

**FINAL Meeting Minutes
Rivanna River Basin Commission**

June 21, 2007

6:00 pm

Thomas Jefferson Planning District Commission
401 East Water Street, Charlottesville

Attendance

Rivanna River Basin Commission (Commission) Members

Present:

Ms. Jeri Allen, Greene County Board of Supervisors
Mr. Smith Coleman, Greene County Citizen
Mr. Lindsay Dorrier, Albemarle County Board of Supervisors
Mr. John E. Easter II, Thomas Jefferson Soil and Water Conservation District Board of Directors
Mr. Kevin Lynch, Charlottesville City Council
Mr. John Martin, Albemarle County Citizen
Mr. Marvin F. Moss, Fluvanna County Board of Supervisors
Mr. Gene F. Ott, Fluvanna County Board of Supervisors
Mr. Robert Runkle, Culpeper Soil and Water Conservation District Board of Directors
Ms. Sally Thomas, Albemarle County Board of Supervisors
Mr. Andy Wilson, Fluvanna County Citizen

Absent:

Mr. Mickey Cox, Greene County Board of Supervisors
Dr. Paolo D'Odorico, Charlottesville Citizen
Ms. Kendra Hamilton, Charlottesville City Council

1. Call to Order

The meeting was called to order at 6:07 pm by Ms. Thomas.

2. Roll Call

The members introduced themselves and attendance was taken.

3. Determination of Quorum

It was determined a quorum was present.

4. Approval of the Agenda

The agenda was approved.

5. Comments from the Public

There were no comments from the public.

6. Approval of the Minutes of the Preceding Meeting

The minutes from the preceding meeting were approved.

7. Report of the Chair

Ms. Thomas informed the Commission that she recently paddled down a portion of the Rivanna River and noticed that there was not much plant life on the river bottom. She also mentioned a letter to the editor in 1998 which stated that something should be done about the siltation problem. She commented that it is interesting that this was recognized as a problem then and is still a problem today.

8. Report of the Fiscal Agent

Mr. Ridge Schuyler of The Nature Conservancy (TNC) stated that none of the Commission's funds have been spent.

9. Reports of Committees

Ms. Thomas gave a summary of the June 18 meeting of the Commission's Technical Advisory Committee (TAC). She stated that she was impressed with the meeting, and that the TAC brought a lot of information and expertise. The TAC set to work with things the Commission had asked them to do, had a good discussion, and got partway through the agenda. Ms. Alyson Sappington, of the Thomas Jefferson Soil and Water Conservation District (TJSWCD) was in attendance and stated that a good bit of the TAC's discussion was on taking action and focusing on strategies versus doing a lot of studies. Mr. Schuyler stated that the TAC meeting had an ambitious agenda, and that good progress was made on some items, while work was still needed on others. He said that the TAC discussed the desire not to focus too much on academic research, but to strike a balance between research and action. Ms. Sappington replied that the TAC spent more time on this discussion than was expected.

Mr. Moss stated that after the TMDL presentation at the last Commission meeting, it became apparent to him that at the end of the TMDL process there is no money for implementation. He asked if the TAC could discuss allocation of money to implement already recommended changes such as the Implementation Plan for Moores Creek. He also stated that the Commission should be seeking funding elsewhere. He suggested that maybe the TAC should look at solving immediate problems now that we already know we need to address.

10. Old and Unfinished Business

Organizational Items

- 1. Further discuss role of TAC**
- 2. Appoint core TAC members**
- 3. Discuss proposed non-core TAC appointments**

Organizational Items 1 – 3 were discussed together. The members reviewed the list of core TAC (staff member) appointments and bios of potential non-core TAC members that were brought up during and before the June 18 TAC meeting. Ms. Thomas stated that the charter says in addition to the core TAC there can be up to 12 non-staff members. She stated that all jurisdictions now have core TAC member recommendations and the core TAC could be formally established at the

meeting. Ms. Thomas also recommended adding The Nature Conservancy to the list of potential non-core TAC members. Mr. Schuyler replied that TNC would be honored to be on the TAC.

