

Resolution No.: 16-1428
Introduced: July 13, 2010
Adopted: July 13, 2010

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: Approval of Planning Board Draft Water Resources Functional Plan

1. On May 5, 2010 the Montgomery County Planning Board transmitted to the County Executive and the County Council the Planning Board Draft Water Resources Functional Plan.
2. The Planning Board Draft Water Resources Functional Plan amends The General Plan (On Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District in Montgomery and Prince George's Counties; as well as all approved and adopted master, sector, and functional plans.
3. On June 21, 2010 the County Executive transmitted to the County Council his fiscal analysis of the Water Resources Functional Plan.
4. On June 22, 2010 the County Council held a public hearing regarding the Planning Board Draft Water Resources Functional Plan. The Functional Plan was referred to the Transportation and Environment Committee for review and recommendation.
5. On June 24, 2010 the Transportation and Environment Committee held a worksession to review the issues raised in connection with the Planning Board Draft Water Resources Functional Plan.
6. On July 13, 2010 the County Council reviewed the Planning Board Draft Water Resources Functional Plan and the recommendations of the Transportation and Environment Committee.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

The Planning Board Draft Water Resources Functional Plan, dated May 2010, is approved with revisions. County Council revisions to the Planning Board Draft Water Resources Functional Plan are identified below. Deletions to the text of the Plan are indicated by [brackets], additions by underscoring. All page references are to the May 2010 Planning Board Draft Plan.

General: All page references are to the May 2010 Planning Board Draft Plan.

Page 7: Modify sentence three of the second paragraph under the heading introduction as follows:

[Moreover,]Montgomery County continues to attract new residents, and [growth] new development and redevelopment pose[s] additional challenges, as well as opportunities, for water quality.

Page 9: Modify Map 2 as follows:

Show the Poolesville service area (as shown on Map 1) using a different color.

Distinguish the Blue Plains, Seneca, and Damascus WWTP service areas (which are all contained within the WSSC sewer service area) separately from each other.

Page 11: After DEP under the Agencies heading add the following agency:

DFRS Department of Fire and Rescue Services

Page 11: Modify text under Regulatory heading as follows:

MS[-]4

Page 13: Modify last sentence in sidebar under the heading Plans beginning “A number of plans address” as follows:

MS[-]4

Page 19: Modify the first subheading under the heading Regulatory Framework as follows:

Montgomery County Municipal Separate Storm Sewer System (MS[-]4)

Page 19: Modify the following sentence in the first paragraph under the heading Regulatory Framework as follows:

The County's MS[-]4 Permit is the principal implementation tool in meeting stormwater point source water quality regulatory requirements.

Page 19: Add the following sentence before the last sentence of the first paragraph under the heading Regulatory Framework:

The Cities of Gaithersburg, Rockville, and Takoma Park are covered under separate MS4 permits to control discharges from their storm drain systems, as are all M-NCPPC, WSSC, state, and federal properties.

Page 19: Modify the last sentence in the first paragraph under the Regulatory Framework heading as follows:

Information on the County's MS[-]4 Permit is available online at www.montgomerycountymd.gov/DEP

Page 22: Modify the second sentence under the subheading Distribution and Storage as follows:

The County's water distribution system is aging, and maintenance and replacement of this system is vital for continued adequate public water service, which provides for fire suppression in addition to a potable water supply.

Page 27: Modify paragraphs 2 through 5 under the heading Sand Mound and Alternative Technology Septic Systems as follows:

Although sand mounds and alternative septic systems can provide a higher quality of effluent than trench septic systems, they can allow development on land where in-ground trench systems are not permitted due to high water tables or unacceptable percolation rates. Sand mounds have been permitted in the Agricultural Reserve since 1994 pursuant to Executive Regulation No. 28-93 AM. [This policy is inconsistent with the recommendations of the *Functional Master for Preservation of Agriculture and Rural Open Space* that development in the Agricultural Reserve should be limited to that which can be supported by the natural capacity of the soils and that alternative technologies should be strictly limited.] Their use was reviewed by the Council's Ad Hoc Agricultural Policy Working Group and continues to be debated by the Planning Board.

[Sand mounds have increased pressure for residential subdivisions on sites that are not suitable for in-ground trench systems and that might have otherwise remained agricultural land. The continued use of sand mounds for ordinary subdivision development contributes to fragmentation of the critical mass of farmland in the Reserve, marginally increases impervious surfaces, and exacerbates any associated negative water quality impacts.]

There is agreement at this time that [I]n cases where conventional systems fail and owners can no longer rely on standard in-ground trench systems, sand mounds and alternative technology septic systems should be permitted since they can reduce pressure to provide public sewer systems to relieve failing septic systems in low-density areas outside the planned public sewer service envelope.

