January 22, 2015

MEMORANDUM

To: The Honorable Larry Hogan
Governor of Maryland

From: Harry R. Hughes, President
Board of Directors

Re: Synopsis on the Stormwater Utility Fee and How It Has Been Applied Since Passage of HB 987 in 2012 by the General Assembly

Background:

With the passage of HB 987 by the General Assembly and the signing of the Bill by Governor Martin O’Malley; the City of Baltimore and nine counties (Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery and Prince George’s) were directed to establish their own fees for the purpose of increasing revenues to help restore the Chesapeake Bay and to meet the requirements of EPA’s Total Maximum Daily Load reductions for the Bay.

Over the summer of 2014, staff from the Hughes Center conducted interviews with the Watershed Implementation Teams of the applicable counties as well as the City of Baltimore as to how they were using their fees if they had established a program for that purpose. Staff found that a couple of jurisdictions had implemented a program before passage of the Stormwater Utility Fee in 2012. Staff also found that there were a couple of jurisdictions who decided not to establish a program. However, the majority of jurisdictions affected by the Law did use the Law to create their own stormwater fee programs.
All jurisdictions said that while the process to establish a fee was quite political and fraught with much discussion, nevertheless when the fees were approved, they provided a good source of funding to enable the counties to implement important projects and the fees are now considered to be essential to meeting the TMDL requirements.

The following are examples of what has been able to have been accomplished using the fees:

**Anne Arundel County: Passed a Stormwater Remediation Fee a year ago.**

- The funds have enabled the County to help correct erosion and stormwater problems identified by the Soil Conservation District and others during their stream walks adjacent to farms, suburban areas and municipalities. These have been mapped and have been turned into an information database so that treatment of these areas can be scheduled and take place through the installation of best management practices.
- The funds have enabled the County to monitor pre-construction and post-construction stormwater projects to determine their effectiveness.

**Baltimore City: Passed a Stormwater Utility Fee a year ago.**

- The funds have enabled the City to bring additional staff on board to help implement the Watershed Implementation Plan.
- The funds have also been used for specific studies such as the effect of urban karst on infiltration of stormwater that will enable the City to determine the most effective ways to deal with its stormwater problems.
- The funds are enabling the City to track “as builts” and to derive better information from the best management practices that are installed.

**Baltimore County: Passed a Stormwater Remediation Fee a year ago.**

- The funds have enabled the Department of Public Works to become more integrated with its projects into the Watershed Implementation Planning process.
- The funds have enabled the County to focus on storm drains and retrofitting them. In addition to retrofitting, the fees are being used for erosion control, street sweeping and for restoration projects for County facilities.
- The fee has helped the County address its funding gap for positions. Watershed Restoration increased from 6 to 22 staff and this increase has enabled the project design process to better accommodate the demand and to be more efficient and effective. Additional staff have enabled the County to designate a group for project tracking purposes. The group is in the process of developing a system to document that which the County has already planned out and what has been implemented which will assist in determining the effectiveness of what has been placed in the ground.
Carroll County: Did not pass a stormwater fee but designated a portion of revenues under the existing tax rate.

- In February 2014, the State accepted a proposal by Carroll County to resolve concerns about the County’s approach to the stormwater fee requirement. The County Board’s approach resulted in no additional fees or tax rate increases for residents for the purpose of paying for a stormwater management fund. Rather, the County will designate a portion of revenues under the existing tax rate each year based on the operating costs of the County’s stormwater program.
- The Board of County Commissioners and the mayors of each municipality signed a Memorandum of Agreement (MOA) in 2013 agreeing to cost-share the capital costs of stormwater mitigation projects to meet MS4 permit requirements (80% County/20% municipality) and agreeing to become co-permittees on the County’s NPDES (National Pollution Discharge Elimination System) Phase I MS4 permit. The MOA outlines how permit responsibilities would be distributed once the municipalities are added to the permit.
- The County will continue to provide administrative and operating support, including oversight of the design, engineering, and construction phase; grant writing assistance, and annual reporting requirements.

Charles County: Passed a Stormwater Restoration Improvement Fund a year ago.

