

**FINAL Meeting Minutes  
Rivanna River Basin Commission**

April 15, 2010  
6:00 pm – 8:00 p.m.  
Albemarle County Office Building – McIntire Rd, Room 235

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***Rivanna River Basin Commission (Commission) Members***

***Present:***

Dr. David Brown, Charlottesville City Council  
Mr. Joe Chesser, Fluvanna County Board of Supervisors  
Mr. Lindsay Dorrier, Albemarle County Board of Supervisors  
Mr. John E. Easter II, Thomas Jefferson Soil and Water Conservation District  
Ms. Holly Edwards, Charlottesville City Council, Vice Chair  
Mr. Jim Frydl, Greene County Board of Supervisors  
Mr. John Gooch, Fluvanna County Board of Supervisors, Treasurer  
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, Chair  
Mr. Andy Wilson, Fluvanna County Citizen

***Absent:***

Mr. Carl Schmitt, Greene County Board of Supervisors

***Others present:***

Ms. Leslie Middleton, RRBC Executive Director  
Ms. Rose Brown, RRBC Program Coordinator  
Mr. Jim Echols, VA Department of Conservation and Recreation Regional Manager  
Ms. Jerri McCormick-Ray, City of Charlottesville citizen  
Mr. Rick Parrish, Southern Environmental Law Center  
Ms. Sally Thomas, Albemarle County citizen  
Mr. Sean Tubbs, Charlottesville Tomorrow  
Ms. Erin Yancey, Thomas Jefferson Planning District Commission

**1. Call to order**

Ms. Savage called the meeting to order at 6:02 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. Approval of the Agenda**

Ms. Savage requested that the Treasurer's report be moved forward in the agenda. Ms. Mallek moved to approve the agenda, and Mr. Easter seconded the motion. All were in favor, and the motion passed.

#### **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. Fiscal Report, John Gooch, Treasurer**

3rd Quarter FY 2010 (Jan-Mar 2010)

Mr. Gooch reviewed the narrative for the financial reports. He noted that RRBC account statements, balance sheets, and reports from Mary Rice (RRBC bookkeeper) are now being sent to his office for his monthly review. He also has online access to the RRBC accounts. Mr. Gooch stated that he had met with Mary Rice and Leslie Middleton, and he commended their work in maintaining the fiscal accounts and records.

Ms. Mallek asked if the RRBC bills grantors for reimbursement at regular intervals. Ms. Middleton stated that the timing is different for different grants. The National Fish and Wildlife Foundation (NFWF) grant allowed for some funds to be requested ahead of time. Ms. Middleton therefore requested the maximum available funds. Other grants are on reimbursable basis and are billed quarterly. Subcontractors such as StreamWatch and Thomas Jefferson Planning District Commission (TJPDC) provide quarterly reports, which Ms. Middleton uses in her quarterly grant reporting. Mr. Gooch noted that in the fiscal report, the Department of Conservation and Recreation account currently has a negative balance. These project costs have been billed to the grantor, but have not yet been reimbursed. Mr. Easter referred to page 5, paragraph 20, and asked if the July – March meeting expense total of \$695 included the January – March meeting expenses of \$440. Ms. Middleton replied that it did. Mr. Easter noted that some costs were for refreshments, which have not been provided to the RRBC. Ms. Middleton stated that the refreshments were provided at certain TAC meetings.

#### **Action: Accept Fiscal Reports**

Dr. Brown moved to accept the fiscal reports, and Mr. Gooch seconded the motion. All were in favor, and the motion passed.

#### **8. Approve previous meeting minutes**

#### **Action: Approve minutes of February 18, 2010**

Dr. Brown moved to approve the minutes of February 18, 2010, and Mr. Gooch seconded the motion. Ms. Mallek abstained. All other commissioners were in favor, and the motion passed.

#### **Action: Approve minutes of February 24, 2010 (Greene County work session)**

Mr. Frydl moved to approve the minutes of February 24, 2010, and Ms. Savage seconded the motion. Mr. Frydl and Ms. Savage were in favor, and the motion passed. All other commissioners abstained.

