

Montgomery County Water Quality Advisory Group
Meeting Minutes for January 13, 2014

Member and affiliation	Present		Others in attendance and affiliation
	Yes	No	
Keith Brooks, public-at-large	X		
Dan Dozier, public-at-large	X		
Nate Engle, academic/scientific		X	
Beth Forbes, co-chair, public-at-large	X		
Philip Kibak, public-at-large	X		
Paul Hlavinka, public-at-large	X		
Christopher Meaney, academic/scientific	X		
Annette Rosenblum, academic/scientific	X		
Scott Roser, business		X	
Linda Silversmith, public-at-large	X		
Tanya Spano, co-chair, environmental	X		
Phil Wagner, business	X		
Patrick Walsh, environmental	X		
vacant			
vacant			
Paul Billingsley, WSSC	X		
Pam Parker, DEP	X		
Mark Symborski, MNCPPC	X		

Agenda Item	Major Points
7:00 PM Meeting convened	The draft meeting minutes for Nov 2013, were discussed and approved as edited. January Agenda reviewed and accepted. Paul Hlavinka volunteered to take minutes. We discussed that we are interviewing five candidates for two positions still vacant on the WQAG. Pam from DEP indicated DEP is updating the website for our group and requested a group photo. Photo taken.
7:15 WSSC Reforestation – Dan Dosier / Paul Billingsley	<p>Discussion on fee-in-lieu of reforestation. WSSC is under consent decree to complete work to reduce sanitary sewer overloads and illicit discharges from sanitary sewers in short order. WSSC is proceeding, with potential impacts to stream valley/buffer in the process. In order to do the work, trees will be impacted. WSSC is taking efforts to minimize impacts and was working with DNR on an appropriate fee-in-lieu of reforesting these same areas. The initial fee of approximately \$14M was reduced to approximately \$3M, after the organizations completed negotiations. An MOU has been established and the issue has been settled. The WQAG discussed the issue and raised the question, “Why wasn’t WQAG involved in the issue?”. During the discussion our role, there was general agreement that we should comment on this type of issue and impacts in the future. Finally it was noted that the lack of control of stormwater continues to expose infrastructure, which may be a topic for future discussion.</p> <ol style="list-style-type: none"> 1) Dan is to review the MOU and draft a letter to WSSC/DNR to state that we desire to be involved in the future. 2) Paul is to present in the future on the WSSC Consent Decree progress.

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<p>8:15 Storm Drain Art - Patrick Walsh, Linda Silversmith and Tanya Spano</p>	<p>Patrick Walsh, Linda Silversmith and Tanya Spano led a discussion on an outline that the group is preparing regarding storm drain art. The outline was available for the group present to review and comment on. General discussion about what our role is. Provided a context as to how this concept came about during the past year. It was reported that Ana Arriaza/Bob Hoyt (DEP) are looking for a proposal from the group. It was suggested that this be broken into options such as working with schools, or a specific group such as a watershed group, or Glenstone or the Strathmore. The idea is to send information out to a specific group and work with them. There is potential to proceed, we would need a draft proposal we can approve. Linda and Patrick to pull together a two page proposal for us to vote on. In this we should also suggest that the existing drain marking project supplies be fully funded so that DEP staff can supply groups interested in working around the county.</p>
<p>8:45 Ten Mile Creek Position Paper – Paul Hlavinka</p>	<p>We received several updates on County Executive actions taken recently, the latest being considered by County Council and Parks and Planning. The group discussed aspects of a position we could support. It was felt that if we are to voice an opinion, time is of the essence. We agreed that we should try to come to consensus.</p> <ol style="list-style-type: none"> 1) Paul is to draft a letter as soon as possible, and the group will vote via email on it. Any suggestions should be quickly provided in order for changes to be made and consensus achieved.
<p>9:00 Zoning Code Rewrite – Mark Next Meeting & Meeting Closure</p>	<p>Mark had only a short time to update the group on the zoning code rewrite. He described how the PHED committee recommendations are being reviewed. We learned about the next steps for the project. No actions were identified for the group.</p> <p><i>February 10th Meeting</i> – Ideas forwarded for future meetings including an overview of what happened in West Virginia with the chemical spill and how it impacted drinking water supplies there.</p>

