

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

**SUMMARY OF January 16, 2015 MEETING**

**ATTENDANCE:**

**Members and alternates:**

Bruce Williams, Takoma Park  
Cathy Drzyzgula, City of Gaithersburg  
Craig Rice, Chair, Montgomery County  
J. Davis, City of Greenbelt  
JL Hearn, WSSC  
Karen Pallansch, Alexandria Renew Enterprises  
Libby Garvey, Arlington County  
Mark Charles, City of Rockville  
Mark Peterson, Loudon Water  
Penny Gross, Chair, Fairfax County  
Sheila Besse, District of Columbia

**COG Staff:**

Heidi Bonnaffon, DEP  
Karl Berger, DEP  
Steve Walz, DEP Director  
Stuart Freudberg, Deputy Executive Director  
Tanya Spano, DEP

**Guests:**

Bevin Bucheister, Chesapeake Bay Commission (via phone)  
Bruce Michael, MD DNR  
Glynn Roundtree  
Laura Rogers, MDOT  
Les Knapp, MACO (via phone)  
Lisa M. Ochsenhirt, AquaLaw (via phone)  
Patricia Sinicropi, National Association of Clean Water Agencies (NACWA)  
Steve Dye, Water Environment Federation (WEF)  
Tommy Holmes, American Water Works Association (AWWA)

**1. Introductions & Comments by New Chair**

Chair Craig Rice called the meeting to order at approximately 10:00 a.m. Chair Rice and the other members thanked outgoing Chair Gross for her leadership. Ms. Gross expressed her appreciation. She noted that she looked forward to working with Chair Rice in his new capacity. Chair Rice made a call for the CBPC to engage in advocating and being a voice for water quality issues.

**2. Approval of 2015 Meeting Schedule and CBPC November Meeting Summary**

**A. 2015 Meeting Schedule**

Members approved the 2015 meeting schedule (below), and expressed interest in holding another joint meeting with CEEPC this year (their last joint meeting was July 2013). It was also confirmed by Karen Pallansch that the September meeting can take place at Alexandria Renew Enterprises, in conjunction with a tour of the wastewater facility.

All meetings are scheduled and approved for the 3rd Friday of the month.

January 16	July 17* - Potential Joint CBPC-CEEP meeting
March 20	September 18 – At Alexandria Renew/plant tour
May 15	November 20

\* Date is subject to change, as COG staff are working to see if July 29<sup>th</sup> date is a viable option for the joint meeting.

### **B. Draft meeting summary approved**

The draft November 2014 meeting summary was approved by the committee, with one correction made to the meeting start time of 10:00 versus 9:00.

### **3. NATIONAL & STATE LEGISLATIVE ISSUES TRACKING**

Ms. Spano introduced the Legislative Panel discussion, stating that many of the national legislative issues are building on topics that the CBPC has been tracking and the CBPC has already endorsed letter writing on the financing issues.

Chair Rice introduced the first panel of speakers who updated Members on ongoing national efforts to advocate for funding and affordability, and the second panel who provided a forecast of state legislative issues and budgets.

#### **National Legislation Panel**

Mr. Holmes, of the American Water Works Association (AWWA), said that water organizations are advocating for two things in regard to the Water Infrastructure Financing Innovation Authority (WIFIA), a new way of providing support to local wastewater and drinking water agencies that was established by legislation passed in June. One priority is to get federal appropriations for actual loan funds, since the original bill only provided funds to set up the authority. AWWA and its partners also would like to change a requirement in the original legislation that prevents local parties from using funds derived from tax-exempt financing for the required 51% match of federal dollars. For project funding must come from tax-exempt bonds. Mr. Holmes hopes there will be an opportunity to insert WIFIA funding requests when the Surface Transportation Bill comes up for reauthorization this May.

