



Carroll County Environmental Advisory Council

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Josh Hatkin, Chair
Sandra Zebal, Vice Chair

Brenda Dinne, Staff Liaison
Department of Land Use,
Planning and Development

Meeting Summary for September 17, 2014

Members

Josh Hatkin, Chair
Sandy Zebal
Melvin Baile
Ellen Cutsail
David Hynes
Karen Leatherwood
Kim Petry
George Schooley - absent
Frank Vleck

County Government

Brenda Dinne, Special Projects Coordinator /
EAC Staff Liaison
Tom Devilbiss, Deputy Director, LUPD
Glenn Edwards, NPDES Compliance Specialist,
LUPD

Other Attendees

None

1. CALL TO ORDER –

Mr. Josh Hatkin, Chair, officially called the September 17, 2014, meeting to order at 3:00 p.m. in the Reagan Room (003) of the County Office Building.

2. PUBLIC COMMENTS AND CONCERNS –

No public comments were offered.

3. APPROVAL OF MEETING MINUTES –

Ms. Zebal expressed a desire for the minutes to reflect the fact that members did express some concerns with some of the details of the proposed zoning changes for solar facilities, even though she felt it was too late for their input. She asked that text be added to the discussion at the end of the first paragraph under #7, Solar Facilities Code Changes, to say “Mrs. Zebal raised a concern that the 120-square-foot limit on a ground-mounted array seems inadequate. Several other members were in agreement with her.” She also wanted to be sure that readers of the minutes know that the presentation by Mr. Prokop is available. A sentence is to be added to the end of summary of Mr. Prokop’s presentation to indicate that “The PowerPoint presentation will be available on the EAC website.”

APPROVAL OF MINUTES - Motion 203-14: Motion was made by Frank Vleck and seconded by Kim Petry to approve the August 20, 2014, meeting minutes, as amended. Motion carried.

4. **CHAIR & COMMITTEE REPORTS** –

a. ***Solar Energy Subcommittee:***

Ms. Petry volunteered at the August meeting to serve as the EAC Solar Energy Subcommittee representative on the committee to discuss and recommend how solar facilities will be addressed in the Agricultural zone. Ms. Petry asked if the first meeting had been scheduled yet. Ms. Dinne indicated she wasn't aware that it had, although she is not working on the project so may not be informed. Ms. Petry requested that she be given one to two weeks advance notice of meetings so she can try to accommodate on her work schedule. Ms. Dinne said she would pass that request on to Mr. Voight.

Mr. Baile informed the members that there is now at least one solar company that is contacting farmers looking for those who may be interested in leasing land for solar facilities. He thought these leases tend to be 20-year leases, but farmers need to be cautious, as they are not always aware that the equipment will still be there at the end of the lease. Ms. Petry said the property owner needs to ensure language is in the lease to require removal of the equipment at the end of the lease. Mr. Baile said he had not brought the issue to the attention of the Carroll County Farm Bureau. Mr. Hatkin suggested it might be worth informing Maryland Department of Agriculture (MDA) for the purpose of generating some public education to farmers on the matter. Mr. Baile reminded the other members that legislation was passed by the Maryland General Assembly in 2014 that allowed solar facilities to be installed on properties under easement through the Maryland Agriculture Land Preservation Foundation (MALPF) on up to 10 percent of the property. Ms. Zebal noted that the committee making recommendations on solar facilities in the Agricultural zone would need to consider this.

b. ***Solid Waste Subcommittee:***

Ms. Leatherwood informed EAC members that the **Solid Waste Advisory Council** is currently developing its mission statement and priorities. The Advisory Council is working with County Public Works staff to move the County toward the next phase of dealing with solid waste, but no notable actions or decisions have occurred yet.

