

**FAIRFAX COUNTY PLANNING COMMISSION
ENVIRONMENT COMMITTEE
THURSDAY, APRIL 4, 2013**

COMMITTEE MEMBERS PRESENT:

Frank A. de la Fe, Hunter Mill District
Jay P. Donahue, Dranesville District
James R. Hart, At-Large, Chairman
Ellen J. Hurley, Braddock District
Kenneth A. Lawrence, Providence District
Timothy J. Sargeant, At-Large

COMMITTEE MEMBER ABSENT:

Janyce N. Hedetniemi, At-Large

OTHER COMMISSIONERS PRESENT:

Earl L. Flanagan, Mount Vernon District
James T. Migliaccio, Lee District

FAIRFAX COUNTY STAFF PRESENT:

Pamela G. Nee, Chief, Environment and Development Review Branch (EDRB), Planning Division (PD), Department of Planning and Zoning (DPZ)
Noel H. Kaplan, Senior Environmental Planner, EDRB, PD, DPZ
Paul M. Shirey, Director, Code Development and Compliance Division, Land Development Services (LDS), Department of Public Works and Environmental Services (DPWES)
Thomas Williamson, Chief, Site Code Research and Development Branch, LDS, DPWES
John Friedman, Stormwater Management Ordinance Consultant for Site Code Research and Development Branch, LDS, DPWES
Ellen N. Eggerton, Green Building Ombudsman, LDS, DPWES
Kimberly A. Bassarab, Assistant Director, Planning Commission Office
Kara A. DeArrastia, Clerk to the Planning Commission
Rosemary Ryan, Senior Staff Assistant for Land Use and Public Works: Stormwater, Solid Waste, and Wastewater, Braddock District Supervisor John Cook's Office

OTHERS PRESENT:

Inda Stagg, Senior Land Use Planner, Walsh, Colucci, Lubeley, Emrich & Walsh, PC
Bill Nell, Senior Consultant at Resource Protection and Compliance Services LLC, Representing Thirsty Duck, Ltd.
Donald Hughes, Senior Project Manager, Bowman Consulting Group, LTD

ATTACHMENT:

A. "Fairfax County Stormwater Management Ordinance" PowerPoint presentation dated April 4, 2013

//

Chairman James R. Hart called the meeting to order at 7:02 p.m., in the Board Conference Room, 12000 Government Center Parkway, Fairfax, Virginia 22035.

//

Commissioner Lawrence MOVED THAT THE ENVIRONMENT COMMITTEE MINUTES OF JANUARY 10, 2013, AND FEBRUARY 7, 2013, BE APPROVED.

Commissioner Donahue seconded the motion which carried unanimously.

//

PRESENTATION ON THE DEVELOPMENT OF A STORMWATER MANAGEMENT ORDINANCE FOR FAIRFAX COUNTY

Paul Shirey, Director, Code Development and Compliance Division, Land Development Services (LDS), Department of Public Works and Environmental Services (DPWES), delivered a PowerPoint presentation on the Fairfax County Stormwater Management Ordinance, as shown in Attachment A. He presented background information and discussed the timeline and key events, in addition to its impacts on Fairfax County. He also described the major policy issues, including Best Management Practices (BMPs) in residential areas, BMP inspections and maintenance, adequate outfall and detention requirements, impacts on infill development and single-family exemption, and nutrient credit offset provisions. At the conclusion of his presentation, he asked for questions or comments from the Commissioners.

In response to questions from Commissioner Hurley, Mr. Shirey confirmed that staff was still reviewing the options for BMP maintenance costs.

Commissioner Hurley asked how many homeowners associations (HOA) existed in Fairfax County. Thomas Williamson, Chief, Site Code Research and Development Branch, LDS, DPWES, responded that approximately 40 percent of the single-family dwellings in the County belonged to an HOA, adding that he would confirm the figure.

When Commissioner Hurley asked if the County provided tax incentives for pervious pavers, Mr. Shirey explained that none had been considered within this Ordinance. Mr. Williamson added, however, that it might be worth considering for existing and infill development.

When Commissioner Hart questioned the enforceability of HOA maintenance/repair agreements, Mr. Shirey stated that the County had no enforcement authority over such private agreements. Commissioner Hart pointed out that relying on court enforcement of private maintenance agreements would be costly and time consuming without an aggressive inspection program in place.

John Friedman, Stormwater Management Ordinance Consultant for Site Code Research and Development Branch, LDS, DPWES, pointed out that no enabling legislation existed for

inclusion of criminal or civil penalties in the Fairfax County Ordinance. He also pointed out that private maintenance agreements contained requirements for annual inspections for maintenance, to be submitted to the County. He added, however, that a failed inspection could trigger County enforcement proceedings.

When Chairman Hart noted that the number of inspections seemed staff intensive, Mr. Shirey noted that the five-year compliance inspections program was derived from the County's Municipal Separate Storm Sewer System (MS4) program.

Commissioner Flanagan noted that not all HOAs were incorporated, also pointing out that many communities worked together without HOAs either through covenants or without any agreements at all. When he asked who the new Ordinance was intended for, Mr. Shirey explained that it was intended for BMPs in new subdivisions forming new HOAs.

Chairman Hart pointed out that most HOAs would be included since most of the open space in the County was either part of an HOA common property or owned by the Fairfax County Park Authority. He added that the Stormwater Ordinance might be problematic in cases where there was no open space to accommodate stormwater facilities.

