Senator Kaine, Secretary of Natural Resources Ward, and Secretary of Public Safety and Homeland Security Moran Featured at VCPC’s Annual Conference on Adaptive Flood Planning and Coastal Change

On December 5th, the clinic hosted its annual climate change conference, calling together policymakers, lawyers, and researchers alike to discuss actions to date being taken to adapt to the effects of climate change in the Commonwealth. The conference included a keynote speech by US Senator Tim Kaine and a meeting of the Governor’s Climate Change and Resiliency Update Commission, led by Secretaries Molly Ward and Brian Moran.

During the Governor’s Commission meeting, the Secretaries announced the creation of the Commonwealth’s Chief Resiliency Officer and the designation of Secretary Moran as such. In addition, the Commission heard from James Redick in his capacity as the co-chair of the Secure Commonwealth Panel's Sub-Panel on Recurrent Flooding and from Dr. Carlton Hershner of the Virginia Institute of Marine Science. Both reports focused on current actions being taken at the state and local levels as well as on necessary next steps. In response, the Commission established several work groups and charged the VCPC with developing a definitive analysis on local government authority to respond to climate change threats through a scholarly task force.

Delivering the keynote, Senator Kaine discussed the importance of federal and state cooperation in responding to the threat of climate change. The Senator noted how serious and “frightening” the threat is to the security, the economy, and the natural resources of the nation.

The conference also featured three panels on various state climate issues. The first panel, in which former clinical students Kristin Clark and James Andris presented, addressed FEMA’s Community Rating System and local government liability for non-responsiveness to flooding. The second panel featured a discussion of potential market-based solutions to mitigating the impacts of climate change. The emergence of local entrepreneurs with unique and innovative ideas with the potential to stem the tide of recurrent flooding across the state was among the topics discussed. The third and final panel, which included researchers from both William & Mary and the Virginia Institute of Marine Science, confronted the issue of social vulnerability. The panelists shared their perspectives and analysis on the intersections among race, law, science, and environmental justice in community vulnerability assessments.

The webcast version of the conference along with the reports and PowerPoint presentations...

The conference was made possible by generous funding from the Virginia Environmental Endowment and VA Sea Grant along with support from the Maryland League of Conservation Voters, the Southern Environmental Law Center, the Chesapeake Bay Foundation, World Resources Institute, the Middle Peninsula Planning District Commission, and Dewberry.

VCPC Surveys Infrastructure and Flood Risks in Norfolk Neighborhoods

Toward the close of last semester, clinic students witnessed the dramatic effects of sea level rise first hand on a trip to Norfolk, Virginia. The excursion, organized by the clinic consultant Mary-Carson Saunders Stiff, included a visit to three economically and socially distinct neighborhoods, all united by a common problem.

The clinic’s first stop was in Ghent, a neighborhood populated by stately homes built during early twentieth century. Unfortunately, recurrent flooding in the area and high flood insurance rates have threatened the financial stability of the community. Some residents, responding to recent flood insurance rate hikes, have taken drastic measures including filling in their basements in order to change their flood risk status and reduce insurance costs.

Local businesses have been affected by these same problems. The Chrysler Museum, one of the area’s popular tourist attractions, responded to the threat of floods by redesigning and reinforcing its exhibits and moving un-displayed artwork from the basement to the attic. A local church that has also experienced trouble with flooding is now coping with subsequent mold problems. These problems make sale of the property difficult, Saunders-Stiff noted.

The historically African American neighborhood of Chesterfield Heights is facing more difficult problems, battling both poverty issues and recurrent flooding along with a lack of resiliency in public services. Some local roads have already disappeared due to sea level rise, replaced by marshland. This community is partnering with a local non-profit, Wetlands Watch, which has set up a contest calling for alternate neighborhood designs to protect the community from recurrent flooding.

Colonial Place also suffers from infrastructure deficiencies, as many local roads have begun to flood even without rainfall and simply as a result of high tide. Parking lots in local apartment complexes, for example, flood regularly, causing damage to property.

The clinic has been working with local communities on the issue of flood insurance rates. Between examining ways for communities to reduce the rates through compliance with stormwater management measures and partnering with the real estate community, the VCPC continues to provide valuable legal and policy assistance.

Subsequent to the tour of these communities, Norfolk’s Director of Emergency Preparedness and Response lectured to the class, arguing for the need to treat recurrent flooding like other emergency situations such as a disease outbreak or a terrorist attack, requiring a comprehensive strategy for response.

Note: Photo credit USA Today 12/18/2013 reporting on recurrent flooding in Norfolk, VA.

