

**SUMMARY OF THE MEETING OF THE
HRPDC REGIONAL ENVIRONMENTAL COMMITTEE
March 4, 2021**

Pursuant to the declared state of emergency in the Commonwealth of Virginia in response to the COVID-19 pandemic and to protect the public health and safety of the committee members, staff, and the general public, the Regional Environmental Committee meeting was held electronically via WebEx. These electronic meetings are required to complete essential business on behalf of the region. A recording of the meeting is available on the website.

Attendance

A complete attendance list is available. In addition to several non-voting committee members and other interested parties, the following members participated electronically:

Regional Environmental Committee Voting Members:

Barbara Brumbaugh, CH	Meg Pittenger, PO
Greta Hawkins, HA	Thomas Quattlebaum, PO
Angela Hopkins, NN	Justin Shafer, NO
Kevin Landry, GL	Diana St. John, VB
Beth Lewis, SH	Allison Watts, NN
Heather Markle, WG	Michael Woolson, JC

1. Summary of the February 4, 2021 Meeting of the Regional Environmental Committee

There were no comments on the February meeting summary.

2. Public Comments

There were no public comments.

3. The Elizabeth River Project's 2021 State of the River Scorecard

Mr. Joe Rieger, Deputy Director of Restoration for the Elizabeth River Project (ERP), briefed the Committee on the release of its 2021 State of the River Scorecard. The Scorecard was completed with assistance from the Virginia Institute of Marine Science (VIMS) and funding provided by the Commonwealth of Virginia. Eleven parameters were evaluated for each branch and tributary of the Elizabeth River using data collected from 2010 and 2019. The entire river received an overall grade of "C" and the branches and smaller tributaries received a higher or the same grade as 2014. While most parameters showed improvements compared to 2014, some did not, notably nutrient levels. Increased precipitation frequency and intensity were noted as contributing factors. Four special studies were also completed as part of the Scorecard, looking at specific issues

including the benthic index of biotic monitoring, tributyltin water quality monitoring, cancer in mummichogs, and sediment toxicity in the Eastern Branch. The Scorecard paves the way for a new Watershed Action Plan to be developed in 2021.

There is also an opportunity to explore future monitoring needs using \$300,000 available state funding. Mr. Rieger asked for ideas for specific monitoring projects that the funds could be used for. Committee members suggested using the funds to for PCB monitoring as part of the TMDL currently in development.

The sources of bacteria pollution were discussed with Mr. Rieger noting that human sources can be identified, tracked, and resolved much easier than other sources, such as from pets or wildlife. Mr. Rieger explained a door-to-door “scoop the poop” campaign that ERP completed in the Indian River watershed in Chesapeake. He noted that door tags and stickers are helpful, but engaging with residents seemed to prove most effective at changing personal behavior.

4. Chesapeake Bay Program’s Land Use/Land Cover Update

Dr. KC Filippino provided an update on the Chesapeake Bay Program’s progress on updating the high-resolution Land Cover data. The data is being developed only for localities in the Bay watershed, but does include the entire locality even if only a portion is in the Bay watershed. Over 60 unique land use classes will be employed to better classify land cover. Localities will be asked by the Chesapeake Conservancy to do a systematic review of new data produced from 2017/2018 imagery in the coming months and will have just four weeks to complete their review. Examples of other uses of the high-resolution data were provided and ideas requested for other applications of the new data beyond Chesapeake Bay TMDL needs.

5. Considering Fiscal Stress in Funding Projects with the Stormwater Local Assistance Fund (SLAF)

Mr. Joe Wood, Virginia Senior Scientist for the Chesapeake Bay Foundation (CBF), briefed the Committee on an analysis conducted looking at the historical distribution of SLAF allocations, with the goal of determining whether vulnerable communities are receiving equitable levels of funding compared to their regulatory burden. Researchers examined the number of SLAF funds granted to a locality, the required phosphorus reductions as part of their MS4 permit, and the degree of fiscal stress facing the locality. They compared the results to a hypothetical scenario in which funding was equally distributed based upon permit requirement and found that high stress localities are receiving less SLAF funding per pound of pollution reduction required than low stress localities. This analysis led to a policy recommendation and successful legislation in the 2021 General Assembly to amend the SLAF program guidelines so that localities with high or above average fiscal stress can receive more than 50% of total project funding from SLAF. Additionally, while the existing grant criteria focuses solely on total phosphorus reductions, the new legislation authorizes the consideration of “total phosphorus or total nitrogen reductions”. A stakeholder group will be convened this year to determine implementation of these changes to the SLAF guidance document.