**Action: Approve minutes of March 15, 2010 (Fluvanna County work session)**

Mr. Gooch moved to approve the minutes of March 15, 2010, and Mr. Chesser seconded the motion. Mr. Gooch, Mr. Chesser, and Mr. Wilson were in favor, and the motion passed. All other commissioners abstained.

**Action: Accept minutes of March 22, 2010 (Albemarle County work session)**

Ms. Mallek accepted the minutes of March 22, 2010. All other commissioners abstained.

**Action: Approve minutes of March 31, 2010 (Charlottesville work session)**

Ms. Edwards moved to approve the minutes of March 31, 2010, and Dr. Brown seconded the motion. Ms. Edwards, Dr. Brown and Mr. Lancaster were in favor, and the motion passed. All other commissioners abstained.

Mr. Easter noted that a determination of quorum was missing from the March 31 minutes. Dr. Brown asked if these smaller meetings must be called to order as official meetings.

Ms. Middleton stated that the RRBC does have to provide notice of public meeting, but she was not sure if the meetings have to be called to order. Ms. Middleton will ask an attorney give a recommendation. She noted that the Albemarle County meeting was not an official meeting, and therefore did not require official minutes, because only one commissioner was present. Ms. Savage stated that it is good that the RRBC has been erring on the side of caution.

Ms. Middleton noted that the February 18 minutes contained a summary cover sheet. This was an attempt to create a short form with important information that could be conveyed to elected bodies or passed out at other meetings. This sheet also notes decisions made by the Commission as well as directions to staff. Ms. Mallek and Dr. Brown stated that it is an excellent form for communicating. The Commissioners asked Ms. Middleton to provide to all Commissioners this type of meeting summary as a PDF file as soon as practical after each meeting for use by Commissioners. The Meeting Summary will be a separate document from the regular meeting minutes, which are by their nature longer and more detailed. Meeting Minutes will still be reviewed and approved by Commissioners at each subsequent meeting.

## **9. Report of the Chair**

Ms. Savage stated that Rivanna Conservation Society (RCS) and Greene County staff recently conducted a buffer planting in Greene County Park. More than 50 volunteers planted trees to help manage stormwater. Ms. Middleton noted that this was a kick-off event for the larger Greene County Park project, which will include the construction of a bioswale using NFWF funds.

Ms. Savage reminded Commissioners that at the previous meeting, the RRBC approved a Nominating Committee composed of Mr. Wilson, Ms. Edwards and Ms. Savage. At the

beginning of April, the Nominating Committee recommended the following slate of officers: David Brown as Chair, Ann Mallek as Vice Chair and John Gooch as Treasurer. Nominations for the Executive Committee have not yet been determined.

**Action:** Elections of officers and Executive Committee members

Mr. Easter moved to accept the recommendations of the Nominating Committee, and Mr. Chesser seconded the motion. All were in favor and the motion passed. Ms. Savage thanked and welcomed the new officers.

**10. Guest Presentation:** Mr. Jack Frye, Director, Division of Soil & Water, Department of Conservation and Recreation (DCR)

*Chesapeake Bay TMDL and Virginia Stormwater Regulations: What's Ahead for Local Governments?*

Ms. Savage noted that Sean Tubbs from Charlottesville Tomorrow was in attendance and that the presentation would be recorded.

Ms. Middleton stated that she had asked Mr. Frye to speak with the RRBC about the stormwater regulations and the TMDL and encouraged Commissioners to ask questions during the presentation. Mr. Frye has been with the Virginia Department of Conservation and Recreation (DCR) for 29 years. He holds degrees in geology and oceanography. Among other responsibilities, his division at DCR is responsible for the guidance and coordination of the Chesapeake Bay pilot projects (one of which includes RRBC) and will be responsible for the implementation of the Chesapeake Bay TMDL in Virginia.

Mr. Frye thanked the RRBC for the invitation and noted that Jim Echols from the DCR Staunton Regional Office was also in attendance.

