

**FINAL Meeting Minutes  
Rivanna River Basin Commission**

June 14, 2010  
12 noon – 2:00 pm  
Albemarle County Office Building – McIntire, Room 241

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***Rivanna River Basin Commission Members***

***Present:***

Dr. David Brown, Charlottesville City Council, RRBC Chair  
Mr. Joe Chesser, Fluvanna County Board of Supervisors  
Mr. Lindsay Dorrier, Albemarle County Board of Supervisors  
Ms. Holly Edwards, Charlottesville City Council, RRBC Vice Chair  
Mr. Jim Frydl, Greene County Board of Supervisors  
Mr. Keith Lancaster, City of Charlottesville Citizen  
Ms. Ann Mallek, Albemarle County Board of Supervisors  
Dr. Liz Palmer, Albemarle County Citizen  
Mr. Robert Runkle, Culpeper Soil and Water Conservation District Director  
Ms. Roberta Savage, Greene County Citizen  
Mr. Carl Schmitt, Greene County Board of Supervisors  
Mr. Andy Wilson, Fluvanna County Citizen

***Absent:***

Dr. Rich Collins, Thomas Jefferson Soil and Water Conservation District Director  
Mr. John Gooch, Fluvanna County Board of Supervisors, RRBC Treasurer

***Others present:***

Ms. Leslie Middleton, RRBC Executive Director  
Ms. Rose Brown, RRBC Program Coordinator  
Mr. Rick Parrish, Southern Environmental Law Center  
Ms. Reade Wilson, Southern Environmental Law Center  
Mr. Sean Tubbs, Charlottesville Tomorrow  
Ms. Bridget Lynn, Charlottesville Tomorrow  
Ms. Jerri McCormick-Ray, citizen  
Mr. Carleton Ray, citizen

**1. Call to order**

Dr. Brown called the meeting to order at 12:04 p.m.

**2. Roll call and brief introductions**

Roll call was conducted and introductions were made.

**3. Determination of quorum**

A quorum was determined.

#### **4. Review of the Agenda**

A review and approval of the TJSWCD lease agreement was added to New Business. Dr. Brown suggested reviewing the agenda, rather than formally adopting or approving it. Other Commissioners were in favor of this approach.

#### **5. Comments from the public** (3-minute limit per person)

There were no comments from the public.

#### **6. Response to comments from the public**

There were no responses to comments from the public

#### **7. CONSENT AGENDA**

**Action:** Approve RRBC minutes of April 15, 2010, and approve April-May 2010 Fiscal Reports. Dr. Palmer requested line numbers on the minutes, to facilitate discussion of changes. Other Commissioners preferred to maintain the current format of the minutes. Ms. Savage moved to approve the minutes of April 15, 2010, and the April-May 2010 Fiscal Reports, and Dr. Palmer seconded the motion. Mr. Schmitt abstained. All other commissioners were in favor, and the motion passed.

#### **8. Report of the Chair**

##### **a. Strategic planning for the RRBC**

Dr. Brown discussed a strategic planning process for the RRBC. The goals of a planning session would include: gaining a sense of the policies that the RRBC can affect, determining what actions to take, and determining how to set priorities. Dr. Brown would like to bring together a small planning group that would include members of the Technical Advisory Committee (TAC) and a few members of the RRBC. Mr. Dorrier stated that it is important to define the role and mission of the RRBC, and to determine if RRBC resources should be used for education, river clean-up, future planning, or other activities. Ms. Mallek noted that the mission is defined, and includes specific tasks. Mr. Schmitt referred to the mission on page 6 of the budget packet. Mr. Schmitt stated his support of involving the TAC in the planning session. The TAC and RRBC should influence each other. Ms. Mallek stated that it would be particularly helpful if locality staff from the TAC could be involved in the planning process. Mr. Lancaster suggested occasional joint meeting with the TAC and RRBC. This would help both groups to understand what each is doing. Ms. Mallek reminded Commissioners that they are invited and welcome to attend TAC Meetings. Ms. Savage noted that although that is useful, the TAC meetings do not really allow for a conversation between TAC members and Commissioners. A joint meeting would allow for more of a conversation. Dr. Brown stated that he would bring together a couple of Commissioners and TAC members to formulate a planning retreat, which could occur in the fall.