[But these systems can have unforeseen development and water quality impacts in the Agricultural Reserve. The Water and Sewer Plan should restrict the use of such systems to replacement of failing trench systems and to support residential and other uses that are clearly associated with protection, use, and encouragement of agricultural activities.]

However, because of continuing concerns, the Council should determine the appropriate use of sand mound and alternative technology septic systems in Rural Density Transfer and other rural zoned areas as part of the next comprehensive update to the Ten-Year Comprehensive Water Supply and Sewerage Systems Plan.

Page 27: Modify the last sentence of the first paragraph under the subheading Chesapeake Bay Restoration Fund for Septic Upgrades section as follows:

DPS has applied to the State to assume responsibility for administering the Bay Restoration Fund monies for qualifying on-site systems in Montgomery County.

Page 29: Modify the last sentence before the bulleted section under the heading Findings as follows:

Results of the County's analyses, MS[-]4 implementation plans, and TMDL plans for non-point source water quality will help guide the implementation and updating of master plans, natural area protection, enhancement and restoration efforts, stormwater management, and the development review process.

Page 30: Modify the last sentence in the first paragraph under the heading Sources as follows:

This permit is also known as a Municipal Separate Storm Sewer System (MS[-]4) Permit.

Page 30: Modify the third sentence in the second paragraph under the heading Sources as follows:

Where non-point source pollutants contribute to an impaired water body, they are included as part of the TMDL allocations, but are not covered by the County's MS[-]4 Permit.

Page 30: Add the following sentence to the end of the second paragraph under the heading Sources:

The Cities of Gaithersburg, Rockville, and Takoma Park are covered under separate MS4 permits to control discharges from their storm drain systems, as are all M-NCPPC, WSSC, state, and federal properties.

Page 32: Modify the first sentence in the first paragraph under the subheading Total Maximum Daily Loads (TMDLs) as follows:

A TMDL establishes the amount of pollutant from point and non-point sources, that a water body can assimilate and still meet water quality standards [for that pollutant].

Page 36: Modify the first sentence in the second paragraph under the subheading Anti-degradation and Tier II Water Listings as follows:

Tier II waters are [those] high-quality waters designated by the State to be at risk of degradation.

Page 36: Modify the third sentence in the first paragraph under the subheading Anti-degradation and Tier II Water Listings as follows:

For example, when preparing a master plan amendment for Damascus, the [land area draining] Town Spring Tributary subwatershed, which drains to Scott's Branch [to a headwater stream of the Patuxent watershed] (designated as Tier II waters) was rezoned to provide greater protection.

Page 36: Modify the last sentence of the second paragraph under the subheading Anti-degradation and Tier II Water Listing as follows:

Map 6 shows the County's current Tier II waters (at this time Scott's Branch only, located in the Patuxent River watershed).

Page 37: Modify Map 6 as follows:

[InterCounty Connector] Master Planned Freeways

[Agricultural Reserve]

Delete from map legend and from map the following:

[Metro Stations] [MARC Stations] [Municipalities w/ Zoning Authority (17,500 acres)]

[All] Existing and Proposed Parkland [(62,091 Acres)]

Page 38: Modify the first sentence under the subheading Stormwater Ordinance Revisions as follows:

As the lead Montgomery County Agency for stormwater management, the Department of Permitting Services is coordinating the revisions to the County Stormwater Ordinance and regulations to address [new] the State [regulations] Stormwater Management Act of 2007.

Page 38: Delete the last sentence under the subheading Stormwater Ordinance Revisions as follows:

[The new County regulations are due by May 2010.]

Page 39: Delete and replace the last paragraph under the subheading The Clean Water Task Force as follows:

[In early 2010, the Clean Water Task Force reconvened to begin considering the implications and needs of the County's new MS4 Permit, the new State regulations requiring the use of Environmental Site Design (ESD), code revisions to address ESD, and the need to establish an ongoing Water Resources Policy Coordination Committee, as recommended in the 2007 Task Force Report.]

The Clean Water Task Force (CWTF) developed four priority recommendations in 2007, one of which relates specifically to ESD. Based on the state's adoption of the Stormwater Management Act in May of 2009, the CWTF during 2010 identified, assessed, and recommended changes to remove barriers, gaps, and deficiencies in existing legislation, regulations, and codes. This effort aims to encourage more effective and innovative planning, review, and implementation approaches to achieve water quality and watershed protection. The draft report including the recommendations for code changes to provide for ESD implementation to the MEP was published for public review in June 2010.