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Beth Forbes, co-chair, public-at-large	X		
Philip Kibak, public-at-large	X		
Paul Hlavinka, public-at-large	X		
Christopher Meaney, academic/scientific	X		
Annette Rosenblum, academic/scientific	X		
Scott Roser, business	X		
Linda Silversmith, public-at-large	X		
Tanya Spano, co-chair, environmental	X		
Phil Wagner, business	X		
Patrick Walsh, environmental	X		
vacant			
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Paul Billingsley, WSSC	X		
Pam Parker, DEP	X		
Mark Symborski, MNCPPC	X		

Agenda Item	Major Points
<p>7:00 – 7:30 PM Meeting convened and Announcements</p>	<p>The draft meeting minutes for Jan 2014, were discussed and approved as edited. Agenda for February was reviewed and accepted. Dan Dozier volunteered to take minutes. We discussed the interviews of the five candidates for two positions still vacant on the WQAG and that the committee has submitted recommendations in rank order to the County Executive. All applicants appeared to be very qualified and motivated to serve. Pam from DEP indicated DEP is still in the process of updating the website for our group; the group photo has been posted to the Group web site.</p> <p>Tanya Spano spoke about a potential tour of the Blue Plains WWTP. She suggested that during the tour we focus on de-nitrification, nutrient reduction, the bio-solids digesters and the CSO long-term control plan and tunnel. April would be a good month in which to schedule a tour and will send some links about the facility for those who wish to prepare for the tour. She will send a Doodle poll for dates to see what works best for WQAG members.</p> <p>Beth Forbes announced that the H2O Summit is scheduled for March 22, Saturday, at the Silver Spring Civic Building from 9:30 AM to about 4:00 PM.</p> <p>Phil Kibak agreed to put together a draft the WQAG Annual Report for the March meeting.</p>

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<p>7:30 Storm Drain Art and Storm Drain Labeling – Patrick Walsh/Tanya Spano</p>	<p>Patrick Walsh circulated a draft letter to Bob Hoyt, head of DEP about WQAG recommendations about storm drain art for consideration by the Group. There was a suggestion that the draft highlight two points: how to develop art and how to pay for the program. The Group suggested moving the examples into an appendix. The WQAG agrees on the basic policy recommendations. Members can send suggestions about edits on the current draft Patrick by 2/24. He will draft a final recommendation and circulate a letter and appendix for approval before next meeting. The letter will also include a statement that we do not intend that this program reduce funding of the storm drain labeling stickers and program.</p> <p>A separate letter, about adequate funding for the storm drain labeling program, will also be considered based on information Pam Parker will collect about this program and circulate it to members of the WQAG . If necessary, we will draft a letter addressing the issue but it was agreed by the Group that this letter should combined with the WQAG’s comments on the broader County Budget..</p>
<p>Ten Mile Creek Position Paper – Paul Hlavinka</p>	<p>The Group discussed the current state of action in the County Council about Ten Mile Creek. Our letter was sent and received by the County Executive and Council. It appears that the Council is paying attention about how to limit impervious surfaces.</p>
<p>8:15 Zoning Code Rewrite – Mark 8:30 Updates -- All</p>	<p>Mark provided an update to the group on the zoning code rewrite. He described how the PHED committee recommendations are being reviewed. We learned about the next steps for the project; Council action is expected in the next few months. No actions were identified for the group.</p> <p>Mark will look into when we can get a briefing on the biological condition gradient’s adoption process.</p> <p>Pam spoke about the Potomac Riverkeeper’s litigation against the County’s MS4 permit. The Group agreed to request separate presentations by the attorneys for the plaintiffs and by the County to discuss the basis for the lawsuit and how each views the case.</p> <p>Paul asked that we take up the issue of impairments caused by salts and chlorides and get a briefing by DEP.</p> <p>MD DNR has selected the Anacostia and Patuxent Watersheds for citizen volunteer macroinvertebrate sampling under the Stream Waders program. Stream Waders web site at http://www.dnr.maryland.gov/streams/swTraining.asp</p> <p>Christopher asked that the Group consider fracking and impacts in the area on local groundwater and possible energy and GHG benefits. COG is holding a workshop on stream restoration on Feb. 25 at the COG headquarters.</p> <p>COG is also preparing emergency response plans in the event something similar to the West Virginia spill occurs in the Potomac watershed. Tanya offered to present a briefing from COG about their plans.</p> <p>Mark will check when it will be timely to review the Planning Dept. efforts to reach consensus on how the County will Account for Growth to</p>

