

CHESAPEAKE BAY COMMISSION
Cambridge, Md.
Nov. 8-9, 2012

The Chesapeake Bay Commission held its fourth quarterly meeting of 2012 on Thursday, and Friday, November 8-9, 2012, in Cambridge, Md.

The following Commission members and staff were in attendance:

Admiral Tim Alexander
Patricia Buckley
Senator Mike Brubaker
Delegate John A. Cosgrove
Assistant Secretary Frank Dawson
PA Citizen Representative Warren Elliott
Representative Garth Everett
Senator Brian Frosh
Senator Emmett W. Hanger, Jr.
Delegate Lynwood W. Lewis, Jr.
Delegate Scott Lingamfelter
Senator Thomas "Mac" Middleton
Representative Ronald Miller
Assistant Secretary Anthony Moore
VA Citizen Representative John Reynolds
Representative Mike Sturla
Delegate John F. Wood, Jr.
Senator Frank W. Wagner
Senator Mike Waugh

Staff: Ann Pesiri Swanson
Bevin Buchheister
Jack Frye
Marel Raub
Paula Hose

Members not in attendance:

Delegate James Hubbard
Delegate Maggie McIntosh

Thursday's meeting was held at the Vienna Community Center in Vienna, Md. which is located right on the Nanticoke River. The focus of this meeting was land conservation and how the community of Vienna along with private conservation groups collaborated to use several

different state, federal and privately funded programs to protect almost 57 miles of land along the Nanticoke River.

Chairman Hanger called the meeting to order at 12:10 p.m. and introduced Vienna Mayor Russ Brinsfield who welcomed the Commission members and thanked them for coming.

Ann Swanson then gave an overview of the many Maryland and federal programs available for preserving land, and noted the Md. Delegation and Commission had worked to enact several of these programs. These programs, which required matching funds, attracted private conservation groups, some of whom are on the agenda later today.

To familiarize Commission members with the Nanticoke and surrounding lands, Dave Nemazie, Associate Vice President, University of Maryland Center for Environmental Science and Board President of the Nanticoke Watershed Alliance presented the River's vital statistics. He noted that 20% of the green infrastructure is in protective holdings; 7% of the land is developed; 86% of the phosphorus pollution is from agriculture; and one-third of Maryland's wetlands are in the Nanticoke. Dave also unveiled the Nanticoke River Watershed Atlas of Natural and Cultural Resources, a publication that was finished specifically in time for the CBC meeting. All CBC members received an Atlas.

From 1:15-3:00 p.m. a panel of several speakers coordinated presentations to tell the story of how they worked together using the existing laws and funding sources to protect certain parcels along the Nanticoke. Mayor Russell Brinsfield, Ph.D, told the story of Vienna, which has a population of about 280 and an annual budget of ~\$225,000. In response to a proposed housing development on farmland outside of town, (which would have been on septic systems) townspeople partnered with the Conservation Fund and other private foundations to create a Community Vision Plan through which they developed a framework for eco-tourism. This led to several partnerships with Program Open Space to upgrade Vienna's waterfront and with The Nature Conservancy, The Conservation Fund, Program Open Space (POS), and DoD's Readiness and Environmental Protection Initiative (REPI) to preserve land surrounding Vienna.

Tim Brower, POS manager for Md. DNR, reviewed the details of Maryland's Program Open Space, noting that 43,000 acres have been protected in Md. since 1969 and about \$90 million spent protecting land in the Nanticoke area.

The Nature Conservancy partnered with Vienna and the County to take advantage of the Rural Legacy Program so that now over 60% of designated rural legacy land is preserved. Liz Zucker, Eastern Shore Project Director for The Nature Conservancy, noted the biological diversity that exists where the Marshhope Creek meets the Nanticoke, and discussed TNC's involvement with POS and the REPI program to identify and work with willing landowners to put their land into preservation.

Suzanne Baird, Wildlife Refuge Manager of Chesapeake Marshlands, which includes 28 thousand acres of preserved lands in Blackwater National Wildlife Refuge, spoke to the members about the importance of the refuge to migratory birds. They also hope to be a part of the future John Smith Center that is being planned for the area as part of the Captain John Smith Chesapeake National Historic Trail system.

The Dept. of Defense Readiness and Environmental Initiatives Program or REPI, partnered with TNC and Maryland's Program Open Space to purchase easements on 250,000 acres along the Nanticoke to preserve the air space for training operations flown out of Naval Air Station Patuxent River. Steve (Foren) DuBoyce, Regional Community Planning Liaison Officer, DOD, explained to the members that the REPI program helps avoid encroachment of civilian activity near bases that lead to community complaints which can interfere with the base's mission and can ultimately lead to base closures. Steve explained the REPI Challenge, a competitive \$5 million grant program that will fund one large conservation project nationwide. Steve also announced the creation of a new Chesapeake-specific REPI fund that will match funds from the National Fish and Wildlife Foundation. This is a project that the CBC and Admiral Alexander initiated and have been developing since Jan. 2011.

The planned boat trip along the Nanticoke for members to view the river that most closely reflects the natural conditions as seen by Captain John Smith on his 1608 expedition was canceled due to boat mechanical problems. Members were instead given an in-depth description of water quality monitoring Bay-wide and in the Nanticoke led by Mark Trice, Chief of Water Quality Informatics at Md. DNR, who also grew up along the Nanticoke. Members then walked to the town dock to see one of the continuous in-situ monitoring devices.

Meeting recessed until 8am Friday.

Friday, November 9, 2012 – Hyatt, Cambridge, MD.

On Friday morning the delegation meetings were held over breakfast from 8:00-9:00 a.m. to discuss proposed legislation.

