

Hampton Roads Planning District Commission

Retreat Summary

February 17, 2011

The Retreat of the Hampton Roads Planning District Commission was called to order at 9:35 a.m. by Chairman Clark with the following in attendance:

COMMISSIONERS:

Stan D. Clark, Chairman (IW)	Stanley Stein (NO)
Thomas G. Shepperd, Jr. Vice Chairman (YK)	Kenneth L. Chandler (PO)
William E. Harrell (CH)	Kenneth Wright (PO)
Amar Dwarkanath (CH)	Selena Cuffee-Glenn (SU)*
Dr. Ella Ward (CH)	Tyrone W. Franklin (SY)
Gregory Woodard (GL)*	John Seward (SY)
Mary Bunting (HA)	Robert M. Dyer (VB)
W. Douglas Caskey (IW)	Barbara M. Henley (VB)
Bruce Goodson (JC)*	Louis R. Jones (VB)
McKinley Price, D.DS (NN)	James Spore (VB)
Sharon Scott (NN)*	Rita Sweet Bellitto (VB)
	Clyde Haulman (WM)

Executive Director:

Dwight L. Farmer

*Late arrival or early departure.

ABSENT:

Dr. Alan P. Krasnoff (CH), June Fleming (FR), Greg McLemore (FR), Brenda Garton (GL), Ross A. Kearney (HA), Molly Joseph Ward (HA), Robert Middaugh (JC), Neil A. Morgan (NN), Anthony Burfoot (NO), Paul D. Fraim (NO), Thomas Smigiel (NO), Theresa Whibley, MD (NO), J. Randall Wheeler (PQ), Gordon C. Helsel (PQ), Michael W. Johnson (SH), Anita Felts (SH), Linda T. Johnson (SU), Harry E. Diezel (VB), John E. Uhrin (VB), Jackson C. Tuttle II (WM), James O. McReynolds (YK).

OTHERS RECORDED ATTENDING:

John Gergely, Henry Ryto, Dr. A. S Anderson (Citizens); Dianne R. Foster (HA); Beverly Walkup (IW), Jeff Raliski (NO), Jay Bernas – HRSD; Ray Taylor – FHR; Jim Oliver - HRCCE; Jim Flatterty - Whitney, Bradley & Brown, Inc; Ellis James - Sierra Club Observer; Steve Romine – LeClair Ryan; Carolyn McPherson – Light Rail Now, Inc.; Dave Evans – McGuire Woods; Adam Jack – VDOT; Amy Inman – DRPT; Karen McPherson – Kimley-Horn; Shannon Kendrick, Congressman Scott Rigell’s Office; Bruce Williams - FHR HR 200 plus Men; Staff: John Carlock, Camelia Ravanbakht, Jessica Banks, Shernita Bethea, Rick Case, James Clary, Jennifer Coleman, Nancy Collins, Natalie Easterday, Richard Flannery, Kathlene Grauberger, Greg Grootendorst, Lisa Hardy, Julia Hillegass, Frances Hughey, Jim Hummer, Rob Jacobs, Whitney Katchmark, Sara Kidd, Robert Lawrence, Jay McBride, Ben McFarlane, Brian Miller, Kelli Peterson, Katie Rider, John Sadler, Tiffany Smith, Jennifer Tribo, Chris Vaigneur and Tara Walker.

Public Comment

No Public Comments

Operating Budget – FY 2012

Chairman Clark asked Mr. Farmer to give an overview of the Operating Budget for 2012.

Mr. Farmer stated that Nancy Collins, Chief Financial Officer would give a brief summary of the budget and financial conditions.

Ms. Collins presented slides to show the budgeting process of HRPDC. The current 2011 budget approved for HRPDC reflects total revenues of \$8.7 million with \$2.6 million budgeted for Core Operations. The funding for the HRPDC reserves balance began in FY 2010. Funding of \$341,000 annually is anticipated to keep these balances available for specific purposes. The current cash reserve is over \$2.2 million. These funds are used to maintain operation as HRPDC waits for grant reimbursement and to fund unanticipated projects that may arise throughout the year. The staff is reviewing anticipated expenditures to counter the expected \$200,000 shortfall. HRPDC plans to submit the FY 2012 budget to the Board at the May 2011 meeting.

