

Clean Water and Flood Abatement Task Force

Thursday, June 14, 2016

11:00 a.m. – 1:00 p.m.

Tidewater Utilities

Meeting Attendance

Task Force Members:

Present:

Senator Bryan Townsend
 Representative Ronald Gray
 Senator Bryant Richardson
 Secretary David Small
 Holly Porter
 Jeffrey Bross
 Roy Miller
 Howard Morrison
 Brenna Goggin
 Gerald Kauffman
 Lew Killmer
 Joseph Corrado
 George Haggerty
 Gerard Esposito
 Paul Morrill
 Jen Adkins
 Bruce Jones
 Christine Mason
 Michael Riemann

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Absent:

Representative Michael Mulrooney
 Secretary Jennifer Cohan
 Thom May
 Sam Lathem
 Patty Cannon
 William Lucks
 Dian Taylor
 Thomas Unruh
 Robert Baldwin
 Gina Jennings
 Andrew Jakubowitch

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Minutes prepared by Caitlyn Gordon, Legislative Aide

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

Attendees:

Charles Postles
 Terry Deputy
 Ed Hallock
 Lisa Pertzoff
 Doug Hokuf
 Michael Bard
 Pam Bakerian
 Mark Cutrona
 Martha Narvaez
 Heather Warren
 Bob Palmer
 David Spacht
 Kelly Glenn
 Marjorie Crofts
 Jeff Long

Organization:

DNREC
 DPH/ODW
 LWV DE
 NCC
 Delaware Nature Society
 DE Farm Bureau
 Division of Research
 UD WRA
 DPH
 DNREC
 AWC
 NAWC
 DNREC
 Partnership for the Delaware Estuary

The Task Force meeting was brought to order at 11:21 a.m.

Consideration of Meeting Minutes

Senator Bryan Townsend, Co-Chair, welcomed the Task Force members and public to the meeting. Next, the Senator asked if there were any changes to make to the May 12, 2016 and May 23, 2016 Meeting Minutes. As there were none, he asked for motions to approve both sets of Meeting Minutes.

Lew Killmer, Delaware League of Local Governments, motioned to approve both sets of Meeting Minutes.

Gerard Esposito, Delaware State Chamber of Commerce, seconded the motion.

Both sets of Meeting Minutes from May 12, 2016 and May 23, 2016 were approved unanimously.

Draft Legislation

Senator Townsend brought the discussion to the Draft Legislation and noted they had already introduced the lockbox legislation. Next, the Senator introduced Mark Cutrona, Legislative Council Attorney, who is assisting the Task Force with its Draft Legislation.

Paul Morrill, Committee of 100, referenced two outstanding issues of the Draft Legislation.

1. There was a question for the Department of Finance on bonding language.
2. There were questions on language for the auditing requirements.

Mr. Cutrona, Esq. stated that he could speak briefly to the bonding language. He noted that Tim Frey approved the language that is in the legislation. He stated that the issue with the bonding language has been resolved, but the language for the auditing requirements is still outstanding.

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Terry Deputy, member of the public on behalf of DNREC (Department of Natural Resources and Environmental Control), referenced the auditing requirements language. He stated that if the intent is to have an audit of the proposed Clean Water Revolving Fund, then there should not be a direct reference to the federal register that pertains to the State Revolving Fund (SRF). This is why Mr. Deputy suggested the language that the Task Force members received.

Senator Townsend asked if members had any more questions or proposed changes to the language. As there were none, the Senator asked Mr. Cutrona to clean up the auditing language and finance language as the Task Force had discussed. Senator Townsend noted he would get electronic approval from Task Force members.

Group Discussion

Mr. Morrill reported that a small group of Task Force members visited the leadership of the four caucuses to get direction on how to move forward with the bill. He explained that his conclusion from their conversation is that there is not enough support to seriously work the bill this legislative session. He added that they were given an option to introduce the bill, to keep conversation going, but wait to vote on it during the next legislative session.

Jeffery Cross, Water Infrastructure Advisory Council (WIAC), noted that introducing the legislation would also provide content for conversation between legislators and constituents about the Task Force's efforts.

Senator Townsend responded that there are other ways to put the legislation out into the public without introducing it. He added that this is only meant as a comment for logistics, not necessarily his opinion.

Pam Bakerian, on behalf of Tom Unruh and the Delaware Farm Bureau, noted that her group has been following along with the Task Force's progress. However, the farmers on the Executive Committee of the Bureau are out farming and have not had time to review the legislation. Because of this, she would not be able to vote on behalf of them until they find time to review it.

Jennifer Adkins, Delaware Estuary, noted while she fully supported the work and Findings of the Task Force, board approval is typically needed in order for her organization to endorse legislation. This might be challenging to get quickly.

Senator Townsend referenced a phone call that he had with the Department of Finance, where he learned that the surcharge fee would take 2 years to roll out enough to start bonding. He continued by saying that they are running out of time; if they don't do this now they will lose a great amount of time to feel the positive impact of the legislation.

Brenna Goggin, Delaware Nature Society, commented that everyone understands there is a problem; the fiscal aspect of solving the problem is where they cannot agree.

Senator Townsend asked Senator Bryant Richardson to speak about his proposal to use the RGGI (Regional Greenhouse Gas Initiative) funds for clean water purposes.

