

**MINUTES, Advisory Commission on Environmental Quality (CEQ)
October 19, 2016 Meeting, 7:00 to 9:00 PM
Held at Dept. of Environmental Protection & Sustainability, Room 319: County Office
Building, 111 W. Chesapeake Ave, Towson, MD 21204**

In attendance: New member Karen Wynn, Lois Jacobs, James Deriu, Vince Gardina, Brian Lindley, Carol Newll, Valerie Androutsopoulos, Brian Bernstein, Qui Zhao, Rex Wright, Glenn Elseroad, Andy Miller.

Open Meeting

Welcome and Introductions – Lois Jacobs, Acting chair

Presentation by Vince Gardina, Director EPS

Vince thanked commission members for their work, acknowledged that the Council has not always recognized or acted on reports or solicited advice, pointed out that Bill Breakey resigned and wrote a letter to the County Executive raising this issue. Nevertheless the work the Commission does concerns important issues; it does not always get the attention it deserves from the Council members because of competing agendas such as issues related to schools, police security cameras etc. The County Executive is interested in these issues and Kevin Loeb on his staff focuses on these issues and on the agendas that DEPS works on.

We at DEPS have two responsibilities – development review and addressing water-quality restoration projects. Development review is always important – projects for stormwater management to make sure they are in compliance and in compliance with the forest conservation act as well as critical area and buffer issues. We enforce forest buffer rules more than any jurisdiction in the state; we have a lot of waterfront so critical area issues come up a lot as well as development review along the waterfront. We are always pressed to turn around development review plans as quickly as possible and the department has gotten really good at it to the point where we no longer get a lot of questions. Watershed implementation and water quality issues are mandated primarily by the NPDES-MS4 permit, not just for Baltimore County projects but for all projects in the county including private projects with industrial permits. Our permit is the tool used to ensure we comply with the Clean Water Act and mandates from MDE. It has been difficult because of funding cuts (e.g. loss of stormwater fee) which has created a need to adjust and make changes. We lost \$24 million in revenue and it's hard to make that up but we are fortunate in that in FY17 and FY18 we are able to do everything required for the permit and Baltimore County submitted a financial plan at 136% of the legal requirement. We have restored more than the required 6000 acres or 20% of impervious cover. The public doesn't understand that this obligation doesn't stop after just a few years, and CEQ could play a role in helping to get that message out – restoration activities have to continue until we restore 100% of our impervious cover, which requires 20 years of restoration. Let your council members know that this really carries out over 20 more years and even beyond, since you have to make up for new development whereas the existing plans account only for existing impervious.

A lot of council members may think that this ends in 2025 whereas that is just the time limit for current TMDL projects. At the end of that period you still have to address impervious surface. We also have existing TMDLs for nutrients and sediment; we have others coming down for trash, chlordane, PCBs, and bacteria in waterways that have to be addressed. We have local TMDLs and Chesapeake Bay TMDLs. The state is working on chloride which might influence the road salt issue. Mercury is an issue that is difficult for us to address but is still measured and monitored – a residue of burning fossil fuels for electric power primarily from coal-burning power plants in the midwest. Mercury in fish tissue appears to be going down but we still have to

monitor it. Tell council members that Vince came to the meeting to tell us there is no deadline on this requirement, primarily because of existing pollutant load reductions that are required and secondarily because of the need to address impervious surface from new development. MS4 permits are for 5 years and each has different requirements and that is what we report in our financial assurance plan to MDE. The next permit will come up starting in December 2018.

The requirement was to restore 75% of the 20% of impervious cover required in this cycle, and we met 136% but the next permit period will require restoring 100% and we might have difficulty getting to 100% next time. There are four more permit terms each accounting for another 20% of impervious cover. The baseline right now is based on 2014 imagery. This is based on the buildings layer and the roads layer in the county's GIS system, which includes parking lots, alleys etc. but misses sidewalks and driveways primarily in residential areas. MDE is requiring us to include that and we are going to revise our impervious surface area and this will be a nontrivial additional area. We think we can reduce our baseline – one way is redevelopment – when you replace an old building or parking lot and tear it down and replace it, most likely there is no existing SWM and under redevelopment laws 50% has to be treated. We have not included that in our baseline so we can count this against our baseline. Analysis of our SWM ponds – old dry detention ponds; we were getting about 8.3 pollutant removal for nutrients and sediment but by allowing them to become wooded wetlands over time that adds to their effectiveness at nutrient and sediment removal.

James: when we tried to engage with the Council on the stormwater permit issue we did not have the benefit of existing relationships or of time and it was a hot political issue at that time. But these issues are long-term issues and the missing revenue stream from the stormwater fee affects that. We should identify the issues that could lead to the need for a consent decree so that the Council can avoid having the county forced to sign on to a much more expensive legal obligation.

Not only will there be no end point but costs will increase over time and the county will be responsible to pay for them. Major construction projects are limited to a certain number of private companies and contractors and the number of companies in the business has gone down so prices are going up. A linear foot of stream restoration went from about \$250/ft 6-7 years ago to about \$600 now and we may not be able to afford some of these projects but we still need to do the same amount.

We were able to make our requirement by “borrowing in time” because of the Back River WWTP capacity being greater than actual discharge right now so the reduction in N and P loading counted against our credit and we were able to count that as the equivalent of 1000 acres worth of impervious cover. But eventually you have to pay it back based on what the efficiency is of whatever will be done to treat the impervious surface in the future, and this will increase acreage that needs to be treated in future.

