

AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING

ITEM #19: CORRESPONDENCE OF INTEREST

A. Letter, Rita Bellito, City of Virginia Beach, City Councilwoman, to HRPDC Executive Director Dwight Farmer, June 18,, 2011

Attached is a letter to HRPDC Executive Director Dwight Farmer from Rita Bellito, City of Virginia Beach, City Councilwoman, advising him of her resignation from the Hampton Roads Planning District Commission.

Attachment 19A

B. Letter, Erin M. Turner, City of Franklin, to HRPDC Executive Director Dwight Farmer, June 16, 2011

Attached is a letter to HRPDC Executive Director Dwight Farmer from Erin M. Turner, City of Franklin, acknowledging that the Franklin City Council has appointed Councilman Barry Cheatham to serve on the Hampton Roads Planning District Commission.

Attachment 19B

C. Letter, Honorable Doug Domenech, Secretary of Natural Resources, from HRPDC Executive Director Dwight Farmer, June 21, 2011

Attached is a letter from HRPDC Executive Director Dwight Farmer to Honorable Doug Domenech, Secretary of Natural Resources advising him of the commitment of the HRPDC to facilitate the region's effort to develop input to Virginia's Chesapeake Bay TMDL Phase II WIP Development.

Attachment 19C

D. Letter, Stan D. Clark, HRPDC Chairman, from Honorable Jim Webb, U.S. Senator, June 28, 2011

Attached is a letter from Honorable Jim Webb, U.S. Senator to Stan D. Clark, HRPDC Chairman updating him on the status of H.R. 1555, a bill to amend the Homeland Security Act of 2002.

Attachment 19D

E. Letter, Stan D. Clark, HRPDC Chairman, from Jeffrey Corbin, EPA, July 8, 2011

Attached is a letter from Jeff Corbin, Senior Advisor to the EPA Administrator on Chesapeake Bay Restoration, Jeffrey Corbin to Stan D. Clark, HRPDC Chairman providing responses to the June 3, 2011 HRPDC letter regarding questions concerning the Chesapeake Bay TMDL.

Attachment 19E



RITA SWEET BELLITTO
COUNCIL LADY - AT LARGE

City of Virginia Beach

VBgov.com

PHONE: (757) 418-0960
rsbellitt@vb.gov.com

18 June 2011

Mr. Dwight L. Farmer
Executive Director
Hampton Roads Planning District Commission
723 Woodlake Drive
Chesapeake, Virginia 23320

Dear Mr. Farmer:

I am writing to advise you and Members of HRPDC that my family and I will be moving to Seattle, Washington, in a few days, as a result of my husband's promotion with the Boeing Company. Therefore, I must resign my membership on the Hampton Roads Planning District Commission.

Although this change will be beneficial to my family, it requires that I leave the City I have grown to love and serve in various capacities over these last twenty-five years. I have been proud to serve as a City Employee, a member of the Virginia Beach School Board and the Virginia Beach City Council as well as the City Council's appointee to HRPDC. I regret I will not be able to serve the balance of this two-year term; however, I am sure my successor will be carefully chosen by City Council and become a meaningful member of HRPDC.

Respectfully,

Rita Sweet Bellitto

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HRPDC

Attachment 19A



June 16, 2011

Mr. Dwight L. Farmer, Executive Director
Hampton Roads Planning District Commission
723 Woodlake Drive
Chesapeake, VA 23320

RE: Franklin City Council Appointments

Dear Mr. Farmer:

In regular session on Monday, June 13, 2011 the Franklin City Council appointed Councilman Barry Cheatham to serve on the Hampton Roads Planning District Commission. It is my understanding that his term will be effective July 1, 2011 and will expire June 30, 2013.

Please be further advised that the Franklin City Council reappointed June Fleming, City Manager, to serve on the Hampton Roads Planning Commission as well.

Mr. Cheatham's address is 135 Bobwhite Lane, Franklin, Virginia 23851 and his phone number is (757) 569-9747.

Mrs. Fleming's address is 207 W. Second Avenue, Franklin, Virginia 23851 and her phone number is (757)562-8503.

If I can be of any assistance, please do not hesitate to contact me.