She shared that the Board of County Commissioners adopted an amendment to the County's *Ten-Year Solid Waste Management Plan* to comply with House Bill 1, Environment-**Recycling-Apartment Buildings and Condominiums**, adopted by the Maryland General Assembly in 2012. The law took effect on October 1, 2012, and requires property owners or managers of apartment buildings or condominiums to provide for the collection and removal of recyclable materials on or before October 1, 2014. Under this provision, Carroll County is required to revise its recycling plan to include language on the collection and recycling of recyclable materials from residents of apartment buildings and condominiums that contain 10 or more dwelling units, by property owners or managers of apartment buildings and councils of unit owners of condominiums. Maria Myers, County Recycling Manager, is currently working with complex owners.

Ms. Leatherwood also shared that the next Carroll County **Household Hazardous Waste and Shredding** event will be held on Saturday, October 25, 2014, from 8:00 a.m. to 12:00 p.m. at the County Vehicle Maintenance Facility. The event is for residents only, not for commercial or agricultural waste. Up to 3 boxes of paper to be shredded

per citizen will be permitted, until the shredding truck is full. Citizens will be taken on a first-come, first-served basis. More information is available the Carroll County Recycling webpage at <http://ccgovernment.carr.org/ccg/recycle/docs/HHHW%20flyer%202014.pdf>.

Mr. Hatkin informed the members that a meeting was held in Taneytown last week, at which many residents came out to oppose a proposal to change a large property outside City limits to an industrial use in the future. He indicated that many felt this change was specifically to allow a gasification plant to locate there in the future. Ms. Leatherwood indicated that the County is not considering gasification right now, and she has not heard any further discussion about it. Ms. Dinne clarified that the meeting that was held in Taneytown last week was not in response to a rezoning request. Rather it was a meeting regarding the proposed **Carroll County Master Plan**. The proposal for the subject property is to designate the future use of the property for industrial use on the Land Use Designation Map of the Master Plan, which would have to happen before the property could be zoned for an industrial use. Maryland law requires zoning to be consistent with the comprehensive plans. A rezoning could follow the change on the Master Plan map, either through a piecemeal rezoning request or a comprehensive rezoning. However, any use allowed in the industrial zone placed on the property would be allowed there. She did not know whether or not a gasification plant is currently allowed in the County's industrial zones.

Ms. Zebal raised a concern about opportunities to recycle at bingo events not being available.

- c. **Energy Use & Cost Savings Subcommittee:** Deferred to #7 (Old Business)

5. **TREE COMMISSION** –

Nothing to report.

6. **STAFF LIASION REPORT** –

Ms. Dinne began by saying that the new recording secretary, Robin Liller, whom she introduced last month, has moved on to another position. The EAC is currently without a recording secretary, but Ms. Dinne would prepare the minutes.

Ms. Dinne also indicated that, at this time, there are no agenda items for the October 15 meeting. At the November meeting, ideas for the 2015 work plan can be discussed, and the draft work plan and 2014 annual report can be discussed at the December meeting.

7. **OLD BUSINESS** –

a. **Energy Audit by Johnson Controls (Energy Use & Cost Savings)**

Ms. Dinne said that the members may have read over the summer that the Board approved a contract with Johnson Controls (JC) to perform an energy audit at County facilities. When she spoke with Mike Whitson, County Facilities Manager, about JC's scope and expected product and results, he indicated that JC would re-evaluate the buildings for lighting, heating, cooling, and electric plus associated equipment. JC would make recommendations for how to save energy, generally through new equipment, lighting, etc. They will be reviewing three years of electric bills to establish a baseline for energy usage. She suggested this project would impact the EAC's Energy Use & Cost Savings project, but

she thought that if this negated the need for the EAC projects, there might still be a role for the EAC with the JC project.

A committee, which includes the Comptroller and the Director of Management and Budget, held a kickoff meeting in August. JC will present their final recommendations and report to the committee. The committee will decide which recommendations to move forward, and present those recommendations to the Commissioners. JC has 90 days to complete their evaluation and make recommendations. The committee then will have 60 days to review the draft report. Mr. Whitson had suggested to Ms. Dinne that the EAC members have the opportunity to review the recommendations and provide input to the committee. Ms. Dinne thought that someone involved would be able to give the EAC a presentation on the results after that.

