



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # 7
2/11/10

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Mark Pfefferle, Acting Chief *MP*
Environmental Planning (Green) Division
Mary Dolan, Master Planner/Supervisor *MD*
Environmental Planning (Green) Division

FROM: Mark Symborski, Planner Coordinator, (301) 495-4636 *MS*
Environmental Planning (Green) Division

SUBJECT: Worksession 1: Water Resources Functional Plan
Comments on the Public Hearing Draft

RECOMMENDATION: Review and approval of staff responses to comments on the Public Hearing Draft.

Background

On December 17, 2009, a Public Hearing was held on the Draft Water Resources Functional Plan. This plan was completed to fulfill the requirements of State House Bill (HB) 1141, which requires all jurisdictions with planning and zoning authority to amend their comprehensive plans to include a Water Resources Element (WRE). The plan was drafted in accordance with WRE preparation guidance received from the State. Because of the many water resources-related responsibilities that are shared by many agencies, the plan's policies and recommendations were crafted through an inter-agency coordination and review process.

The Public Record was held open until January 15, 2010. Some of the comments addressed in this memo were received after the public comment period closed.

Process and Schedule

Unlike other master plans, the Water Resources Functional Plan is required by HB 1141 to be approved and adopted by October 1, 2010. To meet this requirement, the current schedule targets July for the County Council process to be completed. This will allow for plan adoption by the full Commission when it reconvenes in September.

Purpose of this Worksession

The purpose of this worksession is to review the staff summary and recommendations regarding the comments received at the Public Hearing, other comments received during the public record period, and additional comments received after the close of the public record.

Preparation of the Planning Board Draft

If the Planning Board concurs with the staff responses to the comments, then we will make the recommended changes to the plan, along with typo corrections and minor editorial adjustments as needed to achieve clarity and consistency. We propose to then circulate the revised document to the Board for final review prior to transmittal as the Planning Board Draft. However, if the Planning Board has additional substantial comments and/or would like to see the plan again, we will bring it back to you as soon as possible.

Overview of General Response to the Plan and Comments Received

The general response to the draft plan is very positive. Many stakeholders responded that the plan is well designed and organized, easy to follow, covers the varied issues and content needed, and sets important policies and recommendations. Careful attention to the WRE guidance provided by the State has resulted in a plan cited by the Maryland Department of Planning (MDP) as an "exemplary effort."

Comments from MDP included those that require a response (summarized with other comments received in the tables below) as well as commendatory comments that do not, as follows:

- *Montgomery County should be commended for developing a WRE that:*
 - *Includes strong goals, recognizes the impact of additional impervious cover on receiving waters, and recognizes the County's smart growth policies as a fundamental approach for limiting impacts of new development (pp. 6, 15-16, 23-24).*
 - *Provides a thorough and clear description of the framework and tools used by Montgomery County to manage its water resources as development continues, including the connection among policy documents and between policy documents and implementation mechanisms.*
 - *Demonstrates adequate water (p. 17) and sewer (p. 21) to support the County land use plan through the planning period (2030).*
 - *Incorporates expected land use change from its municipalities (Appendix, pp. 156-159), while overall water/sewer demand forecasts from WSSC incorporate municipal demand (Appendix).*

- *Provides a thorough description of source water protection measures, including a recognition of the potential impact of climate change on water resources (pp. 17-20, 35, and Appendix 3).*
- *Cites monitoring data that supports smart growth policies (p. 25).*
- *Evaluates at least two land use plan scenarios (pp. 35-36) for combined non-point source and point source pollution impacts (Appendix, p. 178), including a comprehensive approach to forecasting future land use, considering anticipated changes from transportation projects (Appendix, p. 160), and incorporating additional land use types (Appendix, pp. 154-155).*
- *Discusses the suitability of receiving waters as it relates to TMDLs, the County land use plan and growth policy, stormwater management, and pollution control measures (pp. 38-39).*
- *Includes thorough water resource policies and recommendations (pp. 40-42), including lead agencies for implementation (p. 43).*

Other comments received are summarized below in the comment and response table. These comments are helpful, and staff believes that the recommended changes will improve the plan.

Summary of Comments

Public Hearing Testimony

Person/Affiliation	Comments	Staff Response
<p>Diane Cameron Audubon Naturalist Society</p>	<p>Oral Comments:</p> <ol style="list-style-type: none"> The Society supports the plan, believing it to be a thorough document that contains many very important ideas, concepts, and directions for the County's water resources protection. The plan's recommendation for increased interagency and stakeholder cooperation and collaboration, including the establishment of a permanent Water Resources Policy Coordination Committee, is particularly important. The County should look at other jurisdictions that are noted for well-integrated and coordinated agencies that deal with water resources and stormwater management, such as Philadelphia, Pennsylvania, and Portland, Oregon, as models. 	<ol style="list-style-type: none"> No response necessary. Staff agrees that the plan recommendation for the establishment of a Water Resources Policy Coordination Committee, as recommended by the Clean Water Task Force, is particularly important. The plan, however, does not include the word "permanent" because that word did not appear in the Clean Water Task Force Final Report that recommended the establishment of the Committee. The duration of such a committee will depend on the County Executive, who established the Clean Water Task Force. The Clean water Task Force was recently reconvened to begin considering a number of pressing water quality issues, including the Task Force recommendation to establish a Water Resources Policy Coordination Committee. The Task Force and any subsequent Coordination Committee would be the appropriate place for reviewing interagency coordination approaches used in other jurisdictions. <i>No change is recommended.</i>

