

ATTACHMENT 1A
THE DRAFT SUMMARY OF THE MEETING OF THE
HAMPTON ROADS CHESAPEAKE BAY COMMITTEE, THE
REGIONAL STORMWATER MANAGEMENT COMMITTEE AND THE
CHESAPEAKE BAY IMPLEMENTATION SUBCOMMITTEE
January 5, 2011

1. Summary of the December 1, 2011 Meeting of the Hampton Roads Chesapeake Bay and Regional Stormwater Management Committees and Chesapeake Bay Implementation Subcommittee

The Summary of the December 1, 2011 Meeting of the Hampton Roads Chesapeake Bay and Regional Stormwater Management Committees and Chesapeake Bay Implementation Subcommittee was approved as distributed.

2. Chesapeake Bay Phase II Watershed Implementation Plan (WIP) Update

Ms. Jenny Tribo and Ms. Whitney Katchmark, HRPDC, updated the Committee on the status of the Chesapeake Bay TMDL Phase II Watershed Implementation Plan (WIP). The regional steering committee will go over the regional scenario and material at the afternoon meeting. Information must be submitted by January 31, 2012. Each locality is responsible for creating its own report. The regional scenario and report are currently being worked on. Comments to HRPDC staff are due by January 10 and the final working draft will be sent back to localities January 12. Final comments are due back to HRPDC staff by January 17 so that the Commission can be briefed at its January 19 meeting. The regional report contains four sections: qualifications and conditions; assumptions for exclusions; alternate list of BMPs to add to the model; and research needs, policy changes, and funding.

Questions or comments on the WIP or regional report should be sent to either Ms. Tribo (jtribo@hrpdcva.gov) or Ms. Whitney Katchmark (wkatchmark@hrpdcva.gov).

3. Local Government Authority to Enact Ordinances to Improve Water Quality

Ms. Peggy Sanner, Chesapeake Bay Foundation, gave a presentation to the Committee on local authority that is available to address water quality requirements. Such ordinances or policies would fall under the category of programmatic actions, which are required for implementation of the Phase II WIP. While the Dillon Rule limits what Virginia localities are allowed to do, existing state law gives localities some authority already. For example, VAC 15.2-1200 allows for "adoption of regulations for the prevention of pollution of water which is dangerous to the health or lives of persons residing in the county." VAC 15.2-2283 allows for zoning ordinances that promote "the health, safety, or general welfare of the public." In addition to these laws, the General Assembly is considering legislation that would combine the existing Stormwater Management, Erosion and Sediment Control, and Chesapeake Bay Preservation laws to create statewide standards and regulations; this combination bill would enhance local

responsibilities. Potential effects on existing ordinances would be the possible grandfathering of developments for stormwater management and erosion and sediment control as well as the possible cessation for CBPA regulations. Enhanced authority for localities could be provided which would help localities comply with the TMDL and protect exceptional state waters. More stringent ordinances could also be allowed. Ms. Sanner recommended localities look to 15.2-1200 when considering how to address requirements from the Bay TDML.

Committee members noted that 15.2-1200 does not apply to cities. Committee members were also concerned about possible unfunded mandates from the integrated bill, even though it contains a fee schedule.

4. Examples of Ordinance Changes to Protect/Improve Water Quality

Mr. Clay Bernick, Virginia Beach, gave a presentation to the Committee on ordinances and policies Virginia Beach has considered and/or adopted to address water quality issues or requirements. The City's Green Ribbon Committees have been responsible for developing many of these policies. The City is considering a third Green Ribbon Committee that would provide citizen advisory oversight of TMDL implementation. Ordinances and policies adopted by Virginia Beach so far include:

- Environmental stewardship award program
- Residential green incentives
- Green volunteers program
- Energy efficient building ordinance
- Landscape and buffer management guidelines (including the City's Integrated Site Design Guidelines)
- Permeable paving a bicycle parking requirements
- Maximum parking ordinance
- Clean waters task force (including community participants)

In addition, the City has both started and encouraged citizen groups to work to improve water quality and the City's environment. Virginia Beach is also working on getting credit for these activities by tracking BMPs, both traditional and non-traditional, throughout the watershed.

