

**THE DRAFT SUMMARY OF THE MEETING OF THE
REGIONAL ENVIRONMENTAL COMMITTEE
February 6, 2014**

1. Summary of the January 2, 2014 Meeting of the Hampton Roads Regional Environmental Committee

The Summary of the January 2, 2014 Meeting of the Hampton Roads Regional Environmental Committee was approved as distributed.

2. Public Comments

There were no public comments.

3. Program Updates from Middle Peninsula PDC

Ms. Jackie Rickards, MPPDC, gave a presentation to the Committee on planning efforts by the Middle Peninsula PDC funded by Section 309 grants from the Virginia Coastal Zone Management Program. These grants fall under the same coastal zone-wide strategy as the Section 309 grants HRPDC has been working on. Phase I of the MPPDC's work focused on onsite septic disposal systems. This followed the adoption of new rules that allowed alternative onsite septic systems in areas that previously would not have been eligible for septic systems. This developed presented a number of challenges to local governments in terms of managing various issues involved with developing these areas, including water quality, public health, land use, and fiscal impacts. The MPPDC's Phase I work focused on the water quality protection component, specifically on addressing communication issues with the current enforcement process for failing systems. MPPDC worked with VDH to identify and fix some of these issues. In addition, MPPDC identified an issue with VDH issuing septic permits in wetlands (which the department is not authorized to do), but it appears that while VDH is no longer granting new or renewing existing permits, the department is not revoking existing permits. One possible approach to dealing with failing systems would be to require mandatory hookups to municipal services.

Phase II focused on ownership and maintenance responsibilities related to roadside ditches and outfalls. Many of these ditches in the rural counties of the Middle Peninsula do not work well, either due to clogging from debris or lack of sufficient slope to drain. MPPDC funded a legal analysis that looked at several case studies in the Middle Peninsula to determine what the particular issues were with each ditch. The assessment revealed many issues, including a lack of responsibility by either VDOT or the County in question to maintain or clear outfall ditches, since in many cases they appear to be considered "natural watercourses." In other cases, the ditches appeared to be outside of VDOT's right of way. The effort identified several considerations for assessing ditches, including:

- Is there a drainage easement?

- Is the ditch within VDOT's right of way?
- Is the ditch a natural watercourse?
- Is the lack of flow due to elevation?
- Are land use changes causing more water?
- If there is clogging, what and who are clogging the ditch?

Phase III of the MPPDC's Section 309 work will consist mainly of work with the Virginia Coastal Policy Clinic at William and Mary Law School. The goal of this work will be to identify the legal and financial aspects of sustaining permanent funding sources to address septic repairs and rural stormwater ditch maintenance. MPPDC will be also be pursuing additional grants to supplement these efforts.

Discussion:

Issues encountered during the ditch analysis included data quality (or lack of data), the Byrd Act (which absorbed local roads into the state network, but may not have absorbed ditches), and working with VDOT.

MPPDC originally sought to make cost sharing with VDOT for ditch maintenance allowable as an enforceable policy, but a ruling by VDOT has made this moot. There have been no attempts to adopt or promote local policies yet.

On public outreach: There has been significant backlash from citizens because they think it is VDOT's responsibility to maintain the ditches. MPPDC aims to do outreach as part of a NFWF project in Mathews County, and public outreach was also included as a component in the MPPDC's Sandy Grant proposal.

On the scope of the ditch analysis: The analysis focused on both roadside ditches and outfall ditches.

Ms. Connie Bennett, York, stated that York County encountered similar issues, but they have succeeded in getting VDOT to perform some maintenance.

Mr. Joe DuRant, Newport News, stated that there should be prescriptive easements if there is a history of maintenance.

Ms. Beth Lewis, Franklin-Southampton, remarked that some of the ditches are outside the VDOT easements, but VDOT maintains some of them anyway. Outfall ditches may be different.

Ms. Shereen Hughes, Wetlands Watch, stated that it is difficult to get VDOT to adopt certain stormwater BMPs. The contractors VDOT hires to do the maintenance appear to have a lot of autonomy, so it can be complicated to get those BMPs incorporated into the maintenance program.

Ms. Whitney Katchmark, HRPDC, asked if local health departments were willing to help with the septic tank issue. Ms. Rickards responded that it is not clear how much they

are doing on the issue currently. It is not clear if they haven't asked if there are wetlands on a given site.

4. Legislative Agenda Update

Ms. Jenny Tribo, HRPDC, updated the Committee on the status of several bills currently being considered by the General Assembly.

