

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Aqua and Terra Conference Rooms

1800 Washington Blvd.

Baltimore, Maryland 21230

August 4, 2010

1:00 p.m. to 4:00 p.m.

Meeting Minutes Summary

Welcome/Introduction

- Dr. Robert Summers, Deputy Secretary, Maryland Department of the Environment and past Advisory Committee Chairman introduced the newly appointed committee chairman, Mr. Greg Murray, Administrator for Washington County.
- Mr. Murray welcomed the committee members and other attendees. He read a portion of the statute that proscribes the Advisory Committee's responsibilities to remind the members of the type of recommendations they are tasked to make regarding the Bay Restoration Fund.

Review of Minutes

- Previous meeting minutes from the May 20, 2010 meeting were handed out to the committee members for their review and comments. An electronic copy of the meeting minutes was also e-mailed to the committee members prior to the meeting.
- Ms. Aiosa had one comment regarding the minutes. On page 4 of 5, third bullet from the top, she asked for more information on the basis of the selection of the two lowest priced vendors. This was discussed during the septic section update.
- Mr. Astle stated that the statement on page 4 of 5, section 6, the last two sentences of the last bullet regarding the "distribution of Trust Fund monies", was a comment by Andrew Gray and not by him. This will be corrected.
- There were no additional comments on the meeting minutes. The revised minutes and handouts from the meeting will be posted on MDE's website.

Discussion

I. Update on ENR Implementation and Upcoming Events

- Mr. Saffouri provided an update on the status of the 67 plants targeted for ENR upgrade. To date there are 14 facilities in operation, 1 facility (Salisbury) in corrective action, 16 under construction, 22 in design, 8 in planning, and 6 in pre-planning, for a total of 67 facilities.

- Poolesville is now in operation, and Crisfield has been working on optimization of the facility to achieve ENR levels of removal.
- All the percentage completions keep increasing. Recent facilities that have started construction are Aberdeen and Denton.
- Havre De Grace held a dedication ceremony on June 11, 2010, which was attended by MDE staff from the Office of Budget and Infrastructure Financing and Director of Water Management.
- The following facilities are ready to schedule an event, if needed.
 1. Patapsco - Ready for Groundbreaking
 2. Denton - Ready for Groundbreaking
 3. Pocomoke City - Ready for Groundbreaking
 4. Cox Creek- Ready for Groundbreaking
 5. Aberdeen - Ready for Groundbreaking
 6. Poolesville – Ready for Dedication

II. BRF Fee Collection and Budget

- Mr. Khuman presented the revenue data for fiscal year 2010 through the end of June 2010. The Wastewater Treatment Plant (WWTP) total revenue for fiscal year 2010 through June is \$43.5 million. The July 2010 deposits that were made to the Comptroller will be posted shortly. The July installment will be about \$11 million resulting in a fiscal year total of around \$54 million, about the same as in fiscal years 2008 and 2009. Therefore, the good news is that the revenue is stable.
- The septic total revenue for fiscal year 2010 through the June 2010 is \$12.9 million. The last installment of septic revenue for the fiscal year will also be posted shortly. It is expected that the yearly total in 2010 will be between \$13.5 and \$14 and therefore, it appears that the yearly annual septic revenues are also pretty flat.
- Future annual revenues for the Wastewater Fund and the septic fund are expected to be about \$54 million and \$13.5 to \$14 million, respectively, prior to any fee increase.
- The total fund distribution to date is as follows: approximately \$285.4 million to MDE Line 1 (Wastewater Fund), \$33.9 million to MDE Line 2 (Septic Fund), and \$30.7 million to MDA Line 2 (Cover Crop Fund).
- Mr. Khuman, in response to a question, stated that the counties are entitled up to five (5) percent of what they collect individually to be reimbursed for justifiable expenses. The actual expenditure, however, based on the overall expense claimed is \$2.5 million over \$354 million collected, which is less than one (1) percent. Similarly, the Comptroller is entitled to one-half a

percent of the total deposited, and they are using much less than that, about \$50,000 a year. In 2010 the Comptroller is spending more funds, because they are performing aggressive auditing and checking payment data to ensure compliance.

III Options to Address Bay Restoration Fund Shortfall

- Mr. Khuman provided an update on the options to address the Bay Restoration funding shortfall. There is no further update to the data presented at the last meeting. The Committee needs to evaluate all five options presented in the annual report.
- Mr. Khuman informed the Committee that he attended a meeting of the Capital Debt Affordability Committee who are tasked to make recommendations to the legislature for the dept cap for the General Obligation (GO) bonds for the state. All agencies that issue GO related debt are invited. At the meeting Mr. Khuman discussed the status of the Bay Restoration Fund, the number of bonds planned to be issued under the existing structure, and how that will roll into the state's debt affordability gap. In response to a question from the Commission Chair regarding the amount of fee increase needed to overcome the shortfall, Mr. Khuman stated the breakeven point is an 80 percent fee increase or \$54. A newspaper article the next day stated that the fees are going up. The article also mentioned the annual report and all five options. The newspaper also quoted the Chairman as saying, maybe the metropolitan area plants should have a different fee scale compared to the rural municipalities.
- Mr. Summers described two options when the Committee is ready to go forward with a recommendation, departmental legislation or private sponsored legislation. Departmental legislation would need to be fed into the Governor's approval process and require a Committee recommendation now. Private sponsored legislation via a recommendation in the annual report would not require a decision now. It was suggested that either way, a larger sector of the Committee get involved in making the recommendation
- Ms. Aiosa stated that looking at the issue as what is the best way to move forward and ensure adequate funding for all 67 facilities, the only fair option is to raise the fee. She said whether the committee recommendation for the fee increase is 80 or 100 percent does not matter, an increase is what should be the recommendation.
- Mr. Khuman corrected a statement he made at the last meeting. He had quoted that the fee if it is increased for sewers it would also be the same for septics. That was an error. The statute as written categorizes wastewater, holding tanks, septic systems separately. The Committee needs to decide whether the fee should be the same or different for septic and non-septic systems.
- The fee increase option is not mutually exclusive from the other four options; not doing some of the projects, reducing the grant allocation to less than 100%, going with local bonds, and eliminating the O&M subsidy. Each of the other four options can be implemented in combination with the fee option increase, but individually cannot address the funding shortfall, except for maybe reducing the grant to 50 percent.