##### **b. RRBC Bylaws revisions**

Dr. Brown asked Ms. Middleton to describe some possible changes to the Bylaws. Ms. Middleton stated that the Commission might wish to review bylaws that have been cumbersome or confusing, such as the process and timeline for election of officers, the composition of the Executive Committee, and whether or not all Commissioners should automatically be members of the TAC. These changes and clarifications could be made in or after a planning retreat. Dr. Brown asked

Commissioners to contact Ms. Middleton with other suggested changes to the Bylaws.

**c. Plans to meet with state and federal legislators**

Dr. Brown stated that state and federal laws affect the RRBC, therefore it would be constructive to educate legislators about current and upcoming issues in the watershed. Dr. Brown would like to begin by arranging a meeting with David Toscano. Dr. Palmer asked if any of the upcoming Chesapeake Bay Total Maximum Daily Load (TMDL) meetings would include meetings with legislators, and noted that the RRBC might overlap with these meetings. Ms. Middleton replied that the TMDL pilot project steering committee will be meeting, but present plans for the pilot project do not include legislator education. Ms. Middleton added that state and/or federal legislators sit on the Commission of all other river basin commissions in the state. The RRBC is lacking this formal link with the legislators. Mr. Dorrier suggested an annual meeting with legislators. Mr. Schmitt noted that the Thomas Jefferson Planning District Commission (TJPDC) conducts annual meetings with legislators in the fall, and it could be useful to consolidate those meetings. Ms. Mallek suggested that the TJPDC meetings could include a presentation by the RRBC. Dr. Brown stated that individual meetings with the delegates would provide a chance to discuss particular issues in discrete conversations between the RRBC and state legislators. This would allow for a dialogue and exchange of ideas and information. Mr. Dorrier stated that a semi-social event might be more appealing to legislators than a formal meeting. Dr. Brown suggested that the RRBC could meet with Delegate Toscano, and then shape future meetings based on feedback from that meeting. Other Commissioners were in favor of this approach.

**9. Technical Advisory Committee Report**

There was no TAC report.

**10. Executive Director Report**

Ms. Middleton reiterated that all Commissioners are welcome at TAC meetings. The meetings can help Commissioners to gain more technical understanding, and also connect Commissioners with locality staff and technical staff from around the watershed.

The last TAC meeting, on May 18, involved an extensive discussion about the Healthy Waters project. Guest speakers included Laura Gabanski, who leads the Healthy Waters project for the Environmental Protection Agency (EPA), as well as Greg Garman from Virginia Commonwealth University (VCU), who has led the Rivanna Healthy Waters project under contract to RRBC. The project involved selected 55 sites around the watershed for collection of macroinvertebrate and fish data and habitat characterization at each site. StreamWatch conducted macroinvertebrate sampling, and VCU staff collected fish and habitat assessment data. The sites were rated as exceptional or healthy (with restoration potential), or compromised (perhaps not worth the funds of restoration). More information and maps can be found at <http://instar.vcu.edu>. The TAC received a first look at the Healthy Waters data on May 18. The next step of the project is for StreamWatch staff, VCU staff and Ms. Middleton to meet and generate a consistent message for release to the public. Ms. Middleton added that during the presentation, Laura Gabanski stated that she is interested in expanding the Healthy Waters project in the Rivanna watershed. This could result in a more focused effort to bring together green infrastructure, characterization of landscapes by VA Department of Conservation and Recreation (DCR), wildlife corridors, and other local and state projects.

The TAC also discussed the need for a comprehensive monitoring program in the Rivanna watershed. In light of the Chesapeake Bay TMDL, it would be especially helpful to collect data about nutrients, sediment, flow, and other variables. The TAC and U.S. Geological Survey (USGS) are in conversation about possible new monitoring sites. Ms. Savage asked how many USGS stream gauges are located in the Rivanna watershed. Ms. Middleton stated that there are four or five, which monitor flow (see <http://www.rivannariverbasin.org/Rivanna-data.php>). USGS may begin monitoring nutrients and sediment at the Palmyra gauge, which may become one of the designated sites in the EPA's Chesapeake Bay TMDL model. Ms. Savage asked if chemical monitoring would also occur. Ms. Middleton replied that it would. Ms. Mallek asked if the Mechums gauge is still in place. Ms. Middleton replied that it is, and that it just monitors flow. The TAC will be reviewing possible upgrades to these gauges, and will be add recommendations to the monitoring design plan. USGS will work with the TAC to design the monitoring plan. Ms. Middleton stated that she would place links to the flow gauges on the RRBC website.