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Next Meeting & Meeting Closure at 9:05 PM	<p>meet Bay goals.</p> <p><i>March 10th Meeting</i> – Ideas forwarded for future meetings including an overview of what happened in West Virginia with the chemical spill and how it impacted drinking water supplies there; a discussion on budget and storm drain labeling program; the draft of the Annual Report from Phillip Kibak. Meo Curtis will also speak about Rock Creek Conservancy project about Storm Drain art.</p> <p>Nathan will record minutes for March, Linda in April and Chris in May.</p>
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Keith Brooks, public-at-large	X		
Dan Dozier, public-at-large		X	
Nate Engle, academic/scientific	X		
Beth Forbes, co-chair, public-at-large	X		
Philip Kibak, public-at-large	X		
Paul Hlavinka, public-at-large	X		
Christopher Meaney, academic/scientific		X	
Annette Rosenblum, academic/scientific	X		
Scott Roser, business		X	
Linda Silversmith, public-at-large	X		
Tanya Spano, co-chair, environmental	X		
Phil Wagner, business	X		
Patrick Walsh, environmental	X		
vacant			
vacant			
Paul Billingsly, WSSC	X		
Pam Parker, DEP	X		
Mark Symborski, MNCPPC	X		
Agenda Item	Major Points		
7:08 PM Meeting Convened by Beth Forbes	The draft meeting minutes for February 2013 were discussed and approved as edited. Linda requested that we include “Action Items” at the end of the minutes for future meetings.		
7:13 PM Committee Business	Pam indicated that there is no news on the prospective members to report. Tanya is still waiting to hear back about date options for the Blue Plains visit (most likely to be later in June). Beth reminded everyone that the H2O Summit is March 22, and Linda and Paul will briefly report out at the next meeting about the Summit. Tanya and Beth will report to the County Executive on March 11.		
7:20 PM WQAG Annual Report	The Group thanked Phil K. for drafting the report. Paul recommended moving the High Quality Waters section up to first activity in the draft, and Ten-Mile Creek will be moved to next year’s (2014) report. Linda provided minor comments to clarify some details in the notes. Nate recommended that we include the list from the April agenda as “Future Areas of Focus” for the report, and Patrick suggested using the Watermark for consistency with previous years’ reports. Mark will add text to item 7 regarding his presentation on the role of imperviousness and environmental site design. Beth suggested deleting the “sub-committees” reference. Other minor edits were discussed and agreed upon. The report was approved in advance by the Group with the agreed upon changes, and will be submitted to the County Executive, tomorrow, March 11.		

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<p>7:56 PM Storm Drain Art Program</p>	<p>The Group thanked Patrick for his efforts. Linda provided several formatting edits, which in her opinion would make the report more readable to the audience.</p>
<p>7:58 PM Storm Drain Marking Program</p>	<p>Pam highlighted that DOT and DEP programs are two different programs within the County. DEP has placed 600 last FY and there are another 400 that will be placed this year. DOT has placed 1,200 in their program last FY. The Group agreed that we will probably not need to draft a letter on this issue, as the County has not indicated an insufficiency of funding.</p>
<p>8:03 PM Updates</p>	<p>Pam briefed the Group that Rock Creek Conservancy, through the use of Blue Water Baltimore's materials and protocols, is going to identify three areas to implement the stormwater art projects in the County. They will target Earth Day 2014 and also keep the same design for all three locations.</p> <p>Mark discussed the MS4 permit lawsuit. The judge in the original suit evidently was not familiar with the differences between point and non-point source pollution. Stormwater permits/MS4 permits are technically point-source permits, which makes implementing them along this narrow definition difficult. There is concern that such a narrow interpretation by the judge could be used outside of Maryland and local groups are getting together to discuss the implications of the ruling. Walter Wilson, a County attorney. will be asked to brief us on the matter during the May 12 meeting. Linda will ask Earth Justice representatives to attend the April meeting.</p> <p>Mark also talked with MDE about the Accounting for Growth Strategy, and volunteered to give a presentation during the May 12 meeting. By then, the draft regulations will be ready for public comment.</p> <p>Tanya updated the group on the emergency response to water contamination issue. COG has a history of proactive planning for what to do before and during emergencies. COG sent two people to West Virginia to determine what happened and what should be changed in our region's plan to make it more robust based on what was learned from West Virginia. There might also be an assessment of how vulnerable the region is for a similar situation to occur. Tanya will share a presentation with us to see if we have more questions.</p>

