

**Virginia Scenic River Board
Thursday, April 17, 2008
Richmond, Virginia**

Virginia Scenic River Board Members Present

Richard G. Gibbons, Chair
Joseph H. Maroon, DCR Director
Robert G. Harrison
Dennis Liberson
Edward A. Mullen
Patricia A. Jackson, Vice Chair
Ralph Hambrick
Amanda Macaulay
Ralph Moore
Mary Lily Nuckols
Christopher B. Rivers
Porcher L. Taylor, Jr.
K. Wayne Walton

Virginia Scenic River Board Members Not Present

Henry R. Broadus
Cardell C. Patillo, Sr.
Christy Williams

DCR Staff Present

Russell W. Baxter, Deputy Director
John R. Davy, Director, Division of Planning and Recreation Resources
Lynn Crump, Environmental Program Planner
Michael R. Fletcher, Board and Constituent Services Liaison

Call to Order

Chairman Gibbons called the meeting to order and declared a quorum present.

Introduction of Members

Mr. Gibbons introduced Mr. Dennis Liberson of Loudoun, newly appointed member to the Board. Mr. Gibbons asked members and staff to introduce themselves.

Mrs. Nuckolls said that Charlotte Hanes had recently received an award for her work in preserving more than four miles along the New River.

Mr. Baxter said that the Award was presented as one of the Governor's Environmental Awards at the Environment Virginia Conference. Ms. Hanes won a Gold Medal for the New River Conservation Project. The New River is Virginia's only American Heritage River. Ms. Hanes has placed easements on more than 650 acres, protecting 4.2 miles of the New River in Grayson County. She was a leader in identifying a less costly and more appropriate site for a proposed state prison and, in doing so, ensured the conservation of this scenic stretch of the New River.

Approval of Minutes, October 18, 2007

MOTION: Mr. Moore moved that the minutes of the October 17, 2007 meeting be approved as submitted.

SECOND: Mr. Hambrick

DISCUSSION: None

VOTE: Motion carried unanimously

Director's Report

Mr. Maroon gave the Director's report. He distributed a legislative report and a budget summary. Copies of those reports are available from DCR.

Mr. Maroon reviewed some of the key highlights of legislation. He discussed the following bills:

HB455 and SB40 Designates portions of North and South Mayo Rivers in Henry County as State scenic rivers.

HB455 Patrons: Merricks, Armstrong and Marshall, D.W.; Senator: Reynolds

SB40 Patrons: Reynolds and Hurt; Delegate: Eisenberg

Both Approved by Governor

Mr. Maroon said that as DCR and the Board continue to try to make headway on the designation of scenic rivers across the Commonwealth, there have been a number that have had studies completed and would be ready to go with appropriate legislative support. Last year DCR was requested to do a study for a new state park in the Mayo River area. DCR suggested that also include a study of portions of that river. This has been supported by local government. The measures were unopposed in the General Assembly. This will become effective July 1, 2008. There are other requests also being made.

Mr. Maroon said that in the area of dam safety, the Commonwealth has made significant progress.

HB837 Dam break inundation zones; localities with authority to address development. (AGENCY BILL)

Patrons: Sherwood, Eisenberg, Landes, Nichols, Plum, Scott, E.T., Shuler and Ware, R.L.; *Senators:* Deeds, Hanger, Puckett and Ticer

Provides localities with the authority to address development in dam break inundation zones. The bill directs developers to assist dam owner with required upgrades and requires additional disclosure and notification procedures for dam owners. The bill contains an enactment clause that specifies that the bill's provisions do not affect site plans or subdivision plans submitted prior to the effective date of the act.

Passed House and Senate with Governor's recommendations.

Mr. Maroon said this was landmark legislation and that there is nothing like it elsewhere in the country. He said this legislation would result in a substantial improvement in dam safety within the Commonwealth.

Mr. Maroon said the following bill had the potential to undo some of the regulations with regard to dam safety.

