

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

MINUTES OF JANUARY 17, 2014 MEETING

ATTENDANCE:

Members and alternates:

Andrew Fellows, City of College Park
 Cathy Drzyzgula, City of Gaithersburg
 Hamid Karimi, District of Columbia
 J Davis, City of Greenbelt
 JL Hearn, WSSC
 Karen Pallansch, Alexandria Renew Enterprises
 Libby Garvey, Arlington County
 Mark Peterson, Loudoun Water
 Meo Curtis, Montgomery County
 Maureen McGowan Holman (DC Water)
 Penny Gross, Fairfax County (Chair)
 Shannon Moore, Frederick County
 Tim Lovain, City of Alexandria

COG Staff:

Christine Howard, DEP
 Heidi Bonnaffon, DEP
 Karl Berger, DEP
 Monica Beyrouti, COG Executive Dept.
 Tanya Spano, DEP/RWQM Chief
 Stuart Freudberg, DEP Director
 Mukhtar Ibrahim, DEP
 Andrew Bresee, DEP intern

Guests:

Tim Stevens, Sierra Club
 Jack Frye, Chesapeake Bay Commission (by phone)
 Bevin Buchheister, Chesapeake Bay Commission
 (by phone)

1. Introductions and Announcements

Chair Gross called the meeting to order at approximately 9:05 a.m. She announced that Craig Rice will be the new Vice Chair, co-chairing with Mr. Karimi and that he was sorry couldn't be at our meeting due to a conflict. She also mentioned that the committee has several vacancies that will be filled by the March meeting, and the roster will be updated then.

2. Approval of Meeting Summary for November 15, 2013 meeting

Members approved the draft summary of the November 15th meeting as submitted.

3. 2014 State and Federal Legislation

Mr. Jack Frye of the Chesapeake Bay Commission briefed the committee on the status of water quality-related legislation currently before the Virginia General Assembly and the proposals for water quality-related funding in the proposed state budget for FY 14. Ms. Bevin Buchheister, also of the Chesapeake Bay Commission, briefed the committee on similar developments in the Maryland General Assembly. (See their handouts for details: attachments 3a and 3b). Ms. Bonnaffon briefly reviewed what the proposed federal omnibus appropriations bill would mean for spending on water resources. She also noted that there has been no movement to date on the proposed Water Quality Improvement Act of 2013, a bill to amend the Clean Water Act supported by the U.S. Conference of Mayors. (This item also was discussed under agenda item #4.)

Highlights from VA

VA Budget

Amends FY14 Budget Bill- provides \$1.0 M for City of Alexandria CSO project in FY14
 Increase to \$2 M per year from \$1 M per year the GF for VA Land Conservation Fund.
 Water Quality Improvement Fund: Total deposit \$31.5 M

- \$4 M Reserve Fund

- \$6.6 M for grants to MS4s for stormwater projects (DEQ)
- \$18.2 M to Natural Resource Commitment Fund for Ag BMPs (DCR)
- \$1.6 M for technical asst. for BMP delivery by SWC Districts
- \$800,000 Conservation Reserve Enhancement Program
- \$250,000 Dept. of Forestry for water quality grants
- \$100,000 nutrient management on golf courses
- Interstate Commission on the Potomac River Basin (ICPRB) - restore dues funding, perhaps pay catch-up dues.

Comment: Ms. Gross noted that COG is on record in support of this restoration of funding for ICPRB.

VA Legislation

A number of bills to delay Stormwater Implementation by Local Governments

Example: **SB 530**-Hanger, delays all to July 1, 2015.

Comment: Ms. Gross said that the Virginia Association of Counties would like to see this deadline extended for smaller jurisdictions that face a greater struggle than larger local governments in taking over program oversight. Local governments that are capable of meeting the deadline would not be disadvantaged by this approach, she added

Stormwater Utility Fees

SB 53-Stuart & Smith, reduces stormwater utility fee for places of worship

Comment: Ms. Moore said a similar bill was proposed in the Maryland General Assembly awhile back, but it was challenged by the state's ACLU chapter as discriminatory against other non-profit entities and the bill was not approved. Mr. Karimi cautioned that opening the fees to such exemptions might give the federal government grounds to not pay local stormwater utility fees that they are otherwise bound to pay under recently approved legislation that was sponsored by MD Senator Ben Cardin.

Disposable Bags Tax

HB 117-Morrissey, statewide five cent paper & plastic bag tax.

SB 320-Ebbin, PDC 8 (NVRC) localities by ordinance can tax paper & plastic bags.

Comment: Mr. Frye noted that HB 117 didn't make it out of committee and it is expected that SB 320 will have a similar fate. Ms. Gross said a new program or idea often experiences multiple rounds of failure in the General Assembly before succeeding. Mr. Fellows asked if individual jurisdictions in Virginia could opt individually to have a bag fee, as some have done in Maryland. Ms. Gross responded that this cannot be done without the approval of the state legislature in Virginia because of the Dillon rule. Mr. Karimi offered to brief the committee on the results of the District of Columbia's bag fee program, which has been in place for several years.

Highlights from MD

MD Budget

- \$67.4 million for the Chesapeake and Atlantic Coastal Bays Trust Fund (2010 Trust Fund) which targets funding to the most effective non-point source water quality, and watershed restoration and protection projects, and supports development of innovative technology.
- \$45 million to State Highways Administration for stormwater projects.
- \$21.2 million for upgrading WWTP's to BNR and 5.3 million for loans and grants to local governments for their share of local construction costs.

- \$7.6 million to fully fund the oyster restoration project on Harris Creek and 1.5 million to produce oyster seeds (or spat).