Ms. Middleton stated that the NFWF grant project work is underway. Contracts are in place with TJPDC, Center for Watershed Protection (CWP), StreamWatch, and Rivanna Conservation Society (RCS). By the end of summer, the RRBC will be installing signage at the Charlottesville High School biofilter (the first of the series of signs around the watershed). The RRBC has executed most of the project MOAs with localities. A monitoring plan is in place for Best Management Practices (BMPs). The UVA stormwater team, including some interns, will help with monitoring. Ms. Middleton will be making presentation to elected bodies and Planning Commissions starting this summer about this project and other RRBC activities.

Ms. Middleton shared a printed version of he Rivanna vicinity land cover map. The project partners, headed by Chris Bruce at The Nature Conservancy, are working to make the map available to the community. The file will be on the RRBC and TJPDC websites. This will not be a map, but will be file accessible using GIS software. The map will be used for land analysis and will be the basis of StreamWatch's land use effects study, in which land use will be correlated to biological health. Ms. Savage asked how the information could be used over the long-term. Ms. Middleton stated that the primary goal is to provide it to a variety of users. For example, Greene County has used the map in its updated Comprehensive Plan. The map is a tool for examining the correlation between land cover and other variables. The TAC could use this map to help design a monitoring program. The TJPDC may help to find funding to map the rest of the TJPDC service area (Louisa and Nelson). Ms. Mallek suggested that the map could also be used for enforcement. It can help to show what changes have been made to the land. Ms. Middleton clarified that the map was created using aerial imagery and that the aerial imagery itself could be useful for enforcement. Dr. Palmer stated that at the TAC meeting, she had asked how much it would cost to update the map, and John Murphy had replied that it could cost up to \$80K. Ms. Middleton stated that that estimate probably came from the fact that this map cost \$83K and the contractor, Worldview Solutions, spent more time than budgeted. Locality staff may be able to replicate the map (at least for Albemarle County) when new fly-over aerials are available from the state, which would reduce the cost of updating the map.

Ms. Middleton proposed sending the RRBC e-newsletter on a bi-monthly basis until the demand is higher or more staff is hired. Mr. Schmitt asked who receives the newsletter. Ms. Middleton

replied that recipients include Commissioners and all other elected officials, TAC members, Planning Commissioners, Planning, and environmental and zoning staff, county and City executives, and elected officials. Ms. Savage asked if Ms. Middleton had statistics for how many people are opening or reading the newsletter. Ms. Middleton did not have these on hand. Ms. Savage suggested sending the newsletters as needed, rather than on a fixed schedule. Mr. Dorrier stated that the newsletters are a good vehicle for public exposure and branding of the RRBC. Dr. Brown stated that Ms. Middleton should attempt to send the e-newsletter every other month, but the Commission is agreeable to less frequent mailings, if necessary.

Ms. Middleton stated that she has begun crafting the Policy Manual and plans to present a draft manual to the RRBC in August or October.

Ms. Middleton reported that there is a strong slate of candidates for the Program Coordinator position, but she has waited to make an offer until the RRBC approves the FY2011 budget. Ms. Middleton stated that in August, she would present a proposal for hiring a Watershed Planner. Dr. Palmer asked for a position description for the Watershed Planner. Ms. Middleton stated that there is not yet a position description. Ms. Middleton is seeking funding for a watershed planning initiative, which could help to support such a position. Ms. Middleton offered copies of the watershed planning grant proposal.

Ms. Middleton and the Commission thanked Ms. Brown for her work over the last six months.

**Action:** Accept Report of the Executive Director  
Mr. Schmitt moved to accept the report of the Executive Director, and Ms. Mallek seconded the motion. All were in favor, and the motion passed.

