

**CHESAPEAKE BAY and WATER RESOURCES POLICY COMMITTEE
MEETING SUMMARY - DRAFT
January 15, 2016**

1. Call to order and Introductions

Chair Rice called the meeting to order at approximately 10:05 a.m. and confirmed a quorum.

Chair Rice requested members to review the proposed schedule of 2016 CBPC meeting dates, noting the recommended joint meeting with CEEPC and out of cycle date of July 27. There were not any conflicts noted, so please mark your calendars with the following meeting dates:

- Friday, March 18
- Friday, May 20
- Wednesday, July 27 (joint meeting with CEEPC)
- Friday, September 16
- Friday, November 18

2. Approval of draft November Meeting Summary and Forum Highlights

The November meeting summary and Forum Highlights were approved.

3. Legislative Priorities for 2016

CBPC members reviewed the COG Board approved 016 Legislative Priorities – which the CBPC had previously recommended; and then discussed pending issues in the upcoming Maryland and Virginia General Assemblies with a panel of speakers. The panel included Ann Swanson, Executive Director of the Chesapeake Bay Commission (CBC), Les Knapp, Legal and Policy Counsel for MACo, and Lisa Ochsenhirt, Attorney, AquaLaw.

Ms. Swanson described the CBC membership, outlined many points regarding the key features, scale and importance of the Bay and its water quality, and noted the commonalities between the interests of the CBC and COG's membership, noting:

- Her long-time involvement with COG and the CBPC
- 17.5 million people live within the Bay watershed – and that the CBC's tristate members, Maryland, Virginia, and Pennsylvania, comprise 80% of the land, and 90% of the pollutant load in the Bay watershed.
- The Bay is a very shallow estuary, and is highly productive, producing 500 million pounds of seafood – even in its depleted state.
- Pennsylvania's legislative activities and regional agricultural legislation – because of the importance of that sector to the overall Bay restoration effort - even if not a major part of the COG region.
- The fact that the Microbead-Free Waters Act quickly passed in Congress and was signed by the President. That bill will require plastic Microbeads in cosmetics, to be phased out by July 2017.
- The CBC has initiated a resolution in Maryland, Virginia and Pennsylvania to create a *Chesapeake Bay Awareness Week* the week of June 4, between Virginia's Bay Days and Bernie Fowler's historic Bay "wade in" on June 12.

- For additional presentation details, please see the CBC Power Point posted to the CBPC website.

Mr. Knapp and Ms. Ochsenhirt then provided an overview of key issues that their organizations will be tracking in Maryland and Virginia this session. See the attached one-page summaries for details.

Key issues that Mr. Knapp anticipates for Maryland include:

- Nutrient trading-- It is expected to be across sectors and to allow trading to reach the TMDL pollution reduction baseline. A nutrient management work group has been formed, which has three CBPC members.
- Proposed roll backs and limitations on Best Available Technology (BAT) septic systems requirements to just Bay critical areas and possibly limitations on the use of the Bay Restoration Fund for septic systems.
- Several climate change bills, including the Greenhouse Gas Reduction Act reauthorization.

Ms. Ochsenhirt highlighted Virginia issues to track, as follows:

- Stormwater bills that would waive fees for religious institutions, and for properties that can retain its stormwater onsite – which is problematic for stormwater programs.
- A bill to grant new nutrient credits to new or expanding wastewater facilities either via the credit exchange program or from best management practices.
- There are several biosolids bills that would propose to limit how biosolids should be applied.
- A bill, similar to Maryland's, to require additional controls to manage phosphorus;
- A bill to consolidate stormwater programs by combining existing statutory programs relating to soil erosion and stormwater management, and directing the State Water Control Board (the Board) to permit, regulate, and control both erosion and stormwater runoff.
- Anticipated budget amendments to request additional Stormwater Local Assistance Fund (SLAF) funding.

Chair Rice noted that as was done in 2015, the CBPC's Advocacy Work Group will track legislation, via weekly conference calls, and make recommendations to the CBPC on items that may require support or comment. Chair Rice also invited additional CBPC members to participate in the Advocacy Work Group – which currently includes Craig Rice, J. Davis, Penny Gross, and Karen Pallansch.

