

Hampton Roads Planning District Commission
Executive Committee Meeting
Minutes of November 17, 2010

The Executive Committee Meeting of the Hampton Roads Planning District Commission was called to order at 9:30 a.m. at the Regional Boardroom, 723 Woodlake Drive, Chesapeake, Virginia, with the following in attendance:

EXECUTIVE COMMITTEE:

Stan D. Clark, Chairman (IW)	McKinley Price (NN)
Thomas Shepperd, Vice Chairman (YK)	Kenneth L. Chandler (PO)
James O. McReynolds, Treasurer (YK)	J. Randall Wheeler (PQ)*
Alan P. Krasnoff (CH)*	Selena Cuffee-Glenn (SU)
Brenda Garton (GL)*	Tyrone Franklin (SY)
Greg McLemore (FR)*	William D. Sessoms (VB)*
Ross A. Kearney (HA)	Jackson C. Tuttle, II (WM)
Bruce Goodson (JC)	

EXECUTIVE COMMITTEE (ABSENT)

June Fleming (FR)	Michael W. Johnson (SH)
Molly Joseph Ward (HA)	Clyde Haulman (WM)
Paul D. Fraim (NO)	

OTHER COMMISSIONERS:

Amar Dwarkanath (CH)*	Sharon Scott (NN)
William E. Harrell (CH)	Gordon C. Helsel, Jr. (PQ)*
Ella P. Ward (CH)	John Seward (SY)
Clifton Hayes (CH)	Louis R. Jones (VB)
Gregory Woodard (GL)*	Harry E. Diezel (VB)
Douglas Caskey (IW)	Barbara Henley (VB)*
Robert Middaugh (JC)	

*Late arrival or early departure.

OTHERS RECORDED ATTENDING:

John Gergely, Henry Ryto, Terri Boothe, Frank Roberts (Citizens); Ellis James, Eileen Levandoski (Sierra Club Observer); Earl Sorey (CH); Keith Cannady (HA); Bryan Pennington, Jeff Raliski, Stanley Stein (NO); Kenneth Wright (PO); Bob Matthias (VB); Eric Nielson (SU); Tom Slaughter, Michael King (NN); Ray Taylor (FHR); Dana Dickens (HRP); Jim Richards (AECOM); Jay Bernas (HRSD); Peter Huber (Willcox & Savage); Germaine Fleet (Biggs & Fleet); Staff: Dwight Farmer, John Carlock, Rick Case, Nancy Collins, Kathlene Grauberger, Greg Grootendorst, Richard Flannery, Lisa Hardy, Julia Hillegass, Frances Hughey, Jim Hummer, Rob Jacobs, Whitney Katchmark, Robert Lawrence, Mike Long, Jay McBride, Benjamin McFarlane, Brian Miller, Kendall Miller, Kelli Peterson, Camelia Ravanbakht, John Sadler, Tiffany Smith, Joe Turner, Jenny Tribo, Chris Vaigneur.

Chairman Clark called the Hampton Roads Planning District Commission Executive Committee meeting to order.

PUBLIC COMMENT

One person requested to address the Hampton Roads Planning District Commission.

Ellis W. James

Thank you Mr. Chairman, welcome aboard Mr. Clark, again. My name is Ellis W. James, I am a life long resident of Norfolk, Virginia. I would like to call to the Commission's attention something that I think is very important. If you have not seen the very important commentary that was written by Ken Plum, out of the General Assembly, I would urge you to do that. The passage of renewable electricity standards for Virginia is extremely important. It would lead us on the path that we need to travel, which is to begin to seriously address the question of energy and the way we deal with it here in the Commonwealth. I won't try to cover the details for you now, you are all intelligent people in this room, and I would hope that you would take the time to peruse that article. I think it is very very important. Thank you Mr. Chairman.

Chairman Clark stated there is a matter related to public comments in the agenda packet. Mr. Farmer stated he would be specific because Mr. Seward and Mr. Franklin would like for him to. The Commission has allowed the opportunity for public comments since September 2009. This month was the first written public comment HRPDC received and there was concern about the content of the public comment. Mr. Farmer indicated he had talked to the Chairman and Surry representatives expressing his concerns. In the future if the public comments contain personal attacks or personal commentary about members of the Board, the comment will not be published. The person who is making the public comment will be informed it does not meet our standards and they will be allowed the opportunity to rewrite and resubmit the public comment and resubmit it without personal attack.