Mr. Frye gave an overview of the status of stormwater regulations. There have been a lot of concerns about these regulations, primarily in the development community. Governor Kaine signed the final regulations in 2009. After petitions were received, the regulations were suspended and returned for public comment. The Soil and Water Conservation Board met in March 2010 and decided to keep the regulations in suspension. New legislation in 2010 requires that the Chesapeake Bay TMDL must inform these stormwater regulations. Per the 2010 legislation, the Virginia stormwater regulations (Parts I, II, and III) “shall become effective within 280 days after the establishment by the United States Environmental Protection Agency of a Chesapeake Bay-wide Total Maximum Daily Load (TMDL), but in any event *no later than December 1, 2011.*”

Mr. Frye stated that he was not sure when a public process might start up again. Factors that will be considered in the regulations are water quality improvements, water quantity, local programs, and fee regulations. The suspended regulations only addressed phosphorous loads. However, the Chesapeake Bay TMDL will require reductions in nitrogen, phosphorous and sediment. Thus, the revised stormwater regulations may now have to be revised again to address nitrogen and sediment. Permit fees (for new construction) have been set. They vary based on the size of

the site being developed, with an attempt to generate enough funding to run the (stormwater) program. Ms. Mallek asked about the structure of the fees, and whether a portion of the fees would go to DCR. Mr. Frye replied that initially, the fee was being set by the state. The last revision of the regulations allowed local government to *raise* the fee with justification provided to and approved by the Soil and Water Conservation Board.

Mr. Frye stated that these regulations encourage a new paradigm for stormwater management, in which communities will need to reduce impervious surfaces, may get credits for rainwater capture and harvesting as well as credit for pollution reduction achieved through volume reduction. Mr. Lancaster asked if DCR would set a standard for infiltration rate in soil tests. If developers compact soil but then install pervious pavers, the stormwater benefit may be reduced. Mr. Echols offered that DCR has not set such a rate and is looking more at overall project design on a project-by-project basis. Some paver designers incorporate slow percolation in the design. On other side of the Blue Ridge Mountains, karst areas are a challenge. Draft Best Management Practices (BMPs) deal with particular situations.

Mr. Frye offered the example that in areas of heavy clay, BMPs tend to focus on bottom drain, storage and filtering methods, rather than infiltration. Mr. Frydl stated that he attended a meeting in which DCR provided a list of prescribed options. In theory, each of those reduces impact, but each may be more useful in different situations. There does not seem to be an effective way of determining impact per the amount of money spent on each BMP. Without pre-sampling, different BMP features are put in without knowing the expected outcome. Mr. Frye replied that the regulations and BMPs are evolving. For example, wet ponds are now rated in several tiers depending upon design and efficiencies. DCR is keeping the traditional BMPs and also trying to enhance them. Commercial products are becoming increasingly available, and DCR is trying to offer some of these as options. Mr. Frydl stated that the prescribed list is based on the amount of impacted soil. He would like to see these BMPs targeted more effectively. Mr. Frye replied that a site could be beside a stream or half a mile from a stream. There is currently not a question about that in the regulations, but he hopes that will be taken into consideration in the future.

Mr. Frye also stated that since the regulations are currently suspended, an advisory group might be assembled soon, which can be informed by the Chesapeake Bay TMDL process. There should be a parallel process to address the issues of nitrogen, phosphorous and sediment. Mr. Frydl stated that he has heard that if phosphorous is removed by a BMP, other contaminants will also be removed. Mr. Frye replied that, in general, if you treat for one, you're treating for all.

Mr. Frydl asked if the local management program would have to provide a percentage of the fee to DCR. Mr. Frye replied that DCR has developed a fee structure based on how much it will cost localities plus how much it will cost the state to run the stormwater program. If the Soil and Water Conservation Board approves a local program, 72% of the fee will be retained by locality.

Mr. Frye then reviewed the Chesapeake Bay TMDL process. In 2000, per consent decree, the EPA allowed the Chesapeake Bay states to attempt a voluntary cleanup of Bay. States achieved about 2/3 of the goals set. Now, because the Bay is interstate water and drained by multiple jurisdictions, the EPA is now overseeing this TMDL. The Chesapeake Bay TMDL target goals

may have to be adjusted to meet local water quality standards. The TMDL is focusing on both point and non-point sources. Waste Load Allocations (WLA) will be made for point sources, and Load Allocations (LA) will be made for non point sources.