SB594 Exempts dam owners of those not dangerous & historically significant from correcting deficiencies.

Patrons: Norment and McDougle; *Delegates:* Barlow, Hamilton and Pogge

Exempts the owners of historically significant dams that do not present an imminent danger from having to correct deficiencies identified in a dam safety inspection conducted by DCR.

Left in Senate Agriculture, Conservation and Natural Resources.

Mr. Maroon said that reality was that historic dams are often in great need of repair. This bill did not advance.

Mr. Maroon said there were a series of bills in the area of water quality, those included:

HB1335 NR funding for Ag BMPs; allocates revenue generated by sales and use tax.

SB511 NR funding; revenue generated by sales and use tax to fund agricultural practices.

As introduced, the legislation allocated annually 10% of the revenue generated by a one percent sales and use tax, not to exceed \$100 million, to fund agricultural best management practices. The sales tax allocation would have been deposited into the newly established Virginia Natural Resources Commitment Fund and distributed to DCR's Cost-Share Program for the implementation of agricultural best management practices (BMP).

As passed, the bill establishes the Virginia Natural Resources Commitment Fund but the sales tax provision was removed. The Fund would be capitalized with appropriated funds and moneys from public and private sources. Beginning July 1, 2008, and for the next 10

years, money in the Fund would be distributed to the Department of Conservation and Recreation's Best Management Practices Cost-Share Program for the implementation of agricultural best management practices (BMP). Fifty-seven percent of the moneys are to be used for matching grants to implement BMPs on agricultural lands exclusively in the Chesapeake Bay watershed and 38 percent of the money would be used for all other lands in the Commonwealth. Five percent of the money would be allocated to soil and water conservation districts.

Mr. Maroon said that these bills were supported by a large coalition comprised of agricultural and environmental constituencies. Both were approved by the Governor.

Mr. Maroon noted other funding plans put forward this legislative session.

HB727 NR funding: allocates percent of sales & use tax to Ag BMPs and local PDR programs, and

SB470 NR funding uses recordation tax and unused land preservation tax credits; would fund PDR, VLCF, Ag. BMPs.

Neither of these bills advanced.

Mr. Maroon noted two bills in the area of Outdoor Recreation.

HB1142 Delays reversion of Virginia Explore Park to Commonwealth

Patron: Fralin

Delays the reversion of title to real property from the Virginia Recreational Facilities Authority to the Commonwealth in the event that the Authority ceases to operate, until July 1, 2009. This bill contains an emergency clause.

Approved by Governor (Chapter 655)

HB1496 and SB74 Establishes Southwest Regional Recreation Authority.

COMPANION BILLS: HB1496 Patron: Bowling; *SB740 Patron:* Puckett

Establishes an authority for SW VA to create a multi-purpose regional recreation area similar to, and potentially adjoining, such areas in West Virginia and Kentucky. The recreational area might consist of various trails and other amenities on private open-space lands where members of the public could, for example, hunt, fish, boat, camp, ride motorcycles or all-terrain vehicles, ride mountain bikes, or ride horses. The Authority would have power to manage the area by raising funds, employing staff, and adopting rules punishable by civil penalties. Landowners participating in the recreation area would be afforded a limited liability for persons engaging in recreational activities on their property.

Both passed with Governor's recommendations.

Mr. Maroon reviewed summary of budget amendments. A copy of this summary is available from DCR.

DCR Operating Budget Overview

	<u>Total</u>	<u>GF</u>	<u>NGF</u>	<u>FTE</u>
FY 08 (current yr)	\$77M	\$50M	\$27M	534
FY 09*	\$120M	\$49M	\$71M	551
FY 10*	\$99M	\$49M	\$50M	556

(* As proposed in Legislative Budget: Does Not include capital budget items such as land conservation, dam repair bonds, park development and construction.)