Sincerely,

Erin M. Turner

Cc: Mr. Barry Cheatham
Mrs. June Fleming

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HRPDC



June 21, 2011

MEMBER JURISDICTIONS

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WILLIAMSBURG

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MAILED

JUN 21 2011

HRPDC

The Honorable Doug Domenech
Secretary of Natural Resources
Commonwealth of Virginia
P.O. Box 1475
Richmond, VA 23218

RE: Virginia's Chesapeake Bay TMDL Phase II WIP Development

Dear Secretary Domenech:

The Hampton Roads Planning District Commission (HRPDC) is committed to assisting Virginia in developing a Phase II Watershed Implementation Plan (WIP) that identifies the local government strategies that will result in improved water quality in local rivers and streams as well as the Chesapeake Bay. Since receiving your letter of March 2, 2011, the HRPDC has received a briefing on Virginia's Phase II WIP development strategy from your Assistant Secretary of Natural Resources for Chesapeake Bay Restoration, Anthony Moore. HRPDC staff has also been in communication with Department of Conservation and Recreation (DCR) staff regarding the HRPDC's role in the WIP development process. DCR staff has provided the Hampton Roads localities' staff with a briefing on the data inputs needed for the Community Conservation Information as well as provided them with important data inputs and outputs from the Chesapeake Bay Watershed Model.

The HRPDC has endorsed a two-tiered (local and regional) approach to coordinating the involvement of Hampton Roads stakeholders in the development of the Phase II WIP. The local tier will consist of local government teams composed of locality staff from all departments affected by or affecting nutrient load reductions within the locality. This team will develop the locality's nutrient reduction strategy by selecting a combination of BMPs (nutrient reduction methods) that meet the locality's nutrient reduction target and define strategies to implement them.

The regional tier will be a steering committee composed of locality representatives, federal and state agencies, agriculture representatives, and selected environmental groups. The Steering Committee will have three initial objectives:

1. Divide nutrient loads based on land use and ownership (Agricultural, VDOT, DoD, etc.) to clearly identify the portion of the nutrient reductions that the locality must implement.

The Honorable Doug Domenech
June 21, 2011
Page 2

2. Coordinate with the EPA and DCR to expand the types of BMPs that can be incorporated into the Bay model.
3. Provide regional feedback to the State on what localities need from the State such as more authority, regulations or funding.

It is expected that the Regional Steering Committee will meet monthly following the initial meeting scheduled for July 7, 2011 at 1:30 pm. The locality teams will meet between Regional meetings and bring any questions or concerns to the Steering Committee for discussion. The goal of the Regional Steering Committee will be to identify Regional priorities for funding, research, and legislation by October 1, 2011 in order to provide input to the State's draft Phase II Watershed Implementation Plan (WIP) that will be submitted to EPA in November.

Localities will work through their local government teams to evaluate, groundtruth, and update the land use and BMP input data provided by Virginia by October 1, 2011. Localities will aim to complete their nutrient reduction strategies to meet target loads prior to February 1, 2012. HRPDC staff expects that this schedule allow incorporation will allow incorporation of corrected data inputs in Virginia's draft Phase II WIP and inclusion of local strategies in Virginia's final Phase II WIP submission in March 2012.

HRPDC staff will be sending invitations in the next week to members of the Regional Steering Committee including DCR staff that has been identified as liaisons to Hampton Roads. HRPDC looks forward to partnering with the State through this process to improve local and Bay water quality and appreciates any technical and financial assistance that the State is able to provide throughout the next nine months.

Sincerely,



Dwight Farmer
Executive Director/Secretary

JLT/fh

Copies Mr. Anthony Moore
Mr. Dave Johnson
Ms. Joan Salvati

JIM WEBB
VIRGINIA



June 28, 2011

Mr. Stan D. Clark, Chairman
The Hampton Roads Planning District Commission
723 Woodlake Drive
Chesapeake, Virginia 23320

Dear Mr. Clark:

Thank you for contacting my office and sharing your concerns regarding H.R.1555, a bill to amend the Homeland Security Act of 2002. I appreciate your taking the time to write.

As you are aware, on April 14, 2011, Congresswoman Nita Lowey of New York introduced a bill that would limit the number of Urban Area Security Initiative grants awarded and would clarify the risk assessment formula to be used when making such grants. I understand and share your concerns about the impact this proposed amendment could have on the security and safety of communities throughout Virginia.

Currently, this bill is under review in the House Subcommittee on Emergency Preparedness, Response and Communications. Please be assured that my staff and I will monitor the progress of this legislation closely and should this or similar legislation come before the Senate, I will take action to ensure that the best interest of all Virginians are taken into consideration.