## **11. New Business**

### **a. Contract with Thayer Designs, Inc. NTE \$15K for design of two signs and construction/installation of 8 signs for NFWF project.**

**Action:** Approve contract NTE \$15K with Thayer Design, Inc.  
Ms. Savage moved to approve the contract NTE \$15K with Thayer Design, Inc., and Mr. Dorrier seconded the motion. All were in favor, and the motion passed.

### **b. Contract NTE \$5K with StreamWatch, Inc. to support Ches Bay TMDL pilot project**

Ms. Middleton stated that RRBC lacks in-house technical experience. John Murphy from StreamWatch is willing to come to TAC meetings, but cannot provide a lot of consulting without pay. Ms. Middleton requested the use of RRBC funds for consultation services with StreamWatch until a possible RRBC Watershed Planner can be hired. Dr. Palmer asked what services would be provided for the \$5K. Ms. Middleton stated that the services would include consultation, technical expertise, and data analysis, especially in relation to the development of a new watershed monitoring program and the Chesapeake Bay TMDL. Ms. Middleton will craft the contracts on an hourly basis, perhaps in \$1K increments, with a Not To Exceed (NTE) amount. Ms. Mallek supported this expenditure, stating that it is important to engage local partners like StreamWatch. Dr. Palmer asked if Ms. Middleton had an idea of StreamWatch's specific tasks or services. Ms. Middleton stated that she plans to write a contract when each task is outlined. Mr. Schmitt asked if some of this expertise could be obtained from other members of the TAC. Ms. Middleton stated

that the TAC provides general expertise, but not specific project items, such as doing an analysis or going to a meeting. There is a need at this time for expertise from StreamWatch, rather than, for example, expertise from Center for Watershed Protection.

**Action:** Approve contract NTE \$5K with StreamWatch, Inc.

Ms. Edwards moved to approve the contract NTE \$5K with StreamWatch, Inc. and Dr. Palmer seconded the motion. All were in favor, and the motion passed.

**c. Lease agreement with Thomas Jefferson Soil and Water Conservation District**

**Action:** Approve lease agreement with TJSWCD.

Ms. Middleton stated that the new lease agreement would begin on July 1. The RRBC will receive more office space, and slightly less support and resources from TJSWCD. For example, the RRBC will have to obtain a separate phone line. Dr. Palmer moved to approve the lease agreement with TJSWCD, and Ms. Edwards seconded the motion. All were in favor, and the motion passed.

**d. Review of FY 2010 End-of-Year Projection**

Commissioners reviewed the meeting materials, and there were no questions.

**e. Review of FY2011 Budget Recommendation**

Commissioners reviewed the meeting materials, and there were no questions.

**CLOSED SESSION** pursuant to section 2.2-3711(A)(1) of the Code of Virginia to discuss personnel matters:

Ms. Mallek made, with a second by Mr. Schmitt the following motion to enter into closed session:

Pursuant to the Virginia Freedom of Information Act (Section 2.2- 3711A.1 of the Code of Virginia), the Rivanna River Basin Commission authorizes a closed session for the purpose of discussion of personnel matters relating to performance review and salary discussion.

In addition, the RRBC authorized Ms. Middleton and Ms. Brown to attend part of the closed session because their presence in the closed session was deemed necessary and would aid the RRBC in its deliberations.

The vote in favor was cast by commissioners: Dr. David Brown, Mr. Joe Chesser, Mr. Lindsay Dorrier, Ms. Holly Edwards, Mr. Jim Frydl, Mr. Keith Lancaster, Ms. Ann Mallek, Dr. Liz Palmer, Mr. Robert Runkle, Ms. Roberta Savage, Mr. Carl Schmitt, Mr. Andy Wilson.

The commission entered into closed session at 1:07 P.M.

**OPEN SESSION**

At 1:37 P.M., Ms. Mallek moved, with a second by Dr. Palmer, to return to open session. The vote in favor was cast by commissioners: Dr. David Brown, Mr. Joe Chesser, Mr. Lindsay Dorrier, Ms. Holly Edwards, Mr. Jim Frydl, Mr. Keith Lancaster, Ms. Ann Mallek, Dr. Liz Palmer, Mr. Robert Runkle, Ms. Roberta Savage, Mr. Carl Schmitt, Mr. Andy Wilson.