Land Conservation Acquisition

- GOVERNOR'S REQUEST: \$50 M bonds for DCR, Historic Resources, Forestry and Virginia Outdoors Foundation.
 - Legislative budget reduces to \$30M; at least \$5 M for civil war sites.
 - Governor requesting amendment to move \$5 M to DHR budget.
- GOVERNOR'S REQUEST: \$950,000 additional each year for Virginia Outdoors Foundation operational support
 - Legislative budget reduces increase to \$225,000 annually (brings total to \$1,525,000 each year).
 - Governor requesting amendment to restore increase to \$750,000
- GOVERNOR'S REQUEST: Continued \$ 3M per year for VLCF grants.
 - Legislative budget reduces to \$2 M each year.

Dam Safety

- GOVERNOR'S REQUEST: \$20 M bonds for repairs to district and DCR dams;
 - Legislative budget increases to \$30 M (to include \$5 M for 2 local dams)
- GOVERNOR'S REQUEST: \$2.7 M for loan program
 - Legislative budget reduces to \$1.2 M (\$600,000 each year).
- GOVERNOR'S REQUEST: 2 dam engineers (no funds needed): Approved.

Stormwater Management

- GOVERNOR'S REQUEST: 10 Stormwater positions (paid from permit fees).
Approved.

Water Quality Improvement Fund

- GOVERNOR'S REQUEST: \$20 M Nonpoint (FY 2009) WQIF (includes \$ 6M new GF)
 - Legislative budget leaves total funding amount of \$20 M for FY 2009 but replaces \$6 M of general funds with interest from DEQ WQIF. Funds to be deposited into and dispersed from the Virginia Natural Resources Commitment Fund for agricultural BMPs and 5% for Soil and Water Conservation District implementation.

State Parks Operating Support

- GOVERNOR'S REQUEST: \$ 1.5 Million and 15 FTE (in FY 10)

- Legislative budget changed to \$250,000 and 5 FTEs in FY 2009 and an additional \$250,000 and 5 more FTEs (for a total of 10 FTEs and \$500,000) in FY 2010. (2 positions will be used for High Bridge).

Grand Caverns (possible new state park)

- Legislative budget includes language requiring progress report on Grand Caverns transfer to DCR by September 1

State Parks Capital Budget – TO BE DETERMINED BY APRIL 23 GA SESSION

- GOVERNOR’S REQUEST:
 - \$3 M Powhatan State Park first-time funding
 - 4.5 M High Bridge State Park continued funding
- Mayo River first-time funding: In Senate version.
- Shenandoah River SP additional cabins and campgrounds: In House version.

Non-General Fund Interest

- Legislative amendments keep interest earned on various special funds in 2008 and 2008-2010. (Natural Area Preservation Fund; Ches. Bay Restoration Fund; Stormwater Management Fund; Water Quality Improvement Fund & Fund Reserve)

Additional Reduction Plan

- Legislative budget requires an additional \$ 17.5 M in cuts across state government for FY 2009 and FY 2010 that are yet to be determined.

State Employee Compensation

- Legislative budget includes 2% increase in Nov. 2008 and 2% in November 2009.

Daniel Boone Visitor’s Center: The \$100,000 annual grant proposed by the Governor was eliminated in legislative budget. Governor requesting amendment to restore.

Mr. Maroon said that Governor Kaine has announced that 2009 will be the year of the Environment and Energy. Working with the Governor’s office, the Secretary of Natural Resource’s Office and the natural resource agencies are putting ideas and plans together for this focus.

Mr. Maroon said that the movement to reconnect children and families to the outdoors will be part of that focus. State Parks is working on a '*Children and Nature*' program.

Ms. Macaulay said that the Department of Game and Inland Fisheries has also focused on this issue. Mr. Baxter noted that DCR is working with DGIF.

Mr. Maroon said that DGIF has some excellent training programs for hunting, fishing and other outdoor activities.

Members commented about healthy waters and the need for more public access to the over 5,000 miles of waterfront for which only 1% is publicly accessible. Efforts should be renewed with DGIF & VDOT to provide additional water access. There is a great need for more hand carry access points.