<p>Raquel Montenegro MNCBIA</p>	<p>Oral Comments</p> <ol style="list-style-type: none"> 1. The plan: <ol style="list-style-type: none"> a. Does not address any of the impacts from agriculture; b. Provides a free pass to agriculture; and c. The document does not include a recommendation to assess the impact that agriculture has on water quality. <ol style="list-style-type: none"> 2. Suggest Policy 1 be revised to read: Plan water supply and wastewater treatment capacity to meet the demands of future growth. 	<ol style="list-style-type: none"> 1. <ol style="list-style-type: none"> a. The plan does discuss agricultural impacts, particularly on page 27. <i>No change is recommended.</i> b. The plan does not provide a free pass to agriculture. Agriculture is regulated by the State, not the County. The plan identifies agriculture as a non-point pollution source that will be a part of State TMDL analyses for impaired waters, and will thus need to be a part of overall TMDL implementation to assure attainment of water quality standards. <i>No change is recommended.</i> c. The State is responsible for assessing the impacts of agriculture on water quality as a source of non-point pollution. This will be done as part of the analysis currently underway by the State to develop TMDLs for nutrients and sediment. The purpose of the plan is to establish policies that ensure that regulatory requirements are met, not to develop those requirements. <i>No change is recommended.</i> 2. <i>Staff agrees.</i>
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	<p>3. Because the term “maximize” as it relate to water resources is extremely subjective; and redevelopment and infill will inherently improve water resource conditions through the design and construction of the replacement development under current regulations, the challenges and conflicts that Recommendation 3.1 presents are not justified or necessary.</p>	<p>3. The use of the term “maximize” stems from the new State Stormwater Regulations, which require that new development employ Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP). The State admits that MEP may not always be clear, but it is required now and will have to be worked out as local jurisdictions revise and implement their stormwater laws and regulations. This recommendation is made because the County has little greenfield development left, and most future development will be redevelopment and infill. ESD in redevelopment and infill situations presents many more challenges than greenfield development, and will require particular attention and creativity as we move forward. This recommendation underscores the existing and future importance of redevelopment and infill in Montgomery County.</p> <p><i>Staff recommends retaining the recommendation, but with the addition of “to the extent practicable” to the end of the sentence. This will bring the wording in line with that in the new State regulations.</i></p> <p>4. The County has a Policy and Design Committee that reviews new stormwater management technologies, products and approaches, but it is the State that has the responsibility of approving such innovations for general use. For new products and technologies that basically perform the same function as existing State-approved technologies and products, the County can and does approve of these for general use without separate State approval. However, for technologies and products that are significantly different from those in the current State Stormwater Manual, the County can</p>
<p>4. Suggest expanding recommendation 3.2 to include a statement that focuses on removing impediments and streamlining the process by which new technologies, products, and approaches are approved and adopted.</p>	<p>4. The County has a Policy and Design Committee that reviews new stormwater management technologies, products and approaches, but it is the State that has the responsibility of approving such innovations for general use. For new products and technologies that basically perform the same function as existing State-approved technologies and products, the County can and does approve of these for general use without separate State approval. However, for technologies and products that are significantly different from those in the current State Stormwater Manual, the County can</p>	

only issue limited approvals on a trial basis, and make recommendations to the State for formal approval.

No change is recommended.

5. There are many ways to achieve the objective of the Policy, including revisions to regulations, and most of these ways are more appropriately addressed in other plans and programs that will implement this plan. But a Tree Ordinance would be new, provide additional protection for urban trees which contribute to the interception, absorption and filtering of stormwater, and is therefore worth recommending in this plan.

To clarify the recommendation staff recommends changing the word "increase" to "protect," and add the phrase "which provides stormwater benefits" to the end of the sentence.

6. Mowing is allowed in category one easements already as a means to manage competing vegetation during the two-year maintenance and management period. Existing category one maintenance agreements allow property owners to remove noxious, exotic, or invasive weeds. The easement does not specify the means. Minor adjustments in the field by forest conservation inspectors are already allowed by the Forest Conservation Law.

This recommendation is intended to address a more general need, not to detail the specific ways the need could be met. There are other means to increase the speed and success of reforestation, but these are more specific and more appropriate in

5. Recommendation 4.2 does not explicitly contribute to the objective of Policy 4. A tree ordinance in and of itself does not achieve the goals of the policy and is but one of many ways to achieve this objective, and should not be generally recommended.

