

Clean Water and Flood Abatement Task Force

Thursday, January 25th, 2015

1:00 pm – 3:00 pm

Buena Vista Conference Center-Buck Library

Meeting Attendance

Task Force Members:

Present:

Senator Bryan Townsend
Representative Michael Mulrooney
Senator Bryant Richardson
Representative Ronald Gray
Secretary Jennifer Cohan
Secretary David Small
Holly Porter
Thomas Unruh
Jeffrey Bross
Roy Miller
Howard Morrison
Patty Cannon
Brenna Goggin
Lew Killmer
Jen Adkins
Joseph Corrado
Michael Riemann
Paul Morrill
Gerald Kauffman
Gerard Esposito
Dian Taylor
Robert Baldwin

E-mail:

Bryan.Townsend@state.de.us
Michael.Mulrooney@state.de.us
Bryant.Richardson@state.de.us
Ronald.Gray@state.de.us
Jennifer.Cohan@state.de.us
David.Small@state.de.us
Holly.Porter@state.de.us
townsendunruh@aol.com
Jeff@duffnet.com
policy@inlandbays.org
lmorrison@countyrp.com
Patricia.Cannon@state.de.us
brenna@delnature.org
lew.killmer@mac.com
jadkins@delawareestuary.org
JCORRADO@CORRADO.COM
mriemann@beckermorgan.com
pmorrill@committeeof100.com
jerryk@udel.edu
jesposito@tuiwater.com
dtaylor@artesianwater.com
robert.baldwin@dacdnet.org

Absent:

Sam Lathem
William Lucks
Christine Mason
George Haggerty
Gina Jennings
Thom May
Bruce Jones
Andrew Jakubowitch

lathem.de.aflcio@comcast.net
wlucks@wlucks.com
christine@sussexshoreswater.com
GOHaggerty@nccde.org
gjennings@sussexcountyde.gov
Thom.May@state.de.us
bjones@pennoni.com
Andrew.jakubowitch@co.kent.de.us

Minutes prepared by Caitlyn Gordon, Legislative Aide

Minutes reviewed by Michelle Zdeb, Legislative Assistant & Task Force Staffer

Staff:

Michelle Zdeb
Caitlyn Gordon

Michelle.Zdeb@state.de.us
Caitlyn.Gordon@state.de.us

Attendees:

C.S Kinder
Pam Bakerian
Doug Hokuf

Organization:

FSMHA
DE Farm Bureau
NCC

The Task Force meeting was brought to order at 1:08 pm.

Consideration of Meeting Minutes

Senator Bryan Townsend, Co-Chair, thanked everyone for coming to the Task Force meeting even in the snow storm. Senator Townsend asked if Task Force members had changes for the November 19th Meeting Minutes.

Gerard Esposito, Delaware State Chamber of Commerce, noted that on page 7, Bruce Patrick stated an acronym that was written in the minutes incorrectly. The acronym was written as “CSR” but should be written as “SRF” (State Revolving Fund).

Senator Townsend asked for a motion to approve the November 19th Meeting Minutes as amended.

Paul Morrill, Committee of 100, motioned to approve.

Brenna Goggin, Delaware Nature Society, seconded the motion.

The Meeting Minutes from November 19, 2015 were approved unanimously.

Senator Townsend also referenced the resolution for the Task Force extension to March 31st, 2016, which the General Assembly passed last week.

The Senator announced the future meeting dates for the Task Force:

- February 9th Buena Vista 2:00 PM – 4:00PM
- February 22nd Buena Vista 2:00 PM – 4:00PM
- March 1st Buena Vista 2:00 PM – 4:00PM
- March 17th Buena Vista 10:00 AM – 12:00PM

Delaware Business Roundtable Presentation

Senator Townsend moved the discussion onto the second item on the agenda and invited Dian Taylor to present on behalf of the Delaware Business Roundtable.

Please see the presentation the Task Force members received below:

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- SCR 30 was passed creating a Task Force directing that members “study and make findings and recommendations regarding ways to improve water quality and alleviate funding in Delaware”. After six months of meetings and discussions, some members of the Task Force propose that we recommend to the General Assembly that it enact legislation similar to the bill which was circulated last spring but never introduced in the General Assembly. This draft legislation proposes a fee or tax to be collected, the revenues from which would be dedicated to a trust fund to be administered by an appointed board.
- As the Delaware Business Roundtable’s representative to the Task Force, I will be discussing this matter with our Executive Committee and other members. Among the concerns I plan to raise with them are the following:

1. Water quality and flooding issues should be addressed in Delaware, particularly those that interfere with economic development. However, the Bond Bill has long been the primary mechanism for funding such capital improvements. These critical financial decisions should be made directly by elected representatives who are accountable to the taxpayers, not by an independent board.

2. Any additional revenue-raising mechanism that is created – whether based on collection of a fee or a tax – should support the State General fund, not a fund dedicated to a special purpose. The recent layoffs at DuPont and pending merger with Dow Chemical only serve potentially to exacerbate the state’s existing structural deficit, and addressing the General Fund structural deficit should be our fiscal priority.

3. I will encourage the Roundtable Executive Committee to review additional information, such as how many states utilize such special funding mechanisms for water quality, their experience since implementation and their impact on businesses and residential consumers. If legislation is introduced in the General Assembly, the Roundtable and its Executive Committee will determine the extent to which it chooses to comment regarding specifics of the proposed legislation at that time.