Ms. Dinne asked for input from the EAC members on the proposal for their participation in the JC project and the impact on the EAC's Energy Use & Cost Savings project. Ms. Zebal asked if JC would be comparing the savings back to 2007. Ms. Dinne didn't think they would because too many things have changed, and it would be like comparing apples to oranges. Ms. Petry and Mr. Hatkin agreed. Ms. Petry indicated that the first two phases of work with JC would have had to show a savings, otherwise the work with JC would not continue. JC would have to pay the County money if the County did not realize a savings or cost avoidance via their recommendations. She said this information was in the report that Mike Whitson gave them, which Mr. Hatkin has now. Ms. Petry suggested that Mike Whitson and his folks seem to have a good handle on the information and savings. She felt that the EAC couldn't really add any value at this point.

There was general agreement that the EAC's Energy Use & Cost Savings project would not need to continue. Mr. Hatkin stated that, with the exception of Ms. Petry, no one on the EAC even had the expertise to do what JC is doing. Mr. Vleck agreed with what Ms. Petry said and added that he felt the EAC plays more of a watchdog role. There is no need to do the work that JC is already doing. Ms. Petry suggested that Mr. Whitson would not necessarily need to brief the EAC himself on the recommendations on which he would like them to provide input. He could just provide a briefing sheet that they could review themselves.

8. NEW BUSINESS –

a. Carroll County Stormwater Permit – Tom Devilbiss, Deputy Director, LUPD

Mr. Tom Devilbiss, Deputy Director of Carroll County Land Use, Planning, & Development (LUPD), joined by Mr. Glenn Edwards, Carroll County NPDES Compliance Specialist, updated the EAC members on the status of the County's National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4) stormwater permit. The members were provided with a copy of the current permit, the 2015 NPDES Annual Report, and the tentative permit dated June 27, 2014.

Mr. Devilbiss explained that there are several **types of NPDES permits**. Industrial process permits regulate the waste stream discharged to a water body resulting from an industrial process. Wastewater permits regulate the treated effluent discharged to a water body by a municipality (or any government entity). Lastly, industrial or municipal stormwater permits address runoff from property that enters a water body. The County's stormwater permit is a municipal permit (Municipal Separate Storm Sewer System, or MS4)

and covers all storm drain systems through the county, except in the municipalities and on State property, including stormwater management facilities, storm drains, pipes, inlets, outfalls, ditches, and anything else receiving recurring stormwater runoff from impervious surfaces. Impervious surfaces are anything that shed the rain water and don't allow the water to percolate through it and into the soil.

The authority for these permits comes from the federal Clean Water Act (CWA), adopted in the 1970s and incorporated into the Code of Federal Regulations. Phase I, issued in 1990, requires "medium" and "large" cities or certain counties with populations of 100,000 or more to obtain NPDES permit coverage for their stormwater discharges. Phase I permits are intended to be individual permits. **Phase II**, issued in 1999, requires regulated small MS4s in urbanized areas, as well as small MS4s outside the urbanized areas that are designated by the permitting authority, to obtain NPDES permit coverage for their stormwater discharges. Phase II jurisdictions are covered by a general permit that applies the same conditions to a group of jurisdictions that are not individually named on the permit and tend to be less stringent than a Phase I permit. Carroll is a medium Phase I jurisdiction with an individual permit. All individual permits could have different conditions and requirements from each other, although it seems that the State is issuing the permits with uniform conditions. In Maryland, 9 counties and Baltimore City hold Phase I MS4 permits. Mr. Devilbiss opined that Carroll is considered an urbanized county despite our 65,000+ acres of land under easement.