6. Recommendation 4.3: There are other means to increase the speed and success of reforestation efforts, including revising the terms of the category one easement to permit activities such as mowing. Another approach would be to remove impediments to making minor field adjustments on the fly rather than the current process that requires written documentation. We would suggest that this recommendation could be restated as: "Explore and initiate efforts that increase the speed and success of reforestation plantings."

	<p>7. Recommendation 5.6: We are concerned that absent a public process to review any study, applicants will not be able to effectively design and process a project. The development review process, as we have all recognized, is in dire need of repair and we believe that this recommendation can only compound the problem.</p>	<p>implementing the plan. These more specific means will be addressed in future forest conservation law regulatory changes and as part of other programs and processes already in place.</p> <p><i>No change is recommended.</i></p> <p>7. Any changes to development review requirements will, as is always the case, be subject to public review and vetting.</p> <p><i>Staff recommends that recommendation 5.6 be clarified by replacing the word "guide" with "inform any needed changes to".</i></p>
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Other Comments Received during the Public Record Period

Person/Affiliation	Comments	Staff Response
<p>Keith Van Ness Department of Environmental Protection</p>	<p>Written Comments: Page 26: Water Quality Monitoring, County Monitoring:</p> <p>1. Line 2 does not accurately describe the DEP monitoring program or our role in coordinating the Countywide stream monitoring with Parks and other partners.</p> <p>Please correct this statement to the following: 'DEP has maintained a Countywide monitoring program since 1994, and monitors stations throughout the County both on County parkland and in the remainder of the County. DEP coordinates the yearly Countywide monitoring with the Department of Parks so that duplication of</p>	<p>1. Staff agrees.</p>

<p>Lonnie Luther Farmer and member of the Water Quality Advisory Committee</p>	<p>effort is avoided and collected information can be shared to the benefit of both the County and the Department of Parks. The DEP develops the monitoring methods and maintains quality assurance of the data.</p>	<p>1. No response necessary.</p> <p>2. The language actually states: "...there is currently no enforcement to ensure any needed load reductions from non-point sources can be achieved." The load reductions in this statement refer to TMDLs. And with respect to TMDLs, this statement is true. The nutrient management plans currently required provide significant benefits, but may not be enough to meet future non-point pollutant load reductions that may be part of TMDLs.</p> <p><i>Staff recommends minor text modifications to make this distinction more clear, and also to recognize the commendable current efforts the County's farmers are making through their nutrient management plans.</i></p> <p>3. As explained in response #2, the plan acknowledges the potential need for additional pollutant reductions. It is not the role or purpose of the plan to identify those reductions, or what additional measures may be required to achieve them. If future TMDLs identify such additional reductions, then they will need to be addressed in TMDL implementation plans that will be developed by the County at a later date.</p>
	<p>1. I found the WRFPP document to be quite informative, and a good summary of who the various players are, and their associated responsibilities. Job well done.</p> <p>2. Language at page 25 states, "...there is no enforcement plan to achieve TMDL including non-point sources..." I argue and believe that the Nutrient Management Plans (NMPs) currently in place throughout the Chesapeake Bay region do represent enforcement plans - <u>major</u> enforcement plans. The vast majority of farmers have NMPs in place and follow them to the extent practicable.</p> <p>3. Language at page 27 states, "...the role of nutrients in the Bay and the pending Bay nutrient TMDLs, may require additional measures to further reduce nutrients in all sectors of the County, including the Agricultural Reserve." To me this language implies that another hammer is about to drop out of the sky on top of farmers' heads. What "additional measures" are proposed?</p>	

	<p>4. I believe we should solve the Point Source problems first, because they are few in number [half dozen total?], with exact locations, and it is possible to impact the outcome. I don't know how many farms we have in Maryland and the Chesapeake Bay Region, but the number is in the tens of thousands. It is far easier to fix a half dozen problems, than 10,000 to 100,000 farming operations. And the number of farms is dwarfed by the number of single family residences in the Bay Region, which must be 10 to 50 million. The WRFP plan appears to be mostly silent about "enforcement plans" and "additional measures" for the non-farm, "residential," sector. Where is the balance?</p> <p>5. I think impervious surfaces are our greatest problem. We should focus any future "enforcement plans" and any future "regulatory measures" to minimize impervious surfaces and subsequent storm water run-off. I see very little being proposed to resolve this obvious problem.</p>	<p><i>No change is recommended.</i></p> <p>4. EPA's National Pollutant Reduction Elimination System (NPDES) Program focused at the outset on point-source discharges for this very reason. Eventually, it became clear that it was necessary to expand the permitting process to cover stormwater sources as well. The plan points out that the County's NPDES Permit for stormwater (or MS-4 Permit) covers the non-agricultural part of the county. The MS-4 Permit contains many details on what the County is required to do to reduce pollution from stormwater, as well as details on enforcement. As with the agricultural sector, future TMDLs may require additional measures to meet point-source load reductions. If so, as with non-point sources, they will need to be addressed in TMDL implementation plans.</p> <p><i>No change is recommended.</i></p> <p>5. Impervious surfaces are indeed the greatest single source of polluted runoff in Montgomery County, as well as other urbanized counties in the State. This has been recognized and addressed through the recent new State stormwater management requirements. This is also the reason that the County's new MS-4 Permit contains major new requirements in addressing uncontrolled impervious surfaces. The plan notes, however, that on a Bay-wide scale, although urban areas significantly impact the Bay for nutrients and sediment, agriculture contributes an even higher percentage due to the large area involved. Because of this additional reductions from all sectors will probably be needed. Where and how much</p>
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		<p>reduction will be required to meet TMDLs will need to be addressed in subsequent TMDL implementation planning.</p> <p><i>No change is recommended.</i></p>
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Comments Received after the Public Record Period