Mr. Wilson commented that the TAC would be at 19 members if all of the people on the list were appointed. He stated that this could be potentially unwieldy. He suggested that perhaps the TAC could work in committees to make it less unwieldy. Mr. Coleman asked if the idea was that the Commission would come up with ideas and bounce them off the TAC. Ms. Thomas replied that that was the idea. However, she stated that, for example, the Commission asked the TAC to advise the Commission on the fiscal agent and the TAC didn't feel comfortable advising on that. So there will be some things the RRBC will handle without TAC input. Mr. Ott stated that he didn't want anyone to be taken off the list of potential TAC members. Mr. Moss agreed that everyone on the list was great.

Mr. Coleman asked if this would be a separate committee that would need at least 10 members present to have a meeting. Mr. Easter stated that a quorum could also be limited to the core TAC. Mr. Coleman and Mr. Moss agreed that having the core TAC is a good idea. Mr. Ott replied that the memo to the agenda states that the core could be the voting group and that the non-core members can attend meetings but don't have a vote. He also stated that members of the Commission are also members of the TAC which makes the TAC very large. Ms. Allen stated that there are some members of the Commission who are more experienced in these issues than others. She asked if any Commission members who have more expertise than others could volunteer to serve as a liaison between the Commission and the TAC. Mr. Moss recommended that the members of the Commission remain members of the TAC for now and we can see how it goes. Ms. Sappington stated that she wasn't sure that the TAC needs to be a very formal body with requirements for a quorum, etc. Mr. Schuyler agreed, and said that the 13-person TAC meeting held on June 18 worked well without the formalities.

Upon a motion by Mr. Ott, and seconded by Mr. Martin, the Commission voted unanimously to appoint the list of core and non-core TAC members. The appointments include:

Core TAC

Kristel Riddervold, Environmental Administrator, City of Charlottesville
Chris Gensic, Park & Trail Planner, City of Charlottesville
Greg Harper, Water Resources Manager, Albemarle County
Tamara Ambler, Natural Resources Manager, Albemarle County
Stephanie Golon, County Planner, Greene County
Travis Estes, Erosion and Sediment Control Administrator, Greene County
Kate Cooper, Senior Planner, Fluvanna County
Roger Black, Site Inspector, Fluvanna County
Greg Wichelns, District Manager, Culpeper Soil and Water Conservation District
Alyson Sappington, District Manager, Thomas Jefferson Soil and Water Conservation District

Non-Core TAC

Samuel Austin, Hydrologist, U.S. Geological Survey
Louise Finger, Stream Restoration Biologist, Virginia Department of Game and Inland Fisheries
Rochelle Garwood, Senior Planner – Environment, Thomas Jefferson Planning District

Commission

David Hirschman, Manager for Stormwater Services, Center for Watershed Protection

Ed Imhoff, Geologist and retired Hydrologist

John McClain, Environmental Engineer, Virginia Department of Transportation

John Murphy, Director, StreamWatch

Ridge Schuyler, Piedmont Program Director, The Nature Conservancy

Wil Smith, Biologist, U.S. Fish and Wildlife Service

Andrea Terry, Watershed Manager, Rivanna Water and Sewer Authority

4. Designate fiscal agent

Ms. Thomas stated that the TAC was comfortable with The Nature Conservancy carrying on as the project manager and fiscal agent, but felt that it was a good idea to have another group, such as the Thomas Jefferson Soil and Water Conservation District write the checks. Ms. Sappington stated that Mr. Schuyler was a bit uncomfortable with TNC having the entire role. She stated that the TJSWCD is fine with serving as the fiscal agent as long as they are not doing project management.

Ms. Thomas stated that legal counsel is still an issue. Ms. Sappington replied that TJSWCD's legal counsel is the Attorney General's office which couldn't really be counted on to respond quickly. Mr. Schuyler stated that the options for the Commission for legal advice are that one of the localities could provide legal advice or the Commission could have a local attorney serve as the Commission's pro bono attorney. Mr. Lynch asked if the Commission needed an attorney and if they could just hire one from time to time if needed. Ms. Thomas stated that, for example, if the Commission produces a scientific report and a local government uses it to tell a developer what to do, the Commission might then get embroiled in a legal battle. She said that the Albemarle County attorney asked if there would be legal advice and wanted the answer to be yes. Mr. Schuyler suggested that the Commission members ask their local attorneys what they think about whether or not the Commission needs an attorney to review contracts, etc. Mr. Moss asked if the Commission was covered since it is a quasi-state entity. Mr. Schuyler replied that the statute is unclear on if the Commission would be covered as state agencies are. Mr. Dorrier suggested that maybe the attorneys for the localities could serve as legal counsel to the Commission on a rotating basis.