Thank you for taking the time to write, and I appreciate your continued service to the Hampton Roads community.

Sincerely,

A handwritten signature in black ink that reads "Jim Webb". The signature is stylized, with a large, looping initial "J" and a cursive "Webb".

Jim Webb
U.S. Senator

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HRPD

Attachment 19D



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

July 8, 2011

Stan D. Clark, Chairman
Hampton Roads Planning District Commission
The Regional Building
723 Woodlake Drive
Chesapeake, Virginia 23320

Dear Chairman Clark,

EPA appreciates HRPDC's careful consideration of our May 3, 2011 letter, and appreciates the opportunity to provide responses to the three additional questions in your June 3, 2011 letter. At the outset, EPA would like to provide clarification on two important issues raised by your June 3, 2011, letter that are fundamental to how stormwater is regulated and managed.

- a) EPA emphasizes that Maximum Extent Practicable (MEP) is one, but not the only, basis for establishing requirements in municipal separate storm system (MS4) permits. The others are equally important, and permitting authorities have the obligation to include in permits the provisions necessary to meet all criteria.¹ EPA also clarifies that determination of MEP is to be made by the permitting authority when issuing or reissuing a permit.²
- b) EPA understands that local governments have limited control over what occurs on private property, but contends that it is possible and even more cost-effective, to have a retrofit strategy with a notable private property component. Quite a few municipalities have implemented very successful private property retrofit programs through a combination of regulations, policies and incentives,

¹ The "compliance target" for the design and implementation of municipal storm water control programs is "to reduce pollutants to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the CWA." The second component, to protect water quality, reflects the overall design objective for municipal programs based on CWA section 402(p)(6). The third component, to implement other applicable water quality requirements of the CWA, recognizes the Agency's specific determination under CWA section 402(p)(3)(B)(iii) of the need to achieve reasonable further progress toward attainment of water quality standards according to the iterative BMP process, as well as the determination that State or EPA officials who establish TMDLs could allocate waste loads to MS4s, as they would to other point sources." Federal Register Volume 64, No. 235, Part 2(H)(3)(a)(ii), December 8, 1999, page 68753. See also 33 U.S.C. § 1311(b)(1)(C), which requires implementation of applicable water quality standards.

² "Permits for discharges from municipal storm sewers...shall require controls to reduce pollutant discharges to the maximum extent practicable, including management practices, control techniques and system design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for control of such pollutants." Clean Water Act section 402(p)(3)(B)(iii)

and these programs stretch municipal funds much further since private dollars pay for much of the work.³ It is unlikely that the necessary pollutant reductions can be achieved if retrofits occur only at the rate of current redevelopment. Virginia's stormwater reduction targets, and the associated input decks to the Chesapeake Bay model, are consistent with this conclusion.

EPA believes it is very important to emphasize these points to ensure that there is no misunderstanding of our expectations. EPA reserves its authority to object to a permit that left the practicability determination to the permittee. EPA also reserves its authority to object to a permit that did not clearly articulate quantifiable provisions based on water quality objectives and time frames or was inconsistent with the applicable assumptions and requirements of the Chesapeake Bay TMDL wasteload allocations.

The following address your specific questions:

1. In its response to Question A.1, EPA states that it did not include individual WLAs for the Phase I MS4s in the other Bay jurisdictions because they "included discussion of the more specific, anticipated permit requirements in their Phase I WIPs to explain how MS4s would meet aggregate WLAs, thus providing EPA with sufficient assurance that compliance with aggregate WLAs would be achieved". We have two follow-up questions based on this response:

(a) What discussions of more specific, anticipated permits requirements did the other Bay jurisdictions include in their Phase I WIPs that Virginia did not include in its Phase I WIP?

EPA Response: The Maryland WIP approach for MS4s contained a requirement for no less than 20% reduction or treatment of impervious surface area within the MS4 each permit term. EPA approved Frederick County's Phase I MS4 permit with the understanding that it will serve as a template for other Phase I jurisdictions in the state.

The District of Columbia WIP approach, consistent with the draft MS4 permit, includes a combination of numeric targets for areas to be retrofitted to a specific performance standard, as well as requirements for the specific numbers of trees that must be planted annually and square footage of green roofs that must be installed over the permit term.

(b) Why does EPA believe that individual WLAs in the Phase I permits provide sufficient assurance that the WLAs will be achieved?

