

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

MINUTES OF MAY 15, 2009, MEETING

ATTENDANCE:

Members and alternates:

Chair Cathy Drzyzgula, City of Gaithersburg
Shelia Besse, District of Columbia
Penelope Gross, Fairfax County
Martin Nohe, Prince William County
Bruce Williams, City of Takoma Park
J Davis, City of Greenbelt
Meo Curtis, Montgomery County
Mohsin Siddique, District of Columbia WASA
J. L. Hearn, WSSC
Mark Charles, City of Rockville
Jerry Maldonado, Prince George's County
Glen Rubis, Loudoun County

Staff:

Stuart Freudberg, DEP
Ted Graham, DEP
Tanya Spano, DEP
Steve Bieber, DEP
Karl Berger, DEP

Visitors:

Zack Fields, Rep. Connolly's office

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 March 20, 2009

The members present approved the draft summary.

3. Update on Bay Hearing by Senate Environment and Public Works Committee

Mr. Fields, an aide to Virginia congressman Gerald Connolly, briefed members on Connolly's testimony at an April 20, 2009, field hearing of the Water and Wildlife Subcommittee of the Senate Environment and Public Works Committee. He noted that managing the pollutants from urban stormwater is one of the major challenges of Bay restoration. He said that Connolly is interested in using the re-authorization of Section 117 of the Clean Water Act, which authorizes federal involvement in the Bay Program, to implement a Bay-wide stormwater management strategy. The goal of such a strategy should be to replicate pre-development hydrology whenever development or redevelopment occurs. However, he added, Rep. Connolly will not support new regulation that

leads to imposition of an unfunded mandate for local governments.

Discussion: Ms. Curtis noted that Maryland already has standards that are designed to achieve pre-development hydrology.

Chair Drzyzgula said that regulation should account for the need to treat different jurisdictions in different ways.

Ms. Besse noted that the District is in the process of revising its stormwater regulations to require retrofits.

Ms. Curtis also said that local government could do a better job of managing pollutants in stormwater, but the major challenge is targeting development to occur in the places where it will have the least impact on water quality and the need to focus retrofit efforts so that they will have the greatest impact.

Ms. Gross noted two things: density does not have to be a bad thing and urban stormwater programs are not currently supported by any significant amount of state or federal funds. Ms. Besse added that under federal law, funding from the federal Section 319 grant program for nonpoint sources of pollution cannot be used to meet regulatory requirements, which effectively rules it out as a source for most stormwater projects because of the regulatory framework governing urban government programs in this area.

Mr. Nohe said he would like to see the data that the Bay Program presents as an increase in pollution from urban stormwater sources and a decrease in pollution from agricultural sources expressed on a per-unit basis that takes account of the increased population in the region and the declining number of farmland acres.

Mr. Siddique suggested that the committee make a formal request to Congress to seek more testimony on this issue and specifically seek out local governments. Mr. Fields said more hearings are anticipated. He urged the committee to provide him with comments on this issue and to work with other local government groups in the watershed to develop further comments.

Action: The committee directed COG staff to write a letter in response to Rep. Connolly's testimony and to request that COG be chosen to provide testimony at a future hearing on this issue.

4. Briefing on Potomac Water Quality Trends

Mr. Bieber summarized information on water quality trends in the Potomac River that COG staff is gathering to provide a future report. He noted that the region has made great progress, starting before the Bay Program restoration effort even began, to reduce the discharge of nutrients from its wastewater treatment plants. He showed graphs that chart these decreases in phosphorous, initially, and, more recently, nitrogen. These reductions have had a positive impact on water quality in the upper Potomac estuary, helping to revive the populations of such living resources as submerged aquatic vegetation, waterfowl and fish species such as largemouth bass. However, he also noted that the overall amounts of nitrogen and phosphorus in the river have not declined and water quality has not improved in the lower Potomac estuary near the Chesapeake Bay.

Discussion: Mr. Charles asked if the COG report would describe the impact of urban stormwater on water quality. Mr. Bieber replied that there would be a section that would examine what modelled data from the region indicates about this issue.

Mr. Siddique suggested that the report needs to emphasize how use of the river has expanded in recent years. As an example, he cited a recent triathlon in which the contestants swam in the river.