Person/Affiliation	Comments	Staff Response
Maryland Department of Planning	<p>The first three comments below were highlighted by MDP as the important ones to address in order to complete the plan.</p> <ol style="list-style-type: none"> The WRE should include the discharge locations for each of the WWTPs located in Montgomery County. The WRE should compare forecasted WWTP loads (Appendix, p. 174) to point source caps established by the Maryland Tributary Strategy and should determine when the caps likely will be reached. The WRE notes that “even with the implementation of enhanced nutrient reduction at all the major WWTPs, these caps may eventually limit the amount of sewage that can be treated (p. 22). Although the Blue Plains WWTP is in Washington, DC, since the County will be impacted by its Tributary Strategy cap, the WRE should indicate when the Blue Plains WWTP cap likely will be reached. The WRE indicates that the capacity of the Seneca WWTP likely will be exceeded by 2015 (Appendix, p. 110). The WRE should discuss this issue and note how this constraint will be addressed. 	<ol style="list-style-type: none"> <i>Staff agrees and recommends adding this information to the plan.</i> The WWTP flow projections and nutrient caps were calculated based on the same maximum permitted flow, so they correspond exactly. Therefore, the nutrient caps will expire at the same rate as the flow capacity expires. Because of this the caps will only be limiting when the flow at a WWTP reaches the permitted maximum. The WSSC flow projections in the Appendix indicate that this will not occur within the 2030 horizon of the plan. <i>Staff recommends amending the text on page 22 to incorporate this information.</i> Since the publication of the Seneca WWTP flow projections in Appendix 6, work has begun to expand the plant to 26mgd. This expanded capacity will be sufficient to accommodate projected flows beyond the 2030 horizon of this

	<p>The remaining comments are considered by MDP to not be critical for the plan to be considered complete, but should be considered as time permits:</p> <ol style="list-style-type: none"> 4. Correct the acronym list (p. 10) to include "MDP" 5. Correct Chart 1 (p. 12) as follows: <ol style="list-style-type: none"> a. MDE: should state "comprehensive plan guidance and review" not "comprehensive plan guidance and approval" - MDE does not approve comprehensive plans (and does not approve WREs) b. MDP: should state "comprehensive plan guidance and review" not "comprehensive plan review" - MDP provides comprehensive plan guidance including WRE guidance to local governments 6. SB276, passed in the 2009 Maryland legislative session, sets a statewide land use goal of increasing the current percentage of growth in Priority Funding Areas (PFAs) and decreasing the current percentage of growth outside of PFAs. Montgomery County should consider (and discuss) whether its estimates of the percentage of growth to be served by public water and sewer will be 	<p>plan. Although the plant capacity expansion is indicated in the plan text, it is not clear in the Seneca WWTP chart in Appendix 6. When WSSC issues a revised adopted wastewater flow projections, this chart will be updated.</p> <p><i>Staff recommends adding a footnote to the Seneca WWTP flow projection chart in Appendix 6 to indicate that the expansion is underway and will be sufficient to accommodate projected demand to at least 2030.</i></p> <ol style="list-style-type: none"> 4. <i>Staff agrees.</i> 5. <i>Staff agrees.</i> 6. After the comments were submitted, MDE clarified this comment by indicating that the word "help" should be inserted before "achieve". The County's growth Policy and focus on redevelopment will indeed help to achieve the statewide land use goal. <p><i>Staff recommends adding a sentence that indicates this.</i></p>
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sufficient to [help] achieve the statewide land use goal.

7. The plan does not appear to consider the Inter County Connector's (ICC) induced demand for additional development beyond the vision of the land use plan. Once the ICC Project is completed, water consumption and wastewater trends will change, especially in areas with new development. The WRE should discuss the potential impact of the ICC on water and sewer demand.

7. From a master planning perspective, the ICC has been planned along its current alignment since 1972 (with only minor changes in 1981 and 2009), so the project supports the land use plans already in place. No master planned land use changes are associated with the ICC.