Chairman Clark asked if the Board agreed with this general procedure. It was unanimous.

Mr. Shepperd asked if the public had been informed of the expectations as they relate to public comments. Mr. Farmer stated we had not done so with the HRPDC.

Mr. Shepperd indicated it would help if we specify the expectations of good order, discipline, politeness and no personal attacks.

Chairman Clark stated Mr. Goodson was not present; however when he arrives we will have a presentation for him.

APPROVAL/MODIFICATION OF AGENDA

Mr. Farmer stated under new business the Regional Solid Waste Contract and the Regional Water supply planning work that HRPDC is doing involves authorizations to sign the contracts will be addressed.

Chairman Clark asked for a motion to accept the agenda with the modifications.

Commissioner Jones Moved to approve the agenda; seconded by Commissioner Price. The Motion carried.

CONSENT AGENDA

The Consent Agenda contained the following Items:

Minutes of October 20, 2010 Annual Meeting

Treasurer's Report

Regional Reviews

A. PNRS Items Review

The Learning Barge – Voyage to Wetlands Recovery

B. Environmental Impact Assessment/Statement Reviews

AST System Rehabilitation at U.S. Coast Guard Station Little Creek – DHS/U.S. Coast Guard

Legislation – No Child Left Inside Act

Chairman Clark asked for a motion to approve the Consent Agenda.

Commissioner Hayes Moved to approve the Consent Agenda; seconded by Commissioner Price. The Motion carried.

(Mayor Sessoms arrives.)

FY 2011 BUDGET AMENDMENT

Mr. Farmer stated it is standard procedure for HRPDC to come to the Commission twice a year with various changes in revenue and expenditures to amend the budget. One of the changes is a \$53,684 increase which is 1.3% in personnel due to turnover and changes in duties for existing and new staff. There is a more substantial change of \$1.1 million dollars in pass-through. There is still \$137,000 remaining unallocated in the HRPDC contingency line item and there are two additional memberships previously omitted from the budget. HRPDC staff recommended approving the budget amendment as presented.

Chairman Clark asked for a motion to approve the FY 2011 Budget Amendment.

Commissioner McReynolds Moved to approve the FY 2011 Budget Amendment; seconded by Commissioner Kearney. The Motion Carried.

Chairman Clark indicated he would like to welcome and congratulate the City of Portsmouth's new Mayor, Kenneth Wright.

(Commissioners Krasnoff, Wheeler and Helsel arrive.)

EMPLOYEE COMPENSATION

Mr. Farmer stated in June of this year Mayor Frank brought to the Commission that the HRPDC staff had not been given compensation adjustments to its employees since July 1, 2008. The adjustment for employees at that time ranged between 1.5% and 1.9% for the employees. Mr. Farmer indicated Mayor Frank recommended that by the end of the calendar year, HRPDC should bring this recommendation to the Commission for discussion of having a one-time supplement or bonus award to the HRPDC staff. Mr. Farmer stated that he met with the Personnel and Budget Committee and they suggested it be brought before the Commission. Some of the members of the Personnel and Budget Committee support this request and some have expressed concern and suggested waiting until the spring when all the budgets have been established by the local governments.

Chairman Clark stated at the Personnel and Budget Committee there was a suggestion of a one-time 3% percent bonus now for the holidays.

Mr. Shepperd stated he was concerned, and from York County's perspective, with the current fiscal year situation and the pressure on the counties and cities to moderate their budgets, with the statement of a bonus. If you have a pay raise make it a pay raise. If it is an across the board award or bonus this conveys that we have extra money and we just need to hand it out. Mr. Shepperd stated that it has been a couple of years since the people in York County had a pay raise and had concerns about offering a pay raise or bonus without some discussion. A blanket bonus approach or merit across the board approach in this particular time of fiscal constraints is a concern.

Chairman Clark asked Mr. Farmer how long it has been since the HRPDC staff had an increase.

Mr. Farmer stated the last increase was given in July 1, 2008, and it ranged in the 1.5% to 1.9%; a few people received a 2.1% and some people received less than 1%.

Mr. Clark asked if job responsibilities had been consolidated.