- A subcommittee will be established and tasked to prepare a draft recommendation that includes a fee increase for both wastewater and on-site septics (includes holding tanks) and a financial justification for the increase. The draft will discuss the five options and describe the discussion points from today's meeting. It will also provide a discussion concerning the "major-minor" wastewater treatment plants and their current and future role regarding meeting their flow and funding needs and the nutrient milestones. The draft recommendation will be due the end of August, and, when finalized, may become part of the annual report due in December 2010.

IV Onsite Sewage Disposal systems (OSDS) Update

- Mr. Khuman provided an update on the implementation of the OSDS program. MDE is not taking any direct applications from homeowners. They are all going to the counties. All counties except Howard County are participating. Howard County, however, is having discussions with other partners to get into the program. Worcester County is going to administer applications for both Worcester and Somerset, and Calvert County is going to administer applications for both Calvert and Prince George's counties. Frederick and Washington Counties have a partnership with the Canaan Valley Institute to administer the applications.
- MDE wanted the counties to run the program and MDE would provide guidance and award monies to the counties. However, some of the counties felt they were too small to do their own procurement of best available technologies. These counties prefer that the state procure a master bid and select vendors and they would piggy back on that procurement, while other counties prefer to do their own procurement.
- Of the 12 approved technologies, four (4) have been field verified to meet the nitrogen reduction goal of 50 percent. MDE sent out a proposal request to the four (4) field verified vendors, divided the state into four (4) regions, and requested a low price bid from each vendor for any or all regions, and selected the two (2) lowest for each region. Selection was based strictly on price, not better technology or efficiency.
- The counties have three options to make a selection. They could go with MDE's bid and select one of the two vendors in their region. The second option is to do their own procurement, design their own RFP and choose any of the four (4) field verified technologies or all 12 approved technologies to request a bid. The third option is to use another technology, however, they will only be reimbursed the state's lowest price and the remainder comes from the homeowner's pocket.
- Mr. Prager provided an explanation of MDE's nitrogen reduction numbers as actually reported. MDE reports the effluent based on pounds per person per system and an established goal initially of 50 percent removal in terms of pounds. This is based upon an assumed number of pounds that go to the surface water, depending upon whether the system is inside or outside the critical area. MDE is not yet able to look at the different systems and revise the actual estimates. Once actual numbers can be reported, an improvement in the total number of pounds of nitrogen removed will probably result.
- A draft of the revised septic system regulations is currently being circulated. For the first time

the regulations will address the best available technologies and the advanced systems, including the long term operation and maintenance of the systems.

V Update on Cover Crop Activities

- Mr. Astle provided the update on the cover crop activities. There was a good sign-up for next year's cover crop planting. The Governor is supposed to make an announcement and until that happens, the actual numbers will not be disclosed.
- Mr. Astle stated that everything is going well. At present, Maryland Department of Agriculture is finishing up last year's claims on cover crops and at the same time working on next year's cover crop and nutrient management program. The Federal program under the NRCS also went well and they spent all their money as well.

Next Meeting

The next meeting will take place in early October. Committee members will be informed via e-mail of the meeting date.

Materials Distributed at the Meeting:

- Meeting Agenda
- Previous Meeting Minutes (May 20, 2010)
- Wastewater Treatment Plants ENR Upgrade Status (August 4, 2010)
- Program-to-Date BRF Fee Collection Report (through June 30, 2010)
- 2010 Tax Year Year-to-Date BRF Fee Collection Report (through June 30, 2010)
- 2010 Tax Year First Quarter BRF Fee Collection Report (through June 30, 2010)
- BRF Fee Distribution Report through June 30, 2010
- ENR Program Projected Grant Awards update (April 2010)
- BRF WWTP Upgrade Cashflow Projection (not including septic) April 2010
- BRF Fee Increase & ENR Funding Impact (WWTP) April 28, 2010 draft

Attendance

Advisory Committee Members or Designees Attending:

Robert Summers, Maryland Department of the Environment
James L. Hearn, Washington Suburban Sanitary Commission
Jeff Horan, Department of Natural Resources
Norman Astle, Maryland Department of Agriculture
Jenn Aiosa, Chesapeake Bay Foundation
Angela Butler, Maryland Department of Planning
Greg Murray, Washington County

Others in Attendance:

Peter Bouxsein, Chesapeake Bay Foundation
Julie Pippel, Washington County
Kevin Nash, RK&K
Evan Issacson, Department of Legislative Services
Christine Flynn, Department of Legislative Services
Lesley Cook, Department of Legislative Services

Maryland Dept. of the Environment (MDE) Attendees:

Jag Khuman
Walid Saffouri
Rajiv Chawla
Maggie Fridinger

Missy Martin
Cheryl Reilly
Marya Levelev
Andrew Sawyers

Michael Kanowitz
Jay Prager
Heather Barthel