Mr. Maroon said that the Board would be hearing updates regarding two local Scenic River committees. He noted that the General Assembly extended the designation of Goose Creek into the Fauquier County. The question would be whether to have the one existing Board cover both counties or two boards, one to cover each section.

Mr. Hambrick asked if there was any thought to create a new local board in areas that are already designated.

Mr. Maroon said that the General Assembly had gone through an exhaustive review of committees and eliminated all but one of the local scenic river boards and gave the DCR Director authority to appoint and reappoint committees. He said the goal was not to establish a number of new committees, but to make sure there are committees where local interest exists.

Chairman's Report

Mr. Gibbons said that he continues to encourage Board members to tie into local groups. He said that he routinely attends meetings of the James River Advisory Council. He said that JRAC continues to deal with the issue of viewsheds in the City of Richmond with regard to development along the river. Other areas of interest are signage on the bridges identifying the river as scenic as well as water quality issues.

Mr. Gibbons said that the Annual National River Cleanup is scheduled for May 31 through June 8. He said that information was available on the Internet at <http://www.nationalrivercleanup.org>.

Mr. Gibbons noted that the Goose Creek Scenic River Advisory Committee had received an award from Scenic Virginia and had also received a resolution of commendation from the Loudoun County Board of Supervisors.

Mr. Gibbons noted that on October 4-7, 2008 the Virginia Recreation and Park Society's 54th Annual Conference will be held in conjunction with the Governor's Conference on Greenways, Blueways and Trails. He said that the DCR and the Board will have the opportunity to present a session on the Scenic Rivers program. He said that he hoped that the program would focus on opportunities to become involved with the program.

Update on River Designations

Mr. Davy noted that the General Assembly had requested Scenic River studies of the Mayo River. He said that there seems to be a renaissance in interest in the Scenic River program with localities coming forward to request studies.

Mr. Davy said that this year there are requests for the Rivanna River near Charlottesville, and for both the Hughes and Jordan Rivers in Rappahannock County. Also there has been interest in looking at the North Anna River in Hanover County. DCR is trying to formalize the County's interest. There has also been interest in the Blackwater River in Franklin, the Nottoway River, and the Bannister River.

Scenic River Elements of the Virginia Outdoors Plan

Mr. Davy gave an overview of the Scenic River Elements of the Virginia Outdoors Plan. Members were given a copy of the plan. Copies of the plan in CD format may be obtained by contacting DCR.

Mr. Davy said that Virginia Outdoors Plan is the Commonwealth's only plan directed by state law for conservation, outdoor recreation, and open space. It is a guidance document and not a policy document. All applicable policies are quoted.

The Virginia Outdoors Survey was conducted to get an understanding of recreational participation and citizen's perspectives on issues relating to land conservation and park development. There were some major shifts in participation rates, however 15 of the top 22 activities are provided in state parks.

The plan is also the guidance document for the Virginia Land Conservation Foundation. Much of the plan deals with land conservation and it helps target areas in the state where that is important.

This plan allows DCR to participate in the Federal Land and Water Conservation Fund which historically has been a leading conservation program.

This is Virginia's 9th Outdoor Plan. Mr. Davy reviewed the development of the plan.

Mr. Davy said new features of the plan include sections on land conservation and planning, on watershed protection, environmental education, healthy lifestyles, climate change, and walkable communities. He said that the issue of walkable communities was a high priority at the public meetings.

Mr. Davy said the VOP was split into three themes: Outdoor Recreation and Open Space, Land Conservation, and Green Infrastructure. He said that green infrastructure described how to approach protecting resources.

Mr. Davy said that maps included in the plan show every piece of protected land that DCR was aware of as of December 31, 2007. The conservation maps are updated several times a year on-line.

Draft Scenic River Presentation for Board member use

Ms. Crump reviewed the draft Scenic River Presentation that has been developed for Board member use.