Member Comments:

- Mr. Sze, Ms. Gross, and Chair Rice, and others expressed enthusiasm for the Chesapeake Bay Awareness week (assuming it passes in both states), citing that week as an opportunity to raise visibility about regional water quality issues. Ms. Gross suggested that if the measures pass, that a COG Board resolution be developed in support of the Awareness Day. Chair Rice also suggested a Press Conference on June 12, the date of the June Board meeting to further emphasize these issues
- Chair Rice and Ms. Moore thanked COG and MACo for their joint work advocating on behalf of local MS4/stormwater programs with MDE staff

- Ms. Moore, who serves on the Maryland Nutrient Management Workgroup, said the work group and MDE are working to find common ground on a variety of important issues.

Actions:

- COG staff will convene weekly calls of the Advocacy Work Group to track Maryland and Virginia legislation.
- COG staff will also track federal issues. If there are critical periods to act on federal legislation, such as for municipal tax exempt bonding, staff will inform the CBPC.
- Members requested that COG staff to forward the STAC expert reports on plastic microbeads.

4. Water Quality and Road Salts Briefing

Ms. Spano briefed members on road salts noting the detrimental impacts of chlorides to local water quality and stream benthic organisms. She also noted that USGS is monitoring stream water quality impacts, that ICPRB is monitoring these issue from a sourcewater protection perspective, that increased chloride levels are being noted in the region, and that Accotink Creek in Fairfax County will be issued a chloride TMDL. COG plans for a workshop (this spring) to discuss these water quality issues, as well as options such as Best Management Practices, opportunities to enhance procurement of more environmentally sensitive products, etc. These efforts would be coordinated with transportation, stormwater, water quality, and procurement staff in the region - as well other regional organizations working on these issues.

Member Comments:

- Mr. Karimi said it would be important to work with communities upstream since they affect our drinking water intakes.
- Ms. Swanson agreed that it would be important to invite upstream policy movers to the COG workshop.

5. General Updates

- Ms. Spano provided a general overview that as expected, the key features of the Fiscal Year 2017 Work Program would be fairly similar in focus to the current Fiscal Year 2016.
- Ms. Spano summarized the Chesapeake Bay Program activities in preparation for the 2017 mid-point assessment.
- Mr. Walz provided context about the proposed DEQ revisions to the VA Water Protection Permit Regulation, namely that the regulation controls surface water withdrawal; and that COG staff believe there is a need for a holistic, multi-sector analysis of the effects on public water supplies, technical feasibility and costs before additional regulations are established. COG staff also recommended that staff work with the Advocacy Work Group members to draft a letter on behalf of the CBPC citing concerns about the proposed revisions.
- Chair Rice stated he would like CBPC members to regularly provide news and raise issues during this portion of future meetings.

Actions:

- CBPC members supported writing a comment letter on the proposed regulatory changes to the VA Water Protection Permit.

- COG staff will draft a letter for committee review and submit the letter by the January 29, 2016 comment deadline.

6. Adjournment

The meeting adjourned at 12:10 P.M.
The next meeting will be Friday, March 18.

ATTENDANCE:

Members and alternates:

Aimee Dailey (phone)
Craig Rice, Chair, Montgomery County
Dan Sze, Falls Church
Hamid Karimi, DOEE
J Davis, Greenbelt
JL Hearn, WSSC (phone)
Melanie Mason, Alexandria Renew
Enterprises (phone)
Lisa Feldt, Montgomery County
Mark Peterson, Loudoun Water
Mark Charles, Rockville (phone)

Maureen Holman, DC Water
Penelope Gross, Fairfax County
Shannon Moore, Frederick County

COG Staff:

Christine Howard, DEP
Heidi Bonnaffon, DEP
Lana Sindler, DEP
Steve Walz, DEP Director
Tanya Spano, DEP



2016 MARYLAND SESSION PREVIEW FOR COG

2016-01-15

1. General Session Overview
 - a. Second year of term
 - b. Highly political with divided government
 - c. Record number of bills? Typical number is 2400-2600 per session. Already at 2100 in drafting.

2. Local Transportation (Highway User Revenue) Restoration
 - a. Top priority of both MACo and Maryland Municipal League
 - b. Traditionally received 30% of State's gas tax and motorist revenues for the roughly 83% of Maryland road miles maintained by local governments
 - c. Counties (excluding Baltimore City) have seen nearly 90% reduction since 2008 with total local government losses totaling \$2 billion
 - d. Governor Hogan including first of 8-year phase in restoration (19% increase to \$231 million) in FY 2017 budget Phased in restoration included in Governor's budget
 - e. Will be a political "football" in light of Governor's cancellation of Baltimore City Red Line