How does this problem relate to the EPA's consent decree for sanitary sewage? Unrelated. Recent study showed that Towson's 42-inch wide sewer pipes are going into a sewer pipe underneath Lake Roland that is a 42-inch pipe and doesn't have the necessary capacity because it is already receiving another 42-inch plus a 36-inch and 20-something inch. How much more can Towson development continue without running into a limit? The Green Towson Alliance just prepared a report on this. Ultimately Baltimore City will have say over what else can be fed into its sanitary sewer lines.

The sanitary sewer consent decree is a totally separate consent decree from any that might be triggered by the TMDL and the MS4 permit because the loading we are looking at is from surface-water runoff.

We still have some stormwater fee carryover but that will be used up quickly and once that happens we are likely to have a deficit that has to be filled from somewhere.

DEPS has to inspect all 3500 SWM ponds on a 3-year cycle; hired contractors to do inspections because of loss of public employees; they find repairs that have to be done and we have an 850K budget per year right now to do that. If we don't keep up with the inspections (about 20/week) we run afoul of legal requirement and we don't get the pollution reduction credits. How will we get that into the budget in FY 19?

Suggestions on how to be most effective include starting back at ground zero in reintroducing ourselves to the council – what would be an effective use of the commission (in more general terms)?

Brian: going back to the TMDL discussion – your concern is that the council members may not understand that this money is needed year after year after year.

Carol: we are not explainers of finances to politicians – what can we do that has meat to it that actually connects directly to environmental issues? What has happened to past reports? Many of them are politically sensitive because of cost. On plastic bags and trash, for example, the county is working on a public education and outreach program and then has to quantify the result of that effort. If that doesn't work we may be required to take specific action to capture trash in storm-drain outfalls or prevent trash from getting into the storm drains, that will add dramatically to our cost in millions more per year if a TMDL comes in, and not doing that will lead to a consent decree.

If we don't address the money issue with the Council, it won't get addressed. The consent decree has a metropolitan fee as a funding source. Anne Arundel County issued about \$350 million in bonds and the stormwater fee covers just the debt service.

Our County Council felt they could eliminate the stormwater remediation fee because there were unspent funds in surplus. But you cannot pay for recurring costs out of unappropriated surplus because you can wind up with a deficit in following cycles once the surplus is spent. The question is where will the funds come from in subsequent budget cycles. In the financial assurance plan we show all of our sources of funding and projects that will be used to meet requirements. There is a mix of sources that are listed including some stormwater remediation fee, some bonds, etc. After that we will have much more constrained sources.

Presentation by Rex Wright – Solar Power

At the last meeting Rex asked what was being done with energy efficiency and greenhouse gas emissions reduction. The short answer is, everyone got sidetracked in the economic downturn. But things have been marching forward. One thing that can benefit the county specifically is something that only counties and nonprofit entities can do: aggregate metering. Net metering on home energy – if you generate power on the house side of the meter it offsets anything coming in. You can actually be producing more than what is coming in. In Maryland you can actually have net metering which is when you send more power to the grid than you are taking.

Aggregate metering is where one home can make use of excess produced by another. This is different from a solar farm feeding directly to a distribution system. The county can build one of these and it can go straight to grid. You can put them on parking lots, landfills, etc. What this does for the county, since it has a lot of land and a lot of electrical usage, a lot of schools etc., is that you can earn the credit at one time and count it against the net usage of the entire group of government meters. You can get somebody to build this for nothing and they sell you the power for below-market rates. In some cases the renewable energy credits are so valuable that vendors

will practically give away the energy. Rex has seen some contracts that top out at 3 cents per kw-hour. This will eventually fade out as the credits are scaled back so now is the time to act.

Ayla Haig as sustainability coordinator is working on this for Baltimore County and they are getting the permits to build it now, working with Solar City. (Not sure whether it is aggregate metering yet.) Useful to let nonprofits know that they can do the same thing. Projects can be done on farms as well. There are some limitations – you have to have the line to carry the power and you have to work through the utility. Glenn is working on a project like this on his farm right now in a location where the land is otherwise difficult to farm. The County Commissioner out in Frederick County brags about the money saved by projects built there. There is an article about Aggregate Net Metering: Opportunities for Local Governments by Chelsea Barnes from the North Carolina Solar Center. This can be done by agricultural entities, nonprofit organizations and local governments under the law in Maryland. Vince thinks the county is already doing this. DEPS had to review some of the sites because of environmental restrictions for forest conservation, stormwater management etc. There are at least two large ones, maybe more.

There is an article in the paper today about the county possibly developing some legislation proposing a four-month moratorium so they can develop guidelines about how and where these things can be built. How will they come up with guidelines? (But this is separate from what the county would have to consider for its own facilities.)

Rex will send out the links including the link to the Aggregate Net Metering report.

- Lois – need permission from the group on whether to invite Rona Kobell from the Chesapeake Bay Journal (see synopsis of two articles). Group is willing to invite her.
- Updates on CEQ Member appointments
 - Bill Breakey has resigned from the CEQ as the District 3 Representative
- Discuss new Chair Person – deferred until next month.
- Future topics – what topics/issues do we want to engage this year?

We spent some time discussing how to approach the council. There was some agreement that we may get their attention by reminding them of the costs to the county that are likely to be required in the out years (beginning shortly after the next round of legislative elections) in order to satisfy TMDL and Bay agreement obligations. These obligations cannot be avoided but the county can save funds by being proactive compared to what it will have to spend if there is another consent decree.

Meeting adjourned at 9 PM.

Next Meetings: 7:00 p.m., regular meetings

- November 30, 2016
- January 25, 2017
- February 22, 2017
- March 22, 2017
- April 26, 2017
- May 24, 2017