Key points include:

- River Resource Protection: Rests on riparian property owner: Scenic River Act does not authorize any additional restrictions on riparian land uses. Is voluntary, with the cooperation and support of local and state government.

- Benefits of Designation:

Provides:

- Opportunities to consider scenic and other resources in planning and design
- Continued existing riparian land uses (grazing, irrigation, hunting, fishing)
- Eligibility for land use tax considerations, if locally adopted
- Framework for appointment of a local Scenic River Advisory Committee

Allows project review and monitoring by Virginia Scenic River Board.

- Designation DOES NOT:

Authorize condemnation of land for access (eminent domain is specifically prohibited).

Impose land use controls

Affect rights of riparian landowners

Allow public use of private property

Impose federal controls, rules, or regulations

Affect tributary streams that flow into a designated segment

Promote increase in recreational use

- Designation Criteria

The 11 evaluation criteria are:

- Stream Corridor Vegetation
- Streambed and/or stream flow modifications
- Human Development of Visual Corridor
- Historic Features
- Landscape
- Quality of Fishery
- Rare, Threatened, or Endangered Species
- Water Quality
- Parallel Roads
- Crossings
- Special Features Affecting the Aesthetics

- Extension Process

Request from interested parties for study for extension

Field study to be done with full leaf cover; using same evaluation criteria as full designation

- Once Designated

Post designation management and protection

Periodic survey of the river corridor

Ms. Crump gave the members copies of the presentation with staff explanatory notes.

Ms. Crump said the designation of a Scenic River usually takes about 18 months, but that can vary.

Mr. Hambrick asked the percentage of rivers that have been studied but have not met the criteria for designation.

Mr. Davy said there have been few, but there have been some rivers where the community has addressed issues of concern, such as river clean up and the river has later met the criteria.

Mr. Baxter said that if the presentation is acceptable to the Board, DCR will email this to all members of the Board with the accompanying notes.

Ms. Crump said that the presentation would also be available in a PDF file on the website.

Ms. Jackson asked if the Board should develop a plan on how to pursue the designation of other rivers with designation potential. She inquired whether the Board could take the list and divide it up geographically and reach out to communities to provide information regarding the program and the asset a river designation could be to the community.

Mr. Davy said that 2 or 3 studies would be the maximum that staff could process within a year.

Mr. Maroon said that a more strategic approach as outlined by Ms. Jackson would be beneficial. He said the Board could address the rivers already under consideration for discussion. He said that this should be an item for discussion at the next meeting.

Mr. Gibbons asked Board members to forward ideas on how to facilitate this to Lynn Crump at DCR.

Mr. Maroon said that DCR will take those ideas to help structure the discussion for the next meeting.

Mr. Mullen said that on July 12, 2008, the James River Association (JRA) will host the first annual Runoff Rundown - a one-day event celebrating America's Founding River. The goal is for individuals to collectively traverse the entire 340 miles of the River, from the headwaters at Iron Gate to the mouth at the Chesapeake Bay. Participants and supporters will celebrate the heritage of the James River, increase awareness of the JRA, support efforts to improve water quality, and use the River for recreational enjoyment.

Mr. Hambrick asked if VDOT was looking at the option of providing public waterway access at crossings.

Mr. Davy said that is a new topic for consideration. Secretary Bryant has asked DCR to revisit the MOU with VDOT and look at reinstating that. He said it was a matter of finances and keeping the public off of adjacent private properties, but discussions will continue.

Scenic River Committee Reports

Falls of the James

Mr. Hambrick said that he was unable to give an update because he has been out of town. He said the Committee was meeting at the same time as the Board. He said the Committee has been involved in promoting the City's master plan and in working to protect the viewshed.

Ms. Macaulay asked about the status of the Echo Harbor project.

Ms. Crump said that the proposed height of the development has been reduced, however it will still affect the viewshed.

Goose Creek

Ms. Crump said that the Goose Creek committee is working on negotiations with a sports facility. The committee has been able to negotiate a 300 ft. setback for any sports field and a 1,000 ft. setback for buildings.