Clinic Evaluates “Living Shorelines”

Early on a chilled November morning, many of the clinic students set out from Williamsburg and traveled to the Lynnhaven River, a tributary that flows into Virginia’s primary aquatic natural resource: the Chesapeake Bay. On their arrival, they boarded a work boat provided by the Chesapeake Bay Foundation where two of the
Chesapeake Bay Foundation’s seasoned educators engaged the clinic in a lively debate on many of the issues that affect the bay. The Foundation’s guides discussed the importance of oyster aquaculture and the need for sustainable coastal industries.

Students also discussed the benefits of different policy solutions to coastal flooding concerns. Some policymakers have argued that hardening the shoreline against flooding with sea walls and dams is a preferred solution for adapting. Others advocate for the use of “living shorelines” instead. Both solutions involve mechanisms to protect shoreline property but a “living shoreline” utilizes strategic placement of wetlands, ground cover and trees, and grading to absorb runoff and slow rising waters. The students saw many hardened shorelines but only a few living shorelines during the excursion down the Lynnhaven.

State Subcommittee Hears Testimony from Virginia Coastal Policy Clinic

On November 5th, VCPC’s director testified before the joint legislative subcommittee on recurrent flooding. At the meeting, Roy Hoagland shared the clinic’s work on the legal authority of local governments to respond to the impacts of climate change. Hoagland noted that while there is sound authority for local governments to respond to flooding by utilizing already existing governmental mechanisms, there is great ambiguity due to Virginia Supreme Court holdings. Hoagland recommended that regardless of the reality or the perception that authority is limited, there is a need to consider what legislation is necessary to resolve this legal ambiguity for local governments.

Hoagland also highlighted the issue of the growing support for the appointment of a chief resiliency officer and greater homeowner disclosure of flooding risks and past impacts.

Clinic Partner VA Sea Grant Receives National Recognition

On Thursday, December 18, the Department of Commerce awarded William & Mary and the Virginia Institute of Marine Science (VIMS) the highest status that any Sea Grant program can achieve: College Status.

The announcement is a major milestone after a multi-year restructuring process, in which VASG went from a...
dispersed organization with satellites in multiple institutions around Virginia to a centralized program headquartered at VIMS at William & Mary.

The ceremony, which took place in the historic Wren building at William & Mary, included a wide variety of speakers who attested to Virginia Sea Grant’s excellence in leadership, relevance, education, and productivity. Speakers included Dr. Troy Hartley, Director of Virginia Sea Grant; Congressman Rob Wittman; John Wells, Dean and Director of VIMS; Leon Cammen, Director of the National Sea Grant College Program; and Taylor Reveley, President of William & Mary. (Article excerpted courtesy of VA Sea Grant).

Student Profile – Ben Willis

As a Suffolk, VA, resident, Ben experienced the direct impact of environmental resource management policies. His family preferred to use grasses and native plantings to control shoreline erosion along their property. Watching his family and others in the community implement shoreline erosion control sparked his interest in the legal components of conservation.

“It’s a vicious cycle,” says Ben. “As we lose [vegetation], we lose the natural processes that prevent erosion and keep the Bay clean.” As a student in the Virginia Coastal Policy Clinic, Ben drafted a white paper for the Clinic analyzing the legal implications of sea level rise on the Chesapeake Bay Total Maximum Daily Load (TMDL). TMDLs establish pollution load limits for the Bay. Excess nutrients can cause algal blooms that deplete oxygen levels, resulting in localized dead zones which suffocate organisms and underwater grasses. As sea level rise occurs and as the Bay’s temperature and salinity changes, the TMDL may also need to change.

Ben’s research focused on the impact of these changes on water quality standards and the policy decisions surrounding the corresponding load reductions.

He believes that his work in the VCPC will prepare him for a career in maritime and environmental law, because he says, “A lot of maritime law, like the United Nations Convention on the Law of the Sea, is closely tied to pollution control.”

Farewell and Thanks to Mary-Carson Saunders Stiff

As of January 1, Mary-Carson Saunders Stiff concluded her two years of work with the Virginia Coastal Policy Clinic to serve as the Director of Policy for Wetlands Watch on a full time basis.

VCPC director Roy Hoagland wrote, “There is much to say about Mary-Carson’s invaluable contributions to the success of the VCPC. When former clinic director Shana Jones moved to Georgia, Mary-Carson stepped up and filled the gaps, helping lead classes, managing projects, maintaining relationships, and supervising students. When I joined W&M this past summer, she willingly became my partner in the operation of the clinic, taking the leadership role with the December conference, providing me entrance to many organizations, and vibrantly representing the VCPC in a host of venues. I can say without pause that the clinic’s accomplishments over the last year are due in no small part to Mary-Carson’s efforts.”

Saunders Stiff, a W&M School of Law and VCPC alum, can be reached at mc.stiff@wetlandswatch.org.

Prepared by Jonathan Gonzalez, William & Mary Law 1L Graduate Research Fellow with contributions by Tess Mackey