Mr. Farmer indicated he would like to lock those dollars in the reserve account for things that will be a future liability for the HRPDC.

REGIONAL BUILDING OWNERSHIP

Mr. Farmer stated he had received a request from the SPSA Executive Director for HRPDC to purchase its share of the Regional Board Room and to reimburse SPSA for the initial investment of \$346,000 for the construction of the Board Room that was built about ten years ago. The cost share was approximately one-third SPSA and two-thirds HRPDC.

Mr. Farmer indicated if the Commission agrees, the HRPDC would like to get a reassessment of assets of the property and recommends a change in the ownership split for the Regional Building between the two organizations with HRPDC's share increasing. Mr. Farmer stated he would like to investigate with the assistance of a real estate professional the valuation of the building and grounds and what the recommended changes would be in the agreement that currently exist in terms of the split of ownership.

Commissioner Harrell stated unless there is some concern the Board should follow through with Mr. Farmer's decision.

Mayor Wright asked if the preliminary investigation would be in-house or outside with professional assistance.

Mr. Farmer stated HRPDC had previous outside assistance from Deborah Stearns of Harvey Lindsay and is hoping she can put the information she already has into a format that can be understood.

Commissioner Shepperd asked if the proposal for the assessment is for the entire building; and is SPSA requesting a buyout of 55% for the entire building.

Mr. Farmer stated that SPSA wants HRPDC to reimburse them for the initial \$346,000 for the Boardroom.

SUSTAINABILITY: A GROWING FEDERAL FOCAL AREA

Mr. Farmer stated sustainability is a central theme with several critical issues facing Hampton Roads. Sustainability is a new trend and has caused some local governments and regions to rethink their views. There is a need to reinvest in existing resources and infrastructure as sustainability emerges as a new movement. He indicated that partnerships for sustainable communities provide housing, transportation and other infrastructure investments.

(Commissioner Scott arrives)

CAPABILITIES AND RESOURCES

Mr. Farmer stated the HRPDC staff will provide a brief overview of staff resources and capabilities that are available to support the Commission and its member localities.

HRPDC staff gave a presentation on critical issues such as Housing and Human Services, Climate Change, Sea Level Rise, Emergency Management, Environmental Education, Water Supply, Solid Waste, Homeland Security, Economics and Communications that explained what the HRPDC staff does on a day to day basis and highlighted a number of ongoing regional programs and initiatives that will be considered as staff finalizes the FY 2012 Work Program.

(Commissioners Goodson, Bunting and Cuffee-Glenn arrive)

REGIONAL HOUSING SERVICE PORTAL

Ms. Shernita Bethea, Housing and Human Services Manager, provided a brief overview on the Regional Housing Portal, connecting housing services to the HRPDC community. The HRPDC staff and partner organizations have been in the process of collecting and organizing information related to the provision of housing services in Hampton Roads. There are numerous housing related organizations in Hampton Roads that provide varied services, but there is no centralized place to get information on available service providers, for citizens seeking assistance as well as other service providers.

Ms. Bethea stated by utilizing the information collected, a centralized database can be made to create a one-stop shop approach to making information on services and programs accessible to the public. This information can be a valuable resource to citizens seeking housing services, as well as for local governments, non-profit organizations and housing service agencies when providing assistance for those who need housing support.

Commissioner Scott asked from where does the information come for the data base and how does the information get out to the public.

Ms. Bethea stated some of the information came from different cities and localities, interviewed agencies, and as well information received from HUD-approved housing counseling sites. To get this information out to the public the plan is to use public education and public service announcements to inform the people this is a safe place to get information without running the risk of fraud.

Commissioner Goodson asked if the budget was being monitored.

Ms. Bethea stated this is a good time for this project because of the budget cuts and fewer organizations are doing more work in terms of supply and demand of what the clients need.

Commissioner Shepperd indicated he was not sure who the customers are that would be using this information.

Ms. Bethea stated the HRPDC has multiple customers including private citizens, local housing authorities as well as the Department of Housing and Community Development representatives. They all call the HRPDC asking for help for clients and what services may be beneficial.

Commissioner Scott asked if it would be linked to other jurisdictions.

Ms. Bethea indicated that no decision has been made but HRPDC will come back to the Commission to inform them on the process. The goal is to make the information easily accessible for everyone to review.