3. MS4 Issues
 - a. Successful partnership with COG on achieving needed reforms for stormwater restoration project permitting through Maryland Department of Environment
 - b. Maryland Phase 1 counties concerned over financial compliance plans

4. Bay Restoration Fund
 - a. Key state funding source for wastewater treatment plant upgrades, best available nitrogen removal technology (BAT) septic system upgrades, and now stormwater projects.
 - b. Protect fund, enhance local flexibility
 - c. 2017 Chesapeake Bay Total Maximum Daily Load Review

5. BAT Septic Systems

- a. Currently required in all areas of the state for new homes and full renovations
- b. Land use vs. environmental policy
- c. MACo pushing to allow local jurisdictions to create exceptions outside of Chesapeake Bay and Atlantic Coastal Bays critical areas
- d. Review of BAT technology

6. Climate Change

- a. Mandatory Review of state's Greenhouse Gas Reduction Act (HB 315/SB 278 of 2009)
- b. Initial Goal: 25% reduction of greenhouse emissions from 2006 levels by 2020
- c. "Gentlemen's agreement" on new goal of 40% reduction by 2030

7. Federal Issues

- a. MACo only occasionally involved at federal level but may be willing to partner on issues like MS4 Phase 2 rule or municipal tax exempt bonding

Leslie Knapp Jr.

MACo Legal and Policy Counsel

410.269.0043 / lnapp@mdcounties.org

**METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
CHESAPEAKE BAY AND WATER RESOURCES POLICY COMMITTEE MEETING
FRIDAY, JANUARY 15, 2016**

VIRGINIA LEGISLATIVE ISSUES

I. General Environmental

- A. Penalty Increases – HB 976** would increase penalty authority for fining localities from \$100,000 to \$1,000,000.
- B. DEQ Director Unilateral Orders – SB 228** would increase penalty authority for fining localities from \$10,000 to \$25,000.
- C. Reporting Deadline – HB 977** would reduce amount of time locality has to report unlawful discharges from 24 hours to 12 hours.
- D. Locality Posting of Violations – HB 479** would require locality to post signs for regulatory violations at public access points of affected waters.

II. Stormwater

- A. Grant Appropriations (SLAF) – Budget Amendments** will potentially add funding for local stormwater projects.
- B. Grant Program Codification – HB 1085** would codify the Stormwater Local Assistance Fund (SLAF) and maintain matching grants to localities.
- C. Sediment Trading – HB 438, SB 292** would allow MS4s to acquire and use credits for compliance with sediment wasteload allocations in the Chesapeake Bay or its tidal tributaries.
- D. Stormwater Fee Waivers – SB 468** would require that a locality with a stormwater fee provide a full waiver for any property that permanently retains its stormwater onsite.
- E. Stormwater Fee Payment by Locality – SB 469** would require that locality with stormwater fee pay private property owner if property accepts stormwater runoff from another private property.
- F. Stormwater Law Streamlining – Legislation** expected that would streamline various stormwater statutes (ex: State Water Control Law, Stormwater Management Act, Erosion & Sediment Control Law, Chesapeake Bay Preservation Act) and codify the SLAF.

III. Wastewater

- A. Nutrient Upgrades – Budget** includes bond authorization (\$59 Million) to reimburse localities for nutrient removal upgrades.
- B. Nutrient Credits – HB 448, SB 314** would allow a new or expanding wastewater facility to acquire nutrient credits from the Virginia Nutrient Credit Exchange Association, or from best management practices. Would remove the five year limitation on offset credits.
- C. Biosolids Bills**
 - 1. **Studies – HJ 56** directs the Secretary of Natural Resources and the Secretary of Health and Human Services to convene an expert panel to conduct a two-year study storage and land application of

biosolids and industrial waste. **HJ 120** (preferable alternative to HJ 56) directs JLARC to study storage and land application of biosolids and industrial waste.

2. Biosolids Testing and Buffers – **HB 447** would require DEQ to issue regulations for monitoring and testing of materials for pharmaceuticals, pathogens, personal care products and prions for which concentration limits exist in federal regulations or standards in permits to land apply. Also requires an increase in the buffer (from 10 feet to 100 feet) from a land application site to a roadway.
3. Phosphorus Application Rates – **HB 318** directs DCR to adopt regulations establishing a standard for acceptable rates of phosphorus application to “lands” (similar to MD PMT experience).
4. Real Estate Disclosure – **HB 17** would require disclosure to prospective purchaser or lessee of land where industrial waste or biosolids had been stored or land applied.