

Fairfax County Stormwater Management Ordinance Stakeholder Issues Report-Out Meeting

**Fairfax County Government Center Board Auditorium
July 24, 2013, 7 – 9 p.m.**

DRAFT MEETING NOTES

Purpose and Goals/Timeline

Michelle Brickner, Director, Land Development Services, welcomed the meeting participants. She thanked stakeholders for attending and for their continued involvement in the process of drafting a new Stormwater Management Ordinance (SMO) and amendments to the Public Facilities Manual (PFM) to meet the requirements of the Virginia Stormwater Management Regulations. The most recent versions of the two documents can be found here:

Draft Ordinance (Rev. July 19, 2013)

http://www.fairfaxcounty.gov/dpwes/stormwaterordinance/draft_ordinance_july.pdf

Proposed PFM Amendments (ESRC Recommendation)

http://www.fairfaxcounty.gov/dpwes/stormwaterordinance/pfm_esrc.pdf

Ms. Brickner went over the agenda for the meeting, discussed the overall purpose and goals of the stakeholder process, and reviewed the updated adoption timeline. She noted that the two main goals of the meeting were to let stakeholders know how previous input was used in the proposed draft SMO and PFM amendments and to highlight additional opportunities for feedback – including submitting comments on-line and the formal public hearing process. Finally, she reminded participants that this is only Phase 1 of a two-phase process. Phase 2 will be used to address issues that couldn't be addressed before the state-mandated deadline for adopting the initial ordinance.

Stakeholder Process, Key Issues, and Discussion Points

Ms. Brickner introduced David Bulova with AMEC Environment & Infrastructure. He discussed the stakeholder process in more detail and then introduced the issues that were the focus of two stakeholder meetings held in September and November 2012. Issue categories include:

- Single-Family Home Exemption
- Stormwater Facility Inspection Reports by Owners
- Nutrient Credit Offsets
- Pro Rata Share Program
- Adequate Outfall Requirements
- BMP Facilities in Residential Areas
- Use and Location of BMPs

Mr. Bulova further discussed the “Key Issues” and “Key Discussion Points” that were identified for each issue area during the stakeholder meeting break-out groups.

Phase 1 Components – Recommended Draft SMO and Draft PFM Changes

Mr. Bulova introduced Paul Shirey, Director, Code Development and Compliance Division. Mr. Shirey provided a detailed description of the draft SMO and PFM amendments that County staff had developed using input from stakeholders. For each issue area, Mr. Shirey went over the specific changes and the rationale. For the single-family home exemption, Mr. Shirey presented several slides to help clarify the different alternatives being considered. He also provided an example of a public BMP easement and out-lot layout to be addressed in the PFM for the BMP facilities in residential areas issue.

Matrix of Use and Location of BMPs and Grandfathering

Mr. Shirey introduced Bruce McGranahan, Site Code Research and Development Branch, to explain the Matrix of Use and Location of BMPs that was created by staff. This was in response to stakeholder feedback on the need for clarification on the appropriate use of BMPs from the Virginia BMP Clearinghouse website. He also discussed grandfathering provisions from the state regulations and when projects would be subject to either the existing or new technical criteria.

Phase 2 Components

Ms. Brickner discussed that the County will also have a Phase 2 of the SMO and PFM amendment process to deal with issues that were beyond the scope of meeting the minimum requirements necessary for the state to approve the County's stormwater program. Phase 2 issues may include, but are not limited to, pro rata share, MS4 permit-related elements, and any other items that may be identified in the public hearing process. Ms. Brickner reiterated additional opportunities for input through the website and the formal review process.

Question and Answer Discussion

The following questions were asked by meeting participants:

Where will the funding come from to support the proposal to increase the County's role in maintenance of residential BMPs? If the Board of Supervisors approves the proposal for the County to take on responsibility for maintenance of additional residential BMPs, it would be allocated from the current stormwater service district fee of \$0.02 per \$100 of assessed value. The cost is anticipated to be in the range of \$4 million annually.

Does the proposed expansion of public maintenance for residential BMPs apply only to those installed after July 1, 2014, or is this going to be retroactive? The proposed expanded program would initially apply only to BMPs installed on or after July 1, 2014. However, the County is also considering a program that would set guidelines for how to include BMPs installed prior to July 1, 2014. The details of how that would work are still being considered.

Regarding the diagram of the subdivision with the BMP easement and out-lot layout: How will this affect the County's lot shape factor requirements? The easement wouldn't affect the shape factor. The County is interested in specific examples of how this might cause a problem and can look at it further during Phase 2 of the process.