At 1:37 P.M., Ms. Mallek moved, with a second by Dr. Palmer to approve the following certification:

The Rivanna River Basin Commission certifies that, to the best of each member's knowledge and with no individual member dissenting, at the just concluded closed session:

1. Only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed; and
2. Only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed or considered.

The vote in favor was cast by commissioners: Dr. David Brown, Mr. Joe Chesser, Mr. Lindsay Dorrier, Ms. Holly Edwards, Mr. Jim Frydl, Mr. Keith Lancaster, Ms. Ann Mallek, Dr. Liz Palmer, Mr. Robert Runkle, Ms. Roberta Savage, Mr. Carl Schmitt, Mr. Andy Wilson.

Dr. Brown stated that the Commission had decided to postpone Ms. Middleton's performance review. Commissioners will provide feedback to Dr. Brown and Ms. Mallek, who will schedule a review with Ms. Middleton.

**Action:** Approve Executive Director's Pay and Benefits Package

Ms. Mallek moved to approve the Executive Director's Pay and Benefits Package, and Ms. Savage seconded the motion. All were in favor, and the motion passed.

**Action:** Approve RRBC FY2011 Budget

Mr. Schmitt stated that it would be better to adopt a budget after the strategic planning session. Ms. Mallek replied that a strategic plan could be reflected in next year's budget. Dr. Brown added that new Commissioners joined the RRBC early this year, so it would have been difficult to conduct a strategic plan before the budget review. Mr. Schmitt noted that the FY2011 budget assumes no additional grant money. He reiterated the importance of finding more grants to support the budget. Ms. Middleton stated that she created this budget as the "worst case scenario," and that she expects to receive some grant money. If grants are received, then the RRBC can amend the budget based on that the incoming funds. Ms. Mallek stated that TJPDC establishes a budget in the spring, which is routinely updated when grants are awarded later in the year. Mr. Schmitt asked Ms. Middleton to continue the quarterly budget updates. Mr. Chesser moved to approve the RRBC FY2011 Budget, and Ms. Mallek seconded the motion. All were in favor, and the motion passed.

## **12. Unfinished business**

### **a. Research on public notices and quorums**

Ms. Middleton stated that at the last meeting, the Commission had asked her to clarify the definition of quorum. Public meetings must be noticed, but if a meeting is not for the purpose of conducting business of the Commission, then a quorum of the RRBC is not necessary.

## **13. Guest Presentation**

*The HR 3852/S 1816: The Chesapeake Bay Clean Water and Ecosystem Restoration Act (“Cardin-Cummings Bill”): What’s in it for local governments?*

Presenter: Mr. Rick Parrish, Southern Environmental Law Center (SELC)

Mr. Parrish introduced Reade Wilson, an intern for SELC. Mr. Parrish explained that the Chesapeake Bay Clean Water and Ecosystem Restoration Act, also called the Cardin bill, is a bill that was submitted in the fall of 2009. The bill is being proposed as part of a package of other “great waters” bills, centered around waterways such as the Chesapeake Bay, Puget Sound, Great Lakes, Mississippi River, and others. A package of bills related to many important waters may be more effective and easier to pass than individual bills.

Mr. Parrish distributed a handout about the bill created by the Choose Clean Water Coalition, formerly known as the Chesapeake Bay Coalition. This bill was designed to address oversights and add details that were not included in the Chesapeake Bay Program, a section of the Clean Water Act that was adopted in 1987. The original Bay Program was not very detailed and has been purely voluntary. The Program included a goal of restoring the Bay, provided EPA with legislative authority, and provided some funding. The Cardin bill will fill in details about how responsibilities should be divided between EPA and states. The bill will also provide more funding. The Cardin bill will authorize \$1.5 billion over the next 5 years for local governments in the Chesapeake Bay watershed to deal with stormwater problems. Programs may include development of stormwater regulation programs, technical assistance from the EPA, and some financial assistance. Mr. Parrish stated that he is not sure how the funds will be allotted, and noted that this is a different program from those that address agriculture and point source pollution. In order to qualify for funding under the Cardin bill, states will have to adopt as a stormwater goal that runoff from land being developed or redeveloped will mimic pre-development hydrology (i.e. forested conditions).