MD Legislation:

Bay Restoration Fund/Fee

HB 11- Administration - Allows the BRF to be used to hook up properties outside of priority funding areas that are on septic to the wastewater treatment plants. This is currently permitted for properties inside priority funding areas.

HB 12- Administration - Allows up to 10% of BRF septic revenue to be used by local governments for administration to implement septic Best Available Technology (BAT) regulations.

SB 1- Hershey- Bay Restoration Fee - Exempting a user of an on-site sewage disposal system that utilizes the best available technology for nitrogen removal from paying the Bay Restoration Fee.

Stormwater:

A Number of Proposals for Repeals, Exemptions and Moratorium

Examples: HB 50 - Norman- Repeals legislation passed in 2012 that requires a dedicated stormwater fee/fund for all MS4 jurisdictions.

HB 97- Bates - Repeals legislation passed in 2012 that requires a dedicated stormwater fee/fund for all MS4 jurisdictions.

No hearings yet. No committee comments.

Ms. Bonnaffon provided brief highlights from the omnibus proposal, noting that EPA would receive \$143 million in reduced funding compared to the 2013 budget and that the bill includes several policy provisions to restrict EPA from taking certain actions. The State Revolving funds for drinking water and wastewater would receive the same funding as the prior year. The National Water Quality Assessment Program conducted by the U.S. Geological Survey would see a \$2.6 M cut, down to ~\$59 M. (For more details, please see meeting attachment 3c).

Ms. Bonnaffon noted that the General Assembly sessions are still in session, so COG staff will continue to track these bills and provide an update to the CBPC.

4. CBPC Legislative Priorities and Potential Actions

Ms. Spano noted that COG Board Member and Alexandria Mayor William Euille asked the CBPC to consider the Conference of Mayors' proposed legislation to amend the Clean Water Act, which was noted in the previous agenda item. Ms. Spano also noted that other national organizations, such as the Water Environment Federation (WEF), are also addressing the issues of affordability and flexibility in trying to meet federal water quality regulations that have been raised by the Conference of Mayors.

Discussion: Mr. Karimi said the committee should consider having a speaker to talk about the shrinking pot of money for stormwater. Ms. Gross mentioned that a December meeting of the Conference of Mayors and several other national groups with EPA on the affordability dialogue was very positive, but a record of the discussion is not yet available. Ms. Spano noted that at least some of the apparent distance between EPA and local governments appeared to be just a matter of terminology. Ms. Gross added that opening the Clean Water Act for amendment might wind up with unintended consequences, such as a revision to use flow as a surrogate for pollution that would be subject to TMDL regulation.

Action:

COG staff should report to Mayor Euille the following points:

- The committee will continue to track the national affordability dialogue with EPA.
- NACO will consider a position on the affordability issue at its March meeting.
- COG will invite WEF to share its perspectives on the Clean Water Act at a future meeting.
- The CBPC has not adopted any recommendation for COG action on USCM's proposed legislation at this time.

5. Water Resource & Committee Focus for 2014

Ms. Spano presented the committee with an overview of the CBPC's initiatives and deliverables achieved relative to those proposed in the Water Resources Work Program and Budget, and developed a list of challenges/priorities as well as proposed agenda topics for 2014. (See attachment 5.)

Discussion:

The committee was supportive of the proposed list of priorities and agenda topics.

- Committee members supported the inclusion of an information session on the Conowingo Dam issue for an upcoming meeting, as long as COG can provide a scientific overview of the issue. Mr. Fellows said that this issue should not diminish the region's focus on the implementation of the watershed improvement plans for the Bay TMDL.
- Ms. Gross requested that the beginning of the March meeting be devoted to 5 minutes of housekeeping on the proposed meetings/topics, based upon speaker availability.
- COG will invite WEF to talk about affordability/Clean Water Act at an upcoming meeting.
- Ms. Holman asked that COG include source water protection and the security of the NCR drinking water supply from contamination as a priority/topic area.
- Possible summer field trip: Maybe new construction at Blue Plains
- Re: Green Infrastructure, CBPC members were invited to attend the 1/22 DC Water Green Infrastructure Event at COG.

DDOE will hold its public comment session about the Bay Agreement at COG on February 27 from 2:00-4:00, and DDOE has opened it to a regional audience. CBPC members are invited to participate.

6. Staff Updates

A. COG's Potomac Water Quality Factsheet-Karl Berger

Mr. Berger provided a brief overview of the Potomac Water Quality factsheet (see attachment 6a). He requested members input on the factsheet and on how the information should be presented to a wider audience of elected officials, such as the COG Board members.

Discussion: The members offered the following recommendations:

- Create an executive summary for the factsheet that summarizes the details in a concise fashion.
- Both the executive summary and the detailed factsheet should be provided.
- The main fact sheet should be clarified as follows:
 - On page 3, explain the spikes in the graphs. (Cathy Drzyzgula)
 - On page 6, the sampling stations should be identified by name. (Cathy Drzyzgula)
 - What's the target goal for nutrient discharge? What constitutes a good trend or bad trend? (J. Davis)
 - Tie the ratepayer's funds to the good news stories. (Libby Garvey)

B. New Bay Agreement – Heidi Bonnaffon

Due to the timing of the draft release for a 45-day public comment, COG will draft and circulate a letter to members for feedback in the interim before the next CBPC meeting. Mr. Karimi offered to open the District's public information meeting to the COG region, so that there can be a regional briefing/discussion of the draft Agreement.

C. COG's Regional Transportation Priorities Plan & Water Quality Linkages – Tanya Spano

The Regional Transportation Priorities Plan was approved by the Transportation Planning Board at its January 15, 2014, meeting. A Green Streets policy will be presented to the Transportation Planning Board for approval on February 19.

7. Adjournment

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

DRAFT