Mr. Frye also reported that since 2000, Virginia has completed almost 700 TMDLs. Ms. Savage asked how many of those 700 are in the implementation phase. Mr. Frye replied that approximately 96 segments have implementation plans or are in active implementation. Localities frequently bundle several segments into one implementation plan.

Mr. Frye displayed a graph showing progress in nutrient and sediment reductions from 1985 - 2008. Bay states must still reduce 1 million pounds of nitrogen per year. Phosphorous reductions will be similar. Mr. Frydl asked what the model based on. Mr. Frye stated that numbers are generated by putting practices on the ground and then calculating the effect. One difficulty is the delay in response; if you stop putting nitrogen on the ground today, when will water quality be reduced? Mr. Brown asked how 1 million pounds per year would be divided into point and nonpoint sources. Mr. Frye stated that it is the task of DCR. Approximately 21 million of the 59 million pounds is already assigned to wastewater treatment plants. The rest will have to be assigned to other sectors. The Stakeholders Advisory Group (SAG) is advising the Commonwealth on how best to allocate the loads among sectors [e.g., agricultural nonpoint source, confined feeding animal operations (CAFOs), industrial stormwater].

Mr. Frye explained that perhaps the most important aspect of the TMDL is the cap. Load levels will have to be obtained by 2025, but also maintained indefinitely. Mr. Frydl asked if it was possible to factor in changes such as growth. Mr. Frye replied that the model does attempt to deal with growth projections, changes in development, agricultural lands, and forestlands. The model is only as good as the projections. It is difficult to predict which sources (such as wastewater, agriculture, forestry) will become most important. States must provide reasonable assurance (enforceable or otherwise binding) that the implementation plan will perform the way it is supposed to, i.e. achieve the intended results.

Mr. Frye reviewed the schedule for the TMDL process. The model (Chesapeake Bay Model 5.3) is being recalibrated by EPA's Chesapeake Bay Program in Annapolis, which may take two months. The schedule is thus likely to be pushed back. Mr. Echols asked if sediment loads were available yet, and Mr. Frye replied that they are not. The model is being corrected so that these loads can be provided. EPA will evaluate the States' progress every 2 years, based on milestones that are written into the TMDL. States must meet 60% of the goal by 2017. If states do not meet milestones, the consequences might include lower levels of permitting (e.g., reductions in numbers of CAFOs permitted). The consequences will probably have meaningful impact on Municipal Separate Storm Sewer System (MS4) permits.

Mr. Frye reiterated that this is not a voluntary process. Local governments control land use, but the Bay TMDL takes into account land management (plowing vs. continuous no-till). These decisions can most effectively made and implemented at the local level. Accountability at the local level is also important. Mr. Frye referenced a project in Richmond County that studies land use and land management, and gives estimates of loadings and locations where improvements could be made. If development must occur in one place, this project helps determine where more

reductions can be made to maintain a load level.

Mr. Dorrier asked if the state would provide incentives for BMPs. Mr. Frye replied that the state has provided incentives in the past, and he hopes that when the budget cycle improves, incentives will increase. Additional resources for these projects are possible if local governments demand it. The state needs local engagement and commitment to succeed. This TMDL is a way to get local ownership. The implications and consequences are going to be at a local level.

Ms. Savage stated that when the RRBC became engaged in proposing the potential pilot project, there was the expectation that there might be funding. Mr. Frye stated that pilot projects would receive some facilitation and technical support. Ms. Middleton said that she has been told that the Rivanna region might also receive a mini-grant. The RRBC made a specific cash request in the pilot project proposal.

Ms. Mallek asked if a template would be provided, and if the pilot projects will have use of the model. Mr. Frye replied that pilot projects will receive both, and DCR will also be working with localities on source allocations.

Mr. Frydl stated that regardless of how well the stormwater regulations are implemented, they will affect economic development and will increase the time for approval of new development projects. Mr. Frye replied that this is why DCR is encouraging localities to establish local programs. If DCR has to run the stormwater programs, new development projects would have to be reviewed by local government and DCR, and revisions would also have to pass through both.

