

T&E COMMITTEE #1
November 2, 2009

Briefing

MEMORANDUM

October 30, 2009

TO: Transportation, Infrastructure, Energy, and Environment Committee
FROM: *KL* Keith Levchenko, Senior Legislative Analyst
SUBJECT: **Briefing:** Stormwater Management

The following Executive Branch Officials and staff are expected to participate in this briefing:

- Robert Hoyt, Director, Department of Environmental Protection (DEP)
- Steven Shofar, Chief of Watershed Management, DEP
- Rick Brush, Manager, Water Resources Plan Review, Land Development Division, Department of Permitting Services

The briefing will cover two main areas:

- The County's new National Pollution Discharge Elimination System Municipal Separate Storm Sewer System Discharge (NPDES MS4) Permit
- New regulations being developed by the County to address the Maryland Stormwater Act of 2007 and resulting Maryland Stormwater Design Manual 2009 Revisions.

NPDES Permit Status Update

The T&E Committee received a briefing on the new NPDES permit on March 23. The permit is closer to final approval by the Maryland Department of the Environment (MDE) but otherwise the major aspects of the permit are unchanged from the previous T&E Committee discussion.

DEP is the lead agency for Montgomery County with regard to the NPDES Permit. MDE is the State agency responsible for approving NPDES permits which are required as part of the Clean Water Act enforced by the Environmental Protection Agency. The first five-year permit was renewed in July 2001 and most recently modified in January 2004 to include six localities as "co-permittees." The County's permit covers all areas of the county with the exception of the cities of Gaithersburg, Rockville, and Takoma Park and lands under the control of State agencies (including the Maryland-

National Capital Park and Planning Commission and Washington Suburban Sanitary Commission) or Federal agencies.

The most recent permit period ended July 5, 2006 although its provisions remain in effect until the new permit is issued. MDE has been working with regional environmental groups and County Government staff on a new permit for the last several years.

As mentioned at the March discussion, the draft permit has a number of new and/or expanded provisions intended to make Montgomery County's stormwater management program a model for other permittees in the state and the country. The major changes from the prior permit include:

- An increase of the watershed restoration required of the uncontrolled impervious area from 10% to 30% within the five year permit.
- Compliance with changes in the Maryland Stormwater Design Manual which includes more emphasis on environmentally sensitive design (ESD) and low impact development (LID) techniques.
- A trash and litter reduction strategy to meet the Potomac Trash Free Treaty goal of zero trash in the Potomac by 2013. *The 4th annual trash summit was recently held on October 28, 2009.*
- Implementation plans for projects, programs, and policies to reduce pollutants to meet total maximum daily loads (TMDLs).
- Public comment and input for development of the trash and litter strategy and for all TMDL implementation plans.
- Inclusion of Montgomery County Public Schools as a "co-permittee." *(DEP is working with MCPS on a memorandum of understanding to clarify requirements and responsibilities.)*

The cost implications for implementation of these changes are substantial. DEP is currently developing a multi-year funding strategy to address these issues. In prior discussions, DEP provided a rough estimate of \$108 million (above existing efforts) over the five-year period. Funding will be sought from Federal and State sources as well as local partners. Much of the County's additional expenditures will likely be funded out of the County's Water Quality Protection Fund (WQPF).¹

New Regulations to Implement the State Stormwater Act of 1997

While the NPDES permit focuses on strategies and goals to improve current conditions and better mitigate the impacts of existing development, new regulations that the Department of Permitting

¹ The WQPF is funded via an annual charge on property tax bills to all residential properties and "associated non-residential properties" (properties that drain into facilities that also serve residential properties). The charge is based on the rate per equivalent residential unit (ERU) of imperviousness. The ERU was calculated to be an average of 2,406 square feet for detached residential properties. For FY10, the Council approved an ERU rate of \$45.50. Detached homes pay 1 ERU. Townhouses pay 1/3 of an ERU. Multi-family and associated non-residential properties are billed as multiples of the ERU based on actual imperviousness.

Services is developing will affect new construction. These regulations are intended to implement the State of Maryland's Stormwater Design Manual (with its 2009 revisions).²

The Stormwater Design Manual is intended to: provide designers a general overview on how to size, design, select and locate best management practices (BMPs) at a new development site to comply with State stormwater performance standards, and to provide detailed information on landscaping, BMP construction specifications, step-by-step BMP design examples and other assorted design tools.

The issue of evolving stormwater management requirements for new construction has come up in the context of the creation by the Council earlier this month of an Ad Hoc Water Quality Working Group to review strategies to protect water quality specifically in the Stage 4 area of Clarksburg. This group has been asked to report back to the Council by February 1, 2010.

Rick Brush of the Department of Permitting Services will provide a status update regarding the County's work on updated regulations and a summary of the major likely changes from the current regulations.

Attachments

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² The State of Maryland's Stormwater Design Manual can be viewed at:
http://www.mde.state.md.us/Programs/WaterPrograms/SedimentandStormwater/stormwater_design/index.asp