Ms. Allen stated that she thinks the role of the Commission from the beginning has been to inform, not advise, and it would be hard for her to understand how liability could be incurred with information sharing. Mr. Lynch suggested the Commission cross that bridge when they come to it. Mr. Moss said that the Commission shouldn't worry about legal counsel now, since it is an abstraction at this stage. Mr. Coleman said that he sees the Commission informing and then ultimately getting to the point when they advise. Ms. Thomas stated that the Commission wouldn't decide on the legal counsel question tonight, and said that she would talk to her attorney and report back at the next meeting on this issue. Mr. Runkle suggested that perhaps the Commission members can report back at the next meeting on whether their localities can rotate serving as the attorney. Mr. Lynch said that his attorney might not be ready to say yes to this if the Commission doesn't know why they need counsel. Mr. Moss agreed that we need to figure out the need for legal advice first.

Mr. Martin mentioned that the Commission may also need to think about FOIA as far as noticing meetings, etc. Ms. Allen stated that it is a good idea to post meetings on each locality's calendar. Ms. Diane Frisbee of TNC stated that the meetings have been posted at the TJPDC building and on the TJPDC calendar and that an ad in the paper is not legally required.

Mr. Moss asked for clarification on TNC serving as the project manager and TJSWCD serving as the fiscal agent. Mr. Schuyler stated that what came out of the TAC meeting was that TNC should transfer the funds raised for the Commission to TJSWCD. TJSWCD would then write checks under authority of the Commission. TNC would, in the short term, manage projects, including drafting RFPs with oversight of the TAC, managing contracts, etc.

Upon a motion by Mr. Martin, and seconded by Ms. Allen, the Commission voted unanimously to designate TJSWCD as the fiscal agent and TNC as the near-term project manager.

- 5. Discuss media plan**
- 6. Field trip**
- 7. Set next Commission meeting date**

Ms. Thomas suggested moving Organizational Items 5 – 7 to the end of the agenda.

Initiating Work Product

- 1. Review and discuss draft summary Scope of Work**
- 2. Determine likely work product**

Items 1 and 2 were discussed together. Ms. Thomas stated that Mr. Schuyler had some ideas about how to address this discussion. Mr. Schuyler said that the large volume distributed to each member at the beginning of the meeting is a sample of what the scope of work and summary report for a sedimentation threat assessment might look like. The document includes a scope of work and summary report that were completed for the flow recommendations made to the Rivanna Water and Sewer Authority.

Mr. Schuyler stated that the first step in the draft scope of work for a sedimentation threat assessment (which was distributed to the Commission at their first meeting) is a literature review. He said that there has been some discussion of what the scope of work and literature review would look like. The flows scope of work was submitted to UVA and Virginia Tech to conduct a literature review and write a summary report on flow-dependent species in the Rivanna watershed. The scope of work contained a series of questions that needed to be addressed in order to make flow recommendations. TNC paid the universities \$50,000 and gave them a summer to conduct the literature review to answer the questions in the scope of work. After the literature review was completed, it was circulated to experts to review. A meeting of the experts was then convened to determine what gaps needed to be filled and what the flow recommendations should be based on information from the literature review. The experts gave the recommendations, and TNC worked to encourage Rivanna Water and Sewer Authority to change the way they manage their dams, so that the rivers have enough water to support aquatic species.

Mr. Schuyler stated that at the TAC meeting June 18, there was discussion that a lot of work had been done but the research has not been consolidated. He said that he envisions the flows scope of work being very similar to what the TAC would develop for the Commission, and the literature review for sedimentation being very similar to the process conducted for the flow recommendations. Mr. Schuyler thought this would be a helpful example to share with the Commission.

Ms. Allen was very impressed by the list of questions in the flows scope of work and asked where they came from. Mr. Schuyler responded that TNC experts came up with the list, but that he envisions the TAC would develop the list for the sedimentation scope of work. He also mentioned that the Thomas Jefferson Water Resources Advisory Committee generated a list of questions in 2001 that the TAC could build on. Ms. Allen asked if, once the questions for the flows scope of work were generated, they were sent through a filter to be sure they were relevant to the topic. Mr. Schuyler stated that all of the questions were designed to inform management recommendations to the Rivanna Water and Sewer Authority.