Mr. Lancaster stated that engineering staffs often outsource review to other professionals, and asked if this would help to make the stormwater programs more efficient. Mr. Frye replied that local governments could hire out plan review and site inspection. It is likely that DCR will also have to hire out that work for the programs that it manages. Ms. Mallek asked who would conduct the certification of these contractors. Mr. Frye replied that local government would have to certify their own contractors. DCR will work with an outside group that will audit local programs and DCR programs. Contractors may be certified as individuals, similar to the way erosion and sediment inspectors are currently certified.

Ms. Savage and the other Commissioners thanked Mr. Frye for his presentation.

Mr. Parrish stated that it is important to remember that the Rivanna regional project must be designed to restore the Rivanna itself. The Chesapeake Bay TMDL goals will likely not be enough for local restoration.

Ms. Thomas stated that as a member of the Bay TMDL Virginia Stakeholders Advisory Group (SAG) she reminds the state and EPA to not forget local governments. This project will be a way for local governments to work on water quality together.

Dr. Palmer asked if bacteria TMDLs have been linked primarily with livestock. Mr. Parrish replied that livestock are a common source. The main implementation measure is fencing cattle

out of streams and handling livestock waste more responsibly. Dr. Palmer stated that it would be interesting to calculate how much this costs the localities in the process.

Dr. Palmer asked how the Rivanna region would get target loads for the Rivanna watershed. Mr. Parrish replied that the EPA would provide them. Mr. Parrish noted that the Rivanna watershed has sediment TMDL. Ms. Savage stated that if the Rivanna watershed can meet the requirements of the sediment TMDL and other local TMDLS, we might automatically meet the requirements for the Bay TMDL. Mr. Parrish and Ms. Savage stated that if the EPA's consequences are focused on point sources, a lawsuit might ensue. Ms. Mallek noted that the region would receive credit for actions taken between now and the implementation of the Bay TMDL. There are ways to portray the benefits of doing the conservation practices. For example, the Farm Bureau news recently suggested to farmers that there are a lot of financial benefits to keeping animals out of streams.

## **11. Executive Director Report**

Ms. Middleton reviewed the Executive Director Report.

Ms. Middleton recently attended a useful meeting with the Executive Directors of TJPDC, StreamWatch, and the Rivanna Conservation Society about the roles of each group with respect to Rivanna activity. From these discussions, it is apparent that one niche role of RRBC is to undertake watershed planning.

Ms. Middleton noted that the e-newsletter would be sent monthly. She also reported that Rose Brown would not continue as Program Coordinator after June. Ms. Middleton will be hiring a replacement.

Ms. Middleton stated that the Chesapeake Bay TMDL pilot project is under way. Frank Dukes from Institute for Environmental Negotiations (IEN) will be providing facilitation support. The first meeting, scheduled for April 27, will include Thomas Jefferson Soil and Water Conservation District (TJSWCD), Culpeper Soil and Water Conservation District (CSWCD), TJPDC, and RRBC. The meeting will focus on bringing together all stakeholders, primarily local governments. Ms. Middleton welcomed Commissioner involvement. Mr. Frydl asked if the scope of the project has changed now that there is not a grant. Ms. Middleton replied that each of the partners would have to come to the table with their own resources. The lack of funding will shift what the pilot project can do, and DCR and EPA know this. One exercise of the pilot project is to examine what pollution control practices are already being used in this region. The pilot project may enable the region to receive earlier or greater resources in the future. The partners will look at resources and identify what is lacking for a truly effective implementation. Ms. Middleton stated that the time she devotes to this pilot project would be charged to TNC operating funds. This will be part of the new budget, which will be discussed at the next RRBC meeting. Ms. Middleton is optimistic that this will yield rewards down the line. The region will receive tools and a structure for deliberations that can lead to cooperative ways to clean up our local waters.

## **12. Technical Advisory Committee Report (none this month)**

## **13. New Business**

Ms. Middleton asked for approval for RRBC to take on the task of watershed implementation planning for Rivanna. Although the community is very active in the protection of the Rivanna, a contemporary guidance document does not exist – one that can replace the 1998 *State of the Basin Report*. The community needs a document that reflects the current sophistication of the community, including identification and prioritization of the threats, and identification of the different groups active in the watershed. The RRBC is already working on many components of this. Steps of creating a watershed plan are: build partnerships, characterize the watershed, identify goals and solutions, design implementation plan, measure progress, make adjustments. The first step will probably be to review the recommendations in the *State of the Basin Report* and determine the current status of those recommendations.