Committee members expressed that the SLAF grant application process is fairly time-intensive and that high stress localities may not have adequate resources to complete an application. Committee members also asked how phosphorus requirements were determined for the study and how the degree of fiscal stress will be determined. Mr. Wood explained that the phosphorus information came from Mr. Allan Brockenbrough of DEQ, and was based on the Bay TMDL action plans and/or MS4 permits and the stakeholder group will be charged with developing a methodology for determining fiscal stress. For their analysis, CBF evaluated fiscal stress using the report prepared by the state Commission on Local Government.

6. Virginia 2021 Legislative Session

HRPDC staff shared updates on bills related to resiliency, stormwater funding, tree preservation, and wastewater that were considered by the General Assembly. SB1350 incorporates resiliency into statewide transportation plans, and SB1389 requires a "Flood Risk Information" form and repetitive loss disclosure during real estate transactions, both of which passed the General Assembly and are awaiting signature by the Governor. SB1404 would update the Stormwater Local Assistance Fund guidelines to include local fiscal stress and nitrogen removal into the project selection criteria, which also passed the General Assembly and is awaiting signature by the Governor. The tree bills (HB2402 and SB1393), which would enable localities to adopt higher tree conservation requirements, was amended to convene a workgroup with a report on the issue due on October 1, 2021 and insert a delayed enactment clause, but ultimately passed and is awaiting signature by the Governor. The bills modifying the wastewater Bay TMDL Phase III Watershed Implementation Plan requirements (HB2129/SB1354) have been successful in removing the floating wasteload allocations concept in favor of a nutrient trading program and additional funding. With regards to the budget, \$75M for SLAF was appropriated, along with historically high funding for agricultural cost-shares and DEQ for air, water, and land programs.

7. Chesapeake Bay Preservation Area (CBPA) Designation and Management Regulation – Proposed Amendments

Continuing the conversation from the February meeting, Ms. Katchmark reviewed the schedule for developing regional comments on the proposed amendments for the CBPA regulations. Most recently, staff briefed the Chief Administrative Officers (CAOs) on the key takeaways from meetings with local CBPA staff and attorneys. Namely, that it is possible to add flood protection and protect water quality, but doing so will require significant resources in terms of staff time and expertise. Feedback from the CAOs indicated that HRPDC should focus their comments on creating a more robust regulatory development process and that the flexibility and lack of clarity in the proposed regulations may lead to confusion and inconsistent implementation.

Ms. Katchmark provided an updated schedule for a comment letter, which will be provided to localities for review by March 9. Comments on the letter are requested by March 22 in order to have ready for an endorsement by this committee on April 1. Because of the significant nature of the proposed regulatory changes, staff will brief the

HRPDC and seek their approval of the comment letter on April 15 before sending it to DEQ.

8. Other Matters

a. VMRC Proposed Wetlands Guidelines

Ms. Jill Sunderland, Water Resources Planner with the HRPDC, presented an overview of the draft Proposed Wetlands Guidelines prepared by the Virginia Marine Resources Commission (VMRC) and released on March 1, 2021. The new guidelines are the result of SB 776 that established living shorelines as the default approach to shoreline management. Three workshops were held in 2020 to inform the development of the proposed guidelines. Several areas for improvement and concerns were raised during these workshops, some of which were addressed in the proposed guidelines. The new guidelines provide better guidance for what constitutes “best available science,” how to factor in cost into the suitability of shoreline management, and what factors should be used to determine suitability of living shoreline approaches. However, several concerns with the proposed guidelines were identified, including: 1) the timing and alignment with CBPA regulatory amendments, 2) an apparent conflict between declaring all tidal wetlands are equal and prioritizing impact to wetlands that have “lesser ecological significance,” 3) how to account for sea level rise and coastal hazards when considering living shoreline elements, and 4) the life expectancy of living shoreline approaches as sea level rises.

Committee members expressed concerns that the proposed guidelines, similar to the proposed regulatory amendments to the CBPA, seem rushed, lack important detail and clarity, and did not benefit from a robust stakeholder engagement process. Asking for an extension of the public comment period beyond March 31, 2021, and beyond the comment period for the CBPA regulatory amendments, was suggested.

b. Virginia Lakes and Watersheds Association Conference – Liz Scheessele of Timmons Group announced that the VLW Association Conference is next week and registration is still open.

c. Water Quality Technical Workgroup – Dr. KC Filippino announced that the Water Quality Technical Workgroup would be meeting Friday, March 5 at 1:00pm.

d. Chesapeake Bay Foundation – Ms. Christy Everett announced that they are hosting a webinar of rockfish management on March 8 at 6:30pm.

The next meeting of the Regional Environmental Committee will be held on Thursday, April 1, 2021 virtually via WebEx.