- No one disputes there is need for improved water quality, storm water and sewer treatment facilities throughout the state. However, in my personal opinion, the primary focus – particularly at a time when prudent stewardship of state finances is critical – should be for continued local funding for such projects, coupled with the possibility of state and federal grants.

Group Discussion

Patty Cannon, Delaware Economic Development Office, asked if the Roundtable had suggestions for the current infrastructure and WIAC (Water Infrastructure Advisory Council).

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Ms. Taylor replied that if the legislation is actually introduced, the Roundtable would take their position.

Senator Townsend referenced Ms. Taylor's comments at their previous meeting regarding the length of service of WIAC numbers. He asked if these comments were made by Ms. Taylor representing Artesian or Ms. Taylor representing the Business Roundtable.

Ms. Taylor answered that a portion of her comments were made on behalf of Artesian and a portion were made on behalf of the Business Roundtable. She added that the Roundtable believes the statements that Ms. Taylor presented during this meeting are clear as an approach to fixing the State's clean water and flood abatement problems.

Representative Ronald Gray asked for Ms. Taylor to elaborate on why the Business Roundtable prioritizes funding the General Fund as opposed to putting funds into a lockbox. He added that the lockbox will ensure the funds are only being used for their specific purpose.

Ms. Taylor replied that the point of her statement backing the use of the General Fund is that the critical financial decisions should be made directly by elected representatives who are accountable to the taxpayers; the financial decisions should not be made by an independent board.

Ms. Cannon asked Ms. Taylor if she was suggesting that the Bond Bill Committee look at this funding and decides where to distribute it each year.

Ms. Taylor answered that assigning the Bond Bill Committee to access these funds is the best decision.

Representative Gray noted that a General Fund would be distributed throughout the entire State budget instead of being distributed to fix the issues that the Task Force is addressing. Representative Gray asked Ms. Taylor to speak on behalf of Artesian and answer whether or not she would support the usage of a General Fund or a lockbox.

Ms. Taylor answered that there is a need for funding and there are better alternatives than what the proposed legislation states. She continued to say that Artesian is committed to conservation initiatives, wastewater initiatives, and environmental initiatives. Artesian is prepared and willing to explore alternative ways to solving the State's clean water and flood abatement issues.

Representative Gray replied that his personal view is that the legislation should create a lockbox to keep track of the funding. He added that he agrees with Ms. Taylor that forming a board to address the financial decisions should not prevail over asking elected officials to delegate the funding.

Ms. Taylor asked how a lockbox would enable the State to keep track of the funds.

Representative Gray answered that a General Fund gets dispersed across the whole State budget and there is no way to track it.

Ms. Goggin asked Ms. Taylor what her other ideas are for dispersing the funds because the Task Force has determined that there are a lot of needs within the State that a General Fund could not address.

Ms. Taylor noted that she laid out a few during her presentation. She continued to say that the lockbox approach in the legislation is not the right approach, and that there are better alternatives.

Joseph Corrado, Delaware Contractors Association, noted that he has an alternative opinion and would like to give a background on some things that have occurred since the last meeting the Task Force had. Himself, Jeffery Bross, Paul Morrill, and Gerard Esposito, all members, have had several meetings together, to gather information on what different stakeholders would prefer in terms of the legislation that comes out of the Task Force. Some of these stakeholders included Rich Heffron, The Business Roundtable, Congressman John Carney, and Collin O'Mara. This group talked about where the Task Force is going and what the current language of the legislation states.

After meeting with various stakeholders, Mr. Corrado, Mr. Bross, Mr. Morrill, and Mr. Esposito strongly agree that whatever is done should be a dedicated fund. A dedicated fund is the only way to address all of the infrastructure problems that the State has. These four individuals believe that if a property tax is not applicable, the Task Force should consider implementing a flat fee dedicated across the board for residents, businesses, and farmers.

A flat fee is an alternative to property taxes that would penalize businesses that have more than one location. After meeting with the Chamber and the Business Roundtable, this group of stakeholders came to a general consensus that a property tax is not the right decision but the State should find another way to fund projects and initiatives to fix the State's water issues.

The bottom line is, Mr. Corrado, Mr. Bross, Mr. Morrill, Mr. Esposito, Congressman Carney, and the other stakeholders that they spoke with all agreed that funding for infrastructure is necessary. The basic questions the Task Force is faced with at this point are how the State will fund infrastructure and how much money should be allotted for statewide projects. Additionally, the group received feedback from farmers who expressed zero interest to contribute anything.

Mr. Morrill elaborated on Mr. Corrado's statements. He referenced the past Task Force meetings and how the idea of implementing a statewide property tax was viewed unfavorably by a majority of Task Force members and public attendees. Because of this, he, Mr. Esposito, Mr. Corrado, and Mr. Bross looked for alternatives. The alternative that made the most sense, was to add a small fixed cost on water bills. For equity purposes, the State

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could implement a mechanism through the well permits at DNREC to apply this same fixed charge set on well owners.

However, this does not answer the question on whether there should be a dedicated fund or not. However, if it is not a dedicated fund Mr. Morrill stated that the Task Force is wasting their time. He added that starving infrastructure to solve the General Fund financing gaps is not the answer. If the legislation includes a reasonable revenue stream, and a lockbox, the Task Force's decision will have more public support. There is reluctance from the public to give the State government more money, and dispersing the money to a General Fund will not be favorable for the State as a whole for this reason.

