

Planning Commission Meeting
November 21, 2013
Verbatim Excerpt

PUBLIC FACILITIES MANUAL AMENDMENT (STORMWATER MANAGEMENT ORDINANCE) AND PUBLIC FACILITIES MANUAL AMENDMENT (STORM DRAINAGE AND VEGETATION PRESERVATION AND PLANTING)

Decision Only During Commission Matters
(Public Hearing held on October 9, 2013)

Commissioner Hart: Thank you, Mr. Chairman. Last month, the Commission held a public hearing on a package of important amendments dealing with stormwater regulations. Stormwater is at or near the top of the list of citizen issues debated in the land use process. Recommendations on how development should implement stormwater policy are a critical part of the Planning Commission's role in the land use process. Recent legislative changes in Richmond require that Fairfax County amend its regulatory framework in advance of an upcoming June 2014 deadline. We deferred the Planning Commission decision twice until tonight, fine tuning the proposal. I believe we are now ready to move forward. I want to first thank all the citizens who contributed input on this topic, the speakers at the public hearing, as well as the many meetings leading up to it, and the many folks who submitted letters and emails. More importantly, I want to thank the outstanding team of staff, many of whom are here tonight, including Paul Shirey, John Friedman, Bruce McGranahan, James Patteson, Randy Bartlett, Tom Williamson, John Bell, and Michelle Brickner, for their dedicated, thorough, and very professional handling of a complicated and important topic. We civilians are fortunate to have technical staff who can understand and digest some very complicated issues. Staff has done 99 percent of the heavy lifting on this project. I want to thank the many citizens and industry folks who participated in the dialogue over the last several months for their contributions. Staff conducted a wide-ranging communication effort, including at least four public outreach meetings to invited stakeholders, at least three community meetings offsite, review of the PFM issues with the Engineering Standards Review Committee, four sessions with the Environmental Quality Advisory Committee, four sessions with the Planning Commission Environment Committee, several meetings with design industry professionals, website information, and thorough and timely responses to many citizen and industry questions. The lack of controversy at the Planning Commission level confirms the success of the community outreach effort. I believe that the staff recommendations, as most recently amended in the November 14 handout, largely represent a consensus on these complicated issues. In general, we hope that these amendments will help with stormwater management, environmental, and water quality concerns. I wanted to add a couple observations about our recommendations. One of staff's recommendations was that the Chesapeake Bay Exceptions Review Committee be abolished. The most significant factor was that there have been very few cases – fewer than had been anticipated. The committee rarely meets, compared to the Planning Commission and Board of Supervisors. It has been difficult for the Board to keep the committee fully appointed and sometimes difficult to achieve quorum, which can cause delay, uncertainty, and expense to the applicants, making a difficult process even more challenging. The committee opposes staff's recommendation and all the committee members may not have been specifically aware of the pending abolition until recently. That dilemma was one of the issues to be sorted out before the matter goes to the Board. I have decided to

PFM AMENDMENTS (STORMWATER ORDINANCE)

recommend retaining the "Exceptions Review Committee, coupled with a recommendation for a follow-on motion to have staff monitor the workload of the committee, and make appropriate recommendations in one year in light of our experience with the new regulations. The staff recommendation would have retained a public hearing process, but have future exception review cases go before the Board of Supervisors instead of the committee. With the historically small caseload for these requests, I believe the Board probably is capable of making these additional decisions and that, as long as a public hearing process is preserved, we are maintaining transparency in the process and an opportunity for notice and citizen input to the decision makers. At the same time, the Board of Supervisors has an extensive workload already and further assignment of additional categories of public hearings, even incrementally, impacts the length of the Board's meetings. I want to make clear that staff's recommendation and the continued study of this issue for another year is not intended to denigrate in any way the work of the committee or the importance of the contributions of qualified citizens to the land use process, but recognizes instead the administrative difficulty with maintaining many separate layers of review and decision-making. Staff can continue to monitor the situation and the Board could revisit the procedure. I believe also there may be options short of abolition which might ease the quorum requirements or modify the size of the committee or otherwise streamline the processing of applications while retaining an independent voice and the benefit of perhaps more detailed review of technical water quality issues. With respect to the technical aspects of the amendment, I am comfortable with staff's recommendations. I wanted to observe that this package, although it contains fairly rigorous requirements, is about 90 percent predetermined with the particulars already directed from Richmond. On the additional 10 percent where we have some flexibility, I have not departed from staff's recommended figures in the ranges advertised. Staff's recommended approach should result in significant improvement over the current regulations. Although we would have the flexibility to make some of these regulations even more severe than recommended, we need to be mindful of the economic realities. We do not want stormwater regulation to be a disincentive to redevelopment in the older areas of the County, especially where stormwater management is weakest and the stream quality worst, right now. We want, instead, to encourage responsible redevelopment and improvement of those existing conditions. A balanced package, in my judgment, in line with the staff recommendations, is the best way to achieve that result. Finally, we recognize that there are some additional stormwater regulation changes in the pipeline from Richmond, too late to be included in the advertised staff report, but also details which Fairfax County will be required to incorporate. Staff anticipates some minor edits to the Planning Commission recommendation, incorporating the additional changes mandated from Richmond but not yet ready for us before this matter goes to the Board on January 28th. I understand from staff that the County Attorney is agreeable with that approach and that we need not delay our recommendation pending resolution of those loose ends. I understand that any such required edits will be deemed within the scope of the advertising as less stringent than what was advertised. Therefore, Mr. Chairman, I will have seven motions. First, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE PROPOSED AMENDMENTS TO CHAPTER 101 (SUBDIVISION ORDINANCE), CHAPTER 112 (ZONING ORDINANCE), AND APPENDIX Q OF THE COUNTY CODE, AS CONTAINED IN THE STAFF REPORT DATED SEPTEMBER 10, 2013.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant, is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the amendment on stormwater management – on the Stormwater Management Ordinance [sic], as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Litzenberger: I abstain. I was not present for the –