While the County is increasing efforts to protect water quality and the environment during new development, what is being done to mitigate the impacts from 30-40 years ago that have degraded and eroded our streams? The County has developed watershed plans that address existing degraded streams and make recommendations for specific restoration projects. For the most part, these plans focus on

restoration of headwaters first and then work their way down to the lower parts of the watershed. *Are these plans for review?* Yes, the information is at the following website:

<http://www.fairfaxcounty.gov/dpwes/watersheds/>

The single-family home exemption diagrams did not include the driveway as part of the disturbed area calculation, but the County's practice is to include driveways used for access when calculating the 2,500 SF disturbed area threshold. Is the County changing that policy? No, the policy hasn't changed. The diagram in the presentation is meant to demonstrate how an approximately 800 SF addition could be built on an average lot under the current and proposed County requirements.

There is a concern that the language about silviculture is vague and too open for interpretation. The Code of Virginia sets out the definition of silviculture as part of exemptions. While the County can look at this, it is unlikely that the County can change this language.

During the presentation there was reference to right-of-entry allowance for inspectors to access private property to ensure that requirements are being met. Is this included in the ordinance? Yes, the Code of Virginia (§ 62.1-44.15:39) provides specific authority for the County to conduct inspections and this is included in the ordinance.

Regarding the BMP Locations and Use Matrix: If manufactured devices are allowed on the out-lot, does this mean that the County would consider removing language from the PFM that prohibits underground detention structures for residential lots? Although this came up in discussions, this has not changed in the PFM. This will be looked at again in Phase 2.

When the Accotink TMDL [total maximum daily load] comes back, or other TMDLs are developed, what is the requirement in the ordinance to address TMDLs? What can be done to affect specific sediment requirements? The Virginia stormwater regulations, and therefore the ordinance, contain language that a wasteload allocation (WLA) from a TMDL is enforceable and that the requirement must be met. This includes current and future WLAs. The Virginia construction general permit has this provision too. However, there isn't specific language for how to deal with individual WLAs in the ordinance. The County will be working with the Department of Environmental Quality on the Accotink TMDL and how this might impact development requirements. The County is concerned that there will be different requirements for each watershed. However, there will be additional public review before making any decisions on the Accotink TMDL or changes to the stormwater ordinance.

The presentation had seven different areas that were discussed. Five of those appear to be set with a recommended approach, while two have alternatives. The two with alternatives are single-family home exemptions and BMPs on residential lots. How will these alternatives be addressed and presented to the Board of Supervisors? Regarding the five issue areas, after listening to stakeholder input there was consensus from County staff on making recommendations. However, on the two other issues, while there was generally consensus, there was also interest expressed in alternatives. To ensure that the County could keep its options open during the formal public input process, a decision was made to include alternatives. That way the ordinance would not have to be re-advertised if the Board of Supervisors decided to change direction.

Regarding the detention method: Where there is no increase to the runoff volume, do you still have to go through the calculation for adequate outfall? The state's new adequate outfall requirement reverses the order of precedence, where the current PFM is set up for the demonstration of adequate outfall first. One can do super-detention for the 1-, 2-, and 10-year event to the good forest pre-condition; presuming the outfall is not degraded. The state is looking at the over-detention option first, and their requirements are

not based on the good forest pre-condition; only pre versus post. The County did not want to change the current requirement to be less protective. There are opportunities through the exemption process to show adequate outfall and not do super-detention.

Are there still provisions to get credit for the capture of offsite water? The County wants to continue the practice of allowing credit for offsite capture. However, the County will need to look into this further and how it works with the state's Runoff Reduction Method.

Is the Runoff Reduction Method being accepted now? No. If you have an approved plan and get your VSMP construction permit coverage before July 1, 2014, then the project is subject to the old requirements; so the current PFM would be in place for those.

When will the County be accepting plans for the new PFM if the project is not expected to meet the VSMP July 1, 2014 deadline? The County is looking at how to handle this transitional period. It was agreed that there needs to be a way to accommodate projects that are beginning the planning process now but won't meet the grandfathering requirements.

In an application for rezoning, the Runoff Reduction Method is being used by some engineers since the project would likely not meet the timeline for VSMP coverage by July 1, 2014. Will this application be kicked out and rejected by Zoning? The Runoff Reduction Method is part of the new regulations and the ordinance not yet in effect. Since the new requirements are generally more stringent than the existing requirements, it should just be a matter of demonstrating that the current requirements are being met. Planning staff commented that they would bring this back to Zoning for discussion for a more definitive answer.

Closing and Next Steps

David Bulova thanked the stakeholders for attending and for their continued input. He reminded them that the documents are on the County's website and that there are opportunities to provide additional comment through the website and also through the formal public hearing process. Information on the process, along with the draft ordinance and PFM amendments, can be found at:

<http://www.fairfaxcounty.gov/dpwes/stormwaterordinance.htm>