5. Discussion on the Impact of Water Quality Regulations resulting from the Chesapeake Bay TMDL and Virginia Stormwater Management regulations on Hampton Roads localities

Ms. Julia Hillegass led a roundtable discussion of how water quality regulations and requirements are affecting local governments. Committee members provided several examples of concerns and impacts, including:

- Difficulty in achieving water quality goals while not restricting growth
- The cost of new development (no net increase in loads) vs. redevelopment (20% decrease)

- The fee structure in stormwater regulations (it is difficult to raise fees, green field development has fewer fees)
- Higher costs for localities
- Possible eminent domain law changes
- Funding for retrofits
- Issues with lands zoned for agriculture
- Water quality benefits to home values, water industries, and recreation
- Issues with state non-involvement
- Thinking outside the box (ex. Philadelphia's urban reforestation, Virginia Beach's oyster BMPs)
- Increased difficulty in reviewing plans for new stormwater regulations (need to be much more thorough)
- VDOT is conveying properties back to owners, but reserving for future BMP use
- Localities are trying to encourage redevelopment, but there are concerns that new regulations will encourage sprawl
- Environmental issues often lose out to other concerns
- Regulations discourage BMPs that address other issues such as flooding
- Some BMPs have adverse impacts, such as increasing flooding

6. Environmental Impact Review

Mr. Benjamin McFarlane, HRPDC, briefed the Committee on two environmental impact reviews being considered by HRPDC staff. The U.S. Bureau of Ocean Energy Management issued a request for comments on the Proposed 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2012-2017 and the program's Draft Environmental Impact Study. The program does not include Virginia, and the Committee had no comments.

DEQ issued a request for comments on a State Corporation Commission application by Dominion for a Community Solar Power Program and Certification of Proposed Distributed Solar Generation Facilities. The Committee in general supported increasing the development of solar power facilities in the Commonwealth. The Committee felt that this could possibly incentivize further development by private owners. However, the Committee had concerns about possible exclusivity. The Committee expressed support contingent on private parties and local governments not being constrained in developing their own solar power generation capacity.

7. Status Reports

A. Hampton Roads Sanitation District

HRSD representatives had nothing to report.

B. Hampton Roads Planning District

HRPDC staff reported that there will be a Hampton Roads Watershed Roundtable meeting January 25, 2012 at the Norfolk Zoo. HRPDC staff will received a debriefing from HUD on the region's recent application for a Sustainable Communities Regional Planning Grant January 31, 2012, and will brief the Committee at the February meeting.

C. Soil and Water Conservation Districts

In the absence of a SWCD representative, there was no report.

D. Department of Conservation and Recreation

Mr. Noah Hill, DCR, reported that there are currently two vacancies in DCR's district office, but that there may be new hires soon. Also, Art Kirkby is now the conservation district coordinator.

E. Department of Environmental Quality

In the absence of a DEQ representative, there was no report.

F. U.S. Geological Survey

In the absence of a USGS representative, there was no report.

G. Department of Transportation

VDOT representatives had nothing to report.

H. U.S. Navy

Mr. Andrew Scott, VDOT, reported that VDOT is using a hydraulic model of the Blackwater, Nottoway, and Meherrin Rivers to model flooding risk to bridges. This model can also model pollutant transport.

I. Local Programs

Virginia Beach staff reported that the City is hosting a VSMP regulatory training refresher.

Hampton staff reported that the City is looking into proposing stormwater rate increases.

Suffolk staff reported that LJ Hansen is a member of the Chesapeake Bay Program's Expert BMP Review Panel for Stormwater Retrofits. The panel is considering new BMPs based on monitoring, new technology, unique circumstances, or whether there is no suitable efficiency rating for a BMP.

Mr. Skip Stiles, Wetlands Watch, reported that the organization is looking into whether localities can gain WIP credit for privately maintained BMPs. Also, Norfolk has requested a sea level rise impact study by the state in its legislative package, which could potentially lead to federal money for more study or infrastructure.

8. **Annual Committee Retreat**

HRPDC staff briefed the Committee on departmental work programs for the upcoming year. The planning department will be continuing its work on comprehensive plans, environmental impact review, solid waste planning, trails and green infrastructure planning, and coastal zone management, including the general local technical assistance program, additional climate change work, and assistance with planning for water quality regulatory requirements. In addition, HRPDC will continue to support the Hampton Roads Watershed Roundtable. Water Resources staff will be working with localities on Phase I and Phase II permits and continuing work related to the Chesapeake Bay TMDL, focusing on collecting information and data for the 2017 model calibration.

9. **Other Matters**

The next meeting of the Joint Environmental Committee is scheduled for February 2, 2012 at the HRPDC office in Chesapeake, Virginia. Materials will be sent in advance for review.