Jeffery Bross, Water Infrastructure Advisory Council, added to Mr. Morrill's comments. He noted that there are some real challenges because there is not a general consensus amongst a lot of the stakeholders for this legislation. He added that when the State had a robust Bond Bill, with \$8-10 million each year being put into it, the General Assembly was in charge of delegating the funds. When this happened, several hundred projects were being funded yearly. However, a couple years ago when the bond funded general revenue ceased, the State was left with hundreds of half funded projects that were not going anywhere. Only when the General Assembly gave WIAC and DNREC (Department of Natural Resources and Environmental Control) the ability to collapse all funding and reprioritize it, did the money get spent.

Mr. Bross expressed concern that if the State was to return to a funding system for water projects, similar to the one they previously used, then they will be faced with the same issues.

Mr. Morrill further noted that the money that had been appropriated to water or drainage issues in the past 25 years was from the 21st Century Fund, which had been an extraordinary circumstance. Never has the State appropriated funds for water infrastructure from their own funds. He added that the notion the State will find resources in the General Fund to provide cash to the Bond Committee to fund water infrastructure projects is a longshot at best.

Mr. Bross further added that what becomes apparent is that there is a large structural deficit. However, somehow water infrastructure needs should be put on the pile with the other State needs in order to get addressed. The quality of life, jobs, health, and safety will all improve with water infrastructure projects. Water is a very basic need, and not having flooding is a basic need. Somehow, the State needs to address its water problems. WIAC does not have the absolute best way to do it, but dedicated funding will be a positive step in the right direction. The reality is that the State has needs that are not being funded. Mr. Bross noted that the federal government is cutting back on the money they give to the State, which is currently around \$14 million per year. Most years, the General Assembly has matched between \$2-5 million per year. If the federal match is to go away, and the need stays the same, the State will have to fill that hole.

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Senator Townsend asked Task Force members not to back away from any of their beliefs on this issue, whether it is pro-action or anti-action. He also noted that whatever the ultimate movement is, the group should come together on what its recommendations are.

The Senator referenced Mr. Bross' point about the structural deficit and the Delaware Competes Act. He further noted that he was the only Senator to vote no on the legislation. The Senator stated that he is not sure how many Senators down in Dover are thinking of serious structural deficits. Senator Townsend added that there are big needs and issues this year in Delaware, and the State needs to come together and address change.

Secretary Jennifer Cohan, Delaware Department of Transportation, added that coming from an agency that has been reliant on funding year after year, depending on what was happening with the General Fund some years DelDOT (Delaware Department of Transportation) would get less than other years. She noted that it is virtually impossible to do long-term strategic planning based on a fluctuating revenue source.

Ms. Taylor responded that she coordinates long-term plans with DelDOT all of the time, and they budget around those initiatives.

Ms. Cohan responded that when planning, DelDOT cannot include \$40 million in escheat revenue, because they don't know if they will receive it every year.

Ms. Taylor noted that there are a lot of people in the State that are aware of the legislation as it reads now. However, not one person in the Task Force is debating on how the legislation is currently written.

Senator Townsend clarified that there was a meeting in Dover when Ms. Taylor was not able to attend, where the Task Force was in the midst of a discussion on how to change the legislation. Since then, the Task Force has been working on tweaking those specific parts of the legislation. He added that Ms. Taylor's comments have had a huge impact on the members' and public's willingness to talk about issues with the legislation or offer alternatives.

Ms. Taylor asked who has been working on changing the legislation.

Senator Townsend replied that Mr. Corrado, Mr. Bross, and Ms. Taylor have all expressed their opinions on how the language of the legislation could change.

Mr. Morrill responded that thus far, the Task Force has just been taking everyone's temperatures before members start to make actual changes to the legislation. He referenced a model that he has looked at, which has a project prioritization system that puts projects together like WIAC does, and then a project list gets included with Bond Bill. There system involves legislative oversight, without individual legislators creating individual projects. Mr. Morrill mentioned that himself, Mr. Bross, Mr. Esposito, and Mr. Corrado heard members react to the legislation; they have started to think about how the legislation could change.

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Senator Townsend referenced the last meeting, where the underlying question was what the governance structure looked like, what the source of the revenue was, and how much money to aim for. The governance structure was also open for discussion, and the source of revenue was not tied down. The idea for the amount of revenue was not decided either.

Mr. Bross replied that the other issues the Task Force discussed were the trustees that were envisioned in the legislation. He added that shrinking the number of trustees would make the legislation different. Additionally, he stated that the proposed bill needed a lot of changes, because it is too expansive.

Ms. Cannon felt that coming from someone who has not been involved with WIAC at any level before this Task Force, the first version of the bill the group has seen was a straw man. It laid out some of the ideas that the Task Force has discussed, based off of previous work the State has done. However, Ms. Cannon stated that she did not see the legislation as something the Task Force would definitely move forward with. She also thanked Senator Townsend and Representative Mulrooney for giving the Task Force a real voice, where the members have had a great opportunity to express their opinions.

Ms. Cannon also asked about the examples from New York (NY) that members wanted to look at during previous meetings. Ms. Cannon stated that if WIAC is not broken, then maybe the Task Force should work to perfect it. She continued by saying that a different structure may actually protect WIAC in the long run. Additionally, DelDOT's solution was not a single revenue source. Maybe the Task Force should make a list of revenue sources to resort to when a project cannot get funding.