At this time the Board recessed for lunch.

Mr. Maroon said that both the Falls of the James and the Goose Creek Scenic River advisory committees have been very effective models for local committees. They have worked collaboratively in facing the issues regarding the river.

Mr. Maroon said that last year the General Assembly passed legislation to extend the Goose Creek designation into Fauquier County which creates a situation with an existing local committee that has a history of working in one county. But now the extent of the river designated as scenic includes another county (Loudoun).

Mr. Maroon said that had the entire designation occurred at the same time, there would have been a single committee to cover the extent of the designation. The existing Loudoun group has some reservations with extending the committee into Fauquier. That is mainly because their focus has been Loudoun County. The community in Fauquier is potentially interested in a separate group.

Mr. Maroon asked the Board for comments regarding the best arrangement for addressing this situation.

Mr. Liberson asked how involved the Goose Creek delegation was with the designation of the Fauquier section.

Ms. Crump said that there were representatives involved. She said that some of the concern is that Fauquier is about to experience significant growth.

Mr. Rivers asked who would lead the second group.

Mr. Baxter said there were representatives already working with the Fauquier designation. He said that the Code specifies that the Director of DCR is given the responsibility to appoint the local committees. There is also a provision for a local government to choose to appoint the committee.

Mr. Liberson said that the pressures that the creek faces in both locations are very different. He suggested a hybrid of the committee. He suggested establishing a group in Fauquier under the umbrella of the Loudoun group that would eventually merge into a broader coalition to cover both segments.

Mr. Baxter said that there has already been interaction between the two groups.

Mr. Mullen asked if the existing group would be comfortable with having a new level of responsibility.

Mr. Maroon said that he believed the current Loudoun group would not welcome that idea.

Mr. Mullen asked about the negative aspect of having two groups.

Mr. Maroon said that there are concerns regarding coordination between the two groups.

Mr. Hambrick said that perhaps having two groups would be the best approach. He said that he understood the reluctance of the Loudoun Group to accept new responsibilities.

Ms. Jackson suggested that a joint committee would give a stronger voice across jurisdictions. There could be two subcommittees that meet and the larger group would meet together.

Mr. Baxter said that the concern of the Loudoun group is the time that it has taken to establish the group's credibility and also that some of the issues with the river are different between localities.

Mr. Gibbons said that within the context of bylaws, the coordination between two committees could be developed.

Ms. Jackson said that the merging of the smaller Scenic River Boards was intended to have a statewide coordination of efforts while allowing local committees to exist. She said that having local committees by jurisdiction may send the wrong message as opposed to having a reasonable number of committees.

Mr. Maroon said that it would be easier for DCR to work with one group, but that it would not be a great disadvantage to have two committees. He said that there would still need to be at least two joint meetings within the year. The state Board and DCR could help to facilitate a discussion between the two groups.

A member suggested that a strategic plan be developed to guide the organization and structure of both groups.

Mr. Maroon said that the discussion had been helpful. He said that there was a need to be respectful of the groups involved.

Mr. Gibbons asked the timing on making a recommendation.

Mr. Maroon said that there would at least be additional discussions during the summer.

New Business

Mr. Gibbons asked if there could be an article in the next issue of DCR's *Grassroots*.

Mr. Harrison commended the staff on the work on the Virginia Outdoors Plan.

Mr. Maroon noted that staff are again going around with a series of public meetings to promote and discuss the plan.

A member suggested that the Scenic River Board consider the development and adoption of a strategic plan that would guide the work of the Board.

Public Comment

There was no additional public comment.

Next Meeting Date

The next meeting will be held in October, 2008, possibly in conjunction with the Virginia Parks and Recreation Society Conference.

Adjourn

There was no further business and the meeting was adjourned.

Respectfully submitted,

Richard G. Gibbons
Chair

Joseph H. Maroon
DCR Director