

# **BAY RESTORATION FUND ADVISORY COMMITTEE**

Maryland Department of the Environment  
Aqua & Terra Conference Room  
1800 Washington Blvd.  
Baltimore, Maryland 21230

Meeting Minutes  
October 13, 2004  
1:00 p.m. to 4:30 p.m.  
*Mr. Robert Warfield, Chair*

## **Attendance**

### **Advisory Committee Members Attending:**

|                          |  |
|--------------------------|--|
| Robert E. Warfield       | Chairman   |
| William P. Ball, Ph.D.   | Johns Hopkins University   |
| David Bancroft           | Executive Director, Alliance for Chesapeake Bay                                    |
| Veronica L. Chenowith    | Harford County Council   |
| Ron Crites               | Dept. of Budget & Management   |
| Mayor Kevin Dayhoff      | Mayor of Westminster   |
| James L. Hearn           | Washington Suburban Sanitary Commission  |
| E. Keith Menchey         | Maryland Dept. of Agriculture  |
| Gregory B. Murray        | Director, Washington Co. Dept. of Water Quality                                    |
| James T. Noonan          | Maryland Dept. of Planning   |
| Leland D. Spencer, M.D.  | Maryland Assoc. of Co Health Officers<br>Health Officer for Kent & Caroline County |
| Karen Harris Oertel      | W.H. Harris Seafood  |
| Robert M. Summers, Ph.D. | Maryland Dept. of the Environment  |

### **Committee Members Absent:**

|                                  |  |
|----------------------------------|--|
| Mark Bundy, Ph.D.                | Dept. of Natural Resources               |
| Represented by Charles Evans Jr. |  |
| Delegate Barbara Frush           | Maryland House of Delegates              |
| Senator Paula C. Hollinger       | Maryland Senate                          |
| William Bryan Icenhower, M.D.    | St. Mary's Co. Health Dept.              |
| Thomas H. Stoner                 | Trustee of the Chesapeake Bay Foundation |
| Represented by Kim Coble         |  |

### **Others in Attendance:**

|                |                                    |
|----------------|------------------------------------|
| Thad Russell   | Comptroller of Maryland            |
| Bernie Marczyk | Policy Advisor to Governor Ehrlich |
| Charles Evans  | Dept. of Natural Resources         |
| Kim Coble      | Chesapeake Bay Foundation          |
| Jeff Glass     | City of Westminster                |
| Marie Lange    | Queen Anne's Co Finance Office     |

|                            |                                      |
|----------------------------|--------------------------------------|
| Candice Donoho             | Maryland Municipal League            |
| Erin Favazza               | Maryland Assoc. of Counties          |
| Judson Berger/ Jeff Parker | Capital News Service                 |
| Pat Peterson               | Wicomico County                      |
| Gail Bartkovich            | Wicomico County Council              |
| Robert Burk                | Carroll County                       |
| Michael Ensor              | Carroll County                       |
| Maureen Genzer             | Carroll County                       |
| Frank Wise                 | Prince Georges County                |
| Charles Zeleski            | Carroll County Health Dept.          |
| Dr. Linda Herifonboner     | National Onsite Wastewater Assoc.    |
| Will Hager                 | Prince George's County               |
| Jamie Baxter               | Dept. of Natural Resources           |
| Beverly G. Warfield        | Prince George's County               |
| Tom Pelton                 | Baltimore Sun                        |
| Ed Jenkins                 | State Service Office                 |
| Amanda Mock                | Dept. of Legislative Services        |
| Heather Hamilton           | Maryland Chamber of Commerce         |
| John Martin                | Baltimore City Dept. of Public Works |

**Maryland Dept. of the Environment (MDE) Attendees:**

Ken Philbrick, Secretary of the Dept. of the Environment  
 Steve Pattison, Assistant Secretary of the Dept. of the Environment  
 George Keller  
 Jay Prager  
 Stella Hajimihalil Jenkins  
 Renee Matthews  
 Marya Levelev  
 Jag Khuman  
 Walid Saffouri  
 Vickie Dade  
 David Seaborne  
 Cheryl Riley  
 Andy Hauchen  
 Maria Levenworth