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<p>8:30 PM</p> <p>Confirm Next Meeting and Future Meetings</p>	<p>Next meetings were confirmed for Tuesday, April 8, and May 12.</p> <p>Mark mentioned the “Makeover Montgomery” event in May that focuses on alternative and innovative approaches to development and planning.</p> <p>Next meeting topics for discussion include: Rock Creek Conservancy and Stormdrain Art approach, and Earth Justice regarding the MS4 Permit.</p> <p>Keith is interested in Lake Needwood and Lake Frank regarding microcystin produced by blue-green algae.</p> <p>Mark can provide an update on the fracking. (TBD)</p> <p>Tree bills should be taken off the list.</p> <p>Paul can present anytime on the MDE Industrial Stormwater Permit and related litigation (April – if Earth Justice is not presenting).</p> <p>DEP and WSSC Budgets for FY ’16 budget (October)</p> <p>Biological Condition Gradient – Mark and Keith Van Ness (TBD, Summer)</p> <p>Climate Change briefing on what is being done in the County/region – Tanya (possibly April).</p> <p>Linda requested a presentation on water-related issues recommended in the Sustainability Committee report. (TBD)</p>
<p>9:00 PM</p> <p>Meeting Adjourned</p>	

Action Items (in addition to members looking into items for future meetings):

- Nate – Send meeting minutes to Tanya and Beth for review and circulation
- Beth and Tanya – Send polls/emails to gauge the April meeting and the Blue Plains tour dates
- Paul and Linda – Report during April meeting on the Summit
- Patrick – Send Phil the Watermark to include on the WQAG Annual Report
- Mark – Send Phil the summary of his presentation, and within it also include a sentence on the zoning rewrite and the biological gradient for his section of the WQAG Annual Report
- Philip – Make changes to the WQAG Annual Report and send to Beth and Tanya to then forward to Pam to deliver
- Tanya – Invite Walter Wilson to May 12 meeting to brief us on the MS4 permit lawsuit
- Mark – Invite MDE to the May 12 meeting to present the Accounting for Growth Strategy draft regulations

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- Linda – Invite Earth Justice attorney to the April meeting
- Tanya – Will share the presentation from the Emergency Response to Water Contamination, which will be made March 22.
- Paul – Present update on the Industrial Stormwater Permit and relate litigation next meeting (April), if Earth Justice is not presenting
- Tanya – Be ready to present during the April meeting on climate change actions and planning (mitigation and adaptation) in the region/County.
- Tanya and Beth – Update “Future Meetings” in the next month’s agenda to reflect the changes discussed during this March meeting

Montgomery County Water Quality Advisory Group
Meeting Minutes for April 8, 2014

Member and affiliation	Present		Others in attendance and affiliation
	Yes	No	
Keith Brooks, public-at-large	X		Kathy Boucher, DEP
Mary Campbell, public-at-large	X		Fred Carson, DEP
Dan Dozier, public-at-large	X		Meo Curtis, DEP
Nate Engle, academic/scientific	X		
Beth Forbes, co-chair, public-at-large	X		Mike Bolinger, Anacostia Riverkeeper
Philip Kibak, public-at-large	X		Jennifer Chavez, EarthJustice
Paul Hlavinka, public-at-large	X		
Frederick Kranz, business	X		
Christopher Meaney, academic/scientific	X		
Annette Rosenblum, academic/scientific	X		
Scott Roser, business	X		
Linda Silversmith, public-at-large	X		
Tanya Spano, co-chair, environmental	X		
Phil Wagner, business			
Patrick Walsh, environmental			
Paul Billingsley, WSSC	X		
Pam Parker, DEP	X		
Mark Symborski, MNCPPC			