Mr. Corrado replied that the NY entity is called the Environmental Facilities Corporation (EFC). This entity is an authority that controls most of the revenue and funding for water projects in NY. This NY entity was something that Collin O'Mara studied when coming up with legislation for Delaware's water infrastructure problems.

He noted that regardless of what consensus the Task Force comes to, he would urge that from an operational point of view, this Task Force does not interfere with WIAC's performance. For the several years that WIAC has existed, it has done great work.

Secretary Cohan noted that DelDOT's structure includes the Council on Transportation to look at what DelDOT is doing and how they do it. Then, this analysis goes to Bond Bill and the entire General Assembly. On the funding side, they sought to increase the gas tax, which was extremely unpopular. Secretary Cohen added that if the Task Force does decide to implement some sort of tax, try to make it as painless as possible.

Holly Porter, Department of Agriculture, clarified whether or not the EFC water projects are more infrastructure based, conservation based, or AG related.

Mr. Corrado replied that there are both conservation projects and infrastructure projects. He explained that a lot of the revenue is based off of millage, a property tax, but they also

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take advantage of other revenue streams. They use the federal SRF (State Revolving Fund) as well.

Senator Bryant Richardson asked where EFC gets their funding from.

Mr. Corrado answered that EFC gets their funding from millage, so property taxes, and various fees that they charge.

Mr. Bross noted that EFC is also a repository for federal grants that may come in. This is one of the things that Delaware has done a good job with, taking advantage of available federal money and every year the State has maximized its take. However, every year the federal dollar amount has gone down, and if it gets to zero the State is going to be in big trouble. Mr. Bross added that the federal government is very likely to continue cutting back their funding. Additionally, infrastructure funding is a problem everywhere. If the State has some sort of fund set up, there could be a repository. Mr. Bross continued by saying that there are many people in the State who are passionate about water quality who might even leave something in their will. A dedicated fund would allow the State to take advantage of these grants.

Mr. Morrill replied that there are investors who would be willing to invest in water infrastructure projects if there was a public/private partnership (P3) through the trust that DNREC couldn't do on its own.

Roy Miller, Delaware Center for the Inland Bays, stated that the fact that the Business Roundtable acknowledges the need for clean water and flood abatement strikes him because putting money into the General Fund is frightening, after working for DNREC for more than three decades. He added that there is a freeze on General Fund spending, and consequently an effective 2, 3, or 5 percent cutback in General Fund spending, which seemed to be an annual event. Additionally, Mr. Miller has confidence that it will not be any different in the future without a new revenue stream or source.

Mr. Miller asked Ms. Taylor what different revenue source would the Business Roundtable suggest to reach the goal of improving water quality and flood abatement.

Ms. Taylor replied that when the Executive Committee meets, they will be prepared to answer that. At this point in time, they are still looking over the facts but feel strongly about what is currently on the table.

Senator Townsend stated that the Task Force can only push the messages from the Business Roundtable so far. The Senator did reference the abundance of issues that the Business Roundtable is looking at Statewide with plans to take active positions on them. He noted his shock that the Business Roundtable would oppose the idea of a lockbox-type of system given their previous frustrations with decisions or indecisions the Delaware General Assembly has made. Additionally, he reminded the Task Force to keep in mind where the Delaware Business Roundtable is currently at with this issue, then to decide where their views fall.

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Senator Townsend referenced Mr. Bross' point that federal funds are dwindling and will continue to dwindle, so maybe Delaware should look at new approaches. He added that the Task Force needs to put together a report that does not allow elected officials to claim that the group was not aware of the problems, the solutions, or the numbers.

Mr. Esposito mentioned references that had been made to explore alternatives. He offered that he would join Mr. Morrill, Mr. Bross, and Mr. Corrado to start writing their recommendations in a report. With this write up, the rest of the Task Force can edit and change what they don't like. Additionally, if someone in the Task Force doesn't like it, they are welcome to write it better.

Jen Adkins, Partnership for the Delaware Estuary, noted that Mr. Esposito's comments were a perfect lead in to what she was going to say. Then, Ms. Adkins asked if the Task Force has any resources to do research and write-ups.

Senator Townsend answered that his Task Forces usually rely on the experts on the Task Force to write the report in coordination with his office. One of the key things to remember when members want data in the report is to have that data presented at a Task Force meeting. If there are additional points of data that members want in the report, Senator Townsend will work with them to schedule a presentation during one of the remaining meetings.

Ms. Adkins replied that a good start would be to have Mr. Esposito, Mr. Corrado, Mr. Morrill, and Mr. Bross present their write-up first. But, their proposal will not touch on the points that Ms. Taylor or the Agriculture community might like. But, their proposal sounds like the best first step.

Mr. Morrill asked if Frank Piroko's staff could look at what is going on in other states, specifically in New York.

Senator Townsend noted that towards the end of one of the other presentations, there is a quick overview of what has been done in other states, although New York was not included. Additionally, it was a very quick overview given that it was at the end of the meeting. He added that the Task Force can definitely circle back on that. Additionally, the Task Force would benefit from putting a report together that shows the immense amount of effort the Task Force has put into studying this issue and that members have come up with a way to solve this issue for the long-term benefit of Delaware. Senator Townsend added that having this information in the report would be beneficial.