Chairman Murphy: Okay, Mr. Litzenberger abstains, not present for the public hearing.

Commissioner Hart: That one wasn't stormwater. It was subdivision.

Chairman Murphy: Oh, I'm sorry. Okay.

Commissioner Hart: Then secondly, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD REPEAL EXISTING CHAPTER 105 (POLLUTION OF STATE WATERS) AND CHAPTER 106 (STORM DRAINAGE) OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA, AS CONTAINED IN THE STAFF REPORT DATED SEPTEMBER 10, 2013.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Same –

Chairman Murphy: Same abstention all the way through.

Commissioner Hart: Next, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE

PROPOSED AMENDMENTS TO CHAPTER 104 (EROSION AND SEDIMENTATION CONTROL) OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA, WITH THE REVISIONS RECOMMENDED BY STAFF, AS CONTAINED IN REVISED ATTACHMENT C DATED NOVEMBER 14, 2013.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: And Mr. Litzenberger –

Chairman Murphy: And Mr. Litzenberger – I said all the way through.

Commissioner Hart: Next, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE PROPOSED AMENDMENTS TO CHAPTER 118 (CHESAPEAKE BAY PRESERVATION ORDINANCE) OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA, WITH THE REVISIONS RECOMMENDED BY STAFF, AS CONTAINED IN REVISED ATTACHMENT G DATED NOVEMBER 14, 2013, EXCEPT THAT PROPOSED AMENDMENTS TO ARTICLES 6, EXCEPTIONS; 7, EXCEPTION REVIEW COMMITTEE; AND 8, APPEALS, NOT BE ADOPTED, WITH THE EXCEPTION OF THE CORRECTED CROSS-REFERENCE IN SECTION 118-6-7(E).

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Hart: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT CHAPTER 124 (STORMWATER MANAGEMENT ORDINANCE) OF THE CODE OF COUNTY OF FAIRFAX, VIRGINIA, WITH THE REVISIONS RECOMMENDED BY STAFF, AS CONTAINED IN REVISED ATTACHMENT A, DATED NOVEMBER 14, 2013, AND THAT THE EXEMPTION FOR SINGLE-FAMILY HOMES IN SECTION 124-7-1.3 BE ADOPTED AS ADVERTISED WITHOUT ANY CHANGES.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Next, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE AMENDMENTS TO THE PUBLIC FACILITIES MANUAL, AS CONTAINED IN THE STAFF REPORT DATED SEPTEMBER 10, 2013, SELECTING ALTERNATIVE 2 THROUGHOUT THE AMENDMENTS, WHICH EXPANDS THE RESIDENTIAL BMPS ELIGIBLE FOR PUBLIC MAINTENANCE, AND WITH THE REVISIONS TO SECTION 6-0203 (ANALYSIS OF DOWNSTREAM DRAINAGE SYSTEMS) RECOMMENDED BY STAFF DATED NOVEMBER 14, 2013.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Hart: Finally, Mr. Chairman, I MOVE THAT THE COMMISSION RECOMMEND THAT THE BOARD DIRECT STAFF TO MONITOR THE CASELOAD OF THE CHESAPEAKE BAY EXCEPTION REVIEW COMMITTEE FOR A PERIOD OF ONE YEAR FOLLOWING THE BOARD'S ADOPTION OF THE AMENDMENT PACKAGE AND MAKE APPROPRIATE RECOMMENDATIONS TO THE PLANNING COMMISSION AND THE BOARD FOR ANY PROCEDURAL AMENDMENTS AT THAT TIME. THESE RECOMMENDATIONS NEED NOT NECESSARILY INCLUDE ABOLITION OF THE COMMITTEE, BUT ALSO CONSIDERATION OF THE NUMBERS OF MEMBERS OR ALTERNATES OR PROCEDURES TO SIMPLIFY QUORUM OR OTHER ADMINISTRATIVE RECOMMENDATIONS TO FACILITATE TIMELY AND EFFICIENT PROCESSING OF THESE APPLICATIONS.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

November 21, 2013

PFM AMENDMENTS (STORMWATER ORDINANCE)

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Thank you, Mr. Chairman.

//

(Each motion carried by a vote of 10-0-1. Commissioner Litzenberger abstained. Commissioner Hall was absent from the meeting.)

JLC