Mr. Parrish stated that parts of the Cardin bill address the Chesapeake Bay TMDL. A TMDL is the Total Maximum Daily Load of pollution that a water body can accommodate and still remain healthy and meet water quality standards. The EPA will determine how much pollution reduction will be necessary in for the Bay to meet water quality standards. The EPA has made a commitment that this Bay TMDL will be different from past TMDLs. The EPA has set aggressive criteria. This will be a challenge for localities, and it is unclear how much of the challenge translate to the Rivanna watershed. Mr. Parrish stated that he believes that the Rivanna challenges will not be as great because the watershed does not discharge directly to the Bay. Ms. Mallek asked if the Cardin funding would be commensurately small because the perceived impact of the Rivanna watershed is small. Ms. Mallek stated that she hopes that the higher standards set forth by the Chesapeake Bay TMDL will be an impetus for farmers in this area to fence cows out of streams. Mr. Parrish stated that the Rivanna has local TMDLs for aquatic life and recreational use. The steps that will have to be taken for the local TMDLs will probably be more rigorous than the steps that will be necessary for the Bay TMDL.

Ms. Savage asked what kind of support and sponsorship the bill is receiving and whether it will be funded. Mr. Parrish replied that he has been told that it will be a close vote. There are concerns about the funding, and there are concerns from the agriculture and building communities that this bill is one step toward a national regulatory program. Ms. Savage stated that her concern is that the bill will be passed with no funding or appropriation to make it happen. Mr. Wilson asked about the

historic failure of local TMDLs and asked how this TMDL will be different. Mr. Parrish stated that currently the Commonwealth requires Implementation Plans (IPs) to be developed for local TMDLs. VA Department of Conservation and Recreation (DCR) has a backlog of TMDLs for which IPs have not yet been developed, and the Rivanna plan has not yet been developed. The Watershed Implementation Plans (WIPs) required by the Bay TMDL will identify specific restoration actions and sources of funding. Mr. Wilson stated that perhaps the RRBC should be putting its resources toward the local TMDLs instead of the pilot project. Mr. Parrish stated that the pilot project will have a great impact, perhaps more outside of the Rivanna watershed than inside of it, but the Rivanna community can help lead the way. Ms. Middleton stated that a watershed plan could take the place of a TMDL implementation plan. This could allow the Rivanna community to begin implementation of the local TMDLs sooner. The pilot project will be a way to gain recognition for the RRBC and Rivanna watershed, as well as a way to work with other groups. Mr. Frydl stated that the pilot project could also help the community to identify larger scale problems that may not have to be solved in this particular watershed. Ms. Savage stated that the Rivanna watershed must meet the goals of the local TMDLs, regardless of whether the EPA and Virginia meet their goals for the Bay TMDL. Mr. Parrish added that the pilot project is an opportunity for the community to set its own goals. State agencies will offer certain programs to assist with Watershed Implementation Plans, but local bodies will have to determine how each reduction goal will be achieved.

Mr. Parrish stated that Virginia has a nutrient trading program for sewage treatment plants. The Cardin bill creates opportunities for more trading, including trading between states (for example, across the Potomac). Mr. Wilson asked if the Rivanna watershed would be in a position to sell credits. Dr. Palmer stated that the new treatment plant being built by RWSA, it would be able to sell credits. Ms. Mallek noted that this is assuming that the agriculture sector and other sectors meet the reduction goals. If those sectors fail, then point sources could be fined or further regulated. Mr. Parrish stated that the EPA is on schedule to finalize the Bay TMDL by the end of the year (2010). He expects that there will be an immediate challenge in court by certain sectors and possibly some states.

#### **14. Other business of interest to Commissioners**

There was no other business.

#### **15. Adjourn**

Dr. Brown had to depart at 1:55pm; therefore Ms. Mallek adjourned the meeting at 2:15pm.

#### **Attachments:**

RRBC\_Agenda\_10Jun14

RRBC\_Minutes\_10Apr15\_FINAL

RRBC\_ED\_Report\_10Jun14

RRBC\_10May\_Financial\_Report\_10Jun14

RRBC\_Proposed\_FY11\_Budget\_&\_Projected\_Year\_End\_10Jun14

RRBC\_New\_Business\_10Jun14

Cardin\_Bill\_Summary\_10Jun14