From a development staging perspective, the additional accessibility provided by the ICC is expected to affect the timing of planned development to some extent. This effect was reflected in our adjustment of our cooperative forecasts for growth approved by the Metropolitan Washington Council of Governments as Round 6.4A when the ICC was added to the region's Constrained Long Range Plan in 2004. This reflected effect has been carried through in subsequent forecast rounds that have been used in recent planning.

Staff recommends that text be added to reflect this information.

8. In the Growth and Average Production Forecasts section (Appendix, page 93) the text specifies MWCOC Round 7.0 household and employment data were used for projected water production figures. It appears this dataset is not the latest available. An explanation on why this particular data set was chosen is recommended.

8. When the WSSC water production projections were prepared, Round 7.0 was the latest information available. When the water production projections are revised, the most current MWCOC Round data will be used.

No change is recommended.

9. To help illustrate the impacts of sanitary sewer overflows (p. 21) to receiving waters, consider including an estimate of the amount of nutrients

9. Even the smallest SSOs are reportable incidents to MDE. WSSC prepares such reports. The difficulty here is that SSOs vary widely in flow

discharged during a sanitary sewer overflow and the average number of hours/days that the discharge continues before the overflow ends.

rate, concentration, and duration. As part of its SSO reporting, WSSC provides estimates of total SSO flow volume. WSSC does not, however, have data on flow concentrations and durations—which would be needed to answer the question posed by the comment. As the plan indicates, WSSC is under a consent decree to rehabilitate its wastewater system to minimize SSOs. WSSC is currently complying with the consent decree and expects significantly fewer SSOs in the future.

No change is recommended.

10. Change text as recommended.

10. The section on “Onsite Wastewater Treatment Systems” (p. 22) should note that even properly maintained septic systems contribute nitrogen to groundwater.

11. Consider translating in the WRE forecasted impervious cover acres into a percentage of impervious cover for particular watersheds within Montgomery County.

11. Staff contacted MDP regarding this comment and explained that the required analysis using the State nutrient loading model only uses two watersheds in the County: Potomac and Patuxent, with most of the County falling within the Potomac drainage—so doing this for this iteration of the plan would not be a useful exercise. MDP agreed.

No change is recommended.

12. Because DEP has at this time limited data on septic systems within the water and sewer envelope, the loading analysis for this first iteration of the plan was done considering only septic systems outside the water and sewer envelope, which nevertheless represents the large majority of septic systems in the County. When good data on septic systems inside the water and sewer envelope are available through the County’s Water and Sewer Plan update

12. Although there appear to be many septic tanks within the “General Community Sewer Envelope” (Appendix, p. 82), the pollution forecast only assumes septic tanks exist outside of the sewer envelope (Appendix, p. 166). Consider adjusting the pollution forecast to incorporate the septic tanks within the sewer envelope, including the potential nutrient reduction from connecting those septic tanks to the sewer system.

		<p>process, those systems can be added to future pollutant loading analyses.</p> <p><i>Staff recommends adding an explanation of this assumption to the Nutrient Loading Analysis documentation in Appendix 8.</i></p>
<p>Larry Silverman Water Quality Advisory Group</p>	<p>1. The first two paragraphs in the Introduction need to be clarified to better reflect the current situation with regard to water resources in the County. What is the condition of County streams? What percentage of streams is in poor condition? What percentage is declining in quality? What are the trends? What are the public health risks? More information on groundwater resources would be helpful. What are the major threats to water quality? What will happen to fish and wildlife in the County? What are the County's goals and aspirations?</p> <p>2. Include a statement of the values of the County's water resources. How do MC residents use the water resources of the County? How important are they to recreation, education, flood control, property values? How will the quality of life change if streams are permitted to continue to degrade? How will life in the County improve if water quality is enhanced? What are the County's legal obligations and the consequences of not</p>	<p>1. The plan currently provides information on the conditions of County streams in Map 5, and State-listed impaired water bodies in the County in Tables 1 – 6. Although these are good questions, many do not as yet have good answers. As a General plan amendment, and in accordance with the guidelines and requirements of the State, the plan focuses on broader policies and recommendations. As such it is not the proper place for detailed data reporting and analyses that are and will be covered in more detailed plans and programs that will serve to implement this plan. The goals of the plan are stated on page 6. Additional information on groundwater is provided in the Appendix, and is also referenced in the County's Water and Sewer Plan.</p> <p><i>Staff recommends that some additional general information on current conditions be added, and that the Introduction text be modified accordingly.</i></p> <p>2. See response to Comment 1.</p> <p><i>Staff recommends that a brief section on water resources values be added to the Water in Montgomery County section.</i></p>

meeting them? How will the County coordinate investments in water quality with investments in education and recreation?

3. Include a statement of the threats to the County's water resources. What are the issues most important to confront? Stormwater, toxics (Sligo Creek), trash, sediment, nutrients.

4. Include a transitional piece that sums things up, identifies the things that will be changing, and the things that will need to be addressed in the future. The water resource element will cause what changes in new development, in capital budgets, in redevelopment and in retrofits? Is this window dressing, or does approval of the plan suggest changes in the way County business is done?