Living Shorelines: There is an issue with existing law that is holding up the living shorelines general permit. HB911 provides a legislative fix to this problem. HB911 has passed the house and is in committee in the Senate. Mr. Skip Stiles, Wetlands Watch, noted that VMRC does not have the authority to give a general permit. The bill in question also shortens the review period for local boards. There has been discussion about the process for reviewing and approving projects and who handles the guidelines and standards. If a locality does not have a board, then VMRC will issue the permits. Virginia Beach staff stated that once guidelines are in place, wetlands boards will hold a public meeting to adopt a local general permit and then publish a list of proposed projects each month.

The Committee requested a presentation on the living shorelines issue from VMRC at a future meeting after the General Assembly session is complete.

Stormwater Regulations: There are a number of bills being considered by both houses, but it appears they have been consolidated into two, HB1173 and SB423. HB1173 just changes who administers local programs. MS4s and CBPA localities must administer their own, but others can opt to have the state do so. The technical standards continue to apply. There is no delay of the regulations, but there is a delay for new permittees. Ms. Barbara Brumbaugh, Chesapeake, noted that localities can choose to opt in or out later. Mr. Noah Hill, DEQ, stated that if a locality turns over its program to the state, the state will run the program just as the locality would. Ms. Tribo noted that there are still some reasons for a non-mandated locality to opt in and administer their own program; a lack of state resources is one potential issue.

Statewide land cover data: VGIN and DEQ are working together on a proposal to use DEQ funds to analyze aerial photography from the Virginia Base Mapping Project to develop a statewide land cover dataset. This data will be incorporated into the Chesapeake Bay TMDL process. VGIN and DEQ will coordinate with agencies and stakeholders to set standards. To compensate for using funds from the Water Quality Improvement Fund, there will be a corresponding increase in the local assistance fund. Mr. DuRant objected to the use of WQIF funds for the data. Ms. Brumbaugh asked how much money would be spent on the data. Ms. Tribo responded that there is nothing in the bill, but the estimate for the project is between \$2 million and \$6 million. The total will depend on the standards, with the exact amount figured out through the RFP process. The WQIF option is only intended to be for the initial effort; if there is a need or desire to maintain or update the data, VGIN and DEQ will try to get in in the Governor's budget as a separate line item. The estimate for the update cost is approximately 75%

of the initial cost. Mr. DuRant asked if this data would be used in lieu of local data or in addition to it. Ms. Tribo stated that it will augment local data but not replace it. The Chesapeake Bay Program needs both land use and land cover data. The existing land cover data is not precise or accurate enough for the model. Higher resolution land cover data will improve the overall modeling effort. The CBP is currently using the data call with states and localities to figure out what data is needed and what categories to use. Both CBP and USGS support the land cover data acquisition.

Ms. Erin Rountree, Suffolk, asked about SB53, which would affect stormwater utilities by providing a discount for religious entities on stormwater bills. The bill has been killed. Mr. Bill Johnston, Virginia Beach, stated that Virginia Beach has had issues with getting some entities to pay. Mr. Weston Young, Hampton, stated that Hampton has seen issues where parking lots have been classified or reclassified as impervious surfaces due to compaction.

5. Coastal Zone Program Update

Mr. Benjamin McFarlane, HRPDC, updated the Committee on the HRPDC's Virginia Coastal Zone Management Program grants and participation. Six grants from VCZMP are now funded with signed contracts:

- 1) Coastal Resources Management Technical Assistance
- 2) Section 309
- 3) Virginia Beach Sea Level Rise
- 4) Norfolk Public Access
- 5) Sea Level Rise Technical Assistance
- 6) Native Plants

One grant, Suffolk Public Access, is undergoing review by NOAA.

HRPDC is providing support for a working waterfronts planning effort coordinated by VIMS. A workshop is being held at VIMS (with a satellite location on the Eastern Shore) on Wednesday, February 26th.