Mr. Morrill noted that there is a project that the Task Force should be starting: the Task Force should refine their needs statement. The group is proposing legislation to solve problems, but the Task Force needs to quantify the problems easily and comprehensively.

Senator Townsend noted that staff had circulated a draft of an outline during one of the previous meetings. The Task Force never got the chance to talk about it, which is okay

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because members were able to have discussion about the fundamental issues and disagreements at the core of what the Task Force wants to do. In terms of an actual needs statement, this would definitely be helpful, especially if members think a needs statement will help them climb over some hurdles of disagreement.

Lew Killmer, Delaware League of Local Governments, referenced what happened in Flint, Michigan, which is a justification of why the Task Force exists. The city was looking for alternative sources of water to save money, and in the end the amount of money that they saved is trivial to how much money it will take to return to a viable water supply.

Additionally, Mr. Killmer stated that the draft legislation is too big. The Task Force should put together specific recommendations to publish based on need and initiative. He added that a lockbox is practical because the public does not trust money going into a General Fund. If people are willing to sacrifice their money, they want there to be a guarantee that their money is going to the right things.

Mr. Corrado referenced the seminar in Cleveland that both he and Ms. Taylor attended. During this seminar, there was a particular move towards privatization for some of the facilities. Years ago, the State passed a bill that allowed public/private partnerships for highway work. Mr. Corrado added that he wasn't sure if that legislation extended to all public works but it should be a consideration as part of the Task Force. The most recent public/private partnership was Honeywell and the City of Wilmington putting an energy plant up. The plant was funded through WIAC and was a successful project. Most of the projects that involve P3s also involve a lot of money, and Delaware just doesn't have those size projects in the State. Part of the Task Force should look at P3s and legislation that would allow it.

Additionally, with privatization, there are many other states that have moved towards privatization of wastewater treatment plants and public water systems, but Mr. Corrado did not know if any legislation is needed in the State to enhance or allow privatization of those plants and systems.

Senator Townsend addressed Mr. Corrado's two issues and noted that the Task Force can certainly have a presentation at the next Task Force meeting. In terms of the report, if the Task Force agrees on a set of data that they would like to submit into the report we can do that as well, instead of presenting it. In terms of legislation for P3s, Senator Townsend noted that he is not sure on what is required to make P3s happen in Delaware.

Ms. Cannon noted that she had a list of four potential funding sources: (1) property tax, (2) flat water fee, (3) the gas tax, which may be a more palatable funding tax now that gas prices have gone down, and (4) another source of revenue would be a Public Accommodation Tax (PAT) that is in place for tourism in Delaware. However, when tourists come to Delaware, they all use a lot of water. Additionally, if a homeowner leases their home, they do not pay the PAT tax, but if they did the State would have more money.

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Secretary David Small, Department of Natural Resources and Environmental Control, replied that DNREC gets a percentage of the PAT tax, and there has been an ongoing discussion. Unlike most other locals, there is not an accommodations tax applied to short-term rentals and some individuals have advocated that a tax on short-term rentals would be appropriate. Secretary Small added that with what happened during the recent snow storm, the State may need to take a lot of that money to restore the beaches.

Ms. Cannon asked based off of what happened during the snow storm, if Secretary Small thinks the PAT tax is a viable revenue source.

Secretary Small replied that the Task Force should identify all of the potential sources, and then work on narrowing them down.

Ms. Taylor referenced the privatization and the public/private partnerships that Mr. Corrado referenced earlier. Ms. Taylor noted that this is a source of funding for both small and large projects. She asked members to keep in mind that the problems in Flint, Michigan were not privatization; it was due to public sector decisions.

Mr. Bross stated that he agrees with both Ms. Taylor and Mr. Corrado that fixing the States problems is a sum of the pieces, in terms of the delivery mechanism. WIAC has funded a public/private partnership for the city of Wilmington and some other projects. WIAC's purpose is to loan money to build public infrastructure, or private infrastructure that has a public benefit.

Senator Townsend noted that it has been talked about a few other times and the Task Force should have a detailed presentation about Mr. Bross' points at the next meeting.

Mr. Bross added that Mr. Morrill's point is important. The Task Force should put down all of the needs that are envisioned in the legislation, to determine if they are legitimately documented. For the next meeting, members should document the needs, present them, and look at the numbers. Mr. Bross expressed concerns that the bill is too expansive and once members have the needs listed out, they may realize some of it is unnecessary because there are similar programs already. Additionally, the Task Force should look at what latitude they have legislatively to include privatization, or public/private partnerships.

Representative Michael Mulrooney, Co-Chair, referenced comments that the legislation was too broad, but it was also introduced by the Governor 2-3 years ago. He asked if any members were in the room when they were drafting that legislation. He also asked if there was a committee or a Task Force when the legislation was put together.

Mr. Bross answered that Collin O'Mara helped with the legislation.

Secretary Small replied that there was not a committee; different people worked on different pieces of the legislation. Additionally, the State generally does not like the creation of new authorities, which is why this legislation does not follow the EFC program in NY. He

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added that the language of the bill was the general sense when the legislation was created, and whether or not this consensus has changed is uncertain at the time. A lot of this Task Force's discussions also happened during the creation of the draft legislation, including the property tax model. After weighing all of the pros and cons, there were specific reasons for the language of the bill. Additionally, if members have new ideas, Secretary Small noted that he is open to making changes to the legislation.