Commissioner Flanagan suggested that the new Ordinance language be clarified to state that it would apply only to new HOAs. Chairman Hart pointed out that stormwater management in smaller infill subdivisions were often problematic for their respective HOAs in that the expenses were often too high and/or the maintenance too complicated for such a small number of residents.

Commissioner Lawrence suggested that the County consider helping HOAs in smaller subdivisions to join with similar HOAs in forming utility cooperatives to obtain the appropriate stormwater maintenance and repair services necessary.

In addition, Commissioner Lawrence asked if developments currently undergoing site plan review would be grandfathered into this Ordinance. Noting that the Stormwater Ordinance would become effective on July 1, 2014, Mr. Williamson explained how current developments might be grandfathered into its provisions.

Commissioner Lawrence asked how this Ordinance corresponded to the development in the Tysons Corner Urban Center. Mr. Shirey noted the one-inch rainfall retention target requirement for Tysons development, adding that the Public Facilities Manual (PFM) Amendment would allow for facilities currently not accepted or allowed by the PFM. Mr. Friedman, however, pointed out that none of the applications for Tysons Corner proposed anything not currently allowed by the PFM. Mr. Williamson added that since most of the applications for the Tysons Corner Urban Center were rezonings, the applicants could, and in fact did, request more than the minimum for stormwater management.

Commissioner Lawrence noted that above-minimum systems were being installed in some of the smaller infill developments in the Providence District. As discussion continued, Mr. Friedman explained to Commissioner Lawrence that although the Virginia State methodology for

analyzing proportional improvement of the downstream drainage system would now be used, the end result would be the same as the County's. When Commissioner Lawrence asked how the Ordinance related to LEED requirements, Mr. Friedman said that he believed that the state criteria exceeded current LEED stormwater management requirements. Commissioner Lawrence further commented that the Commission had required developers to produce and provide to new HOAs a stormwater management manual and would continue to do so.

Commissioner de la Fe noted the number of HOAs in the County and asked how staff inspected each HOA's stormwater system. Mr. Shirey explained that approximately 20 percent of the County's HOA inspections were done at a time on staggered schedules, by both County staff and contractors.

Referencing Commissioner Lawrence's suggested formation of HOA cooperatives, Commissioner de la Fe noted that there were management groups that could handle the funds for multiple HOAs. He pointed out, however, that in areas where no HOA existed, Fairfax County became the de facto HOA. When Mr. Williamson added that some new BMPs needed to be checked at least once a year, Commissioner de la Fe concurred, noting that citizens needed to be educated about these systems and their maintenance requirements.

Commissioner Flanagan asked if the Ordinance would impact the quick release of stormwater into the Potomac River from Mount Vernon property. Mr. Friedman explained that the new requirements would cover water quality controls, and said that separate requirements addressed erosion and flooding.

Commissioner Donahue asked what a vegetative swale was. Mr. Friedman described the following three types:

- Grass swale – the simplest of the three types; a very broad shallow grass channel with a very low slump;
- Vegetated swale similar to a linear bioretention facility – might have check dams for erosion reduction, and would contain an under drain and special soil mix for bioretention. In addition, it could also be planted with grass or more extensive plantings similar to those in a bioretention facility.
- Vegetated swale similar to a linear wetland – typically used in flat coastal areas with a water table close to the surface. This would be installed where the water table broke up above the bottom of the swale; hence, it would perpetually have water in it.

Mr. Friedman explained to Commissioner Donahue that the first two types would dry out after each storm while the third would not.

In reply to an additional question from Commissioner Donahue, Mr. Friedman explained that item number 3, under Section 124-1-7, Exemptions, in the Draft Stormwater Ordinance, applied to any single-family residence on a lot, no matter the size, up to one acre. (A copy of the draft document is in the date file.)

Chairman Hart asked who would be financially and physically responsible for the maintenance of vegetated swales. Mr. Friedman explained that since they were basically broad grass channels, the only maintenance required would be mowing. Mr. Shirey added that the County would be responsible for County systems and their maintenance.

A brief discussion followed between Commissioners Hart, Donahue, and Mr. Friedman regarding the proper design, installation, and subsequent impacts of vegetated swales throughout the County.

In response to a question from Commissioner Hurley regarding conservation areas, Mr. Friedman explained that existing undisturbed areas would not be razed simply for the installation of a stormwater pond, but noted that credit would be given for the mechanical removal of phosphorous from the streams.

//

Chairman Hart announced that the Committee would next meet on the following dates at 7:00 p.m. in the Board Conference Room:

- Thursday, May 2, 2013 – Presentation from Stephen Schey, Director, Stakeholder Services, ECOtality, North America, Inc., related to electric vehicle supply equipment.
- Thursday, May 9, 2013 – Presentation from Michael Krauthamer, Director, Mid-Atlantic Region, eVgo, related to electric vehicle supply equipment.
- Thursday, June 20, 2013 – Staff briefing regarding collaboration efforts between Fairfax County Public Schools and Stormwater Planning Division in DPWES on stormwater management plans.

//

The meeting was adjourned at 8:11 p.m.
James R. Hart, Chairman

An audio recording of this meeting is available in the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jeanette Nord / Kara A. DeArrastia

Approved: July 10, 2013

Jeanette Nord, Acting Clerk to the
Fairfax County Planning Commission