HAZARD MITIGATION PLANNING AND IMPLEMENTATION

Mr. Richard Flannery, Emergency Management Administrator stated the Disaster Mitigation Act was approved by Congress and signed into law in October 2000 and is the key component of the federal government's attempt to reduce the rising cost of disasters in the United States. The Act requires local governments to update and submit natural hazard mitigation plans in order to qualify for grant funding. The Act also requires the Plan to demonstrate that the jurisdictions reduce the risk of natural hazards serving as a guide for decision-makers as they commit resources to reduce the effect of natural hazards. Multiple Hazard Mitigation Plans are in the process of being updated to support eligibility for the Natural Flood Insurance Program, federal funding for mitigation activities and funding opportunities from disaster declarations. Mitigation practices will enable local residents, business, and industries to re-establish themselves in the wake of a disaster, getting the community and economy back on track with fewer interruptions. This is not an emergency management response plan. This is a community issue and the action that the community commits expands across many departments. Mitigation strategies were either

updated or changed to reflect regional and locality specific goals, and objectives to better prepare Hampton Roads for the risks associated with the hazards addressed in the plan.

Mr. Farmer stated identifying mitigation projects have multiple savings; it is money well spent. Each of the localities, through the Commission, has invested in a communication ring in order for the Mayors, Mangers and Councilmen to communicate with each other for several days to a week when there is a power outage.

Commissioner Shepperd wanted to know if HRPDC was involved in helping the localities prepare the documents and what services are provided.

Mr. Flannery stated HRPDC is in the process of helping the Peninsula, as well as South Hampton Roads, City of Franklin and Southampton County. HRPDC is working with consultants to help update these plans as well as providing the subject matter expertise in guiding the localities through the process. HRPDC is making sure the jurisdictions have help in setting goals and objectives for their communities. There are regional goals and objectives for all the localities participating in the plan.

PRIORITY DATA NEEDS

Mr. Farmer introduced Jay McBride, HRPDC Principal Regional Planner, to present an overview of the Hampton Roads Priority Data Needs.

(Commissioner Woodard arrives)

Ms. McBride stated she would brief the Commission on the need and the value of obtaining consistent GIS Data. Consistent GIS data is accurate, reliable, usable, compatible and complete. It is produced by others quickly through the use of common formats and access methods and provides faster response time, and improved operations. It allows you to develop applications faster and easier, provides better data for decision making, resolves problems created by conflicting data, and provides cost saving. It is used for regional land use and land cover data. Land use describes how people utilize the land and its socio-economic activity, and land cover is the physical material at the surface of the earth. Land covers include grass, asphalt, trees, bare grounds, and water.

Ms. McBride indicated some of the benefits associated with having a regional land use and land cover data set are: 1) provides interaction between the physical geography and the socio-economic activities of land; 2) provides the ability to analyze water pollution and sedimentation; 3) provides the data necessary for understanding the linkages between land use, nutrient loads and sedimentation rates; 4) supports predictive modeling techniques to better forecast areas of urban growth; and 5) aids in emergency management planning, green infrastructure management, regional housing planning and transportation.

Ms. McBride stated there is a need to acquire consistent high resolution data. This data is an accurate computer generated image that displays a very intense degree of sharpness when measuring an object or structure. There are two methods in collecting this data they

are IFSAR (also called INSAR) and LiDAR. The difference between the two is the method in which data is collected. IFSAR uses radar based technology and has a wide beam and scans the area when collecting height and depth. LiDAR uses laser based technology and a narrow beam width and measures objects in a direct line of sight. LiDAR provides more accurate data.

Commissioner Goodson asked if the recommendation is that the HRPDC go beyond what the state is doing with the flyovers.

Ms. McBride stated she was recommending that localities get together and research the best methods so that everyone could be on a consistent level. The state and some of localities have some LiDAR data but it is not on a consistent level.

REGIONAL GROUNDWATER POLICY

Mr. Farmer introduced Ms. Whitney Katchmark, Principal Water Resource Engineer to present a briefing on the Regional Groundwater Policy.

