



Agriculture Steering Committee meeting minutes

Date: Tuesday, January 24, 2012

Location: Albert Coates Local Government Center Auditorium, Raleigh

MEMBERS PRESENT (Agriculture Steering Committee only)

Dan Andrews, Steering Committee Chairman, Harnett County Commissioner
Cookie Pope, Steering Committee Vice Chair, Johnston County Commissioner
Dan Hunsucker, Catawba County Commissioner
Barry Jacobs, Orange County Commissioner
Linda Massey, Alamance County Commissioner
Charlie Messer, Henderson County Commissioner
Julius Owens, Rutherford County Chairman of the Board
F.D. Rivenbark, Pender County Commissioner
Gordon Wilder, Vance County Commissioner
Robert Wisecarver, Davie County Vice Chairman

INTERGOVERNMENTAL PARTNERS PRESENT (Ag Steering Committee only)

Tom Melton, N.C. Cooperative Extension Services Associate Director

STAFF PRESENT (Agriculture Steering Committee only)

Jason King, Assistant Communications Director
Latonia Strickland, Legislative Research Analyst

Steering Committee Chairman Dan Andrews of Harnett County called the meeting to order and welcomed Agriculture and Environment steering committee members to the joint meeting before introducing Environment Steering Committee Chairman Jimmy Clayton of Person County.

DISCUSSION OF JORDAN AND FALLS LAKE RULES

UNC School of Government Professor Richard Whisnant opened discussion by asking attendees to each provide their background knowledge of and local interest in water issues. Responses included:

- Durham County Attorney Lowell Siler discussed the delicate balance between protecting the environment and allowing for development and growth.
- Catawba County Commissioner Dan Hunsucker addressed problems for local governments along the Catawba River as pertaining to quantity over quality. There are no controls over who is allowed to pull water out and no study of the withdrawal impact of those downstream.

- Chairman Andrews addressed issues with flooding of high quality farmland along the Cape Fear River, as well as drought dictating crop selection such as corn.
- Chairman Clayton said that while southern Person County is within the Falls Lake watershed and is impacted by the Falls Lake Rules, the Neuse is not a source of water for the county. He said that due to faulty engineering Falls Lake has a quality issue when the level gets low, and that the state does not monitor water quality in the lake enough to generate accurate data. He said it may fall upon the Upper Neuse River Basin Association to do more lake level and water quality monitoring.
- Orange County Commissioner Barry Jacobs discussed his county's reputation as a longtime leader in watershed protection. The county's Lands Legacy Program targets important land for acquisition and protection through easements. He also mentioned that the nutrient program included in the Lake Rules would have an impact on local agriculture.
- Davie County Vice Chairman Robert Wisecarver mentioned that the county's Sparks Road Treatment Plant was recently cited by the state for water treatment, as well as a growing need for sewer provisions in the county.
- Forsyth County Commissioner Walter Marshall said that while the Yadkin River flows through Forsyth, his county board voted to eliminate environmental staff during the last budget cycle.
- Pamlico County Commissioner Christine Mele said that the county's primary source of water is the Castle Hayne aquifer. She mentioned concerns with quantity due to the large amount of water consumed by PCS Phosphate, and a pending tap into the aquifer by the City of New Bern.
- Wayne County Commissioner Jack Best stressed the need to begin construction of new reservoirs. He said he would like to see economic impact studies released with water regulations.

Mr. Whisnant then provided a prelude to the Falls and Jordan Lake Rules. The Clean Water Act of 1972 put into place a permit system for discharges from point sources into rivers and charged the Environmental Protection Agency with cleaning up the nation's waters. In 1986, the EPA said it would accept responsibility for large urban stormwater runoff regulations. It was around that same time, Whisnant said, that the state was dealing with coastal runoff and its impact on the shellfish industry that led to the development of CAMA – the Coastal Area Management Act. In the summer of 1995, when large algae plumes led to large fish kills in the Neuse River, the state began referring to the Chowan and Neuse rivers as “nutrient sensitive. Whisnant discussed DENR's development of the Neuse Nutrient Management Strategy, and the overall difficulty of getting a handle on all sources of pollution.