Mr. Farmer indicated that HRPDC had done some restructuring and there were salary adjustments and promotions for staff due to restructuring. The HRPDC has not received any across the board year-end supplement in well over a decade. There had been merit based salary adjustments that were done once a year based on previous year performance.

Chairman Clark stated the only reason the Personnel and Budget Committee was looking at bonuses was because they did not know what the future would bring as far as financial situations for various jurisdictions and did not want to have a yearly increase. It was mentioned that a one-time bonus or a one-time award was not institutionalized into the financial structure.

(Commissioners Goodson, Dwarkanath and Scott arrive.)

Mayor Sessoms stated he was glad this issue was brought up because he will have to face this later, not just here but from his jurisdiction as well. In a situation where there has not been compensation adjustments in two to three years within the localities. The timing is not right and the Commission should go through its budget process. The timing is not appropriate.

Chairman Clark asked for additional comments.

Mr. Farmer stated Mayor Frank brought this up and the HRPDC staff heard it. He brought it up again to the Personnel and Budget Committee. Mr. Farmer indicated he will wait and come back to the Commission in the spring.

BOARD APPRECIATION

Chairman Clark presented Mr. Goodson with a plaque in appreciation for his services to the Commission as Chairman for the past two years.

Mr. Goodson expressed his appreciation to the Commission. The Commission acknowledged with applause.

PROCUREMENT MANUAL

Mr. Farmer indicated the Procurement Manual will be used for guiding the procurement process.

Commissioner Goodson Moved to approve the Procurement Manual; seconded by Commissioner Helsel. The Motion carried.

(Commissioner McLemore arrives.)

REGIONAL OFFICE BUILDING

The HRPDC and SPSA own the facility debt free, including shared ownership of certain components. SPSA is in the process of divesting itself of various assets. As a consequence of the sale of the Waste To Energy Plant and other reductions, it no longer needs the amount of space that it owns in The Regional Building. SPSA has advised the HRPDC of its desire to lease a portion of its space in the Regional Building. Under the terms of the Tenants-in-Common Agreement between the HRPDC and SPSA, the HRPDC has a right of first opportunity to lease the area if it so desires. At this time, the HRPDC does not foresee a need to lease the area that SPSA proposes to vacate.

Commissioner Scott asked if HRPDC would have a say as to whom SPSA would lease.

Mr. Farmer stated HRPDC would have a say and would bring the information to the Commission as it develops. There is an issue with someone other than a nonprofit agency leasing the building because of the tax implications. There is a desire for the agency to be a regional entity.

Commissioner Kearney Moved to authorize Mr. Farmer to sign confirmation of non-acceptance to lease SPSA's existing space; seconded by Commissioner Price. The Motion carried.

Commissioner Kearney asked what would become of the revenue from the rent. Mr. Farmer stated SPSA gets the revenue.

(Commissioner Garton arrives.)

CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD (TMDL): LOCAL GOVERNMENT POLICY AND PROGRAM OPTIONS

Chairman Clark introduced Ms. Jenny Tribo to present an update on the Chesapeake Bay TMDL. Last month, HRPDC discussed the requirements of the TMDL and the impacts on the Hampton Roads localities which included stormwater control and the cost approaching \$10 Billion over the next fifteen years and the reductions would be enforced through stormwater permits. If the reductions are not achieved the consequences included fines and enforcement actions by EPA.

The Hampton Roads Planning District Commission staff submitted concerns to EPA and Virginia on the TMDL and Implementation Plan developed by the State. The State and EPA are continuing to meet and discuss to reach a compromise on load reductions for each sector for wastewater, stormwater and agriculture. Ms. Tribo stated under federal legislation two bills have been proposed to reauthorize the Chesapeake Bay Program and to authorize funding for TMDL Implementation through the state. The state legislation packet is not available at this time. The HRPDC staff developed a set of principles for Commission endorsement. Over the next two years local governments should spend time cataloging existing stormwater controls, and budgeting for expanding the stormwater programs.

Ms. Tribo stated the final Implementation Plan from the state is due the end of November and EPA will review and incorporate it into the final TMDL which will be at the end of year. Next year, the loads will be revised based on land use provisions that EPA is developing. The main activity next year is Phase II Implementation Plan Development led by the state. HRPDC has extrapolated to local government level specifically allocating load reductions by locality, point sources, agricultural and stormwater contributions.