Agenda Item	Major Points
<p>7:00 – 8:15 PM Meeting convened and Invited Speakers, with subsequent discussion</p>	<p>After addition of one item to the agenda, one of the co-chairs introduced Jennifer Chavez, an EarthJustice lawyer, to brief the WQA on the lawsuit against the Maryland Department of Environmental protection, with Montgomery County later adding itself, regarding the county’s MS4 permit. Acting on behalf of the Anacostia and Potomac Riverkeepers and a Potomac River alliance, EarthJustice filed a 2009 challenge on the basis that the permit does not ensure that areas covered by the permit will meet water quality standards.</p> <p>In December 2013, the presiding judge ruled in favor of the suing parties, citing a disconnect between what the Clean Water Act requires and what the permit specifies. Since Mont. Co. is the model that other counties will follow, there needs to be a road map of specific quantifiable requirements by which to measure progress and see net decreases in pollutants each year. The judge ruled that MDE must work to improve the permit. There is now an appeal in process.</p> <p>Noting that Ms. Chavez has also helped with challenges to the D.C. and Prince George’s County permits, Michael Bollinger, Anacostia Riverkeeper and a scientist, said that the collective goal is to change how MDE approaches permits—and that the litigation should not be seen as criticism of the counties. He also mentioned an environmental justice factor—that fair access to clean water is a goal.</p> <p>During discussion when Dan D. asked why MDE has not called for quantifying, Mike cited the expense, including for monitoring. Jennifer recounted that MDE’s legal answer was that there is no requirement to ensure water quality. While recognizing that measuring can be costly, she wants</p>

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	<p>objective accountability. When Scott R. asked if the goal is not achievable, Jennifer C. said that the problem is that the permit does not provide goals to guide planning, and that its language is convoluted; it should not be left to the county staff to have to figure it all out.</p> <p>Paul H. asked about model permits; Jennifer Chavez replied that there are some on the West Coast that are easier to understand, with tighter language, but in general “no”; none excel. D.C. does have some numeric standards and objective measurable requirements, a good feature.</p> <p>Replying to a timing question, Jennifer noted that MDE is not likely to start any rewriting until the appeals process is completed. She could not guess whether MDE would move faster if the suing parties win their suits in additional counties (including P.G. and Baltimore city and county).</p> <p>When Beth F. noted that weather can affect water quality, Jennifer said that this could be taken into account. EarthJustice’s work on the D.C. lawsuit and permit has led to the D.C. permit having a stakeholder advisory group and the monitoring plan having benchmarks and milestones (e.g., when controls will be installed, when public outreach will take place). Outcome measures and process measures were mentioned by others as essential.</p> <p>When Nate E. asked for the best approach, Jennifer indicated that each county or district should first have the opportunity to make its own proposals regarding what its approach should be. Mike B. emphasized the need for public and the likelihood of stakeholder negotiations. Jennifer stated that there need to be some mandates—such as maximum load requirements.</p> <p>Tanya wondered if implementation processes could take 40 years in such a built-up area as the county, and Jennifer said that while 5-year permits could be used along the way, they have to recognize that the overall process will take quite a while.</p> <p>Paul H. inquired whether an MS4 permit can address toxics in the Anacostia River. Jennifer said it is hard to cover past discharges, but Mike B. suggested that the direction of flow can contribute to resuspension or dilution, and that reducing sedimentation is a big challenge in the lower Anacostia. D.C. is doing a remedial investigation to try to identify and possibly sue responsible parties.</p> <p>One concern is whether various mechanisms, such as retrofits, will function as well as hoped. This is one reason that regular checks on progress are needed—to see if adjustments have to be made. When Scott asked about a stormwater trading program in D.C., Jennifer noted that D.C. is on a smaller scale in which offsite retention could work, possibly within the same watershed. D.C. has a “fee in lieu” option too. In addition, there are some environmental justice concerns about the effects of a trading program as part of the District’s permit implementation plans.</p> <p>When Tanya asked about any closing comments, Jennifer spoke of her hope that MDE would sit with the plaintiffs and have a conversation about the latter’s concerns, achieving eventual agreement among the parties. Her side has already made suggestions without any response to date.</p>
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Action Items

- Tanya will make available a link to a report to MWCOG on the recent chemical spill affecting drinking water in WV.
- Chris will do the May 2014 minutes.
- The co-chairs will add the WSSC lawsuit to the list of future topics. Paul B. will check on who will speak from WSSC – potentially at the May meeting.
- Mark S. and Keith B. will try to obtain speakers on microcystin for the June meeting.