Rich Gannon, NPS Program Supervisor with of NCDENR's Division of Water Quality, discussed estuary nutrient problems, which lead to fish kills and disease, loss of submerged vegetation and excessive Chlorophyll-a standards. Mr. Gannon showed a map of Falls Lake that revealed excessive levels (above 40 ug/L) of Chlorophyll-a in the upper areas (northwest) of the lake. He said the rules set a five-year goal for nutrient reduction, but sometimes reductions take longer than anticipated to show up during monitoring of estuaries. For the Falls Lake Rules, 2006 is the baseline year. Mr. Gannon showed a map of state nutrient management strategies,

and said that the Neuse Rules were the first to incorporate nonpoint as well as point sources of discharge. He said all strategies are watershed-specific. Established strategies are listed as Chowan River (1981), White Oak River (1991), Neuse Estuary (1998), Tar-Pam Estuary (2001), Jordan Lake (2009) and Falls Lake (2011). High Rock Lake Rules are pending, with initial monitoring completed and modeling in the development stages.

Chairman Clayton said that Person County has contracted with a firm to determine where the county needs to place monitors for Falls Lake and warned that other counties may be forced to pick up the bill for monitoring. Mr. Gannon said that DENR monitors Falls and Jordan lakes quarterly, and that “we’re using our resources to the best of our abilities.” Chairman Clayton said that he fears DENR is using inadequate data to write their rules because monitoring is not done often enough.

Contact: Richard Whisnant, Professor of Law and Government, UNC School of Government, (919) 962-9320 or whisnant@sog.unc.edu.

Rich Gannon, Nonpoint Source Program Supervisor, N.C. Department of Environment and Natural Resources, Division of Water Quality, (919) 807-6440 or rich.gannon@ncdenr.gov.

Resources: Richard Whisnant presentation: *Water and the Counties in NC* ([PPT](#) / [PDF](#))

Rich Gannon presentation: *Jordan/Falls Rules Update* ([PPT](#) / [PDF](#))

[Water Wiki Lake Jordan watershed stormwater management](#)

[NC DENR DWQ Nonpoint Source Management Program website](#)

OVERVIEW OF WATER ISSUES IMPACTING N.C. COUNTIES

Mr. Whisnant provided a few quick points on water use, saying that with consumption on the rise and conflicts of withdrawals, the state needs a basic “rethink” of its water laws. He said most Eastern states (North Carolina and Alabama being the primary exceptions) have permitting systems in place for large users of water, so there are plenty of other models to look at.

Mr. Whisnant asked attendees about their education needs about water, as the NCACC and School of Government are considering incorporating a one-day seminar on environmental issues for commissioners into the Local Elected Leaders Academy (LELA) program schedule. Suggested program areas included what rules and regulations to anticipate; how to collaborate with others to develop regional water authorities; how to work across jurisdictions for regional approaches to solving water needs; and explaining the relationship between storage, supply, groundwater and water tables. Dr. Joseph Zublena, Associate Dean for Extension at N.C. State, suggested that such a curriculum could be overwhelming for a one-day session and suggested breaking topics up for one-hour, on-demand web resources.

Contact: Richard Whisnant, Professor of Law and Government, UNC School of Government, (919) 962-9320 or whisnant@sog.unc.edu.

Resources: Richard Whisnant presentation: *Water and the Counties in NC* ([PPT](#) / [PDF](#))

[Water Wiki: The Collaborative Water Study](#)

FARM BILL OVERVIEW

Chairman Andrews introduced Ray Starling, General Counsel with the N.C. Department of Agriculture & Consumer Services, to provide an overview of the federal Farm Bill, which was last rewritten in 2008. Mr. Starling said that while the Farm Bill is typically supposed to be reauthorized every five years, it rarely happens – the 2008 Farm Bill replaced the 2002 version. Mr. Starling said that even though it is typically referred to as the “Farm Bill,” the largest chunk

of appropriations included in the bill goes toward nutrition programs – 2012 projections estimate that 84 percent of Farm Bill spending will go toward nutrition assistance. Mr. Starling added that the amount of federal money spent on nutrition assistance equates to \$1,686 per U.S. household. And as the cost of nutritional programs has risen, he said, the amount going to actual farmers decreases – meaning that there is stiff competition for funding among interest groups.