Mr. Moss suggested that perhaps the TAC should tell the Commission what things they think the Commission should fund and make priorities. Ms. Thomas stated that the TAC was interested in doing that, and that they want to define specific questions to be asked. She said the TAC is eager to come up with essentially the list Mr. Schuyler provided in the flows scope of work. Mr. Ott asked Mr. Moss if he was suggesting that the TAC should tell the Commission what to study and that it may not be sedimentation. Mr. Moss replied yes, he would like the TAC to suggest to the Commission what the top priorities are that should be addressed to protect the Rivanna watershed. Mr. Moss stated that many of the Commission members are not experts and he wants the TAC to tell the Commission what they would like the Commission to fund as priority number one. Mr. Dorrier stated that there are a lot of priorities. Mr. Moss replied that the Commission would have the right to reorder the priorities if they wanted.

Mr. Wilson said that he doesn't think the Commission funds should be used to pay for TMDL implementation at this point. He said implementation can be very expensive. He stated that he thinks sedimentation is where the Commission will end up and is concerned about delaying the Commission's work by waiting to decide what to focus on. He suggested that maybe the TAC can tell the Commission what they think but also the Commission should say to the TAC that it thinks sedimentation is what should be the focus. He said he is ready for the TAC to develop the list of questions so the Commission can move forward with its work. Mr. Lynch said that he sees sedimentation as a big problem, but sees the TMDL as a problem also. He added that if the TAC says TMDL issues are more easily addressable, the Commission should consider that. Ms. Thomas said that she wants all the members to be comfortable with whatever the Commission moves forward on. She stated that the Commission should get advice from the TAC. Ms. Thomas believes sedimentation will come out as the number one problem, but she would be interested to hear from the TAC.

Mr. Moss asked what the Soil and Water Conservation Districts think. Ms. Sappington replied that sedimentation is an issue that we'll need to deal with. She stated that at the TAC meeting, the TAC talked about other issues as well, such as low flows and bacteria. But she thinks the TAC will get to sedimentation as the main problem ultimately; the TAC just needs to reach

consensus on this. Mr. Dorrier stated that it will be expensive to remove sediment and asked how we would afford it. Ms. Allen replied that a good bit of effort will be put on preventing future sedimentation problems.

Ms. Sappington stated that the TAC said a lot is known about sedimentation and there was some discussion of perhaps not needing to emphasize on studies too much. The TAC also discussed the problem of implementation of mitigation strategies. Ms. Thomas stated that she thought we knew about the sedimentation problem until David Hirschman and Stephen Bowler told her they didn't know where the sediment was coming from. They told her it might be historical floodplain sediments that eroded from the landscape during land clearing, and that the source of the problem may be instream versus overland. Ms. Thomas said that if instream is the main source of the problem, we would be attacking it in different ways, such as by trying to hold back certain storm events. She said that right now we might be requiring the wrong thing from developers and we might be assuming agriculture is the main source, for example. This gives her pause and she thinks we really don't know the sources and need to know them in order to set management strategies.

Mr. Coleman stated that if we address sediments, we also address nutrients. Mr. Lynch replied that that is not necessarily the case, since phosphorus for example is coming from suburban lawn fertilizer. Ms. Thomas said that phosphorus does attach to sediments so is transported downstream with sediments. Ms. Sappington stated that this conversation was sounding a lot like the TAC meeting, and that there are a lot of different problems we can discuss. Mr. Wilson asked if the TAC could provide a list of problems to the Commission. Ms. Allen suggested perhaps the TAC provide the top three problems and priorities. Mr. Wilson agreed and said that if sedimentation is near the top of the list, the TAC can begin drafting the list of questions. Mr. Ott agreed that this was a good idea. Ms. Thomas agreed and stated that the Commission would ask the TAC to come back to them with a list of the problems and priorities.

3. TJPDC report on TMDL

Ms. Rochelle Garwood of the Thomas Jefferson Planning District Commission gave a summary of the Rivanna TMDL Steering Committee meeting that was held June 6. The Steering Committee is composed not only of technical experts, but also of any citizen who is interested in taking part. She went over a handout from the meeting with the Commission. The handout was broken into two sections – the bacterial TMDL and the benthic TMDL.

