



## Water Quality Advisory Group

*MISSION: To recommend policies, programs, and priorities that protect, maintain, and/or restore the biological, chemical and physical integrity of County streams, rivers, wetlands, groundwater, lakes, and other water resources.*

### Montgomery County Executive

#### Ike Leggett

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President: Phil Andrews  
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November 13, 2009

Dear County Executive and County Council Members:

We are writing to you to share information and provide recommendations regarding an important water quality matter in Montgomery County. Since 2002, the County's **Water Quality Protection Charge (WQPC)** has served as a supplemental source of revenue to finance a myriad of water quality programs and projects in the County, including maintenance of stormwater management facilities, stream restoration improvements and the Rainscapes program. The Montgomery County Department of Environmental Protection (MCDEP) is in the process of thoroughly reviewing the WQPC with the objective of recommending changes aimed at meeting several goals.

One of the imminent goals of the review of the WQPC is to identify ways to provide additional financial resources to meet the conditions of the County's new Municipal Separate Storm Sewer System (MS4) permit. The new conditions are estimated to cost 133 million dollars over five years.

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In order to better understand this issue, the Water Quality Advisory Group (WQAG) met with Steve Shofar, the Watershed Management Division Chief of MCDEP for a presentation on the goals of the study. We invited Dave Humpton, Executive Director of the Montgomery Village Foundation, to speak with us concerning their community's concerns. Several of the WQAG members also attended an outreach meeting to hear concerns and ideas from those in attendance. Finally, the full WQAG discussed and debated the various issues and formed the following consensus recommendations for your consideration.

**Recommendation # 1: Maximize water quality return on investment**

Under the terms of the permit, the bulk of the WQPC revenues will be directed at treating the most densely populated areas where water quality is seriously impaired. The Water Quality Advisory Group recommends that the Executive and Council also find resources to protect and enhance higher quality or minimally impaired waters in less densely populated parts of the County. Water quality goals cannot be achieved without a strategy for doing both. In general the WQAG encourages the County to maximize its environmental yield for investments in improved water quality.

**Recommendation # 2: Provide incentives for residents and business owners to participate directly in water quality improvements**

The current Water Quality Protection Charge offers no incentive to residents and business owners who reduce the stormwater impacts on their own property by installing rain gardens and rain barrels or similar steps. The County does have an excellent but undersubscribed Rainscapes program for encouraging rain gardens and similar types of on-lot practices. The Advisory Group recommends that the Protection Charge be restructured so as to reward people who reduce imperviousness on their own property with credits against the charge. The idea is to encourage residents to participate in the Rainscapes programs.

In rural areas, where residents rely on private wells and septic, the credit could be used to encourage installation of low-flow water appliances to protect groundwater. For multifamily communities and home owners associations (HOAs), credits might be given to incentivize constructing best management practices (BMPs) for untreated impervious surfaces. Providing an option that causes residents and business owners to contemplate water quality will have a meaningful outreach and water quality impact. The WQAG recommends providing residents and business owners who are assessed under the WQPC the option to reduce the WQPC payment if they undertake water quality improvements to their property.

**Recommendation # 3: Improve baseline data quality and refine assessment methodology**

Upon speaking with representatives of the Montgomery Village Foundation and other property owners, it became clear that the baseline data used to establish the assessable base are not always reliable. Certain classes of real estate are assessed according to the amount of impervious surface on the property. The amount of impervious surface is based on a measurement by MCDEP using geographical information systems (GIS), which are still being worked on to meet this need. In some cases, the assessment of a property has changed annually when no physical changes to the property have occurred.

Variations in the accuracy and precision of baseline data make it difficult to assess the actual impact of change. Addressing issues related to data quality, as the County is now doing, will take some time. The Advisory Group recommends that the County Executive and Council develop short-term and long-term approaches to this challenge.

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**Recommendation # 4: Restructure exemptions from the charge**

The majority of businesses in the County are exempt from paying the Charge, based on whether or not they drain to a residential stormwater facility. Both businesses with extensive stormwater management features on their property and businesses with no stormwater control might be exempt. The current system of exemptions is hard to rationalize in terms of impacts, equity and cost recovery. We note that the subject of business exemptions is part of the current review of the Charge. We recommend that Executive and Council give this subject their closest attention.

**Recommendation # 5: Review legal status of Water Quality Protection Charge**

According to MCDEP representatives, the WQPC is legally considered a tax and, therefore, cannot be imposed on Federal, and possibly State-owned properties. If the WQPC were structured as a fee and not a tax, Federal and State owned properties could then be assessed.

Federally and State-owned properties in Montgomery County pose significant burdens and impacts on the County's stormwater system and on water quality. The County should consider these types of properties and how they could be included in the WQPC.

We were pleased to see that recommendations #1, #2, #3, and # 4 are under active consideration by the Department of Environmental Protection and its consultants. Recommendation #5, which addresses how the levels of government allocate the burdens of water management in shared watersheds, raises legal, political and constitutional questions that are beyond the scope of the consultant's report. Nonetheless, these issues are very important for the Council and Executive to consider.

As the WQPC discussion advances, the Water Quality Advisory Group will continue to examine this issue and provide feedback to you. Please do not hesitate to call on us if you have any questions related to this information. We are at your service.

Sincerely,

Larry Silverman, Chair

Dusty Rood, Vice Chair

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