The Phase III Implementation Plan will be submitted in 2017. EPA will formally assess the implementation process and if implementation is not sufficient they will take enforcement actions at that time.

Ms. Tribo stated under the policy options there are two major bills in Congress and they both reauthorize the Bay Program and allocate funding to federal agencies, and state and local governments. The Cardin Bill has support from environmental groups because it codifies implementation deadlines indicating the Implementation Plans are due on a certain schedule and the states have requirements and loads need to be met by 2025. The allocations are onerous reductions and a locality might have difficulty implementing them by 2025, especially stormwater water reductions that may require capital improvements.

The Holden Bill has the support of agricultural groups because it relies on voluntary programs. In terms of local government, the Holden Bill does provide double the funding than the Cardin Bill; both authorize funding, they do not appropriate. Ms. Tribo stated one thing the Cardin Bill includes that would be helpful to local governments is it requires the federal government or federal property to pay stormwater fees which they currently do not. It would require a study of fertilizer controls throughout the Chesapeake Bay Basin, and it is likely that an amended version of one of these bill will pass this year.

Ms. Tribo indicated state legislation on the Phase I Watershed Implementation Plan included details on several programs that will require General Assembly action. this includes a chlorophyll-A study in the James River to clarify the standard that DEQ had previously selected and would look into the urban fertilizer restrictions and expand the Nutrient Exchange Program that was created for point source dischargers and expand that program to include stormwater utilities. In terms of agency sponsored legislation, HRPDC staff has only seen DCR legislation which includes one item related to the Chesapeake Bay TMDL which requires localities to create nutrient management plans for their public lands, and most localities are already doing that.

Ms. Tribo stated HRPDC staff will provide some assistance in the process. HRPDC will not have information until mid-December. The HRPDC staff developed a set of principles for the region regarding potential legislation that would aid the state and localities to meet TMDL requirements. This would encourage the state to provide adequate funding for water quality.

While local governments are waiting for final TMDL legislation, there are several actions that can be taken to prepare for more stringent stormwater requirements. In order to be prepared to provide input in the Phase II Implementation Process, Hampton Roads needs to be prepared to negotiate new stormwater permits. Local governments should begin to finalize cataloging their existing controls and having an inventory of their stormwater management facilities and include the areas treated, the year installed, estimated pollutant removal, planning and how to quantify potential nutrient reductions from public properties and look at increasing budgets to accommodate the expanding program requirements.

HRPDC staff is recommending endorsement of the principles on state legislation related to TMDL and the staff will continue to update the Commission on the TMDL process and come back in January to provide a briefing on what was contained in the final TMDL.

Mr. Goodson stated during one session at the Virginia Association of Counties Conference earlier this month discussion was held about some type of credit program where the farmers can sell credits to the localities. Mr. Goodson said it appears like cost shifting to get the agricultural issues straight by shifting that cost to localities down in another area of the state.

Ms. Tribo stated there has been talk state-wide about trading programs and one benefit is if you rely on localities on the stormwater program to meet the reductions which is very expensive and if it is only done through stormwater which has permits, it would require the farmers to participate because it is less expensive. Part of the concept is that farmers

would be doing something on their own and if local governments did not want to spend large sums of money on expensive control they could partner with agricultural producers.

Mr. Goodson stated he understood the thought behind this but it looks like cost shifting because it is not a realization of the actual amount of contributions to the daily loads that the farmers are doing compared to localities. Mr. Goodson wanted to alert everyone that this information is out there and it looks like a shift to say it is cheaper for you to do it this way but on the other hand it not a realization as to where the pollution is coming from. They are making it more onerous on local governments so that localities have to buy off credits to the farmers.

Mr. Shepperd stated he was at the VACO Conference and he witnessed a tense conversation and interaction between DEQ and EPA representatives. One of the things local government would like to know is when are the localities going to see the bill from all this; do we have to raise taxes. The federal government has implemented back stops for 2017 which means local governments did not meet their requirements so they will force the localities to do things by 2025.