Six segments in the Rivanna watershed are impaired due to violations of the bacteria recreation standards. The bacterial TMDL process involves using data to model the past occurrences of bacteria and project forward to predict what reductions are required to get below the standard for bacteria. At this point, the consultants are working on figuring out where the bacteria is coming from, by making estimates such as the number of cattle, septic systems, and failing septic systems in the watershed. At the meeting, the Steering Committee gave the consultants recommendations on additional data sources and insight on whether the numbers the consultants provided made sense.

Two segments in the Rivanna watershed are listed for benthic impairment. The benthic TMDL is different from the bacterial TMDL because the first step is to determine what is stressing the

benthic macroinvertebrates. This involves toxicity testing, looking at water quality data, and examining biological and habitat data as well as other records. The stressor identification revealed that possible stressors were toxicity and phosphorus, but primarily the consultants think that sedimentation and urban runoff are the most likely stressors. The next step is to try to figure out where the sediment is coming from by looking at possible sources.

Ms. Thomas asked if this would be a duplication of efforts. Ms. Garwood replied that likely there is not enough money in the TMDL to do a very detailed analysis. Mr. Wilson responded that that has been his assessment of the TMDL as well, and that the TMDL is at a coarser scale than what the Commission wants. Ms. Garwood said that it is likely that it will be coarser, and not based on a lot of field work.

Mr. Martin stated that he is concerned that the Meadow Creek interceptor is not being looked at as a source in the bacterial TMDL. Ms. Garwood replied that Rivanna Water and Sewer Authority will give the data from the interceptor study to the consultants when the study is done. She also said that there are bacteria problems upstream of Meadow Creek that are due to something other than the interceptor. Ms. Thomas thanked Ms. Garwood for keeping the Commission informed and stated that the Commission wants to be sure efforts are not duplicated.

Mr. Moss asked if there was any hope of getting Moores Creek on the 319 list. Ms. Garwood replied that the Department of Conservation and Recreation told her no. She stated that 319 is a funding source, and that WQIF is another potential funding source but it requires a 1:1 match. Ms. Garwood said that she recalls the question regarding the Moores Creek TMDL from the last Commission meeting was what can the Commission do to help the Moores Creek TMDL move forward. She said that she decided to reconvene the implementation group to talk about what has been accomplished and what needs to be done. The Moores Creek implementation group will be meeting to discuss this July 11. Mr. Moss said that he sees the Commission helping as much as possible to protect our streams, and suggested that perhaps the Commission should write a letter of support. He stated that the Commission should be thinking of creative roles they can play to get funding for the Rivanna watershed. Mr. Lynch said that one idea is to use the compensation for the loss of land from the expansion of the Ragged Mountain Reservoir to buy land along Moores Creek. He said that perhaps Rivanna Water and Sewer Authority funding for this can be used as a match for a grant. He suggested that perhaps Rivanna Water and Sewer Authority could buy easements on the land and this could serve as a match.

Ms. Thomas stated that 3 possible actions have been discussed: 1) the Commission has asked the TAC to come up with priorities for the Commission, 2) the Commission could send a letter to try to get funding for Moores Creek, which may also help get the Commission on the state's horizon, and 3) the Commission could get involved in the Ragged Mountain Reservoir land compensation. Mr. Martin replied that he is a bit frustrated that even when we've identified a problem we can't get it funded, and suggested that the Commission could perhaps write a letter to see if we can get more state funding. Ms. Garwood replied that the state will say their list is based on the priorities and they won't be swayed by public opinion. Ms. Thomas asked if there was any harm in sending a letter to ask for implementation funding. Mr. Moss said that maybe the Commission can send a letter asking the governor to increase funding for TMDL.

implementation and use Moores Creek as an example. Mr. Moss made a motion to send a letter, and Mr. Lynch seconded the motion.

