

AGENDA NOTE - HRPDC EXECUTIVE COMMITTEE MEETING

ITEM #7: CHESAPEAKE BAY LOCAL GOVERNMENT ADVISORY COMMITTEE UPDATE

SUBJECT:

The Hampton Roads members of the Chesapeake Bay Local Government Advisory Committee (LGAC) sent a letter to the Governor on March 26, 2013 outlining three areas of concern and on April 19, 2013 The Secretary of Natural Resources responded. The LGAC members are meeting with Russ Baxter, Virginia's Chesapeake Bay Coordinator, on June 21, 2013 to discuss the concerns raised in the initial letter.

BACKGROUND:

Three local elected officials from Hampton Roads were appointed to the Chesapeake Bay LGAC by the Governor and have reached out to the state to improve communication:

- Sheila Noll, York County
- Debbie Ritter, City of Chesapeake
- Rosemary Wilson, City of Virginia Beach

According to the bylaws, "the purpose of the LGAC is to assume both a proactive and reactive policy development role in advising the Executive Council (EPA Administrator, Mayor of the District of Columbia, the Governors of Virginia, Pennsylvania, and Maryland, and Chairman of the Chesapeake Bay Commission) on how to most effectively, equitably, and expeditiously implement the projects and other actions required to engage the support of local governments to achieve the goals of the Bay Agreement. The LGAC is responsible for communicating both with the Executive Council in its advisory capacity, and with local governments throughout the Bay region. The LGAC's goal is to develop and execute strategy, to ensure continued local government participation, and input in the design, development, and implementation of programs to protect and improve the Chesapeake Bay".

More information about LGAC membership, meetings, and reports can be found at http://www.chesapeakebay.net/groups/group/local_government_advisory_committee.

Ms. Whitney Katchmark, HRPDC Principal Water Resources Planner, will provide a brief update on the response to the letter of concern sent to Governor McDonnell from the Hampton Roads appointees to the Chesapeake Bay LGAC.

Attachment 7-A

Attachment 7-B

RECOMMENDED ACTION:

For discussion purposes.



March 26, 2013

The Honorable Robert R. McDonnell
Governor
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

RE: Chesapeake Bay Total Maximum Daily Load Program

Dear Governor McDonnell:

Since 2010, we have served at your request on the Chesapeake Bay Program's Local Government Advisory Committee. The Committee is tasked with improving the role of local governments in Bay restoration efforts and advising the Bay Program's Executive Council. We are honored to serve Virginia as a voice for local government, but we are hindered from being able to provide more effective representation. For that reason, we feel compelled to share our concerns with you and seek improvements.

The attached outline describes our three areas of concern: communication between the State and localities, communication between the State and the Chesapeake Bay Program, and transition of the Stormwater Program from DCR to DEQ.

We understand that the implementation of the Bay TMDL is a monumental challenge that the EPA has forced on the Commonwealth without offering substantial support. We hope the Commonwealth will choose a different approach in dealing with localities by providing guidance and tools instead of forcing localities to shoulder the entire burden of TMDL implementation. Local governments need state agencies to represent their interests by actively supporting changes to the Bay Program.

Please respond to our outlined concerns prior to our next LGAC meeting on April 11, 2013. We welcome the opportunity to meet with you to refine solutions to these issues and improve communication moving forward.

Sincerely,

		
Debbie Ritter City of Chesapeake	Sheila Noll York County	Rosemary Wilson City of Virginia Beach

Attachment

Copy: The Honorable Doug Domenech, Secretary of Natural Resources
The Honorable John Cosgrove, Delegate, Virginia General Assembly
David Paylor, Director, Department of Environmental Quality

Concerns with the Commonwealth's Chesapeake Bay TMDL Program

I. Communication between the state and localities

- a. Since 2011, the state agencies have provided spotty communication with local governments and have neglected to establish a process and timeline to collect local data to meet the Bay Program reporting milestones.
- b. Virginia needs to demonstrate to localities that the data they have submitted has been incorporated into the 2012 Progress Run. State agencies should develop a transparent and structured process to collect data for future progress runs.
- c. State agencies should evaluate the initiatives and new BMPs proposed by localities and provide feedback on whether or not the state supports them. For example, the Hampton Roads localities submitted eighteen alternative BMPs, seven research and modeling revisions, ten policy initiatives, and six funding initiatives in their Phase II WIP input.
- d. Localities need to know which nutrient removal strategies (including proprietary and non-proprietary BMPs) the state considers acceptable so localities can plan and budget for TMDL implementation. Specifically, the state should communicate whether or not Virginia will accept the BMPs and associated efficiencies approved by the Bay Program.
- e. We have been receiving updates on the Chesapeake Bay TMDL implementation from Hampton Roads Planning District Commission staff. We encourage you to improve communication with Planning District Commissions since they are well positioned to deliver consistent information to localities.