Page 39 or shortly thereafter as appropriate in terms of document design: Add a map that illustrates the County's four Special Protection Areas and the Patuxent Primary Management Area.

Page 41: Modify the third sentence in the first paragraph under the subheading Nutrient Loading Results as follows:

These results are not unexpected because there is little vacant land left for new development in the County, and therefore so significant land conversion scenario options remain (Appendix 8).

Page 41: Enlarge Map 7 to show detail better and modify as follows:

[InterCounty Connector] Master Planned Freeways

Largest Municipalities w/ Zoning Authority [(17,500 Acres)]

[All] Existing and Proposed Parkland [(62,091 Acres)]

Remove the blue Other symbol from the east side of I-270 opposite NIST.

Remove lettering in purple.

Page 41: Move Chart 4 to immediately after Map 7, use different color scheme than that used for the other charts, reorder all the charts and change all text and table of contents references accordingly.

Page 41: Add a note to Chart 4 (new Chart 2) as follows:

Note: The three land uses shown represent approximately 60% of the total County area of 324,317 acres. The remaining 40% of the County is predominantly turf.

Page 41-43: Modify the bar labels for Charts 2-6 as follows:

2030 Scenario 1 Trib Strat BMPs
2030 Scenario 2 Trib Strat BMPs

Page 43: Modify sentence 4 in paragraph 2 under the subheading Receiving Waters as follows:

For example, if monitoring shows that standards are not met, then [more stringent stormwater management] other management techniques that are more effective in meeting or exceeding water quality standards might be required.

Page 44: Add the following sentence to the end of the first paragraph after the bulleted section under the subheading Receiving Waters beginning “There are currently”:

Implementation of the non-point source components of TMDLs has not yet been adequately addressed.

Page 44: Add the following paragraph after the first paragraph after the bulleted section under the subheading Receiving Waters beginning “There are currently”:

New development and redevelopment are different, and require different strategies to optimize ESD benefits. For the limited amount of new development remaining, ESD will still be essential to minimize environmental impacts. Additional impacts from new development, however, will be relatively small compared to the ongoing impacts of existing development. Redevelopment poses even greater challenges in using ESD, but also offers opportunities to increase environmental benefits over existing conditions. Encouraging redevelopment will be important in view of the additional challenges involved.

Page 44: Modify the first sentence of the second paragraph after the bulleted section under the subheading Receiving Waters beginning “Although alternative development patterns” as follows:

Although alternative development patterns [and stormwater management] are usually considered in assessing the suitability of receiving waters, they will not be a significant factor in Montgomery County because there is so little vacant land left for new development.

Page 44: Add the following sentence after the last sentence in the second paragraph after the bulleted section under the subheading Receiving Waters beginning “Although alternative development patterns”:

Considering the large amount of the County that was developed with inadequate stormwater management, stormwater retrofits will be especially important to improve water quality over a shorter term.

Page 44: Modify the last sentence under the subheading Inter-Jurisdictional Coordination as follows:

Guidance from the State will be needed to facilitate this process and ensure that all source components of TMDLs are addressed and implemented, especially as the Chesapeake Bay TMDLs are developed and allocated on a smaller scale.

Page 45: Insert the following heading immediately after the last paragraph under the heading looking ahead:

policies, recommendations, and implementation

Page 45: Convert the heading policies and recommendations into a subheading.

Page 45: Modify the first paragraph after the heading policies and recommendations as follows:

The [following] policies and recommendations listed in Table 7 address the main water resources issues addressed above including stormwater and water quality, and water supply and wastewater capacity. A separate section is devoted to land use planning and growth policy because these are key components in all water resource issues.

Page 45: Insert the following paragraph after the first paragraph under the heading policies and recommendations:

The following policies reaffirm and continue County policies that currently exist but that, until now, have not all been gathered together and explicitly stated within a water resource element of the General Plan. Certain of the following recommendations also reaffirm and continue existing programs in the County, while others address needs and issues identified in the Plan. These policies and recommendations were developed through an interagency coordination and review process.

Pages 45-48: Delete all headings and text immediately following the last paragraph under the heading policies and recommendations. (The policies and recommendations are stated separately in Table 7.)

Page 48: Convert the heading implementation into a subheading.

Page 49: Modify the first sentence in the fourth paragraph under the heading implementation as follows:

Table 7 [outlines] presents the Plan's policies and recommendations and classifies them by implementation type and lead agency.