Secretary Small referenced when members are talking about need, the Division of Public Health and Social Services, DNREC, and the Agriculture community put together a summary of what they believe the need is. He continued to note that although the Task Force has not spent a lot of time on it, he would like each member to take time to look at it.

Senator Townsend replied that he thinks the fact that people may have left that document out of the conversation during this meeting is because of the gap of time there was between the last meeting and the current one. Additionally, the Task Force needs to address what the governance structure will look like, and members also need to discuss reinventing how Delaware approaches its water infrastructure issues. The Senator added that the Task Force needs to come up with tangible solutions to address the State's fundamental issues of infrastructure investment and governance. Additionally, the Task Force needs to come together on a decision as a whole.

Senator Townsend referenced Ms. Cannon's tourism tax idea. He added that this is not a traditional source of funding, and if Delaware is blessed to have non-traditional sources of funding, then that would be great. However, the State cannot always rely on non-traditional sources of funding.

Ms. Taylor referenced Mr. Bross' comments. She added that she struggles to see how the Task Force can move forward and ask the General Assembly to agree to a bill that is as general and broad as the one the Task Force has been discussing.

Representative Mulrooney replied that the bill the Task Force has been discussing will not be the bill they present; it will be a whole new piece of legislation.

Mr. Killmer referenced the first half of the 148th General Assembly where legislators voted to take away the ability for towns that do not have home rule to create new fees or taxes. Mr. Killmer continued to say that this has been a problem in the towns. For example, police departments do not have this source of funding to increase their policing efforts. However, with the addition of new hotels there has been increased tourism, thus a need for increased policing efforts.

Senator Townsend replied that he would like to speak about this offline unless this legislation relates to the ability or willingness of municipalities wanting to address water issues. He added that there was uncertainty about whether or not it was lawful for legislators to pass this law in the first place given the lack of authority in the home rule system.

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Mr. Killmer responded that Seaford is a perfect example; they have no way to increase their funding because they cannot increase any fees or taxes.

Senator Townsend noted that he only represents a few dozen acres of municipality, and all the rest of his district is unincorporated. However, if there are towns and municipalities who want the ability to raise taxes and fees, they should talk to their local legislator about an amendment to their charter.

Senator Richardson responded that he has heard this a couple times, but he noted that it is not wise to tax the State's businesses or farmers right now. However this is a priority and it needs to be funded; money that the State has saved should be used to fund these issues instead of raising taxes.

Representative Mulrooney responded that the State is not going to have an economy without clean water. To get clean water, clean beaches, and clean inland bays, the State will need resources to fund it.

Senator Richardson replied that although money should be used to fund clean water projects, the State should not tax businesses and farmers to do it. He continued by saying that the State should not be asking the private sector for money to spend anymore. The Senator noted that Delaware has a spending problem. The State can cut spending in places to fund the projects that need it the most.

Senator Townsend noted that the issue of the Expenditure Committee should not have been labeled as a partisan issue. The Senator noted that he was a part of the bipartisan group who looked at the revenue side and that report was ignored. Additionally, things cost money and it is easy to say "cut spending" and "don't tax this or that." However, the Senator has never heard anyone in Dover offer up actual substantive cost-cutting. Not one person has acknowledged the fact that government spending is counter cyclical. When the economy gets worse, needs in society are increased, and government spending has to kick in to keep things steady. Although there has been an increase in government spending during the past 7 years, the past 7 years was one of the nation's deepest recessions.

Senator Richardson noted that Jack Riddle is a member on the committee aimed to evaluate the spending practices in Delaware. When Mr. Riddle worked for a banking corporation, during budget process time, he was told that he had to cut 20% out of his budget for the upcoming year. Although cutting his budget seemed impossible, he did it. The next year, he was told to cut another 20%, and although it seemed impossible he did it. The State should have will power on the spending side and have agencies look at it. Senator Richardson stated that he has looked at some of the spending practices in Delaware and month after month, spending is the same up until June then the spending increases. The Senator mentioned comments from people that he has talked to, and they said if there is money left over at the end of the year, and they do not spend that money, they will lose it. Senator Richardson stated that because of these spending patterns, there is money to be saved on

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the spending side and legislators owe it to the tax payers of Delaware to find the money that could be saved and find what the best practices are.

Ms. Cannon asked Senator Richardson if she could add cost-cutting to her list of ways to fund water infrastructure projects.

Senator Richardson replied that Ms. Cannon could definitely add that to the list. The Senator also referenced Ms. Cannon's idea of the tourism tax. He continued to say that Delaware's tourism taxes are not very high compared to other states and this is an area that the State could probably explore.

Mr. Corrado asked to talk about governance and noted that the Task Force could probably come up with a consensus on what governance should look like because it has already been put on the floor several times. Mr. Corrado also noted that one thing members discussed was cutting the number of trustees down to a more manageable number. Additionally, the members considered WIAC's involvement with the operation side of things. Mr. Corrado asked if members could start making decisions about the trust itself and the operational side of the legislation.

Senator Townsend responded that there was discussion about writing down what a different structure would look like to compare the two. He added that during the current moment, governance still needs more discussion. In respect to the operational side of things and WIAC, not one member on the Task Force has criticized a decision that WIAC has made from a technical, policy driven perspective. There have been questions about membership, and the AG community asked for some sort representation. However, Senator Townsend stated that the Task Force does not have a general consensus on the governance structure.

