

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Aqua and Terra Conference Rooms

1800 Washington Blvd.

Baltimore, Maryland 21230

January 5, 2011

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

Meeting Minutes

Welcome/Introduction

- The meeting was chaired by Dr. Robert Summers, Acting Secretary, Maryland Department of the Environment, on behalf of the Chairman, Mr. Greg Murray who was unable to attend due to another commitment.
- Dr. Summers welcomed the committee members and other attendees.

Review of Minutes

- Previous meeting minutes from the November 10, 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.
- Mr. Astle had a comment on the previous meeting minutes. Mr. Astle requested that the first line, second bullet under the Update for Cover Crop Activities states “fact that the crops came up early” should be revised to read “fact that the crops were harvested early”. The correction will be made. There were no other comments. The approved 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 19 facilities in operation, 1 facility (Salisbury) in corrective action, 13 under construction, 21 in design, 7 in planning, and 6 in pre-planning, for a total of 67 facilities.
- Georges Creek and Mount Airy constructions are substantially completed and have commenced ENR operation. Two construction contracts for Blue Plains have been awarded. Portions of the project related to the Nitrogen Removal Reactor and the Blue Plains Tunnel are in construction.
- All the percentage completions have increased, with four projects exceeding 95% completion.

- The following facilities are ready to schedule an event, if needed. Committee members will be notified via e-mail, when an event is scheduled.
 1. Aberdeen - Ready for Groundbreaking
 2. Thurmont – Ready for Groundbreaking
 3. Blue Plains – Ready for Groundbreaking
 4. Mount Airy – Ready for Dedication
 5. Crisfield - Ready for Dedication
 6. Federalsburg - Ready for Dedication
 7. Perryville – Ready for Dedication
 8. Georges Creek – Ready for Dedication

- Mr. Bouxsein inquired about the status of the discussion between MDE and the City of Salisbury regarding the proposed corrective action at the Salisbury wastewater treatment plant. No decision has been yet been made, MDE is still in discussion with the City of Salisbury.

II. Update on the Advisory Committee Annual Report

- Dr. Summers provided an update on the Bay Restoration Fund Advisory Committee Annual Status Report. Since the November 10, 2010 meeting, various comments were received and revisions were made to the Annual Report. The Report was then re-circulated for review and comments. During the same period, the Watershed Implementation Plan (WIP) for the Bay Restoration was completed following numerous discussions in Bay Stat regarding the funding recommendations issue.

- Analysis of the cash flow needs indicates that there would not actually be a cash flow problem until Fiscal Year 2013. After working with the legislature, the Governor’s office, and the Department of Budget and Management (DBM), a strategy was built into the WIP to work out, through 2011, the details to accommodate the fee increase, with the intention of implementing the increase in 2012, to be effective no later than October 2012.

- In consultation with DBM, a strategy was also developed to address the State debt cap ceiling issue discussed at the November 10, 2010 Bay Restoration Advisory Committee meeting, in order to complete all the upgrades by 2017, and meet the cash flow needs. As a contingency in the WIP, it was indicated that the National Pollutant Discharge Elimination System (NPDES) permit requirements (to meet the Chesapeake Bay Total Maximum Daily Load (TMDL) requirements) would apply, whether or not the Bay Restoration fee was increased and the cash flow needs were met.

- In terms of actually meeting the requirements of the WIP and the TMDL, there is no option available. The Bay Restoration Fund (BRF) fee either has to be increased or the rate payers pay for the upgrade of the remaining individual facilities. To reflect that, some language was added to the Annual Report under challenges on page two in the bullet at the bottom of the page. The exact details of how the BRF fee is implemented and how the debt cap is addressed will be worked out during 2011.

- The conclusions on page three of the Annual Report now also includes the language the committee had previously reviewed in the Report's body regarding the recommendation to increase the BRF fee. Other changes to the report were primarily editorial. This is a final draft of the Annual Report and will be put on the web later this month. The Committee was asked if anyone objected to moving ahead with the Annual Report. There were no objections.

III. BRF Fee Collection and Budget

- Mr. Khuman presented the revenue data from the fee program's inception through the end of December 2010. The Wastewater Treatment Plant (WWTP) total revenues collected by the Comptroller are approximately \$319.9 million and \$74.3 million for the septics. These are deposits prior to administrative expenses being claimed by the local governments or paid to them. The amount for administrative expenses claimed by the Comptroller and local governments over the last five years is about \$5 million.
- For fiscal year 2011 through the end of November 2010, the WWTP total revenue is \$18.9 million and the septics amount about \$8.7 million.
- Based on past history, fee amounts similar to last year are expected to be collected, with the Wastewater fees projected at about \$55 million and the Septic fees at about the \$14 million annual target.
- The total fund distribution to date is as follows: approximately \$315.2 million to MDE Line 1 (Wastewater Fund), \$39.5 million to MDE Line 2 (Septic Fund), and \$35 million to MDA Line 2 (Cover Crop Fund).