Ms. Sappington stated that all the facts need to be straight before sending a letter. She said that there is WQIF funding but since a 50% match is required, it is difficult. She also said that she has heard that if a community writes a letter it can help get a stream on the 319 list. Being on the list makes the stream eligible for that funding, but you still need a 25% match. Mr. Moss suggested that the Commission write a letter to request Moores Creek be put on the priority 319 list. Ms. Sappington replied that if you do this, the state will expect us to submit a grant and provide a match. Ms. Thomas stated that this is more complicated than we thought, and said that we should look into whether Rivanna Water and Sewer Authority could be used as a match. Ms. Thomas asked if someone could look into this, so the Commission could determine whether or not this would be a good action for the Commission to take. Ms. Sappington replied that it can't hurt to write a letter to at least show that the Commission is out there. Mr. Easter asked if Mr. Schuyler and Ms. Sappington could write a draft letter for the Commission to review at its next meeting. Ms. Thomas stated that she likes the idea of a letter and suggested we look into this some more to be sure the letter is good and has power, even if the letter is just to let people know that the Commission exists.

4. Charge the TAC with identifying the ongoing efforts of other governmental or quasi-governmental watershed entities working in this region

5. Charge the TAC with identifying a list of funding sources

Items 4 and 5 were discussed together. Ms. Thomas asked if everyone felt the Commission should charge the TAC with identifying the ongoing efforts of other governmental or quasi-governmental entities working in this region and with identifying a list of funding sources. Everyone agreed that they should charge the TAC with these tasks.

Discuss media plan (moved from earlier in the agenda)

Mr. Schuyler shared with the Commission a draft letterhead concept, and suggested that a graphic artist may be able to make the letterhead. Mr. Lynch stated that he preferred to have the shape of the Rivanna watershed be the logo. Mr. Dorrier recommended that the names of the members be placed along the side of the letterhead. Ms. Thomas asked if the group preferred a natural or stylized logo. The group preferred the natural style.

Ms. Thomas stated that Mr. Moss wrote a press release that TNC also worked on. Ms. Thomas said that the Commission could send out the press release as it is or do the press release from a site in the field. Mr. Moss suggested that the press release be sent out with the update that the Commission has had three meetings, and then later have another press release and field trip. Mr. Dorrier stated that they could do a photo opportunity at Darden Towe Park. Mr. Coleman said he liked the idea of a field trip but felt they shouldn't do it yet. Mr. Moss agreed, and asked Mr. Schuyler to send out the press release. Mr. Schuyler agreed.

Field trip (moved from earlier in the agenda)

Ms. Thomas suggested that Commission members think about good places for a field trip. Several members mentioned ideas for field trips in their localities. Ms. Thomas suggested that perhaps we have four field trips and each locality can lead a trip in their area. She suggested that

the Commission may also want to visit UVA to learn about what they're doing. Ms. Thomas suggested everyone think about a field trip for their area and report back to the group with ideas.

Set next Commission meeting date (moved from earlier in the agenda)

The next meeting was set for August 2 at 6 pm at the Thomas Jefferson Planning District Commission.

11. New business

Ms. Thomas asked if there were reports from the localities. Mr. Lynch updated the group on the status of the Meadowcreek Parkway and associated mitigation. Mr. Ott mentioned that there was a meeting last night regarding a new school in Fluvanna County that will be moved further back from the river to reduce environmental impact. Mr. Moss added that they have encouraged the School Board to consider the environmental impact of school buildings. Ms. Thomas stated that Monticello High School had a lot of sustainability aspects and did some things that may be useful examples for the Fluvanna school. Mr. Coleman showed the group a CD prepared by the Friends of the Rappahannock. The CD provides guidelines for developers about how to implement Low Impact Development. He will try to get a copy of the CD for all the Commission members. Mr. Coleman stated that Friends of the Rappahannock has spent a lot of time pushing code changes and hasn't spent time on studies. Ms. Thomas stated that there have been several developments in Albemarle County where the developers say they want to do good things but their proffers aren't apparently meeting their stated goals.

12. Adjournment

The meeting adjourned at 8:05 pm.

Attachments:

- A. RRBC Agenda 07Jun21
- B. RRBC Memo to agenda 07Jun21
- C. RRBC TAC Meeting minutes 07Jun18
- D. RRBC TAC core appointments 07Jun21
- E. RRBC TAC potential non-core appointments 07Jun21
- F. RRBC Proposed media plan 07Jun21
- G. RRBC SOW Flow Ecology
- H. RRBC TJWRAC 01Jun5
- I. Rivanna TMDL steering committee 07Jun06