3. *Staff recommends that a brief section on threats to water resources be added to the Water in Montgomery County section.*

4. The plan is not intended to address capital budgets, which are handled in other contexts. The plan does specifically recommend future development be accommodated through redevelopment and infill. This functional plan will amend the General Plan and will provide guidance to area and sector master plans, as well as other functional plans. The plan also provides guidance to the County's Water and Sewer Plan, which is closely coordinated with all master plans and with WSSC, to ensure adequate water and sewer service for future development. The plan also states as a goal and a policy that water quality standards be met as the County continues to grow. Amending the General Plan with the goals and policies that are set forth in this plan is not window dressing. Again, specific changes that will be needed to fully implement this plan will need to be addressed in other more detailed plans and programs that will implement this plan.

Staff recommends adding a brief transitional section that sums things up, identifies the things that will be changing, and the things that will need to be addressed in the future, before the Policies and Recommendations section.

<p>5. Infrastructure: I think the draft is naive on this point. How serious is the issue of crumbling infrastructure in the County? What are the consequences of continued deferred maintenance on quality of life? Reference the River Road water main break. What is the current cycle of repair and replacement of facilities compared to the rate at which facilities begin to fail because their useful lives have been exceeded? What is likely to happen to water rates over time and how will this impact economic productivity and family well being? This is a capacity issue, every bit as important as too little water.</p>	<p>5. The plan does indicate the water and wastewater infrastructure issues confronting the County, and also refers the reader to other sources for more detailed information on this issues and what is being done about them. For example the plan cites WSSC's Utility Master Plan (intended to address long-term infrastructure needs) which is under development, as well as WSSC Annual Budget and CIP documents. Many of these more detailed infrastructure questions are more appropriately dealt with in more specific assessment and implementation studies and plans underway at WSSC, such as the Utility Master Plan.</p> <p><i>Staff recommends adding some brief text additions to provide some added emphasis to the importance of infrastructure issues.</i></p>
<p>6. Suggest amending the plan goal to include healthy streams, aquifers, lakes, wetlands and reservoirs.</p>	<p>6. The goal of the plan includes: "water quality that meets regulatory standards as the County continues to develop." Along with adequate water supplies and wastewater treatment capacity, this is what the State wants the plan to provide overarching policies and recommendations to achieve. Regulatory standards for water quality are intended to support healthy streams, aquifers, lakes, wetlands, and reservoirs, thus the wording in the plan goal is actually more specific and goal directed than using the qualitative word "healthy," which could be defined in any number of ways.</p> <p><i>No change is recommended.</i></p>

Other Recommended Clarifications and Additions

Staff has identified a number of places where the plan could be enhanced for added clarity and to incorporate some additional information that has come to light since the Public Hearing Draft was prepared. These are as follows:

1. Page 6 (in the sidebar): the plan goal reads: “to ensure adequate water and sewer service and water quality that meets regulatory standards as the County continues to grow.”

Staff recommends modifying this to read: “to ensure adequate water supply, wastewater treatment capacity, and water quality that meets regulatory standards as the County continues to grow.”

2. Page 15, last paragraph, the first sentence reads: “The Growth Policy is shifting growth to redevelopment in transit-served areas...”

Staff recommends modifying this phrase to read: “Montgomery County’s growth management tools, including master plans, zoning, and subdivision regulations, are being used to direct growth towards redevelopment in transit-served areas...”

3. Page 36, the last sentence reads: “Scenario 2 is similar to Scenario 1, but with additional areas of development and redevelopment as identified in the County’s Growth Policy (Map7).

Staff recommends modifying this sentence to read: “Scenario 2 is similar to Scenario 1, but with some additional potential areas of development that might occur regardless of horizon year. These additional areas were taken from a strategic growth map (Map 7), that was developed during the 2009 revision to the Growth Policy.”

4. Staff recommends adding a reference to the Mid-Potomac Water Supply Intake Project.
5. Staff recommends adding a reference to WSSC long-range regional concepts for water supply options, including the possible use of exhausted quarries and estuarine sources.
6. Staff recommends some brief additional language about how the County is expected to grow from now until 2030.
7. Staff recommends adding the following text to the Emerging Contaminants section on page 23: “There are still many unanswered questions and additional data needed regarding emerging contaminants. Research is underway in many agencies to address this issue, which is likely to become increasingly important in the future as the

concentrations and the effects of these contaminants also increase. A recent report on emerging contaminants in the Potomac River is available online at: www.potomac.org. Further information on this issue is available at the Potomac Drinking Water Source Protection Partnership at www.potomacdwsp.org.”

8. Page 34: Staff recommends adding the following to the Clean Water Task Force section: “In early 2010, the Clean Water Task Force reconvened to begin considering the implications of the County’s new MS-4 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 Coordinating Committee, as recommended in the 2007 Task Force Report.”

