

BAY RESTORATION FUND ADVISORY COMMITTEE

**Maryland Department of the Environment
Aqua/Aeris Conference Rooms (MDE Lobby Area)
1800 Washington Boulevard
Baltimore, Maryland 21230
March 15, 2018**

Meeting Minutes

Welcome/Introduction

- The meeting was opened by Mr. Walid Saffouri on behalf of Mr. Greg Murray, Chairman of the Bay Restoration Fund Advisory Committee, who could not attend this meeting.
- Mr. Saffouri welcomed the committee members and other attendees.

Review of Meeting Minutes

- Previous meeting minutes from the January 25, 2018 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. Saffouri asked if anyone had any questions, comments, or a motion to approve. The minutes were approved.

Discussion

I. Update on Major and Minor WWTPs ENR Implementation:

- Mr. Saffouri referenced the Wastewater Treatment Plants ENR Upgrade Status handout. There is no change in status for major plants from the previous meeting. To date there are 56 major facilities in operation, 8 under construction, 2 in design, and 1 in planning, for a total of 67 major facilities. It should be noted that Patapsco has initiated process and equipment testing, and Leonardtown has been meeting ENR level of treatment since August 2017. Leonardtown ENR performance may be confirmed by the next meeting.

- Mr. Boussein asked about the delays in Cox Creek upgrade. Mr. Murphy responded that the contractor is finishing the remaining work and running the performance testing.
- Mr. Boussein asked about the status of Back River headworks (equalization) project, which is part of Baltimore City SSO/CSO long-term control plan. Mr. Saffouri responded that this project is moving forward based on the schedule in the Consent Decree.
- Mr. Boussein expressed his concerns regarding the delays of Frederick City's upgrade and why subsurface conditions were not discovered earlier in the process. Mr. Saffouri responded that subsurface testing was done during design, but the rocks were not discovered at that time. In addition, a leaking and deteriorated air pipe (the main air supply for the bioreactor) was discovered during construction and further delayed the project. Mr. Astle added MDA ran into a similar situation with finding rocks in some of their projects in Washington County. This is a common problem in Western Maryland.
- Mr. Saffouri provided an update on minor WWTPs. There is no status update for minor facilities, except Harbour View has signed the funding agreement and was added to the list.
- Mr. Boussein asked for the full list of targeted minor facilities. Mr. Saffouri will email the list to the committee members.

II. Legislative Session-BRF Related Bills:

- Mr. Saffouri provided a handout and a brief summary of BRF related bills: House Bill 0361/Senate Bill 0314 (HB0361/SB0314), HB0458, HB0576, HB0719, HB0947/SB0958, HB1765, and SB0358. HB1765 is the only proposed BRF related legislation that has a chance of passing. The bill allows for counting nitrogen reduction in WIP from septic upgrade only if proper operation and maintenance (O&M) and septic pump-out are being done, and if local septic stewardship plan meets the requirements specified in the bill. Also, the bill authorizes up to 10% of funds allocated to local jurisdiction to be used toward septic pump-out.
- Mr. Murphy asked whether HB1765 applies only to new BAT systems. Mr. Saffouri responded that the bill appears to be applicable to all septic systems.
- Mr. Boussein asked whether we know which homeowners are keeping up with their septic O&M. Mr. Saffouri responded that local health departments are responsible for monitoring compliance using the BRF grants. The level of the grants they receive annually is based on the level of compliance efforts that they agree to perform.