Ms. Tribo stated perhaps the federal government would step up and pay for some of this. There are two things: 1) the federal legislation would make available some funding for local government implementation; and 2) the Cardin Bill includes an item that would require the federal government to pay the a fees on their lands within the local governments. Currently the Navy does not pay stormwater fees on their properties within the Hampton Roads local governments, and there have been several law suits and opinions on whether the federal government has to pay those fees. The Cardin Bill clarifies the federal properties would pay those fees.

Mr. Shepperd asked when the localities are expected to see the load statements.

Ms. Tribo indicated the final load statements will be out December 31, but we should see the proposal from the state by the end of November and then we will know how it is received by EPA. The final TMDL in December is only the basin wide loads. The Phase II process over the next year will take those loads and separate them into the local government requirements. That is when HRPDC will have more details on what the localities will have to do. Phase I stormwater permits which is the six larger jurisdictions will have to start their permit negotiations with EPA on renewing permits that are currently expired.

Mr. Shepperd stated he thought it would be dangerous to proceed with some sort of retrofitting of stormwater or sewer without some knowledge of what the standards are that have to be achieved.

Ms. Tribo stated HRPDC is not suggesting that retrofits begin, but in order to prepare for input in the Phase II process on how the loads should be distributed and give some weight behind negotiating with EPA on what is feasible in terms of stormwater achievements, the localities need to plan.

Mayor Sessoms asked Mr. Farmer if the HRPDC has the resources available to address this project. This magnitude is huge are we looking at other resources and looking for options to take to the state with suggestions on how to approach this in a reasonable manner and get the results desired.

Mr. Farmer said staff will bring ideas, concepts and consequences to the Commission, but the further along in the process, the more detailed it will be and may require some consulting resources.

Mayor Sessoms stated this impact is huge, and it would be hard for any locality to overcome. He wants to ensure we are aggressive in trying to find out how to resolve this issue and address the problem.

Mr. Farmers said staff will come back at the next meeting and bring some ideas to see where the Commission wants to go.

Chairman Clark asked for a motion to approve the Hampton Roads Statement of Legislation Principles Regarding Implementation of Chesapeake Bay TMDL.

Commissioner Tuttle Moved to approve the Hampton Roads Statement of Legislative Principles Regarding Implementation of the Chesapeake Bay TMDL; seconded by Commissioner Garton. The Motion Carried.

(Commissioner Woodard arrives.)

Project Status Reports

No questions or comments were noted.

Correspondence of Interest

No questions or comments were noted.

For Your Information

No questions or comments were noted.

Public Comments Received

No questions or comments were noted.

Old/New Business

There were two items for discussion under New Business.

The first item was the Regional Solid Waste Program with SCS Engineers for 2018. SPSA and the eight Southside Chief Administrative Officers have recommended approval and have committed to their share of the payment.

Mr. Goodson asked how the cost is allocated. Mr. Farmer stated the localities who participate share the cost.

Commissioner Harrell Moved to authorize Mr. Framer to execute the Environmental Program Contract; seconded by Commissioner Cuffee-Glenn. The Motion Carried.

The second item was the Regional Water Supply Plan which involves sixteen cities and eleven towns. The Plan must meet state regulatory requirements and consulting services are required. CH2MHill and URS have been involved in this discussion and we have a proposed contract and task order with CH2MHill. The fee negotiated is \$32,962. The Directors of Utilities Committee has recommended approval to move forward with this scope and fee.

Commissioner Hayes Moved to authorize Mr. Farmer to execute a Task Order with CH2MHill for assistance in completing the Regional Water Supply Plan; seconded by Commissioner Helsel. The Motion Carried.

Chairman Clark asked for any other business to discuss.

Mayor Krasnoff stated Chesapeake has an Architectural Review Committee. He understood Norfolk, Portsmouth, Williamsburg, Suffolk, Smithfield and James City also have historical preservation committees. Mayor Krasnoff indicated it would helpful in terms of training with the National Association of Preservation with regional project and it might be a benefit to be consistent with certain standards because in our communities there is a need for flexibility. Chesapeake would like more guidance and help.

Chairman Clark asked HRPDC staff to work on that project and bring recommendations to the Commission.

Adjournment

With no further business to come before the Hampton Roads Planning District Commission, the meeting adjourned at 10:25 a.m.

Stan D. Clark
Chairman

Dwight L. Farmer
Executive Director/Secretary