Secretary Small suggested that the Task Force needs to have a conversation about funding, governance, delivery systems, bonding authority, accountability, planning, reporting, and some mechanism to consider when leveraging privatization that may also result in some outside legislation. Secretary Small noted that the Task Force can have a conversation around these elements, and keep putting proposals on the table to dissect, or take the categories and have a conversation about what members want and then develop decisions on each category. He noted that it is probably easiest to have a proposal about these elements and talk about the proposal to decide where it's deficient or where it will succeed. Secretary Small stated that these elements are what have been discussed for consideration.

Senator Townsend thanked Secretary Small for centralizing the discussion and steering the Task Force in a direction. The Senator noted that he welcomes informal presentations from an individual or a collective on all of these topics. But in terms of governance, part of the issue seems to be political appointees versus nonpolitical members. Additionally, members have expressed that if nobody has criticized the current decision making structure, then the Task Force should continue to use that structure. Those have been the two prevailing sentiments that have been expressed so far.

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Ms. Adkins suggested that the next meeting should not be devoted to the issue of governance, and instead have the group who has offered to present what they have worked on as an alternative to the current legislation. Then, members can dissect both possibilities by talking about pros and cons. She stated that this might lead some members to conclusions about what they would like to see in the final legislation. Additionally, during the following meeting the Task Force could focus on the funding mechanisms.

Senator Townsend added that because the Task Force has discussed governance for about 3 meetings, members are relatively aware about the issues and concerns that are out there. He noted that a two-hour meeting on governance might not be required. The Senator added that the members will definitely need to start moving towards making decisions about these different issues during the upcoming meetings.

Gerald Kauffman, University of Delaware's Water Resources Agency, stated that the Task Force should discuss the matrix that Ms. Adkins mentioned as soon as possible. Maybe the Task Force could make an "A" list and a "B" list.

Senator Townsend replied that he does not think the Task Force is in a position where they could put a matrix together, with different funding sources and pros and cons. Senator Townsend suggested putting all of the discussed options together as a "menu" for legislators to pick from, after the Task Force has thought through the issues and has come to a conclusion about the viability of each. Beyond that, he does not think the Task Force would get very far stating that the General Assembly should raise "X" number of dollars from each of the following revenue sources.

Ms. Adkins clarified that she is not suggesting that the Task Force should not look at all of them. However, the report should demonstrate that the Task Force looked through all of the pros and cons, and based on this the Task Force could rank them or recommend one or two.

Mr. Morrill noted that he had another suggestion for a revenue source. He stated that Collin O'Mara has been traveling all over the country to look at water infrastructure projects being done. Mr. O'Mara said that the most common funding mechanism is a percentage of the sales tax.

Senator Townsend stated that his concern with recommending specific alternatives is that he does not know if the Task Force as a whole will have the bandwidth to make that kind of a decision on a timetable that puts them in the position to submit something to the General Assembly. The Senator added that if any individual member, or their organization, feels so strongly for or against a specific revenue source to speak up on those feelings. However, if not one member feels significantly against a specific revenue source, the Task Force should consider that when developing the report to show they discussed all possible sources of revenue.

Michelle Zdeb, Task Force Staffer, reminded members that all Meeting Minutes will be included in the Final Report.

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Mr. Killmer asked what Senator Townsend thought the response in Legislative Hall might be, or what the ultimate goal of the Task Force is.

Senator Townsend answered that the ultimate goal for him, as a legislator on the Task Force, would be to show the General Assembly that an informed group of people thought out very achievable goals on how to clean up water in Delaware and to keep it clean in years to come.

Mr. Killmer replied that he is a legislator on the local level, and they like to see specifics. He also referenced the discovery that the synopsis did not match the legislation, and most of his local colleagues only read executive summaries, not the entire bill.

Senator Townsend noted that all members will see the report by the last Task Force meeting at least.

Ms. Goggin noted that another idea for a recommendation is a utility model, which usually only encompasses one part of the water quality discussion. However, there are different utility models that get more than just storm water. She added that the utility model can be based on property values, usage, and impervious surface. Ms. Adkins continued by asking if the Task Force is able to have a discussion about what the recommendations look like, or is it up to the Chair to make that discretion.

Ms. Goggin also referenced Mr. Killmer's comments that the Task Force should look at the different mechanisms, think them through, have a discussion about the pros and cons, and if 90% of members agrees that they like that option the report should reflect that.

Senator Townsend noted that he agrees with Ms. Goggin's comments and noted that the point of the report will be that the members addressed a very broad and complicated topic, then the members will put it into a report that most of the room agrees on. The Senator continued by noting that there will be dissenting letters if they feel it is necessary. However, the report is meant to represent a consensus around the table and give Task Force members the ability to speak confidently about what is in the report.

Ms. Cannon asked if she could add something to the legislation. Ms. Cannon continued by saying that DNREC's presentation contained very compelling information; they showed the Task Force where the State would be if every Delaware citizen and every company took the proper steps to conserve water, versus reality. She added that in the future, the Task Force should make sure to raise that awareness and educate the public. Additionally, the Task Force should add it into the legislation.

Public Comment

Senator Townsend turned the floor over to members of the public who wished to speak; the one and only public member on the list was Pam Bakerian.