More than 20 federal nutrition assistance programs receive funding through the Farm Bill, Mr. Starling said, with the majority of nutrition dollars flowing through SNAP – the Supplemental Nutrition Assistance Program. He added that some have suggested it be called the “Health Bill.” “It has more to do with health than it does to farming,” he said.

Conservation programs are a particular source of tension, according to Mr. Starling, because decisions made at the bill’s development stages will have an impact on the market and amount of food grown in the United States. He said that the Farm Bill does present rural America with its opportunity to put its stamp on federal policy, but there is a debate as to whether the Farm Bill houses too many programs, and whether there will actually be a Farm Bill in the next couple of reauthorization cycles. At the policy level, Mr. Starling said that the 2012 version of the Farm Bill will likely be smaller than the 2008 version in terms of total appropriations. Senate hearings will soon set the stage for whether the next Farm Bill will be a new bill or a reauthorization of the 2008 version.

Contact: Ray Starling, General Counsel, N.C. Department of Agriculture and Consumer Services, (919) 733-7125, ext. 248, or ray.starling@ncagr.gov.

Resources: Presentation: *Preparing for the next Farm Bill* ([PPT](#) / [PDF](#))

Handout: [2008 Farm Bill: Titles and Selected Programs and Policies](#) (PDF)

POTENTIAL IMPACTS OF HYDRAULIC FRACTURING ON COUNTIES

Chairman Clayton introduced a panel of presenters on hydraulic fracturing. Durham County Vice Chair Ellen Reckhow, a member of the Environment Steering Committee, said there is a real need to know the best practices and any innovative approaches that have been taken on horizontal hydraulic fracturing, the controversial practice of “fracking” shale rock and collecting natural gas. The practice is currently illegal in North Carolina. Ms. Reckhow said questions include what a DENR study will recommend, what action the General Assembly will take, whether state legislation will allow for local control, and whether local governments will be allowed to keep some of the revenue. She added that since the practice requires a lot of trucking water in and wastewater out, there will be a toll on local roads.

Deborah Luecken, who chairs the Durham Environmental Affairs Board, said North Carolina is in a good position “because we can do it right” and avoid some of the mistakes that have been made in other states that have allowed fracking for shale gas.

Lee County Tax Administrator Dwane Brinson spoke to the difficulty of finding out who actually owns mineral rights to land due to the splitting of parcels over decades. He said many landowners do not understand that they may not actually own their mineral rights. The county has held several community hearings to gather public input and has taken a progressive approach to educating the public via YouTube.

Rural Advancement Foundation International (RAFI) Mineral Rights Project Coordinator Jordan Treacle provided an overview of RAFI’s role in educating and protecting landowners from predatory mineral rights leases. Mr. Treacle said that it is RAFI’s goal to make sure that

landowners know their rights and the impacts of fracking before they sign a lease, which is a legal contract between the landowner and a drilling company. Gas companies, he said, are targeting Chatham, Moore and Lee counties he said; roughly 9,400 acres in Lee County have already been leased. He said that some of the leases he has seen offer the landowner little in compensation, with royalty payments as low as 12.5 percent and drilling phases in the 15-20 year range. The leases also contain few landowner protections – for example, typical leases signed in North Carolina offer no compensation for water withdrawals, no reclamation requirements after extraction has ceased, and no set-back requirements.

Overall, Mr. Treacle said that landowners in North Carolina are unprepared to negotiate fair leases and are not aware of the risks involved with fracking. He added that there are community impacts of fracking, including wear on roads from significant truck traffic, social impacts from an influx of non-local workers into rural communities, a strain on emergency services, and rifts between large and small landowners.