Ms. Sinicropi, of the National Association of Clean Water Agencies (NACWA), echoed Mr. Holmes' comments regarding WIFIA. She noted the need to continue to advocate for money for the federal state revolving loan fund program and not have those funds be diminished to compensate for federal dollars appropriated to support WIFIA. She also noted that the Obama administration has continued to press for the elimination or restriction on the use of tax-exempt municipal bonds. This would be detrimental to local governments and water utilities because those tax-exempt bonds are critical to the water and wastewater sectors.

Mr. Dye, of the Water Environment Federation (WEF), said his organization is supporting the same positions as NACWA and AWWA regarding WIFIA and SRF funding, as well as tax-exempt municipal bonding issue. He also said that WEF has been supportive of several water-related bills introduced by Maryland Senator Ben Cardin: the Water Infrastructure Resiliency and Sustainability Act (H.R. 795 and S. 1508) and an Innovative Stormwater Infrastructure Act (S. 1677 and H.R. 3449). Mr. Dye said these likely will not advance far in Congress, but are worthy of tracking and support.

#### **State Legislation Panel**

The second group of panelists previewed water-related legislation that is likely to be introduced in the

upcoming legislative sessions in Maryland and Virginia. Mr. Knapp, of MACO, said there was a high likelihood of the introduction of bills to eliminate the current mandate for jurisdictions with Phase I stormwater permits to establish stormwater utility fees. He also said there were likely to be some bills to roll back the Best Available Technology (BAT) requirements for septic systems, as well as other waste diversion bills. Mr. Knapp thinks the Bay Restoration Fund will continue to be used as a source of funds for improvements to water quality, but there may be efforts to divert some of its proceeds to deficit reduction. He also expects Maryland's zero waste policy, adopted during the previous administration of Gov. Martin O'Malley, to attract legislation that would alter some of its provisions. Both Mr. Knapp and Ms. Ochsenhirt, of AquaLaw, said the state's recent adoption of new regulations aimed at reducing the amount of phosphorus from manures applied to farmland, also is likely to attract legislation. Ms. Ochsenhirt said the issue is of interest to COG's members because of its impact on biosolids land application.

Ms. Ochsenhirt said the top legislative issue to track in Virginia would be several proposed bills (HB 1293 and HB 1294) to exempt religious organizations from local stormwater utility fees. Ms. Bucheister, of the Chesapeake Bay Commission, said these bills would be problematic for local governments because they could result in the federal government not paying local stormwater fees, since such exemptions challenge the no-discrimination basis of user fees, such as stormwater utilities. Ms. Bucheister estimated that federal facilities pay about \$2.5 million a year in such fees in Virginia.

Member Comments:

- Ms. Gross asked if the WIFIA application process could be streamlined compared to the similar transportation authority (TIFIA). The experience of Fairfax County with TIFIA, is that the application process is time consuming and costly, she said. Mr. Holmes said there will be WEF webinars on how to apply for WIFIA funding and EPA has SRF staffers managing the program who are familiar with working with small and medium-sized jurisdictions.
- Ms. Gross asked that COG staff track the Virginia bills regarding religious exemptions from stormwater fee programs. She asked if it is specific to property owned by churches, or whether such exemptions could be extended to all property owned by religious institutions, such as colleges. Ms. Ochsenhirt said she would have to look closer at the bill language, but it is likely that the religious exemption is broadly defined.
- Ms. Davis said it is important to educate the new general assembly members on Chesapeake Bay issues and the benefits of the Bay Restoration.
- Chair Rice called for the formation of an Advocacy Workgroup to advance legislative issues between CBPC meetings, and to meet with legislators and members of media on water resources issues. The following members volunteered to serve on the Advocacy Workgroup, along with Chair Rice:
  - Bruce Williams, Takoma Park
  - J. Davis, Greenbelt
  - Penny Gross, Fairfax County
  - Karen Pallansch, Alexandria Renew Enterprises

