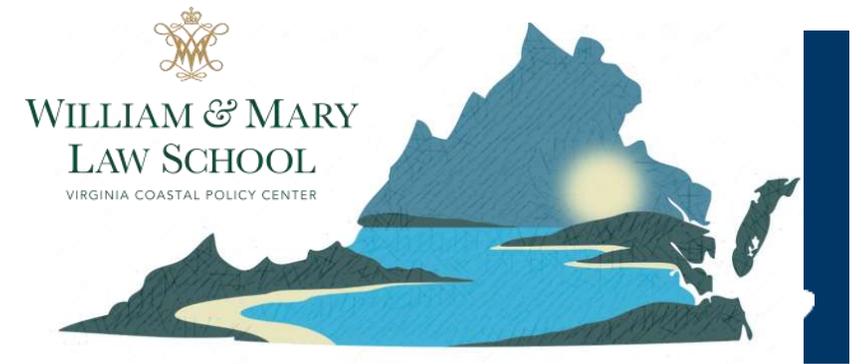


# Legal Working Group

Chair: Roy Hoagland, Co-Director, Virginia Coastal Policy Center at William and Mary Law School

# Legal Working Group



- Tasked by the Charter with identifying and providing guidance on potential legal issues faced by IPP workgroups
- Provided analysis on permanent organizational structure options

# Legal Working Group



- Consisted of local government, military, and private attorneys
- Met regularly to consider various legal issues surrounding the work of the IPP



- Did not represent the IPP as its client.

## Disclaimer:

*This Legal Primer is not intended to serve as and should not be taken as legal advice or other communication to a client, or as attorney work product. Accordingly, this Legal Primer is not subject to either the Attorney-Client Communication Privilege or the Attorney Work Product Privilege. Nothing contained in this Legal Primer constitutes any type of official opinion from any of the governmental attorneys, or their offices, who participated in its drafting. It is designed as a baseline document that can assist participants outside the Legal Working Group. For further consultation by the Pilot Project working groups and the Steering Committee generally, please contact your Legal Working Group liaison. For agency specific questions, please consult your respective legal counsel within your organization.*

# The Legal Primer



- Intended as a living document
- Available:  
<http://bit.ly/ipplegalprimer>
- Sample Federal Laws: CZMA, CWA, CAA, NEPA, CBRA, Endangered Species



- Sample Virginia Laws/Cases:
  - Dillon Rule: Municipalities exercise only the powers specifically granted by the state
  - *Livingston v. VDOT*: Creates possible state liability where state's failure to maintain a public improvement results in private property damage
  - *Kitchen v. Newport News*: Raises potential liability resulting from city infrastructure causing floods on private property
  - Zoning Laws

# Other Roles of the LWG



- Assisted with IPP Steering Committee day long strategic planning workshop
- Provided liaisons to other working groups/advisory committees
- Provided analysis RE Role of Virginia's Native American Tribes

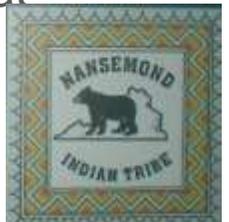
- Recommended IPP overture to the Virginia Council on Indians



- Statutory Requirements in dealing with tribes:



- Executive Order 12,898 (environmental justice)



- National Historic Preservation Act (NHPA)

- Consultation Guidelines



White Oak, Stafford County, Virginia





# Final Consensus Resolution



*That the Steering Committee endorses the following Conclusions regarding the structure of an entity for accomplishing the aforementioned ongoing collaborative work:*