Carroll's municipalities are Phase II jurisdictions. Since the County works **cooperatively with the municipalities** the NPDES Annual Report also includes the municipalities. Part of Mr. Edwards' job is to work with the municipalities. The information appears seamlessly across the county because it takes away jurisdictional boundaries. Enforcement needs to be separated, but training, mapping, implementing, and other work done is a joint effort. Mr. Devilbiss indicated that this type of cooperation is not common unless jurisdictions are already on the same permit.

In Maryland, EPA delegated to the State the authority to implement, issue, and enforce MS4 permits. Mr. Devilbiss felt it was important for the EAC to be aware of the **technical and fiscal significance** of the permit as it relates to impervious surfaces and clean-up of the local waterways and the Chesapeake Bay. Since this is a Clean Water Act requirement, the ramifications for non-compliance are significant, both financially and criminally.

Carroll County was **issued** its first **generation permit** in 1993. The second and third generation permits were subsequently reissued in 2000 and 2005, respectively. Our fourth generation permit is pending. The third generation permit expired in 2010, but is still in force until replaced. This delay was not caused by Carroll County. Initially, the permit required the County to map stormwater facilities and pipes, establish a baseline for monitoring, and identify pollutant sources. This was a big effort since it had never been done before. All the data had to be put in the computer, including spatial reference using geographic information systems (GIS). This has continued through numerous permit cycles. Later permits added requirements for watershed assessments, which involves walking streams and identifying issues and problems. This information is used to develop required restoration plans.

The biggest cost associated with the permit is for **impervious surface mitigation**. Any runoff from impervious surface that does not meet a certain standard must be mitigated. The 2000 permit added a requirement to mitigate 10 percent of the untreated impervious. Therefore, the impervious surface in the county first had to be calculated so the untreated portion of that could then be identified. Mitigation could include, among other things, tree planting, retrofitting existing stormwater ponds, and constructing new ponds. Since stormwater facilities wear out over time, they periodically need to be replaced, or “retrofitted” to meet modern standards. Examples around the county include the new facility that was completed at Westminster High School along MD 97 and the new facility under construction at the Westminster Community Pond. The facility at Westminster Community Pond will include new amenities as well. The County looks for projects that will give the biggest bang for the buck, both in amount of credit generated toward the mitigation requirements of the permit as well as opportunities to provide other amenities and address multiple purposes. When the process is complete, the County’s goal is to have the most modern stormwater system possible.

The **regulated area** is the entire county (minus the municipalities and State property). Naturally, the most effective areas to install stormwater mitigation practices are areas where there are larger concentrations of impervious surfaces. When you get out into the more rural areas of the county, impervious area is sparse and is very disconnected from streams and concentrated area. Since it is hard to treat imperviousness in these areas, the County is working with the State to show that the impacts of these areas are not enough to have to install practices specifically to treat those areas. Sheet flow and other natural treatment are already occurring there.

The County currently is still working under the third generation permit. The **permit** required **reapplication** for a new permit in the fourth year, which was done in 2009. The County and State have gone through several iterations of drafts for the new permit together; on some items there is agreement and but still experiencing dramatic differences in position with others. The State issued a preliminary draft in 2012, which was available for an unofficial public review and then sent to EPA for review. EPA retained the right to review and inspect the permits, and also to enforce any non-compliance in those jurisdictions. EPA has the final say in the permit issuance, not MDE. When EPA completed its review for the tentative Phase I permits, additional conditions were added that were beyond the control of MDE. The other Phase I counties have had their final or tentative permits issued ahead of Carroll, and a lot of legal actions are occurring right now.

In June 2014, MDE “issued **tentative determination** to issue the permit.” Comments on the tentative permit are due to MDE by September 29 (extended from July). The County requested a public hearing, which was held on September 8 (public notice given in papers twice at the end of the June). Only Mr. Devilbiss and Mr. Philip Hager, Director of LUPD, testified. No public attended. Comments on other counties’ permits, primarily from environmental groups, generally have been to say that the permit is not strong enough. After September 29, MDE could modify the permit or just issue it without changes. MDE is under the gun from EPA to issue all the Phase I permits by the end of 2014, so extensive changes are unlikely.