## Welcome

### **Welcome and Chair Introduction - Kendl P. Philbrick, Secretary, Maryland Department of the Environment**

- Robert Warfield, Chairman
  - Member Introductions
  - Chair Warfield welcomed the members of the Advisory Committee and the guests on behalf of Governor Ehrlich
- Chair Warfield gave a background on his career and emphasized that the goal of the BRF committee along with the citizens of Maryland is to achieve the Governors initiative to help save the Chesapeake Bay
- Dr. Robert Summers, Director of Water Management Administration (MDE) opened by having each member and guest introduce themselves
- Four Presentations were given in order of the agenda – these power point presentations can be found on the following website:  
[http://www.mde.state.md.us/Water/CBWRF/advcom\\_meetings.asp](http://www.mde.state.md.us/Water/CBWRF/advcom_meetings.asp)
- **Presentation #1 – Overview of Legislation and Advisory Committee Responsibilities given by Dr. Robert Summers**

The full presentation is available on the web at:

[http://www.mde.state.md.us/Water/CBWRF/advcom\\_meetings.asp](http://www.mde.state.md.us/Water/CBWRF/advcom_meetings.asp)

- The basic water quality problem in the Chesapeake Bay is that large portions of the Bay do not meet the State's water quality standard for dissolved oxygen.
- The cause of the water quality problem is excessive loading of nitrogen and phosphorous from the entire Bay watershed.
- Maryland and the other States in the watershed have committed to reduce the nutrient loading to the levels necessary to achieve and maintain water quality standards.
- The Bay Restoration Fund legislation (SB 320) establishes a dedicated fund to support upgrading Maryland's 66 largest sewage treatment plants, upgrading onsite sewage disposal systems on the Critical Area and implementing cover crops on agricultural land.
- Together, these efforts will allow Maryland to achieve over one third of the loading reductions needed to meet the State's commitments for nutrient reductions to restore the Chesapeake Bay.
- The Advisory Committee is responsible for evaluating the cost, funding and effectiveness of the wastewater treatment plant upgrades, recommending future changes to the restoration fee, if necessary, and consulting with and

advising the counties and the Department regarding the septic system upgrade program.

- **Presentation #2: - Billing and Program Implementation given by:** Jag Khuman, Director, Water Quality Financing Adm. (WQFA) and Thad Russell, Deputy Director of Revenue Adm. Division presented Billing process being developed by Water Quality Financing Administration and the Comptroller's Office. See BRF WWTP Fee Billing Update on the website: [http://www.mde.state.md.us/Water/CBWRf/advcom\\_meetings.asp](http://www.mde.state.md.us/Water/CBWRf/advcom_meetings.asp)
  - MDE and the Comptroller's Office have already met with municipal and county governments to provide information regarding the billing of the Bay Restoration Fee.
  - At the meetings numerous questions and answers were discussed and are summarized on the web.
  - We have also provided some guidance regarding the legislation's provision for exemptions in the case of financial hardship. It is very similar to the provisions for the energy assistance subsidy.
  - The Comptroller's Office has been sent a list of the permitted facilities in Maryland that MDE has identified that are subject to the fee.
  - The Comptroller's Office has drafted an information package (copies provided at meeting) that will be sent out to all of the billing authorities advising them of their responsibilities and to verify that they are correctly included in the distribution list. The package also includes a form that the billing authorities will return to the Comptroller's Office each quarter transmitting the fees collected that quarter.
  - The Comptroller's Office will also be compiling a record of the costs of implementing the billing system as documented by the billing authorities. This will provide the basis for the Advisory Committee's required report to the legislature on this issue.
  - During the deliberations leading up to this legislation, we estimated that the upgrades to the 66 major WWTP's would cost between \$750 million and \$1 billion and that by issuing 20 year bonds, we could support between \$850 million to \$1 billion worth of capital projects.
  - Subsequently, MDE learned that due to possible legal constraints on general obligation debt, we may be restricted to issuance of 15 year bonds, in which case we may be only able to support \$740 million worth of capital projects. This matter is still under review with the Department of Budget and

Management and the State Treasurer's Office before a final determination is made.

- **Presentation #3: - Development of the Wastewater Treatment Plant Upgrade Process given by** Walid Saffouri, Water Quality Infrastructure Program (see ENR Upgrades on [http://www.mde.state.md.us/Water/CBWRf/advcom\\_meetings.asp](http://www.mde.state.md.us/Water/CBWRf/advcom_meetings.asp) website)
  - The Princess Anne WWTP has already been upgraded with ENR using mostly federal funds.
  - Celanese WWTP in Allegany County is under construction and expected to be completed in July 2005.
  - Seven facilities are currently under design with 2 facilities expected to go to construction before January 2005 – Easton and Kent Narrows in Queen Anne's County; 27 facilities in the planning stage.
  - Typical planning phase generally takes a year on average, another six months to one year for design and a year and half to two years for construction.
  