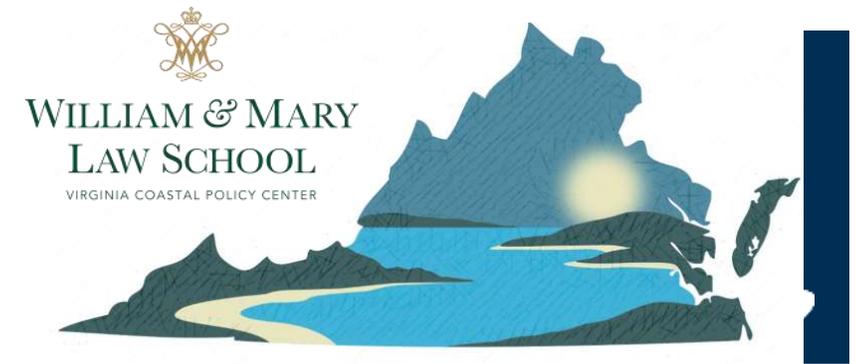
- Conclusion 1: That the entity have the capability to **facilitate, plan, and implement** action.
- Conclusion 2: That the entity incorporate in its deliberations and operations the **Federal government and its agencies**, including the uniformed services, as well as the **Virginia state government and its agencies, local governments**, and other existing political subdivisions, to the full extent of each of their respective lawful authorities and abilities.

# Final Consensus Resolution



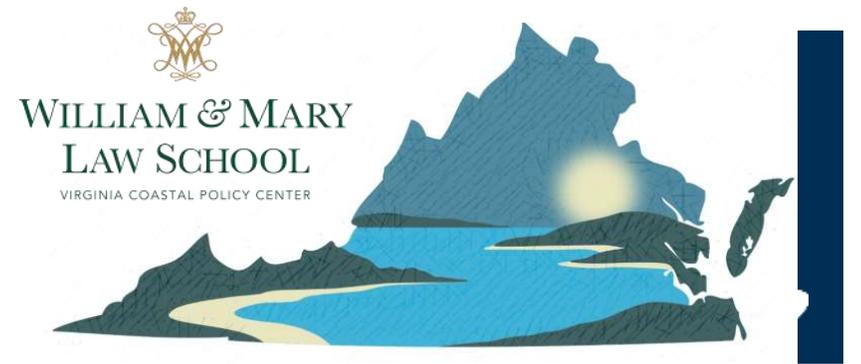
- Conclusion 3: That the geographical boundaries for the work of the entity be the same as those of the **Hampton Roads Planning District**, **consisting of 17 jurisdictions**, **excepting therefrom any particularized partnerships or collaborations that may of necessity or by choice** arise within or beyond those boundaries.
- Conclusion 4: That the entity **initially facilitate and plan actions which are then carried out through coordinated, designated implementers**, such as existing local governments, political subdivisions, or coalitions of these groups, and that the entity consider the option of implementing actions on its own in the long term.

# Final Consensus Resolution



- Conclusion 5: That the entity have dedicated **professional staffing**.
- Conclusion 6: That the entity have a sustainable source of **revenue**, initially for its **administration and operation**, and in the longer term for **implementing action**.
- Conclusion 7: That the entity incorporate participation and advice from sectors throughout the region, including **private business and industry, academia, nongovernmental organizations, community organizations, and residents** in its ongoing work.

# Final Consensus Resolution



- Conclusion 8: That the entity lead efforts to establish **regional infrastructure development standards** for resiliency to the impacts of sea level rise.
- Conclusion 9: That the **entity examine and consider** over the next eighteen (18) months the need for the creation of a **special service district authority** or the **joint exercise of local government powers** by agreement in order to successfully implement action over the **long term**.

# Final Consensus Resolution



*That the HRPDC shall initially serve as the lead for the ongoing collaborative work of the ‘whole of government’ and ‘whole of community’ efforts among the Steering Committee and the other participants in the IPP to date, providing leadership consistent with the Conclusions contained herein; and*

*That the HRPDC, with the continued work and participation of the Steering Committee and the other participants in the IPP to date, and others as the collaborative participants deem necessary and appropriate, shall by January 1, 2018, provide a publicly available report on progress made towards the accomplishment of the Conclusions described herein.*



## Questions?

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