[Mr. Vleck needed to leave at this time.]

Mr. Devilbiss shifted the discussion to the **2015 NPDES Annual Report**. Each year, the County is required to report progress toward meeting the requirements of the permit. The Annual Report is available on the County website under “Living Here” and then under “[Protecting Carroll County Waters](#).” It follows the outline of the permit.

Mr. Devilbiss **highlighted** a couple key **items** in the report. He pointed out on Page 6 how the impervious area is calculated and the total acres and treated acres of impervious surface. He noted that only 5 percent of the county’s total land mass is impervious, with an even lower percentage of county untreated impervious when you remove the municipalities and the State property. The current permit requires 10 percent of untreated impervious to be mitigated. The chosen area for the required discharge characterization is the area near the Jiffy Mart/Dairy Queen near MD 97 in Westminster. That area has been monitored and data reported for over 10 years. Mr. Devilbiss explained, under the Illicit Discharge section, that the County is required to identify and eliminate any illegal discharges countywide, including in the municipalities, which is part of Mr. Edwards’ job.

Mr. Devilbiss also described some of the **funding** information included in the report. The County is required to report operating and capital expenditures, as well as budgeted funding. The operating expenditures include staff expenses; 22 staff members in LUPD work on stormwater issues, with Mr. Edwards and the Watershed Grants Analyst dedicated 100 percent to the stormwater program. The County has received over \$2 million in grants since 2008 for stormwater projects.

Since EAC members were involved in the process to comply with the requirement to create a **stormwater fee**, Mr. Devilbiss briefly recapped the status that was reported in the Annual Report. The Commissioners chose not to adopt a specific fee, but rather to allocate a certain portion of tax revenues to stormwater program operating expenses. The allocated funds are put into the Watershed Protection and Restoration Fund that was created as also required by that law. MDE accepted this approach.

Mr. Baile asked how the **municipalities will pay for compliance** with their anticipated permits. Mr. Devilbiss indicated that, as far as operational expenses go, the County already does most of what will need to be done. Capital project costs will be an issue. The municipalities’ current Phase II permit does not include an untreated impervious mitigation requirement, but the new permit will include a 20 percent restoration/mitigation requirement. The County is working with the municipalities on how to pay for these projects. In April 2014, the County and the municipalities signed a Memorandum of Intent (MOI) to cost-share capital stormwater mitigation projects and to pursue adding the municipalities to the County’s Phase I permit as co-permittees.

Ms. Zebal asked Mr. Devilbiss to address the **EPA’s audit** of the County. She indicated that she is impressed with everything the staff does, but realizes that inevitably some things just fall through the cracks. Mr. Devilbiss explained that EPA hires third-party contractors to conduct the audits. The violations they found were not items that would impact water quality directly. Primarily, the violations related to paperwork and inspections that may not have been completed a day or two after required. The penalties are excessive. After a year of negotiating, EPA agreed to lower

the fines from more than \$170,000 to around \$40,000. The County has implemented all the required changes. The program is now stronger as a result of the changes made. In response to a question by Ms. Leatherwood, Mr. Devilbiss indicated that the violations found in other jurisdictions did include items that would impact water quality. Mr. Edwards added that there was a common theme among the items found from one jurisdiction to the next. He continued sharing that staff annually evaluates what worked and what needs improvement and develops an improvement plan to address these items. Staff is currently working on that plan, which had already included some of the items that EPA addressed.

Ms. Leatherwood expressed the need to **communicate to citizens** the requirements and activities going on related to stormwater. She felt the County saves money by complying. She has also experienced residents complaining about work being done to retrofit ponds in their neighborhoods, but understands that they often are just not aware. Mr. Devilbiss noted that the presentations to the EAC and the County Planning Commission (who Mr. Devilbiss presented to the previous day) are great forums to get the word out.