There is a current Request for Proposals from National Fish and Wildlife Foundation (NFWF) that would provide funding for watershed planning. Ms. Middleton requested approval from the RRBC to apply for that funding. (The deadline is May 17.) Some of the work for the TMDL pilot program will feed into this. Dr. Brown asked if there is a reason why the RRBC would not want to do this. Ms. Middleton could not think of any reason. This watershed plan would strengthen the RRBC and help with future activities. It can be a stakeholder-driven process and will help the RRBC and partners to strategically seek funding. Mr. Lancaster asked if the long-range plan would involve localities adopting the plan as part of their Comprehensive Plans. Ms. Middleton stated that it will not be that kind of document, but it will identify roles for local governments. Mr. Chesser stated that counties could mention it in the Comprehensive Plans, and it could be a guide for ordinances.

**Action:** Dr. Brown moved to direct Ms. Middleton to seek funding for the development of a comprehensive Plan Rivanna Watershed plan. Ms. Mallek seconded, all were in favor, and the motion passed.

## **14. Unfinished business**

Ms. Middleton stated that a number of Commissioners requested a change from Thursday evening meetings. All Commissioners are willing to meet on 2nd Mondays from 12 p.m. – 2 p.m. Commissioners are willing to meet every other month. Most commissioners prefer to meet in Charlottesville, with occasional meetings in outlying areas. Most commissioners would like locality work sessions about two times per year. Ms. Middleton recommended that meetings occur in June, August, October, December, February, and April. She recommended that the next meeting occur on June 14. Dr. Brown stated that the RRBC has more to discuss than the current meeting schedule allows, and that the new meeting schedule will allow the RRBC to deal with more policy issues. Ms. Mallek asked if TAC meetings would be monthly. Ms. Middleton stated that the TAC meets four to five times per year. The more guidance that the RRBC provides to the TAC, the easier it will be for the TAC to move forward in supporting the RRBC. Ms. Mallek noted that more frequent meetings would also allow for more presentations.

**Action:** Commissioners agreed to meet every other month on the 2nd Monday, from 12 p.m. – 2 p.m.

Ms. Middleton explained the insurance information provided in the packets. Ms. Middleton made inquiries and obtained reasonable quotes from four insurance organizations. Alliant and VANNO were more accustomed to working with 501(c)3 nonprofit, tax-exempt entities. Ms. Middleton recommended VaCO because of their familiarity with local government and commissions. Dr. Brown asked if VaCO insures similar organizations. Ms. Middleton replied that they do. Dr. Brown stated that it makes sense to choose a company that is experienced. Ms. Middleton stated that the RRBC must execute an agreement in order to sign up with VaCO

**Action:** Mr. Wilson moved to select VaCO as the RRBC insurer, and Dr. Brown seconded the motion. All were in favor and the motion passed.

**Action:** Mr. Chesser moved to adopt the member resolution to join VACoRP insurance risk pool, and Dr. Brown seconded the motion. All were in favor, and the motion passed.

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

There were no other items of business.

#### **16. Adjourn**

Ms. Savage adjourned the meeting at 8:07.p.m.

#### **Attachments:**

RRBC\_Agenda\_10Apr15  
RRBC\_Meeting\_Highlights\_10Apr15  
RRBC\_Minutes\_10Feb18  
RRBC\_Minutes\_10Feb24  
RRBC\_Minutes\_10Mar15  
RRBC\_Summary\_10Mar22  
RRBC\_Minutes\_10Mar31  
RRBC\_Nominating\_Committee\_Slate\_of\_Candidates\_10Apr15  
RRBC\_ExDirReport\_10Apr15  
RRBC\_ED\_PowerPoint\_10Apr15  
RRBC\_Financial\_Report\_10Mar31  
Jack\_Frye\_presentation\_10Apr15  
RRBC\_BayTMDL\_Info\_10Apr15  
RRBC\_Insurance\_10Apr15  
RRBC\_VACoRP\_Insurance\_Resolution\_10Apr15