III. Update on Clean Water Commerce Act Regulations:

- Mr. Saffouri provided an update on the Clean Water Commerce Act (CWCA) regulations. The new regulations were published in the Maryland Register on February 2, 2018 and comments period ended on March 5th. Three minor comments/questions were received and addressed, and the regulations became final as proposed.
- Mr. Bouxsein indicated that he was out of the country during this period and did not have a chance to comment on the regulations. He also expressed his concern that the regulations were finalized without the BRF Advisory Committee having a chance to review them. Mr. Saffouri responded that the CWCA legislation required the formation of a stakeholders group who reviewed and assisted in developing the regulations. Many members of the BRF Advisory Committee, including Mr. Bouxsein, were also members of the CWCA stakeholders group.
- Mr. Bouxsein stated that even though he agrees with the intent that the cost-effectiveness selection criterion will consider only the cost of the BRF, he believes that the regulations need to be more clear and expressive of this intent as much as possible to avoid ambiguity and misinterpretation.
- Mr. Cohee asked about the basis by which sellers will be selected. Mr. Saffouri responded that the selection will be competitive and based on the price, the sustainability, and other benefits. Mr. Bouxsein suggested that the description just provided by Mr. Saffouri should be stated in the regulations.
- Mr. Buglass asked about the status of the draft RFP. Mr. Saffouri responded that it is still being reviewed by the AG's Office. Mr. Bouxsein asked for more explanation about the issues. Mr. Saffouri responded that at first there was a debate whether the purchases should be considered procurement for commodity or service. Currently, the AG's Office is reviewing a third possibility to proceed with these purchases as grants, which would make the process much simpler. The law says that the purchases only need to be competitive and the grant application process is competitive. Hence, there is a possibility that we can proceed with the solicitation for grants instead of procurement.
- Mr. Bouxsein asked whether we have received any indication of interest in the program. Mr. Saffouri responded that we received some questions from a community on septic and wants to connect to a wastewater treatment plant.
- Mr. Murphy asked about what would happen to the unused funds if there is not enough interest in the program. Mr. Saffouri responded that the funds would just go back to capital projects.

IV. Update on Cover Crops Activities:

- Mr. Astle provided an update on cover crops program. Fall certifications have been completed, but they are still not available for reporting. Software seems to be working well and the issue we had during last spring certifications appears to be resolved.
- The spring certification process has started and it will continue through the first part of June. Commodity cover crops will continue to be not allowed for grant participation.

V. Update on Onsite Sewage Disposal Systems (OSDS):

- Ms. Dietz updated the committee on Septic grant awards and provided a handout summarizing grant disbursements to the Counties between July 1 2017 and March 12, 2018 (FY 2018 progress). To date, 346 homes benefited from the fund during this fiscal year (325 septic upgrades and 21 sewer connections).
- Mr. Bouxsein asked whether the data shows more or less activities than last year. Ms. Dietz responded that we do not know because it is too early to tell.
- Ms. Lewis asked whether MDE has provided FY 2017 data. Ms. Dietz responded yes it was provided at a previous meeting. Mr. Saffouri added that all previous meeting handouts are posted on the committee website.

VI. Update on BRF Fee Collection and Budget:

- Ms. Dietz updated the committee on the BRF fee collection using the Comptroller's report for February 28, 2018. Ms. Dietz advised the committee that the report provides up to the second quarter for FY 2018 revenues. The Wastewater Fund (Line 1) total revenue is close to \$63 million. The Septic Fund (Line 2) is also on target with approximately \$22 million to date.
- Mr. Bouxsein advised that some members are missing one page from the report. Mr. Saffouri will email the full report to all members.

VII. Next Meetings: June 14th September 13th

Materials Distributed at the Meeting

- Meeting Agenda
- Previous Meeting Minutes
- Wastewater Treatment Plants ENR Upgrade Status
- Program-to-Date BRF Fee Collection Report (Comptroller Report)
- BRF-Septic Program - Funded Installations FY18 to Date/July 1, 2017 – March 12, 2018
- BRF Bill – 2018 Regular Session

Attendance

Advisory Committee Members or Designees Attending:

Walid Saffouri, Maryland Department of the Environment
Elaine Dietz, Maryland Department of the Environment
Norman Astle, Maryland Department of Agriculture
Peter Bouxsein, Chesapeake Bay Foundation
Angela Butler, Maryland Department of Planning
Fiona Burns, Department of Budget and Management
Christopher Murphy, Anne Arundel County DPW
Bob Buglass, Washington Suburban Sanitary District
Cheryl Lewis, Town of Oxford (MML)
Gabe Cohee, Department of Natural Resources
Robert Kutchman, Conference of Local Environmental Health Directors

Others in Attendance:

Kevin Nash, RK&K
Bob Andryszak, RK&K
Joe Sowinski, Hazen and Sawyer
Julie Pippel, Environmental Consultant

Maryland Department of the Environment (MDE) Attendees:

Rajiv Chawla	Cheryl Reilly
Robin Pellicano	Janice Outen
Marya Levelev	Nicholai Francis-Lau