**4. THE CHANGING DYNAMICS OF THE CONOWINGO DAM & POSSIBLE EFFECTS FOR THE BAY RESTORATION**

**PowerPoint Presentation by Bruce Michael, Maryland Department of Natural Resources:**  
<http://www.mwcog.org/uploads/committee-documents/ZF1XW1Zc20150114085202.pdf>

Mr. Michael discussed the status of the dam relicensing efforts, the findings of the Lower Susquehanna River Watershed Assessment and how the dams' changing impacts would be addressed during the

### Chesapeake Bay Program's 2017 Mid-point Assessment of the Bay TMDL.

He noted that the issue was prompted by an application by the Exelon Corporation for a renewal of its federal license to generate electricity at the lowermost dam on the Susquehanna River at Conowingo, Md. Because nutrients and sediment stored in the materials captured by the dam are now being scoured by the runoff from certain-sized storms in the Susquehanna River watershed, continued operation of the dam poses a potential violation of water quality standards, Mr. Michael noted. Maryland has standing under the federal relicensing process to object to the reissuance on these grounds. As Maryland and Exelon continue to fund studies to look at the impact of scour from the dam's accumulated sediment on water quality in the Bay, the Federal Energy Regulatory Commission has issued Exelon only a temporary license.

There are a number of water quality issues that would be addressed via the relicensing (see Power Point for details), according to Mr. Michael. For years, the dam at Conowingo and two upstream dams have served to trap some of the sediments and nutrients flowing down the Susquehanna, which is the single largest source of these Bay pollutants. However, as the sediment behind the dams has continued to accumulate, there is concern that they have lost their trapping capacity.

One of the jointly funded studies is the Lower Susquehanna River Watershed Assessment (LSRWA), from which a draft report was issued in November 2014. The report recommends more modeling and monitoring studies to determine the impact of the scouring of dam sediment on water quality in the Bay, but it concludes that there is currently enough evidence to indicate that the scouring has a negative impact on water quality and will make it more difficult to attain the goals of the Bay TMDL. Researchers continue to try to determine the best way to offset the loss of Conowingo's trapping capacity, whether through dredging or other means. Mr. Michael noted that this issue will factor into the Chesapeake Bay Program's Bay TMDL Mid-point Assessment process and may boil down to which jurisdiction(s) may have to do more to reduce nutrients and sediment to offset the impact of scouring from the dams and the resulting increase in nutrient loads.

#### Member Comments:

- Chair Rice stated that it is important to ensure that Exelon contribute funding to help address the long list of costly water quality improvement projects.
- Mr. Berger said a key issue for the COG members to track is whether under the Bay TMDL, the additional load reductions will be for just those sources upstream of the dam or for everyone in the entire watershed. As this is an important equity issue.
- Ms. Drzyzgula wondered whether the sediment trapping and scouring is typical dam behavior and Mr. Michaels answered yes, saying other dams have already reached their dynamic equilibrium (i.e., are unable to trap any more sediment).
- Ms. Garvey asked about agriculture's contributions to the Bay, and is there enough pressure on Agriculture to do more. Mr. Michaels replied that there are agricultural BMPs in place, but to improve the Bay's water quality, more will be required of all sectors including wastewater and stormwater.
- Ms. Gross said we definitely need to keep an eye on this issue, since we are all "downstream" [and can be impacted by the CBP reallocation decision].

The CBPC endorsed the recommendations to have COG staff continue to monitor the Conowingo Dam issue and work with the WRTC to review and make recommendations to the CBPC when appropriate.

## **5. STAFF UPDATES**

Steve Walz, DEP Director reported that COG's draft Infrastructure Report will be finalized and mailed to the members in February. He also noted the CBF's state of Bay report issued a D+ for the Bay.

For other updates and a list of upcoming events, please see the written General Updates document.

## **6. MEMBER UPDATES**

### **7. Adjournment**

Chair Rice asked members to reach out to him with ideas for agendas and for committee actions. He adjourned the meeting at 12:00. The next CBPC meeting will be held **March 20, 2015** at COG.