At 9:00 a.m. Chairman Hanger called the meeting to order, Ann Swanson took roll call and the meeting minutes from September were approved by all with Del. Lingamfelter abstaining. During the Chairman's updates Sen. Hanger recognized past accomplishments of the CBC including the Economics of Trading Report (May 2012) that was much discussed during the Chesapeake Bay Program's Executive Council meeting in July, CBC work on living resources in Sept.; Manure to Energy; the REPI/NFWF Chesapeake specific fund and the National Park Service's Landscape Collaborative. Bevin and Jack reported that Va. and Md. are working on joint fisheries legislation that arose from our Sept. meeting to change the Potomac River Compact to allow for higher fines for poaching and a higher inspection tax on oysters. Marel reported that the Farm Bill is not moving but said the House may pass something shortly. Ann reported that the Bay Region made it to the final review for the Land and Water Conservation Fund, but it appears that two other projects are ahead of us. John Reynolds noted that the collaboration on the Nanticoke is a good example of what could be brought to the larger Chesapeake region and he believes we can still influence the final decision. He explained that the program does not require matching funds, but requires different federal agencies to show how they will work together. Rep. Sturla suggested that the CBC delegations weigh in with their federal delegations.

The next few presentations focused on how the CBC can build on past work and support opportunities for land conservation. Ann Swanson and Jack Frye spoke about the CBC's project to factor land conservation into the TMDL. Ann noted that the TMDL counts all BMP's that reduce pollution but does not give any credit for protecting the natural landscape. Jack reported that the team of advisors came up with several options including targeting practices according to location, creating a land conservation BMP, and using 2025 projected land use values in the CBP model. Jack said they are still reaching out to other experts for ideas and that a white paper should be ready for our January meeting. Ann noted that even with all the conserved land along the Nanticoke there are still water quality problems because the tax ditches bypass buffers and very efficiently deliver nutrients to the river. She suggested we may want to consider adding BMP requirements to conserved lands to get the most from our investments in preservation.

Chairman Hanger suggested the CBC meet on the Anacostia River for our May 2013 meeting to contrast the situation on a rural river like the Nanticoke with an urban river. Members voiced support for the idea and Frank Dawson, Chair of the Anacostia Restoration Committee said they are making a lot of progress.

Following the theme of land conservation, Cindy Dunn, Deputy Secretary of the Pa. Department of Conservation and Natural Resources, which holds 2.2 million acres of forest and is the largest land owner in the Bay watershed, spoke about the opportunity to manage lands for recreation that border the Susquehanna and are owned by PPL. This awaits decision by Federal Energy Regulatory Commission and if approved could lead to a future land management deal with Exelon.

In Virginia the Joint Legislative Audit and Review Commission (JLARC) was directed by legislation sponsored by Sen. Mary Margaret Whipple (ret.) to examine opportunities for dedicated revenue sources for land conservation. Jamie Bitz, Principal Legislative Analyst for JLARC explained that Virginia allows a transferable tax credit for 40% of the fair market value or ownership interest in the preserved land. He said this program has reached its cap every year since 2007. Sen. Wagner pointed out that this land does not provide public access. Mr. Bitz also said that Va. gets less than 2% of preservation funding from dedicated sources and that the current structure causes Va. to emphasize acreage over targeting priority land. He explained that a dedicated fund could improve a targeted approach. Several recommendations were made by JLARC to create dedicated funding for land conservation, including dedicating general funds; redirecting funds from the tax credit program; increasing the fee on transferred lands; increasing the deed recordation fee; adding funds through bonds; directing one cent from recordation taxes; or some combination of these revenue streams.

For the last presentation of the day Scott Phillips, Coordinator of the US Geological Survey for the Chesapeake Bay, presented the members with the findings from the USGS Susquehanna Dams Report. Items to note: Tropical Storm Lee's contribution to the Bay from the Susquehanna: just over 30% of the nitrogen loading for the entire year, about 60 % of the phosphorus loading and almost 80 % of the sediment.

Safe Harbor and Holtwood Dams have reached sediment capacity. Conowingo has been approaching capacity for the past 10-15 years. As Conowingo approaches capacity there is an

increase in the tendency for the sediments to be scoured and carried to the Bay during high flow events. When Conowingo reaches capacity it will be harder to achieve our goals for water clarity and SAV's (submerged aquatic vegetation). Upstream practices to reduce phosphorus and sediment may be counter balanced by the reservoir's effects.

Scott and Ann developed a list of management options and follow-up that might be undertaken by the CBC:

1. CBC support the funding of \$250,000 per year for two years to continue the Army Corps of Engineers Study on Watershed options.
2. CBC inform others of our support for the scientific study provided by item #1.
3. CBC support Md. efforts to have Exelon and EPA add their funding and other options during FERC relicensing of dams.
4. CBC exercise leadership at all levels of CBP for 2017 mid-point assessment of TMDL to include this issue.

MOTION AND VOTE: Chairman Hanger made a motion to adopt the above action items created by Ann and Scott Phillips. After discussion the motion was seconded by John Reynolds and Rep. Sturla. Chairman Hanger called for a vote on the motion, which passed, with no abstentions or "nay" votes.

MOTION AND VOTE- Chairman Hanger reported that earlier in the year the Executive Committee recommended a 1% performance incentive for staff, conditional on financial goals for the Commission which have subsequently been met. Rep Sturla moved to adopt the recommendation and a vote was taken – all in favor.

It was announced that the next meeting will be held on Jan 3rd in Annapolis at the Loews Hotel.

The meeting was gaveled to a close by Chairman Hanger at 12:00 p.m.