He believes the County's staff does a great job at **notifying** and **working with** the property owners adjoining and nearby the projects. They hold meetings numerous times throughout the process. They request people to come and have conversations with them where they provide a status of the project and ask for input on things they may not know about – such problems or discharges they may not know about. They work with the community and add amenities where possible. However, no matter how much you do to provide these opportunities, there will always be someone who says they didn't know about it or doesn't like it. Working with the community is essential, but it is time consuming. More than 30 projects were completed in 5 years. Much of this work is done in-house, which saves the County money.

Ms. Leatherwood wished that people understood the big picture, including how proactive Carroll County has been. When the Stormwater Fee Advisory Group was meeting, she recalled how much money the County saved because the County already owned most of the land where projects were occurring, providing significant savings in land acquisition costs. Mr. Devilbiss expressed gratitude that the majority of citizens they have worked with have been very cooperative and even appreciative once the work was done.

Ms. Dinne added that part of Mr. Edwards is responsible for the **public education** components required in the permit. He has created and provided numerous materials that are on the [Protecting Carroll County Waters](#) webpage. He also has a booth at numerous events, including, but not limited to, the Mount Airy Fall Festival, the 4H Fair (every other year), and Charlotte's Quest Nature Center. Mr. Edwards also pointed out the hotline that is available to report problems and the link from this webpage to the [Resource Management](#) webpage where there is more information on the actual individual projects.

Mr. Devilbiss wrapped up by briefing the members on the **new requirements** that have been included in the **tentative permit** and indicated that the County will be providing comments to MDE. The new permit includes more works like "attain" rather than saying to the "maximum extent practicable." It also will require deadlines and

benchmarks to be set for attaining water quality standards. Not only would it be very hard to comply with this in 5 years, it is not possible to determine if what you're doing made the expected reduction in pollutants or when those best management practices (BMPs) will show results. He felt it is much easier to quantify a certain amount of impervious surface to mitigate than to measure if you have attained a standard over which you have minimal control. He noted that the BMPs included in Maryland's Watershed Implementation Plan to achieve the Chesapeake Bay Total Maximum Daily Load (TMDL) are only required to be *in place* by 2025, not to actually achieve the expected reduction by then. Even the US Geological Service has said that the results may not be measurable for a long time. The new permit will also require the County to address litter and floatables. However, this is not an identified problem in Carroll County, and it's not on a list anywhere that says it's a problem. All of these items out can create a challenge for compliance. He said the County is not against the permit, but it should be reasonable – 'please don't set us up for failure.'

Mr. Hatkin asked from where the goals come if the permit says a certain goal must be attained in a certain timeframe. Mr. Devilbiss replied that modeling is used to determine these goals. Within the permit, the County is responsible for the portion of the **TMDLs** represented by stormwater [TMDLs are the maximum amount of a pollutant that a water body can receive and still maintain water quality standards]. This stormwater portion of the TMDL is called a wasteload allocation. The model assigns that number. Mr. Devilbiss stated that the County annually provides data on what the County has done that year, and this information is supposed to be entered into the model to reduce the pollutants accordingly.

Mr. Devilbiss asked the EAC members to have people contact him, Mr. Edwards, Ms. Dinne, or Ms. Gale Engles if they have questions or problems.

9. OTHER –

No other items were discussed.

10. ADJOURN REGULAR MEETING –

ADJOURNMENT - MOTION NO. 204-14: Motion was made by Karen Leatherwood and seconded by Ellen Cutsail to adjourn the September meeting. Motion carried.

The meeting adjourned at 4:48 p.m. The next regular monthly meeting is scheduled for Wednesday, October 15, 2014, at 6:30 p.m. in the Reagan Room (003) of the County Office Building.