Senator Richardson stated that the State is not putting the emphasis on what really needs to be done. The Senator noted that he wants the lockbox but wants to find the funding somewhere else.

Senator Townsend felt that this proposal should have been discussed colleague-to-colleague and not through a press release. He asked DNREC Secretary David Small to speak to the merits of using RGGI funds for clean water purposes.

Secretary David Small, DNREC, commented that RGGI is focused on medium and larger seized fossil fuel energy generation facilities, and legislation was passed in 2009 that authorized Delaware to participate in this program. That money is meant for sustainable energy. He continued by saying that there are many programs that will not be funded in the next year. The Secretary added that this is not the first time that conversations have happened about using RGGI funds for other investments, but the State needs to continue to use those funds for energy efficiency.

Senator Townsend asked Secretary Small if DNREC did an analysis of whether or not using the RGGI funds for something else is even legal.

Secretary Small answered that there would have to be a change in the statute to do that.

Mr. Morrill asked how much RGGI brings in on an annual basis.

Secretary Small responded around \$2-3 million quarterly, but he needed to double check that.

Next, the Secretary referenced the question of whether or not they should introduce the Task Force's Draft Legislation during the current legislative session. He continued by saying that he would support introducing the bill during this legislative session because the conversation for the legislation has been going on for two years. Moreover, the Task Force has work diligently to refine the bill, and if they introduce it they will show the public that they know how to clean Delaware's water.

Mr. Esposito agreed with Secretary Small's comments.

Draft Findings

Michael Riemann, Delaware Homebuilders Association, commented that maybe the Task Force should consider adding numbers and specifics to the Draft Findings. He also referenced adding some incentive-based solutions.

Senator Townsend commented that Ms. Porter proposed reordering the Draft Findings, specifically moving number 2 to number 6. He added that it had been heavily suggested at one point to keep number 2 closer to the top so they could clarify up front they were not establishing

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a whole new bureaucracy, and that there was already a process in place. He continued by saying that another suggestion was shifting number 5 to 14. He asked members if they felt it was necessary to make all of the changes that Mr. Riemann suggested, in addition to Ms. Porter's renumbering.

Mr. Bross responded that the document is great, but it will never be a perfect document unless they plan to work for several more months. He continued by saying that although numbers are a great way to justify things, if they keep adding to the Draft Report, or making rewrites, it could cause a slippery slope.

Ms. Bakerian stressed the importance of providing clear facts in the Task Force Findings, since that will be the first thing that legislators read.

Senator Townsend stated that he does not want to make drastic changes to the documents at this point, especially due to the number of people who are absent today; he wouldn't want to make big decisions on changing the language without their input.

Mr. Riemann added that legacy issues are a huge problem when it comes to Delaware's clean water, and there should be some examples and numbers speaking to this in the Findings.

Senator Townsend responded to Mr. Riemann that if they can find some good numbers in the presentations to put in the Report, then they will. But, they cannot put facts outside of what has been presented during Task Force meetings in the Report at this point.

Ms. Adkins pointed out that under the Drinking Water section of the Findings, source water protection projects were discussed. She suggested adding a sentence, noting that source water protection projects can also include protection or enhancement of natural features that are critical for clean source water.

Ms. Bakerian asked if conservation projects could be added to number 10, so that the agriculture component is in there as well.

Roy Miller, Delaware Center for the Inland Bays, asked to change some language on number four in the Task Force Findings, after "activity and water supply," Mr. Miller wanted to add "the needs of fish, wildlife, tourism, and recreation."

Senator Townsend asked Mr. Miller if he is talking about the economic benefits. He agreed it would make sense to put in, but if Mr. Miller is okay with finding another spot in the Findings, he would include it.

Howard Morrison, Associated Builders and Contractors, Inc. – Delaware, brought up the discussion of prevailing wage and the potential to save money by not having to tax the public to a greater extent to achieve the same outcome. He expressed fear that the Draft Legislation may, if enacted, "create a portal" for future tax items.

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Senator Townsend moved the discussion to public comment.

Public Comment

Charles Postles, member of the public, commented that he is thankful for the time the Task Force has spent on finding ways to clean Delaware's water. He also referenced the funding portion of the Task Force's discussions, stating the amount of money going to administrative fees is too high. Mr. Postles feels the Task Force should consider an 8 percent administrative cost for a couple years, and then look at a 6-7 percent administrative fee.

Mr. Brass answered that they currently fund 6 positions with money that could be used elsewhere, and these fees would only add 1-2 more positions while they are doubling their funding stream, which is very efficient government. He continued by saying that after talking to DNREC staff, the money they are asking for is really a modest increase based off of what they need to get done.

Closing Remarks

Joseph Corrado, Delaware Contractors Association, asked if they were going to vote on the legislation during the meeting.

Senator Townsend responded that he wouldn't want to vote without Task Force members in attendance.

Mr. Corrado commented that a vote of the Task Force will show the support of the Task Force members, which is very important.

Senator Townsend said he would circulate an email to members asking who would want to sign onto a letter endorsing the Draft Legislation that will accompany the Final Report.

The Senator asked members of the Task Force and members of the public if they had further comments. Seeing none, he thanked the members and public for their continued work and support they have put into this Task Force.

The meeting was adjourned at 1:11 p.m.