

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

MINUTES OF JANUARY 20, 2012 MEETING

ATTENDANCE:

Members and alternates:

Chair Penny Gross, Fairfax County
Cathy Drzyzgula, City of Gaithersburg
Bruce Williams, City of Takoma Park
Shelley Aloï, City of Frederick
Martin Nohe, Prince William County
Meo Curtis, Montgomery County
Sam Wynkoop, Prince George's County
Jerry Maldonado, Prince George's County
Mohsin Siddique, District of Columbia Water
Karen Pallansch, Alexandria Sanitation Authority
Craig Rice, Montgomery County
Hamid Karimi, District of Columbia
JL Hearn, WSSC
J Davis, Greenbelt
Johannah Barry, Falls Church

Other COG member staff:

Shannon Moore, Frederick County

COG Staff:

Stuart Freudberg, DEP Director
Heidi Bonnaffon, DEP
Karl Berger, DEP
Christine Howard, DEP

Visitors:

Jay Sakai, MD Department of the Environment
Jack Frye, VA Director, Chesapeake Bay
Commission (via teleconference)

1. Introductions and Announcements

Chair Gross called the meeting to order at approximately 10:05 a.m. She described some of the history of the committee, which she chaired when it formed in 1998. She noted that the committee has come full circle with her return as Chair.

The members approved a change in the 2012 meeting schedule, switching the March meeting date from March 16 to March 9.

2. Approval of Meeting Summary for Jan. 20, 2012

The members approved the draft summary.

3. State Legislative Initiatives

Mr. Sakai, Director of the Water Management Administration for the Maryland Department of the Environment, briefed the committee on the recommendation of a legislative task force that looked at how the state can fund its Bay restoration effort. The task force made a number of recommendations for changes in the state's Chesapeake Bay Restoration Fund as well as recommendations regarding how to mesh comprehensive planning and zoning initiatives at the county level with the Bay TMDL's focus on reducing nutrients and sediment. He expects many of these recommendations to be considered by the General Assembly in its current session.

Mr. Sakai noted that the Task Force recommended that the state alter its intention to meet TMDL implementation targets by 2020 and instead revert to the 2025 deadline that was set for the watershed as a whole. State officials have already taken this action, he noted.

Much of the Task Force's focus was on increasing the BRF, also known as the flush tax, which the state has used to date to help wastewater plants pay for increased levels of nitrogen control. Mr. Sakai said that increasing the current \$30/household/year charge to \$60 would fund what's needed to complete the wastewater plant upgrades. The task force also discussed increasing the fee to \$90 or \$120/year to pay for septic system upgrades and provide cost-share funds to local governments for stormwater controls.

Discussion:

Mr. Wynkoop noted that officials in Prince George's County have estimated that it might cost the county \$800 million to meet Bay implementation targets for its stormwater programs and Montgomery County officials have estimated a similar cost of \$1 billion. He questioned whether a flush tax increase can provide the counties with significant cost-share assistance at this level.

Mr. Williams asked if the state would guarantee that the money it collects would be used just for its intended purpose. Mr. Sakai said to date that has not been an issue with the Bay Restoration Fund.

Mr. Rice asked how aging septic systems in historic neighborhoods are being addressed, because residents often cannot afford the funds to install nitrogen removal technology, which are estimated at \$13,000/system. Mr. Sakai said they aren't required to do the upgrades, unless the homes are in the state's "Critical Area" and the current systems are failing.

Ms. Moore asked whether the Task Force recommendations on planning and zoning would make it impossible for development to occur outside of sewer areas. Mr. Sakai said septic systems could still be installed, but any new load must be fully offset.

Jack Frye, Virginia Director of the Chesapeake Bay Commission, provided the committee with a summary of water quality-related bills in the Virginia General Assembly. The most notable bills included:

SB 494/HB 1180 – which would raise \$300 million in bond funding for wastewater treatment plant upgrades cost share under the Water Quality Improvement Fund.

SB 77/HB 176 – which would expand the state's Nutrient Credit Exchange Program to allow trades between point and nonpoint sectors.

HB 1034 – under which Virginia would withdraw from several interstate entities, including the Interstate Commission on the Potomac River Basin. COG has already sent a letter to Governor McDonnell urging that the state not withdraw from the ICPRB.

HJ 129 – which would require the state attorney general to explore whether the state should challenge the constitutionality of TMDL regulation, and

HJ 49 – which would authorize Governor McDonnell's proposal to transfer MS4 permitting from the Department of Conservation and Recreation (DCR) to the Department of Environmental Quality (DEQ).

HB 1210 (Lingamfelter) – which would require that lawn maintenance fertilizer include slow-release nitrogen components and list directions for proper use on its labels.

Action item: The committee decided no action was necessary on the Maryland legislation at this time. It did direct staff to draft letters on the committee's behalf regarding several pieces of Virginia legislation; support for the nutrient management bill (HB 1210) and the additional funding for wastewater in the Water Quality Improvement Fund, which is similar to positions that COG has supported in the past.

4. Committee Focus for 2012

Mr. Berger presented to the committee a proposed list of priorities on which to focus in 2012.

Action item: After brief discussion, the committee approved the staff draft, with several changes. These included:

- Priority Item 3: Advocate for Federal and State cost-share funding to assist local governments in meeting their wastewater and urban stormwater source reduction responsibilities under the Bay TMDL Added -- *promote cost-effective means of meeting TMDL reduction targets.*
- Priority Item 4: Track and comment upon federal and state legislative and regulatory initiatives regarding Bay restoration. Added -- *EPA's Integrated Stormwater and Wastewater Planning initiative and New MS4 permitting for Phase I and Phase II localities*

5. Status of Bay TMDL, State WIPs, 2012-2013 Milestones

Mr. Berger briefly noted the status of the Phase II watershed implementation plans being developed by the states and the extent of local government input into these plans. He noted that COG has an opportunity to comment upon the draft plans as part of the larger TMDL process in March, before the plans are finalized by the states and EPA. He presented a staff recommendation to develop such comments for consideration by the committee at its March meeting, which was accepted by the committee.

6. Staff Updates

Ms. Bonnaffon, of COG staff, presented the highlights of the draft Region Forward Baseline Report and noted the status of performance metrics for measuring progress toward the two water quality indicators in the report: meeting the Chesapeake Bay implementation goals for the region by 2025 and having 50 percent of the streams in the region meet standards for good or excellent health by 2050. She said the region is on track for achieving the wastewater targets for the Bay TMDL, but it too soon to tell if it can meet the urban stormwater targets. She also said the region is not currently on track to meet the stream health goal, as less than 8 percent of the sampled streams meet this goal at present.