Page 49: Modify the fifth paragraph under the heading implementation as follows:

It classifies the policies and recommendation by implementation type. [The umbrella category is for I] Long-term policies or recommendations are those that are currently being implemented and will continue to be implemented on a permanent basis. All of the policies of this plan are in this category. The [implementation] short- to mid-term category applies to [short- and mid-term actions] recommendations that should be implemented or begun to be implemented over the six-year timeframe before the next update of this Plan. Policies and recommendations in the further study category will need additional research to set more specific actions and timeframes.

Page 49: Add the following text to the uppermost left heading block of Table 7:

Policies and Recommendations

Pages 45-55: Clarify the format and presentation of the material in Table 7 including combining the three columns under the type heading into one column with the heading implementation type, and categorizing each policy under this new column as Long-term, Short- to mid-term, or Further study, as applicable.

Page 49: Modify recommendation 1.2 as follows:

1.2 Ensure that the *Patuxent River Functional Master Plan* responds to and is consistent with [the updated] *Patuxent River Policy Plan* updates.

Page 49: Change the type classification of recommendation 1.2 in the current Table 7 from: Implementation/Further study, to: Long-term/Further study, in the modified Table 7.

Page 50: Modify recommendation 2.2 as follows:

2.2 Support agriculture as the preferred land use in the Agricultural Reserve by [limiting the] determining the appropriate use of alternatives to in-ground septic systems for non-agricultural subdivisions.

Page 50: Modify lead agency list for recommendation 2.3 as follows:

M-NCPPC/DED

Page 50: Modify Policy 3 as follows:

Policy 3. Plan future growth to minimize impacts to water resources, taking into consideration the differences between development and redevelopment.

Page 50: Modify recommendation 3.1 as follows:

3.1 The County's regulatory framework for redevelopment and infill should facilitate levels of stormwater management that exceed State requirements, taking care not to negate incentives for redevelopment and infill.

Page 51: Modify Policy 5 as follows:

Policy 5. Manage stormwater and non-point source pollution to maximize water quality benefits, and meet regulatory requirements and inter-jurisdictional commitments, taking into consideration the differences between development and redevelopment.

Page 52: Modify recommendation 5.4 as follows:

5.4 Identify improvements needed to maximize effective water quality improvements and protection associated with new development, redevelopment, infill, roads, retrofitting of older development, and adopt guidelines, regulations, and best practices, including rainwater harvesting and reuse, to achieve those improvements.

Page 52: Modify lead agency list for recommendation 5.4 as follows:

DEP/DPS/DOT/DFRS

Page 53: Add new recommendation after recommendation 5.8 as follows:

5.9 Continue to promote State review and approval of innovative stormwater management practices that are not contained in the State Stormwater Design Manual.

Classify the new recommendation 5.9 in the modified Table 7 as: Long-term/Further study

List the lead agency for the new recommendation 5.9 in the modified Table 7 as follows:
DPS

Page 53-54: Modify the following sentences as follows:

Policy 7. [Continue to] [e]Ensure adequate and safe water supply and wastewater conveyance throughout areas served by community systems.

Policy 8. [Continue to] [e]Ensure that the *Ten-Year Water Supply and Sewerage Systems Plan* supports and is consistent with the General Plan and master and sector plans.

Policy 9. [Continue to] [u]Use the *Ten-Year Comprehensive Water Supply and Sewerage Systems Plan* to ensure that water supply and wastewater treatment capacities are sufficient for existing and planned development and redevelopment.

Page 54: Change the type classification of Policy 10 in the current Table 7 from: Implementation/Further study, to: Long-term/Further study, in the modified Table 7.

Page 55: Change the type classification of recommendation 12.4 in the current Table 7 from: Umbrella/Further study, to: Short- mid-term/Further study, in the modified Table 7.

Page 56: Modify the following entries under the County Council heading as follows:

[Phil Andrews]Nancy Floreen, President
[Roger Berliner]Valerie Ervin, Vice-President

Page 56: Add the following names before Marc Elrich:

Phil Andrews
Roger Berliner

Page 56: Modify the following entry under the subheading The Maryland-National Park and Planning Commission as follows:

[Royce Hanson]Francoise Carrier, Chair[man]

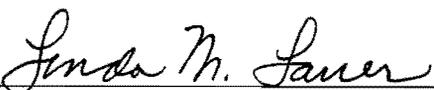
Page 56: Modify the following entry under the subheading Montgomery County Planning Board as follows:

[Royce Hanson]Francoise Carrier, Chair[man]

General

All illustrations and tables included in the Plan are to be revised to reflect District Council changes to the Planning Board Draft (May 2010). The text and graphics are to be revised as necessary to achieve and improve clarity and consistency, to update factual information, and to convey the actions of the District Council. Graphics and tables should be revised to be consistent with the text.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council