Attorney Glenn Dunn said it is important to remember that the practice is currently illegal, and the debate will center on whether to remove the prohibition. He said that while RAFI is looking out for consumers, local government officials can keep an eye out for the DENR study and the Department of Commerce’s examination of the fiscal impact.

Contact: *Ellen Reckhow, Durham County Vice Chair, (919) 383-3883 or ereckhow@aol.com. Deborah Luecken, Chair, Durham Environmental Affairs Board, (919) 541-0244 or (919) 471-0633.*

Dwane Brinson, Lee County Tax Administrator, (919) 718-4661 or dbrinson@leecountync.gov.

Jordan Treacle, Mineral Rights Project Coordinator, The Rural Advancement Foundation International-USA (RAFI-USA), (919) 444-1321 or jordan@rafiusa.org.

Glenn Dunn, Attorney, Poyner and Spruill, (919) 783-2842 or gdunn@poynerspruill.com.

Resources: *Handout: [Triangle J COG map showing geologic belt](#) (PDF)*

Jordan Treacle presentation: Mineral Rights Leasing in North Carolina ([PPT](#) / [PDF](#))

RECOMMENDATION OF APPOINTMENT TO LOCAL FOOD ADVISORY COUNCIL

Agriculture Steering Committee members adjourned to another meeting room to discuss matters of interest to only Agriculture committee members. Chairman Andrews told attendees the steering committee was to consider a recommendation for the NCACC’s seat on the North Carolina Local Food Advisory Council, which was created by the General Assembly in 2009 to address program and policy considerations regarding the development of a sustainable local food economy in North Carolina. There are 27 seats on the council, and legislation allows for one representative of the NCACC, as appointed by the President Pro Tem of the Senate. John Day served as the Association’s representative but has retired as Cabarrus County Manager and is no longer working in county government. The term currently held by Day expires July 1, 2014.

As the official policy guiding arm for the Association’s Agriculture policy, Executive Director David F. Thompson will take the steering committee’s recommendation under advisement when he makes a recommendation to Senate President Pro Tem Phil Berger. Orange County Commissioner Barry Jacobs voiced interest in the appointment and listed his qualifications as a longtime farmer and county commissioner. Committee members accepted Mr. Jacobs as its recommended appointee to the Council.

UPDATE ON H168

NCACC Legislative Research Analyst Latonia Strickland updated committee members on [H168](#),

a bill that passed during the 2011 legislative long session and prohibited involuntary municipal annexation and extraterritorial jurisdiction (ETJ) of bona fide farms. An Association [agriculture goal](#) sought “a prohibition against municipal involuntary annexation or regulation of farm or forestry activities within a voluntary agricultural district or conservation district.” The bill has caused implementation and regulation issues for counties due to its expanded definition of what qualifies as a bona fide farm.

Association staff and two county planning representatives (Josh O’Conner of Buncombe County and Sharon Peterson of Wake County) presented on the issue to the House Select Committee on Extraterritorial Jurisdiction on Jan. 12. The Association conducted a survey of counties in December that garnered 52 responses. Although no respondents discussed the issues of ETJ on farms, respondents said they believed that Unified Development Ordinance (UDO) districts provide enough zoning oversight. Members of the House Select Committee said during the meeting that it was their belief that the bill would be a great help for farmers. Association staff will continue to discuss future changes and assemble a collection of stakeholders, but traction on the issue during the legislative short session is not expected.

NEXT MEETING

Chairman Andrews set a tentative meeting date of Tuesday, May 29, 2012, for the next steering committee meeting. The meeting will be held at either the Albert Coates Local Government Center or the Quorum Center in Raleigh. The meeting will be held at a time to be announced in the afternoon to accommodate members with a long commute to Raleigh who wish to stay overnight and attend County Assembly Day on Wednesday, May 30, in Raleigh.