EPA Response: EPA established the individual WLAs for Phase I MS4s in Virginia based on the need to include something measurable and enforceable in permits, i.e., either specific quantifiable requirements for retrofits to existing discharges in the MS4 permit, or an overall requirement to meet individual numeric WLAs. EPA has been clear that it supports either approach, and believes that the first is preferable. During discussions with the Commonwealth regarding the submittal of Virginia's

³ EPA, *Green Infrastructure Retrofit Policies*, December 2008, http://www.epa.gov/npdes/pubs/gi_munichandbook_retrofits.pdf; EPA, *Incentive Mechanisms*, June 2009, http://www.epa.gov/npdes/pubs/gi_munichandbook_incentives.pdf; EPA, *Green Infrastructure Case Studies: Municipal Policies for Managing Stormwater with Green Infrastructure*, August 2010, http://www.epa.gov/owow/NPS/lid/gi_case_studies_2010.pdf.

final Phase I WIP, Virginia Department of Conservation and Recreation (DCR) indicated it could not include quantifiable requirements in MS4 permits, but could require permittees to meet individual wasteload allocations. In response and to facilitate Virginia's implementation efforts, EPA established individual wasteload allocations in the final Bay TMDL. Subsequent conversations with DCR indicate that perhaps quantifiable permit requirements for controls on existing discharges may be possible; we will continue to work with DCR to resolve this issue.

2. EPA's response to Question A.3.ii states that the individual WLAs for the Hampton Roads. Phase I MS4s included urban stormwater loads from permitted sources within the boundaries of the MS4 jurisdictions. Although EPA goes on to state that it does not assume that the NPDES permit requirements for the Phase I MS4 jurisdictions will include any conditions or controls for regulating the activities of other NPDES permittees, the response suggests that the WLAs for these other NPDES permittees will need to be subtracted from the individual Phase I MS4 WLAs at some point in the future. Aside from appearing to acknowledge that the individual WLAs were established based on incomplete data, EPA's response prompts us to ask whether EPA does, in fact, intend to subtract the WLAs for other NPDES permittees from the individual WLAs, and if so, when?

EPA Response: EPA has the discretion and the authority to establish individual or aggregate wasteload allocations for pollutant discharges. As part of development of the Phase II WIPs and any possible revisions to the TMDL, EPA intends to work with VA to establish appropriate individual or aggregate wasteload allocations for urban stormwater at a scale that: 1) is supported by available data; and 2) EPA and VA agree will facilitate implementation of actions to reduce nitrogen, phosphorus and sediment loads from urban stormwater discharges. During that process we will review the issue you raise regarding embedded WLAs.

3. Thank you for your response to Question A.7. Section 4.5.4 of the TMDL says that. "Although the Bay Watershed Model does not specifically account for SSOs, the nitrogen and phosphorus load contributions from SSOs are part of the background conditions incorporated into the Phase 5.3 watershed model and, therefore, such loads are accounted for in the data used for calibration of the Bay Watershed Model. Because SSOs are illegal, however, the Chesapeake Bay TMDL assumes full removal of SSOs and makes no allocation to them." Since the SSOs were included as part of the nutrient load for urban lands when the model was calibrated, how will the EPA account for improvements to the sanitary sewer systems and their impact on water quality in future model revisions?

EPA Response: The Chesapeake Bay Program Wastewater and Stormwater Workgroups within the Water Quality Goal Implementation Team are evaluating whether to develop a best management practice or practices that jurisdictions could verify, report to EPA, and receive pollutant reduction credit in the Chesapeake Bay Program Watershed Model for eliminating illicit discharges after the model calibration period. Any such BMP(s) would need to be fully reviewed and approved by an expert panel, the Wastewater, Stormwater and Watershed Technical Workgroups, and the Water Quality Goal Implementation Team (including EPA), consistent with the *Protocol for the Development, Review, and Approval of Loading and Effectiveness Estimates for Nutrient and Sediment Controls in the Chesapeake Bay Watershed Model*. EPA would carefully evaluate whether such a BMP was consistent with CWA requirements and prohibitions.

We are cognizant of the challenges inherent in establishing effective stormwater management programs, while at the same time very optimistic about the feasibility of doing so.

Please let us know if you have any additional questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Corbin', written in a cursive style.

Jeffrey Corbin
Senior Advisor
Office of the Administrator