The Coastal Policy Team, which advises the VCZMP staff, will be meeting in March. One of the topics for discussion will be the next round of Section 309 5-year coastal needs assessments and grant strategies. Sea level rise/climate adaptation will likely be discussed as a possibility. Other items for discussion will include:

- Program changes for
 - o State threatened and endangered species
 - o Coastal lands management (Southern Watersheds)
- 2014 Coastal Partners Workshop
- FY14 CZM Grant Application
- Updates on native plants campaign, ocean planning, and working waterfronts

6. Hurricane Sandy Coastal Resiliency Grant Discussion

Mr. McFarlane led a brief discussion with the Committee on the Hurricane Sandy Coastal Resiliency Grant program. Grants were due January 31 to NFWF. There were 5 categories of eligible projects:

- 1) Project Planning and Design
- 2) Coastal Resiliency Assessments
- 3) Restoration and Resiliency Projects
- 4) Green Infrastructure
- 5) Community Coastal Resiliency Planning

HRPDC was a partner in an application for a Coastal Resiliency Assessment coordinated by the VIMS Center for Coastal Resources Management. Other partners are the Virginia Coastal Policy Clinic and Wetlands Watch. The proposal has seven deliverables:

- 1) Blue, green, and gray infrastructure inventories
- 2) Storm impact risk assessments
- 3) Risk mitigation protocol for blue and green infrastructure
- 4) Protocol to assess and enhance local capacity to conserve natural resources
- 5) Convening of stakeholders
- 6) CRS credit
- 7) Monitoring program to support adaptive management

HRPDC's role on the project will be to work with localities to identify needs and issues, gather data (when required), and provide a forum for project participants to learn about and comment on project results.

Ms. Molly Mitchell, VIMS, provided some additional comments on the proposal.

7. Sea Level Rise Update

Mr. McFarlane updated the Committee on recent developments related to sea level rise and flooding. The Secure Commonwealth Panel recently established a Recurrent Flooding Sub-Panel in response to the VIMS report on Recurrent Flooding. Three working groups have been set up to study and discuss particular issues/areas:

- 1) Technical needs/mapping
- 2) Outreach and education
- 3) "Command" (Processes and Policies)

The Technical/Mapping group met on February 5, 2014. The "Command" group is set to meet February 18, 2014 (location TBA).

Also, HRPDC is working with CBNERR and the NOAA Coastal Services Center to provide climate change adaptation training to local and state agency staff. The training will be three days long and free. The location will be somewhere in Hampton Roads. The next step is to identify potential dates based on locality conflicts.

8. Status Reports

Ms. Katchmark reported that Dwight Farmer, HRPDC/HRTPO Executive Director, will be retiring at the end of June. A joint retreat of both boards is scheduled for February 20, 2014 to discuss how to move forward.

Ms. Tribo reported that the public comment for the new Chesapeake Bay Watershed Agreement will end March 17, 2014.

Ms. Bennett reported that a FEMA open house meeting was held in York County.

Mr. Hill reported that DEQ has received all local packages and is in the process of reviewing them; comments will be sent back to localities soon. A stakeholder webinar will be hosted by the DEQ regional offices on February 25 from 9:30 to 4:30 to go over the non-point source management plan and the Chesapeake Bay TMDL milestones. Mr. Johnston stated that it would be nice to know what the state expects in terms of proof of meeting the milestones. The state has not been responsive to local inquiries, and localities need feedback on research and BMP proposals. Consistency between the Chesapeake Bay Program and the state's BMP Clearinghouse is another issue. There are ongoing discussions on the future of the BMP Clearinghouse. There have also been issues with proprietary BMPs. BMPs that get through the entire process usually have a fair amount of research for the panel to review and a state to champion them in front of the board. Mr. Johnston also stated that DEQ does not have sufficient resources. Mr. Hill stated that DEQ is hiring people and that it takes time to make the transition from one agency/culture to another.

Ms. Tribo reported that HRPDC staff met with Russ Baxter a while ago, and that it appears that the new administration may be an opportunity for progress. It will be important for localities to attend the upcoming DEQ meeting to encourage state efforts in unregulated areas, since the backup strategy for the WIP is to put more pressure and costs on regulated entities.

Ms. Rhonda Russell, Surry, reported that FEMA held a public map meeting this past Monday night. The presentation was pretty impressive and pleased the citizens who attended.

Ms. Hughes asked about a recent report in the news on an environmentally friendly ice melting solution. There was a news report that residents could use fertilizer to melt ice, which was responded to in an askHRgreen.org blog post. Ms. Brumbaugh stated that beet juice added to brine works better in lower temperatures, but that beet juice is not readily available in the region.

Ms. Jai McBride, HRPDC, stated that the due date to get Envision Hampton Roads listening session feedback to HRPDC staff is now February 28th.

Mr. John Paine, URS, reported that there is a new Google Earth feature that allows a viewer to see historical imagery of a site, which can show land use change over time.

9. Other Matters

The next meeting of the Regional Environmental Committee is scheduled for March 6, 2014 at the HRPDC office in Chesapeake, Virginia. Materials will be sent in advance for review.