- **Presentation #4: - Development of the Onsite Sewage Disposal System (OSDS) billing, education and outreach and upgrade implementation process Given by** Jay Prager, Wastewater Permits, see Onsite Sewage Disposal System [http://www.mde.state.md.us/Water/CBWRf/advcom\\_meetings.asp](http://www.mde.state.md.us/Water/CBWRf/advcom_meetings.asp) website on OSDC Fee Collection.
  - Jay provided an overview of the preliminary draft OSDS implementation plan.
  - MDE has established an Onsite Sewage Disposal System workgroup that will meet on October 20, 2004. The Committee has requested that the Workgroup prepare a draft report on identifying and billing OSDS users for review by the full Committee.
  - The initial task of the Workgroup will be to:
    - (1) Investigate the existing means of counties to identify and bill users of OSDC and holding tanks;
    - (2) draft letter to all county governments requesting the status of developing a system of identifying and billing OSDS users;
    - (3) develop model methods for identifying and billing users of OSDS;
    - (4) identify obstacles and means of overcoming obstacles for identifying and billing users of OSDS and holding tanks.

- **Presentation #5 – Role of the Bay Restoration Fund Advisory Committee given by Dr. Robert Summers** (see Role of BRF Advisory Committee on [http://www.mde.state.md.us/Water/CBWRF/advcom\\_meetings.asp](http://www.mde.state.md.us/Water/CBWRF/advcom_meetings.asp) on Website)
  - Committee responsibilities are clearly outlined in the law.
  - Committee will perform an analysis of costs of nutrient removal from WWTP's. For example – cost of concrete and steel rising; how to deal with early estimates if they turn out to be too low;
  - Identify additional sources of funding; make recommendations to approve the effectiveness of the BRF in reducing nutrient loadings.
  - Make recommendations regarding the appropriate fees to be assessed in Fiscal Year 2008 and subsequent years.
  - Committee to review and make recommendations on the Supplemental Assistance Program \$5 million/year
  - Advise the Secretary on the development and implementation on the adoption of regulations
  - Report to the Governor each year beginning January 1, 2006
  - Special report, in consultation with the Maryland Association of Counties and the Maryland Municipal League, on the need for extending or reducing the 5% administrative cost.
  - Advisory Committee Deliverables and Due Dates
    - January 15, 2005 – Report on methods of collecting fees from users of onsite sewage disposal systems (OSDS)
    - January 1, 2006 (and every year thereafter) – Report on findings and recommendations
    - December 31, 2006 – Report on administrative costs to local governments for collecting fees and the reasonableness of allowable reimbursement
    - December 31, 2006 – Report on implementation and costs of MDE's OSDS outreach and upgrade program.

### **Committee Discussion**

- The Committee discussed the merits of the creation of an OSDS Subcommittee to review options for identifying OSDS users and developing recommendations for a billing system.

- The Committee agreed that consultation with Counties was critical for this purpose.
- Many members recommended that we look carefully at the property tax database of developed properties as a starting point for the OSDS inventory.
- Local Health Department records are also an important source of information.
- MDE has initiated a Workgroup including local health department and county officials to review the available data and options for creating the inventory.
- The Committee agreed to utilize the Workgroup as a Subcommittee with the addition of other participants from the Committee and other State and local agencies.
- Committee members Veronica L. Chenowith, Gregory B. Murray and Kevin Dayhoff volunteered to be on the workgroup.
- The Committee also agreed that their job is to identify a menu of OSDS billing options that counties can choose from. There is not a one-size-fits-all method.
- The Committee discussed the formation of two additional subcommittees, Wastewater Treatment Plant and Finance Subcommittees, but decided to hold off on the creation of other Subcommittees to allow the full Committee to get a better grounding in the issues.
- Committee members were asked to provide comments to MDE on the draft WWTP Implementation Strategy within two weeks.

### **Future Meetings**

The Committee agreed that the **next meeting will be held on November 10, 2004 at MDE at 1 pm.** Lunch for members @ 12:00.

- At this meeting the Committee will discuss the Wastewater Treatment Plant Upgrade Implementation Plan and hear a summary of the OSDS Workgroup meetings and discuss their recommendations.

The third meeting will be held on December 16, 2004 @ 1:00 in the Aqua & Aeris Conference Rooms – Lunch for members @ 12:00

### **Adjournment**

Chairman Warfield thanked the members of the Advisory Committee and all guests, for their participation.

**Materials Distributed at the Meeting**

- BRF Binders were distributed to all members of the committee
- Bay Restoration Funds Implementation (Senate Bill 320)
- BRF Identification Form and Maryland Bay Restoration Fee Report