- The funds are directed toward dealing with stormwater as well as maintenance of stormwater structures.
- The funds are also being used for septic retrofits.
- These moneys have enabled an additional person to be hired at the County level to focus on the NPDES process.
- The funds are also being used to map the dry wells, rain gardens and other stormwater BMPs on “as builts”, so that the County has a record of these measures and is able to capture everything that is being done with regard to stormwater and other management efforts.
- The funds are also being used to cost share the pump out of landowner’s septic systems.

Frederick County: Did not “embrace” the State mandated fee.

- The County adopted a one cent a year tax for each property, collecting less than $500.00 annually from taxpayers.
- HOWEVER, the County still funds its MS4 commitments, and has budgeted County general funds for stormwater compliance:
  - FY ‘13 is around 2.5 million
  - FY ‘14 is around 3.56 million
  - FY ‘15 is around 5.35 million.
Harford County: Began phasing in Stormwater Fees a year ago.

- The fees help local water quality. With little direct access to the Bay, local water quality improvements captured the attention of the citizens.
- The dedicated Stormwater Fee pays for stormwater remediation and retrofit projects, stormwater management pond retrofits, educational outreach and part of the operation of the managing County agency.
- This fund has also enabled the County to focus more time and resources on stream improvements through riparian buffers. The citizens can visually relate to buffers and understand the concept of erosion reduction.

Howard County: Created a Watershed Protection Fund (aka stormwater utility fee) in 2013.

- The County calls the fund ‘fundamental to its efforts to manage its only growing source of pollution’.
- Howard County’s stormwater infrastructure represents an investment of over $600 million and the County believes that maintenance of this investment makes taxpayer sense as well as improves local water quality, and the Bay.
- The County commissioned an advisory committee of homeowners, business owners, the faith and the environmental communities and others to design a fund that addresses maintenance shortcomings and new construction projects in a fair and equitable manner.
- The County developed a comprehensive educational website to explain stormwater and what citizens, businesses, etc can do to make a difference.
- The County offers Watershed Enhancement Grants to the community for stormwater management practices and has developed a youth READY program, (restoring the environment and developing youth) with these dollars.


- The funds have enabled a number of projects based on watershed assessments to be constructed to improve water quality and have been essential in linking watershed groups and their assessment of needs of a particular watershed to fund the projects needed to improve the water quality in those watersheds.
Prince George’s County: Passed two pieces of legislation over a year ago.

- The first piece of Legislation established a Clean Water Program providing for the setting of a fee and collecting funds. The second piece of Legislation established a schedule of fees to be collected annually.
- The funds are used for:
  
  Capital improvements for stormwater management, including stream and wetland restoration; operation and maintenance of stormwater management systems and facilities; public education and outreach relating to stormwater management and stream and wetland restoration; stormwater management planning and the review of plans and permits for new development; and grants to Non-Governmental Organizations (NGO’s) for related projects.

- The County has developed the P3 Program, the public private partnership to create jobs and leverage private sector capability to expedite the entire process of restoration. Private sector flexibility will drive down costs and accomplish a high volume of work.

- County staff needed for the design, engineering and construction effort has increased and the project review process has become more effective and efficient.

- Prince George’s Community College has an urban contractor training program to support the new green economy featuring a series of eight-week non-credit classes on landscaping, non-structural BMP’s, site design, maintenance, and small business development and management. The County anticipates the creation of 5,000 jobs

An observation that one could make is that taxpayers are bearing the burden of stormwater management, whether through a fee or through general taxes. Another observation is that the Law focuses in on those counties with the concentration of population that require mandated (MS4/NPDES) pollution limits and those counties (and the City of Baltimore) are taking the necessary measures to remain in compliance.

A third observation is that of those jurisdictions implementing a fee or tax; the moneys derived therefrom are being used for the purposes for which the fee was intended – handling stormwater problems for the purpose of meeting the TMDL requirements.

A fourth observation is that the jurisdictions appreciated (though not at first) the ability to develop their own programs and to set their own fees.

Cc: Ben Grumbles, Secretary Designee (MDE)