staffed by COG, replacing and greatly enhancing previous efforts coordinated by COG since 1987. A public-private Steering Committee has been established to coordinate restoration initiatives. A Leadership Council consisting of the Mayor of the District of Columbia, the Governor of Maryland, the County Executives of Montgomery and Prince George's Counties, the EPA Regional Administrator and the U.S. Army Corps of Engineers, Baltimore District Engineer will meet later in 2007 to consider new policy initiatives to accelerate the pace of restoration. A central focus of the effort will be a comprehensive restoration plan for the watershed.

Anticipated Outcomes, Products or Deliverables

- The COG Board will be briefed on the new Anacostia Partnership Leadership Council initiatives and may be requested to support funding initiatives for additional federal funding for restoration of the Anacostia.
- The COG Board will be briefed on the restoration of the Anacostia as it relates to restoration of the Chesapeake Bay and may be requested to endorse policy positions affecting water quality legislation or regulations impacting the Anacostia.
- New local-state-federal agreements on the restoration of the Anacostia will be presented to the COG Board. The Board Chairman will be invited to participate in signing ceremonies and other public events promoting the new agreements.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

Board of Directors

Proposed 2007 Policy Focus and Priorities

BRAC

In 2005 COG and TPB staff analyzed the likely impacts of the U.S. Department of Defense (DoD) Base Realignment and Closure (BRAC) Commission recommendations for the Washington region. In addition to the base-specific BRAC recommendations, DoD also recommended not renewing leases for many buildings in the region that do not meet the Department's anti-terrorism standards for design and security. The findings from the COG / TPB analysis were provided to COG member local governments as well as the BRAC Commission to assist with their deliberations on the BRAC actions.

Anticipated Outcomes, Products or Deliverables

- COG staff, the Metropolitan Development Policy Committee (MDPC) and the region's planning directors will analyze the short- and long-term employment, population and housing impacts of the BRAC actions and update the Cooperative Forecasts (Round 7.1) and other regional databases to reflect those impacts. Staff will prepare an analysis comparing the changes shown in these updated projections to what had been previously assumed for BRAC.
- COG will work with other regional organizations such as the National Capital Planning Commission (NCPC), the U.S. General Services Administration (GSA) and the Greater Washington Board of Trade (GWBOT), and the Northern Virginia Regional Commission (NVRC) to host a joint conference to address impacts of the BRAC implementation.
- COG, the MDPC and the planning directors will work with NCPC and GSA to better plan for federal real estate and employment changes that may result from the more-stringent DoD security standards.

Green Building

COG sponsored a major regional conference on green building technology in September 2006 which was attended by COG member elected officials from throughout the region. This conference set the stage for regional policy action on green building and assisted several members who adopted recently green building programs and ordinances. In November 2006, the COG Board of Directors adopted Resolution 55-06, which supports the establishment of a regional green building program and directed that a regional green building policy be prepared by the COG Intergovernmental Green Building Group for consideration by the Board of Directors in 2007. A regional green building policy would guide government construction and private building construction. Implementation of a green building policy will help support regional goals in the areas of energy conservation, air quality, storm water management, solid waste management, and the emerging issue of climate change.

Anticipated Outcomes, Products or Deliverables

- Green building policy options report containing guidelines and implementation strategies.
- COG Board of Directors action on regional green building policy.
- COG will sponsor best practices forums or other information sharing tools to assist local governments in implementing goals and strategies, including measuring progress.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

Board of Directors

Proposed 2007 Policy Focus and Priorities

Strengthening COG's Capacity – New for 2007

State and Federal Outreach

COG is an association of more than 250 local, state and federal elected officials representing 21 local governments in the National Capital Region. Despite this diverse membership, most direct engagement is currently targeted to city and county elected and appointed officials, frequently through their participation in one or more of COG's policy boards and committees. However, action on many of COG's regional policy goals, for example Metro dedicated funding and Chesapeake Bay restoration, will require greater engagement of state and federal elected officials.

Anticipated Outcomes, Products or Deliverables

- COG Board of Directors action on proposed Intergovernmental Relations Committee, goals and work program.
- COG Board of Directors action on proposed activities and initiatives to strengthen outreach to state and federal elected officials, for example, hosting the second annual local-state partnership dinner and hosting semi-annual meetings with the area congressional delegation.

Member Outreach and Policy Board and Committee Coordination

Newly elected officials often have little information on COG's policy goals, program priorities or governance structure and current officials may have limited knowledge if they are not active on one of COG's policy boards and committees. In addition, coordination between and among COG's policy boards and committees is incomplete and often ad hoc. It is especially important to improve communication and coordination between the COG Board of Directors and its five policy advisory committees – Metropolitan Development, Human Services, Public Safety, Chesapeake Bay and Water Resources, and Aviation, and COG's several public-private partnerships.

Anticipated Outcomes, Products or Deliverables

- Completion and dissemination of a COG Board of Directors information guidebook and its refinement as a template to be disseminated to all COG members.
- Adoption by policy advisory committees of their annual focus and priorities that may be considered by the COG Board of Directors as it reviews and revises its focus and priorities.
- Periodic briefings for the COG Board of Directors by the policy boards and committees concerning significant policy and program activities.
- Review and adoption by the COG Board of Directors of the bylaws of its policy advisory committees to ensure conformity, as appropriate. Consideration of possible standardization of bylaws or procedures for technical committees.
- Review and revision of COG Board of Directors bylaws to approve ex officio membership status for the policy advisory committee chairman (or his vice chair/alternate), and the extent of participation by state legislators and/or gubernatorial or congressional representatives.