Attachments

Comments received after the close of the Public Record:

Attachment A: Comments from the Maryland Department of Planning

Attachment B: Comments from Larry Silverman, Water Quality Advisory Group

MS:ss

Attachment A



Maryland Department of Planning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Richard Eberhart Hall
Secretary

Matthew J. Power
Deputy Secretary

January 22, 2010

Mr. Royce Hanson, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Montgomery County Draft 2009 Water Resources Functional Plan

Dear Mr. Hanson:

Thank you for submitting the draft Montgomery County Draft 2009 Water Resources Functional Plan to the Maryland Department of Planning (MDP) for our review. We commend the county for putting forth an exemplary effort with this document.

Montgomery County has met almost all of the WRE requirements of HB1141; however, the WRE is incomplete. By addressing the enclosed comments, the WRE will better conform to the requirements of HB1141.

Please do not hesitate to contact me or Steve Allan at 410.767.4500 should you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Peter G. Conrad', is written over a light-colored background.

Peter G. Conrad, AICP
Director of Local Government Assistance

Enclosure: Comments on the Montgomery County Draft 2009 Water Resources Functional Plan,
Municipal Growth Element Checklist and Population/Household Projections

cc: Mark Symborski, Montgomery County Planning Department
Jason Dubow, Planner, WRE Coordinator
Steve Allan, Regional Planner
Rich Josephson, Director, Planning Services
Rita Elliott, MDP Clearinghouse
File



Maryland Department of Planning
Comments on 2009 Montgomery County Water Resources Functional Plan
January 22, 2010

The Montgomery County WR Functional Plan is very close to completion, and would meet the requirements of HB1141 by addressing recommended comments. The most important comments to include are in **bold**. The WRE does not yet fully address the following purposes of the law and/or State guidance, as follows:

- For each watershed, identify current WWTP discharge locations (MDP M&G 26, p. 12).
- Does the WRE estimate current and future pollutant impacts from the projected development and compare this to nutrient caps (MDP M&G 26, p. 33)?

Overall Comments

- Montgomery County is commended for developing a WRE that:
 - includes strong goals, recognizes the impact of additional impervious cover on receiving waters, and recognizes the County's smart growth policies as a fundamental approach for limiting impacts of new development (pp. 6, 15-16, 23-24).
 - provides a thorough and clear description of the framework and tools used by Montgomery County to manage its water resources as development continues, including the connection among policy documents and between policy documents and implementation mechanisms.
 - demonstrates adequate water (p. 17) and sewer (p. 21) to support the County land use plan through the planning period (2030).
 - incorporates expected land use change from its municipalities (Appendix, pp. 156-159), while overall water/sewer demand forecasts from WSSC incorporate municipal demand (Appendix).
 - provides a thorough description of source water protection measures, including a recognition of the potential impact of climate change on water resources (pp. 17-20, 35, and Appendix 3).
 - cites monitoring data that supports smart growth policies (p. 25).
 - evaluates at least two land use plan scenarios (pp. 35-36) for combined non-point source and point source pollution impacts (Appendix, p. 178), including a comprehensive approach to forecasting future land use,

- considering anticipated changes from transportation projects (Appendix, p. 160), and incorporating additional land use types (Appendix, pp. 154-155).
 - discusses the suitability of receiving waters as it relates to TMDLs, the County land use plan and growth policy, stormwater management, and pollution control measures (pp. 38-39).
 - includes thorough water resource policies and recommendations (pp. 40-42), including lead agencies for implementation (p. 43).
- Correct the acronym list (p. 10) to include “MDP”
- Correct Chart 1 (p. 12) as follows:
 - MDE: should state “comprehensive plan guidance and review” not “comprehensive plan guidance and approval” - MDE does not approve comprehensive plans (and does not approve WREs)
 - MDP: should state “comprehensive plan guidance and review” not “comprehensive plan review” - MDP provides comprehensive plan guidance including WRE guidance to local governments
- SB276, passed in the 2009 Maryland legislative session, sets a statewide land use goal of increasing the current percentage of growth in Priority Funding Areas (PFAs) and decreasing the current percentage of growth outside of PFAs. SB276 also requires local governments to develop a percentage goal towards achieving the statewide goal. Although the new annual report requirements (including the local land use goal) under SB276 will not be filed until July 1, 2011, Montgomery County should consider (and discuss) whether its estimates of the percentage of growth to be served by public water and sewer will be sufficient to achieve the statewide land use goal. Statewide in Maryland, the current (as of 2006) percentage of growth in PFAs (not including “comment areas”) is 68% - http://www.mdp.state.md.us/msdc/PFA/Resid_Growth/by_County/PFA_cnty_in dex.htm.
- The plan does not appear to consider the Inter County Connector’s (ICC) induced demand for additional development beyond the vision of the land use plan. Once the ICC Project is completed, water consumption and wastewater trends will change, especially in areas with new development. The WRE should discuss the potential impact of the ICC on water and sewer demand.