5. Response to Chesapeake Bay Program Developments and Potomac Water Quality Issues

Ms. Spano provided an update on Bay Program actions concerning development of a Bay-wide TMDL and the allocation of reduction responsibilities among the states, basins and sources involved. She noted that the Chesapeake Executive Council, which met April 19, set a new “end date” for the implementation of enough water quality restoration measures to achieve attainment of water quality standards in the Bay. At the EC meeting, the Bay states also announced two-year milestones describing the progress they intend to make between now and the end of 2011. The milestones are designed to be interim goals on the way toward the 2025 end date and, as such, represent the first glimpse at “state implementation plans” that will be required as part of the TMDL regulatory framework, according to Ms. Spano.

She said the level of implementation reflected by the milestones is two to three times higher than current levels of implementation, which call into question their feasibility. They also raise a number of issues for local governments that will be required to implement milestones dealing with wastewater and stormwater treatment. These include cost and feasibility factors, particularly in the stormwater sector; the extent to which local governments are consulted during the formulation of plans and the consequences for other environmental goals in the region, such as lowering the production of greenhouse gasses.

Discussion: Mr. Siddique said he was disappointed by the Bay Program’s decision to not conduct a formal “use attainability analysis” that would take account of the cost and feasibility of implementation measures. Given the lack of progress toward achieving water quality goals among nonpoint sources, he said, it is not clear that the Bay Program goals are attainable.

Ms. Gross provided an update on the discussion that representatives of the three Bay Program advisory committees had with members of the Executive Council at the annual meeting. As a representative of the Local Government Advisory Committee, Ms. Gross said, she tried to make the point that local governments need to be consulted during planning for the regulatory TMDL process. She asked them not to set up local governments for failure by requiring programs that are too expensive or sets goals that are unattainable.

Ms. Davis noted that the message that a lot more has to be done does not appear to be recognized by the average taxpayer, who likely will have to pay more if Bay restoration is to meet its ambitious goals.

Mr. Graham of COG staff then followed up on Ms. Spano’s presentation by noting that President Obama issued an executive order on “Chesapeake Bay Protection and Restoration” in conjunction with the EC meeting. He outlined some of the items in the order and said staff would work to further analyze the order and its potential consequences for local governments. Returning to the state milestones issued at the meeting, he said that local governments were not consulted in their development. He questioned whether some of them meet Ms. Gross reasonability test, for example, Maryland’s requirement to retrofit 93,000 acres of older urban land with stormwater treatment. Mr. Maldonado noted that retrofitting is an extremely costly process; in the experience of Prince George’s County, it costs about \$100,000 an acre, he said.

Action: The committee directed staff to prepare a presentation for the COG Board that would include key points from Mr. Bieber’s and Ms. Spano’s presentations and to draft a letter that would respond to the presidential executive order in a positive way.

6. Water Resources Community Engagement Campaign

This item was deferred until later in the agenda. When it was discussed, Mr. Graham noted that COG staff is working with representatives of area water and wastewater utilities on a four-part community engagement campaign. The four elements are: source water protection, drinking water quality, infrastructure and wise water

use.

7. Decision on FY 10 Regional Water Fund Work Program and Budget

Mr. Graham briefly summarized staff's proposed FY 2010 water resources work program. He noted that the Water Resources Technical Committee endorsed the proposal.

Action: Acting as a committee of the whole in the absence of a quorum, the committee unanimously approved the proposed work program and budget on a motion made by Mr. Williams and seconded by Ms. Davis.

8. Staff Updates

- **EC meeting/LGAC report** – This was covered under agenda item #5.
- **Greater Washington 2050 Compact goals, metrics and targets** – Mr. Freudberg briefed the committee on progress by the Greater Washington 2050 Coalition in drafting goals for a regional compact and on the proposed metrics by which progress toward the goals would be measured. The Coalition plans to conduct outreach on these items in the months of June and July before finalizing them sometime in the fall.
- **Federal stimulus funding** – Mr. Bieber noted that local agencies are still waiting to hear if any projects they nominated for potential funding have been accepted.
- **Maryland legislative wrap-up** – Mr. Berger noted that the Maryland General Assembly did approve HB 176/SB 554, which will require that owners of all new or replacement septic systems in the state's "Critical Areas" zone install nitrogen reduction technology. He asked if the committee was interested in hearing more about this issue and considering development of a COG policy on septic issues.

9. New Business

None was offered.

10. Adjourn

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