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Pam Bakerian, on behalf of the Delaware Farm Bureau as a member of the public, stated that the DE Farm Bureau has looked at two proposals. The first one is the legislation that has been circulated in various forms, and a proposal for a tax on the irrigation wells. She continued to say that taxing the wells is detrimental to a farmer's success.

Next, Ms. Bakerian referenced TMDLs (Total Maximum Daily Loads) which stemmed from initiatives to clean up the State's water. Since then, farmers have been very passionate about clean water because their children drink it and they use it to grow their produce. Ms. Bakerian asked Mr. Kauffman that since these clean water initiatives started, and best management practices were implemented, doesn't the end goal of clean water take years to reach?

Mr. Kauffman answered of course. He said it took years to get to the current point and it will take years to fix all the issues.

Ms. Bakerian replied that farmers are working towards fixing water quality issues. They have nutrient management plans that farmers are mandated to do. They also implement best management practices on their own dime. She continued by saying that before farmers started implementing these practices, they would spread manure haphazardly and not measure the amounts that they were putting out. However, things have changed since then, and farmers will not get noticed for their hard work until years from now. After all the time and money that farmers have put into nutrient management plans and best management practices, they are unsettled to hear the possibility of a tax on their wells.

Ms. Bakerian continued by saying that if the Task Force proposes a flat water fee that does not affect farmers' wells, she will take it back to her entire board to discuss it with them. She added that the farmers just want credit for what they have done, and they are reasonable people. Additionally, she asked for a comprehensive list to take back to the board to show them what the Task Force is proposing.

Ms. Bakerian stated that when she was serving as a legislator, she co-sponsored legislation to impose designated funds for AG land preservation. The intent of this legislation was to designate \$10 million per year. She continued saying that if the Task Force finds a funding mechanism, it will help the water problems in Delaware. Ms. Bakerian further stated that the funding mechanism that was designed by her legislation can be changed from \$10 million to \$1 million; however, it still exists and needs to be used.

Senator Townsend asked for clarification of whether Ms. Bakerian was talking about designated funds or dedicated funds, the former meaning that there is a framework and that the typical lobbying process plays out with regards to how much money there will be. If the latter, meaning dedicated funds, did her legislation set up a trust where money flows in through the trust?

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Ms. Bakerian responded that the actual language for this is in the Bond Bill. However, she noted that she has experience of using designated funds and although it does not work 100% of the time or to 100% of the available funding, it still works.

Ms. Cannon asked if most farms have a separate well for irrigation and a separate well for their home.

Ms. Bakerian answered yes.

Ms. Cannon also asked when Ms. Bakerian was speaking about wells, if she was talking about a fee on both irrigation wells and wells for the home.

Mr. Morrill answered that they had told Ms. Bakerian the fee would be on both; however, there has also been discussion on only taxing the private household well. He continued to say that if the State puts a small fee on public water supply users, there are a number of private wells throughout the State and for equity reasons they needed to find a way to present them with a bill.

Mr. Brass continued saying that farmers are pumping millions of gallons of water every day from underneath the State aquifers and sooner or later this will become a problem. It has already become a problem in Dover and someone has to pay to fix it.

Mr. Esposito added that the point of their fees on wells is because everyone should pay a little, and if this cost is spread out throughout the State nobody pays too much. He continued saying that their proposal to impose fees on irrigation wells was not meant to target farmers.

Mr. Morrill stated that the goal was to find fee, without making it too complicated. This way anyone who is using water in the State is paying something. Mr. Morrill continued saying that if the farm community is willing to pay some sort of a fee, he would be willing to discuss the possibilities.

Mr. Morrill added that the Task Force has to show the connection between the amount of money the group is proposing to raise, the method to raise it, and what the Task Force plans to solve with it. Additionally, having a dependable source of income that the State could leverage and work through the back log of projects is the best way to solve the State's issues. Mr. Morrill noted that these are the facts and ideas that the Task Force needs to sell the legislature and the public on.

Ms. Taylor noted that she has a fundamental problem with the State passing up alternatives for Rehoboth. Ms. Taylor referenced how DNREC and WIAC funds Rehoboth to put their wastewater into the ocean when there were other alternatives that would have taken treated water to farmland and would help one of the State's largest economies. Ms. Taylor asked where the stakeholders and environmentalists were when this was happening.

Secretary Small responded that this was a very complex issue and they looked at all of the alternatives before making their final decision.

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Ms. Goggin also replied that there were many environmentalists involved in making this decision, which is all a part of public record.

Ms. Cannon added that she is thrilled Senator Richardson and Ms. Taylor spoke up because now the Task Force has an idea of the scrutiny the report will face.

Ms. Porter asked if the Department of AG had something they would like to submit in writing, to whom they would send it.

Senator Townsend responded that if Ms. Porter would like to put something in writing for the sake of the Final Report, to send it to him. If she would like to present her thoughts to the Task Force in the form of a presentation, just let him know and she can send the presentation closer to the next meeting.

Ms. Adkins noted that she offered to take the lead on looking at alternatives to propose during the February 22nd meeting. However, Ms. Adkins noticed that she will actually be out of town for that meeting, but she could propose them during the February 9th meeting instead.

Senator Townsend replied that was fine. He also noted that the Task Force will discuss governance and revenue sources at the next meeting.

The Senator asked if there were any more questions from Task Force members. As there were none, the Task Force meeting was brought to a close at 3:25 pm.