II. Communication between the state and Chesapeake Bay Program

- a. EPA has made an effort to address our requests to incorporate local land use data into the model and evaluate additional nutrient removal techniques. The success of these efforts depends largely on the input of jurisdiction representatives to the Bay Program.
- b. Virginia representatives on various workgroups do not coordinate with one another and often cite lack of resources as a reason to not correct information or provide additional data.
- c. Local governments need Virginia to represent their interests at the Bay Program level. In order to do this, staff needs leadership and financial resources.
- d. State agencies should share policy initiatives and technical positions with their Local Government Advisory Committee members and attend the Local Government Advisory Committee meetings.

III. Transition of stormwater program from DCR to DEQ

- a. The new program structure will divide nonpoint source strategies between two agencies and could exacerbate the existing problems. The state should create a multi-agency team to ensure state representatives to the Bay Program have full access and knowledge of existing data, past decisions about data submittals and modeling assumptions.
- b. The state should designate a lead staff person to coordinate participation and input to the Bay Program's expert panels and workgroups for each sector (stormwater, wastewater, agriculture).
- c. Each sector representative should have a prioritized list of research, policy, and technical objectives to ensure limited resources are focused on implementing the most important changes to the Bay Program.



COMMONWEALTH of VIRGINIA

Office of the Governor

Doug Domenech
Secretary of Natural Resources

April 19, 2013

Debbie Ritter
732 Schoolhouse Road
Chesapeake, Virginia 23322

Sheila Noll
133 Tradewinds Drive
Yorktown, Virginia 23692

Rosemary Wilson
1304 Wren Place
Virginia Beach, Virginia 23451

Dear LGAC Representatives Ritter, Noll and Wilson:

Thank you for your letter of March 26, 2013 to Governor McDonnell. He has asked that I provide you a response.

We appreciate your service on the Chesapeake Bay Program's Local Government Advisory Committee (LGAC). In your appointed positions as representatives of the Commonwealth's local governments, your advice to leadership of the Chesapeake Bay Agreement signatories is helpful in providing insight on how the programs affect local governments and how to improve on the efficiency of those programs. Your position also affords you the opportunity to help the Administration communicate our plan for restoring the Bay to the local governments and the Bay Partnership.

Restoration of the Chesapeake Bay is an important goal we all share. Improving the Bay's health requires that all levels of government and the private sector work together to improve practices that in many ways have inadvertently resulted in an impaired Bay. Yet, as you know, we have made huge gains in the reduction of nutrients from all sources and we will continue to do so.

As you also know, in an effort to meet our goals to reduce nitrogen, phosphorus, and sediment pollution flows into the Chesapeake Bay, the Commonwealth has developed a

Watershed Implementation Plan (WIP) to guide our restoration efforts through 2025. During the development of the plan, we collected input from citizens, business, as well as state, local, and federal government representatives. We continued to involve constituents as we developed Phase II of the WIP and began the implementation process. Representatives of the Commonwealth conducted public meetings throughout the state, met with Planning District Commissions to solicit input, and met with local government elected official and staff to develop the plan as well as to begin the implementation process.

The WIP provides answers to many of the questions you ask in your letter.

It is essential that we work with our partners in local governments to continue our progress. Staff from the Department of Environmental Quality (DEQ), the Department of Conservation and Recreation (DCR), and other state agencies will continue to coordinate with local governments during the implementation of the WIP. The components of this effort are outlined in Section 11 of the Phase II WIP, and include requests for localities to provide projected milestones by October 1st of odd years and report implementation progress by October 1st of each year. Much of the recent effort has focused on advancing the revised stormwater management regulations, including provision of \$2 million in grant funding, a model stormwater management ordinance, training, and a comprehensive outreach program for local government staff and elected officials.

The adaptive management nature of the program allows us to provide local governments with the flexibility to select best management practices (bmps) that will reduce pollution runoff in the most efficient and effective manner for their area. A list of BMPs that may be used to reduce pollution runoff is included in the Phase II portion of the WIP and had been communicated to localities before the WIP document was finalized. The Commonwealth has invested in and continues to maintain and improve the Virginia Assessment and Scenario Tool (VAST) as a tool for evaluating milestone implementation scenarios, reporting implementation progress and sharing modeled progress scenarios. The tool includes all bmps currently approved or in interim status with the Bay Program. We will also continue to evaluate new technologies that may be developed to determine if there are more efficient methods to reduce runoff into the Bay.

All of these efforts are providing promising results. Virginia received an award for leading the Region 3 states in nitrogen reduction, has reported more Section 319 related phosphorus and bacteria load reductions than any other state in EPA's Region 3 and our 2012 progress has already exceeded our 2013 milestone reduction goals.

We continue to work with EPA to resolve known deficiencies in the model. State representatives have a meeting scheduled with Chesapeake Bay Program Office staff to determine when EPA will complete the activities that they have committed to complete to correct model anomalies.

I look forward to continuing to work with you as Virginia's representatives on the LGAC, as well as local governments, as we continue to implement the WIP. If you would like to

discuss the Commonwealth's Watershed Implementation plan in more detail, I would be happy to have our staff meet with you at a mutually convenient time.

Sincerely,

A handwritten signature in black ink, appearing to read "Domenech", written in a cursive style. The signature is positioned to the right of the word "Sincerely," and above the printed name "Doug Domenech".

Doug Domenech

CC: Anthony Moore, Deputy Secretary for Chesapeake Bay Restoration