Comments on the water demand analysis:

- Appendix 5 includes WSSC approved water demand projections.
- In the Growth and Average Production Forecasts section (Appendix, page 93) the text specifies MWCOG Round 7.0 household and employment data were used for projected water production figures. It appears this dataset is not the latest available. An explanation on why this particular data set was chosen is recommended.

Comments on the sewer demand analysis:

- Appendix 6 includes WSSC adopted wastewater flow projections.
- **The WRE should include the discharge locations for each of the WWTPs located in Montgomery County.**
- **The WRE should compare forecasted WWTP loads (Appendix, p. 174) to point source caps established by the Maryland Tributary Strategy and should determine when the caps likely will be reached.** The WRE notes that “even with the implementation of enhanced nutrient reduction at all the major WWTPs, these caps may eventually limit the amount of sewage that can be treated (p. 22). **Although the Blue Plains WWTP is in Washington, DC, since the County will be impacted by its Tributary Strategy cap, the WRE should indicate when the Blue Plains WWTP cap likely will be reached.**
- The WRE indicates that the capacity of the Seneca WWTP likely will be exceeded by 2015 (Appendix, p. 110). **The WRE should discuss this issue and note how this constraint will be addressed.**
- To help illustrate the impacts of sanitary sewer overflows (p. 21) to receiving waters, consider including an estimate of the amount of nutrients discharged during a sanitary sewer overflow and the average number of hours/days that the discharge continues before the overflow ends.
- The section on “Onsite Wastewater Treatment Systems” (p. 22) should note that even properly maintained septic systems contribute nitrogen to groundwater.

Comments on identifying suitable receiving waters:

- Consider translating in the WRE forecasted impervious cover acres into a percentage of impervious cover for particular watersheds within Montgomery County.
- Although there appear to be many septic tanks within the “General Community Sewer Envelope” (Appendix, p. 82), the pollution forecast only assumes septic tanks exist outside of the sewer envelope (Appendix, p. 166). Consider adjusting the pollution forecast to incorporate the septic tanks within the sewer envelope, including the potential nutrient reduction from connecting those septic tanks to the sewer system.

Symborski, Mark

From: Larry Silverman [ljoelsilverman@gmail.com]
Sent: Friday, January 29, 2010 1:16 PM
To: Symborski, Mark
Subject: Comments on WRE
Attachments: WRE comments from WQAG meeting, 1-11-10.doc

Mark,

Here are my comments on WRE. We discussed some of these things at the WQAG meeting on January 11, 2010.

Larry Silverman

Larry Silverman WRE comments from WQAG meeting, (1-11-10)

1. The first two paragraphs in the Introduction need to be clarified to better reflect the current situation with regard to water resources in the County. What is the condition of County streams? What percentage of streams is in poor condition? What percentage is declining in quality? What are the trends? What are the public health risks? More information on groundwater resources would be helpful. What are the major threats to water quality? What will happen to fish and wildlife in the County? What are the County's goals and aspirations?
2. Include a statement of the values of the County's water resources. How do MC residents use the water resources of the County? How important are they to recreation, education, flood control, property values? How will the quality of life change if streams are permitted to continue to degrade? How will life in the County improve if water quality is enhanced? What are the County's legal obligations and the consequences of not meeting them? How will the County coordinate investments in water quality with investments in education and recreation?
3. Include a statement of the threats to the County's water resources. What are the issues most important to confront? Stormwater, toxics (Sligo Creek), trash, sediment, nutrients.
4. Include a transitional piece that sums things up, identifies the things that will be changing, and the things that will need to be addressed in the future. The water resource element will cause what changes in new development, in capital budgets, in redevelopment and in retrofits? Is this window dressing or does approval of the plan suggest changes in the way County business is done?
5. Infrastructure: I think the draft is naive on this point. How serious is the issue of crumbling infrastructure in the County? What are the consequences of continued deferred maintenance on quality of life? Reference the River Road water main break. What is the current cycle of repair and replacement of facilities compared to the rate at which facilities begin to fail because their useful lives have been exceeded? What is likely to happen to water rates over time and how will this impact economic productivity and family well being? This is a capacity issue, every bit as important as too little water.

Larry J. Silverman
January 29, 2010

Symborski, Mark

From: Larry Silverman [ljoelsilverman@gmail.com]
Sent: Friday, January 29, 2010 7:03 PM
To: Symborski, Mark
Subject: Additional Comment

Mark,

In preparing for the February 2 meeting with the County Executive, I have been reviewing the minutes of our meeting and came across the following:

Mr. Symborski explained the purpose of the Water Resource Element (WRE) is to establish overarching policies to ensure adequate drinking water, wastewater, groundwater, and stormwater management in the future. The WRE will involve multiple agency coordination. The WRE provides more detailed water resources analysis that is in sync with the planning for land use and the overall Master Plan.

I would amend this purpose to say not just "adequate drinking water, wastewater, groundwater, and stormwater management" but healthy streams, aquifers, lakes, wetlands and reservoirs.

Larry Silverman