IV Onsite Sewage Disposal Systems (OSDS) Update

- Mr. Khuman provided an update on the implementation of the OSDS program. On December 15, MDE made all the awards for the second round of Fiscal Year 2011 monies. A total of approximately \$8.5 million has been awarded in Fiscal Year 2011 to the counties to implement the program. The money was awarded based upon the number of existing septic systems in each county and how many of those located in the critical areas.
- The program currently provides funding on the premise that if there is a critical area in the county and the failing septic tank being fixed is located in the critical area, the property owner will receive a 100% grant. Beyond that it is a means tested program. That is, if the property is in a non-critical county or if the septic tank is not failing and there are monies available to install a septic system, the amount of the grant is based on a means test. These grants range from 25% to 100%.
- The program is being implemented locally and every county is participating except for Baltimore City. Some are participating directly, others through a partnership with other entities. A small amount of money has been kept in reserve should a county demonstrate a need for additional funds.

- Dr. Summers asked if many septic systems outside the critical area have requested funding for upgrades under the means test. The answer is no, because a decision was made to restrict grants in critical area counties in the first six months, and only fund failing septic systems in the critical areas. Only the western counties that did not have critical areas have facilities that were funded based on means testing.
- Dr. Summers asked if any counties have exercised the option of doing their own procurement. Yes, Calvert and Kent are doing their own procurement, but they are limiting it to about four of the approved technologies. Anne Arundel County is sending the homeowners the pros and cons of each system and asking them to select the system they want to install, but with a maximum funding limit and the homeowner pays the difference.
- If a County goes through its own procurement, there is nothing to prevent the County from paying for a system that achieves a better result. Calvert selected a system with a slightly higher cost, but it was less expensive in cost of energy. An upper limit is not being put on the cost as long as the County did a selection based on different criteria than that of MDE.
- Mr. Horan brought up the issue that during the next stage of prioritization of the septic systems, the committee should consider distance to streams and similar kinds of things. Dr. Summers stated that the law gives us the opportunity to use those things, and it would be good to discuss it as part of the Phase II preparation of the Watershed Implementation Plan.

V Update on Cover Crop Activities

- Mr. Astle provided an update on the cover crop activities. There was a historic sign-up this year in terms of number of acres planted. There was good participation by the farmers and the Department of Agriculture received and processed huge number of claims and certifications. The Department of Agriculture will have number of acres of cover crops planted to report in mid-January.
- This year applications totaled over a half million acres. Typically, in an average year participation is about 60 percent. This year, participation is over 60 percent by a significant amount. This year was an optimum year. The crops came up early, and weather conditions in the fall were good. Next year may not be as good. The weather is the main controlling factor.
- Mr. Ball asked whether anyone had ever looked into the ratio (currently 60/40) of funding septic systems upgrades versus planting cover crops in terms of achieving the optimum “bang for the buck.” Dr. Summers stated that kind of analysis does need to be done. It is one of the many things that will be on the Phase II WIP task list.

Next Meeting

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

Materials Distributed at the Meeting:

- Meeting Agenda
- Previous Meeting Minutes (November 10, 2010)
- Wastewater Treatment Plants ENR Upgrade Status (January 5, 2011)
- Program-to-Date BRF Fee Collection Report (through December 31, 2010)
- 2010 Tax Year Year-to-Date BRF Fee Collection Report (through December 31, 2010)
- 2010 Tax Year Third Quarter BRF Fee Collection Report (through December 31, 2010)
- BRF Fee Distribution Report through November 30, 2010
- Bay Restoration Fund Advisory Committee Annual Status Report January 2011

Attendance

Advisory Committee Members or Designees Attending:

Robert Summers, Maryland Department of the Environment
James L. Hearn, Washington Suburban Sanitary Commission
Norman Astle, Maryland Department of Agriculture
Peter Bouxsein, Chesapeake Bay Foundation
Angela Butler, Maryland Department of Planning
Hilary Bell, Maryland Department of Budget and Management
Jeff Horan, Maryland Department of Natural Resources
John Leocha, Maryland Department of Planning
William Ball, Johns Hopkins University

Others in Attendance:

Kevin Nash, RK&K
Lesley Cook, Department of Legislative Services

Maryland Dept. of the Environment (MDE) Attendees:

Jag Khuman	Michael Kanowitz	Sunita Boyle
Walid Saffouri	Jay Prager	Rajiv Chawla
Barry Glotfelty	Elaine Dietz	Debbie Thomas