Ms. Katchmark stated the HRPDC staff recommends the region develop a policy that prioritizes types of groundwater use with the goal to influence how the Department of Environmental Quality issues groundwater permits. The HRPDC could facilitate a regional work group to reach consensus on a method to prioritize groundwater use and then share the input with the state. The regional work group should include water utilities, land use planners, and economic development. The HRPDC Directors of Utilities committee is already engaged in the groundwater issues and would be a critical component to the work group but in order to have a comprehensive policy, it should also include land use planners to consider whether groundwater should be reserved to support growth outside the public water system service area and also consider the impact on economic development if groundwater was not available to support new businesses or business expansion outside the water system service areas.

Ms. Katchmark indicated the reason for a groundwater policy is that DEQ has determined that the agency has over allocated the groundwater resources in Southeastern Virginia. The existing regulations do not identify a process for reducing allocations and prioritizing needs. The focus of the regulation was to avoid conflict between users. DEQ was trying to deal with this issue by scrutinizing all the permits and negotiating with everyone to reduce their permits especially if the current use is significantly less than the amount of water they are requesting in their permit.

Although the region is not on the verge of running out of ground our current use is not sustainable. The Southside has about two and half times more water than the Peninsula and in both cases groundwater comprises of about 22% of our sources with the rest of the water coming from reservoirs and river intakes. A regional groundwater policy needs to be developed because groundwater is a very inexpensive source of water and DEQ is allocating this valuable limited resource and localities do not have a role in prioritizing whether this water should be used for public water systems, residential wells, or private business.

The current regulations do not allow groundwater to be reserved for future uses and there is no long-term planning component to this process. The HRPDC contracted with USGS to create a new groundwater model, and we have better information and the state is engaged in this issue. We are not in a crisis yet so any changes could be phased in over many years which would make it less difficult and less expensive.

Chairman Clark indicated since we are not in a crisis, this is the approach we should be taking to move forward with the groundwater system and regulations.

LEGAL ASSESSMENT OF CHESAPEAKE BAY TMDL APPEAL

Mr. Farmer introduced Mr. David E. Evans from McGuire Woods to present an overview of the Legal Assessment of the Chesapeake Bay TMDL.

Mr. Evans stated he was asked to give a legal review and assessment of the final Phase I of Chesapeake Bay TMDL and its effect on urban stormwater in Hampton Roads.

Mr. Evans stated the HRPDC submitted five sets of comments and if there is an appeal, the considerations would revolve around those comments. If HRPDC chose to appeal, the appeal can be based upon any one or all of the comments along with EPA responses to the comments.

Mr. Evans stated it might be helpful to give an overview of the relevant considerations on whether to appeal. To challenge the TMDL would be to file an appeal in the U.S. District Court and in this case it would be the Eastern District of Virginia and that appeal would be filed pursuant to the Federal Administrative Procedure Act. There are three grounds for review of EPA agency actions. The first ground would be did EPA abuse its discretion by acting arbitrarily and capriciously? His assessment was that this is a very difficult standard, it is presumed that the agency is correct. The more technical and complex the issues are, the court tends to give flexibility toward the agency. The next issue did EPA act in excess of its legal authority? The final issue is did EPA commit procedural errors? Did EPA commit an error in their procedure when they adopted its final agency action.

Mr. Evans stated the most important consideration in deciding to appeal is what are the chances of winning or losing and, there are some other factors in deciding to appeal: 1) what are the likely impacts of EPA's action; 2) likelihood of success on appeal; 3) remedy if successful on appeal; 4) litigation costs weighed against above factors; and 5) political considerations.

Mr. Evans indicated these appeals are not trials. This is a review of the agency records. The records are submitted to the court, the case is briefed, argued and decided by the court. If HRPDC and the localities decided to file an appeal, Mr. Evans recommended filing by the end of March or soon thereafter.

The HRPDC staff and the Commissioners decided to have Mr. Evans come to the March 17, 2011 meeting for further discussion.

COCNCENSUS IN MOVING FORWARD

Mr. Farmer stated from the results of the discussion and the staff recommendation the HRPDC will have the critical issues incorporated into the FY 2012 draft work program.

FOR YOUR INFORMATION

No questions or comments.

ADJOURNMENT

With no further business to come before the Hampton Roads Planning District Commission, the meeting adjourned at 11:30 a.m.

Stan D. Clark
Chairman

Dwight L. Farmer
Executive Director/Secretary