

HOWARD COUNTY BOARD OF COMMISSIONERS - SPECIAL CALLED MEETING –
OCTOBER 28, 2004

The Howard County Board of Commissioners met in Special Session on Monday, October 28, 2004, at 7:00 p.m. in Hearing Room No. 338 of the Howard County Administration Center. Vice President Paul J. Raver and Member Bradley J. Bagwell were in attendance. Also present were County Attorney Larry Murrell, and Auditor Martha Lake. President John B. Harbaugh was unable to attend the meeting.

The Special Meeting was called in order to conduct an informal public hearing on the proposed Howard County Stormwater Erosion and Sediment Control Ordinance, an ordinance to safeguard persons, protect property, and prevent damage to the environment in the Howard County Municipal Separate Storm Sewer System (MS4) Area. The purpose of the public hearing was to present the details of the ordinance and to allow input from the community.

The MS4 program requires the passing of three local ordinances: (1.) The Illicit Discharge Ordinance (to be adopted by November 1, 2004) -- presented and discussed at the Special Meeting previously held on September 27, 2004; 2.) The Construction Site Stormwater Erosion and Sediment Control Ordinance to be introduced at tonight's meeting (to be adopted by November 1, 2004); and (3.) The Post Construction Site Stormwater Run Off Control Ordinance to assure the best management practices (to be adopted January 1, 2006).

Vice President Paul Raver called the meeting to order. Deputy Surveyor/County MS4 Coordinator Greg Lake conducted the presentation.

Mr. Raver reported that the MS4 Advisory Committee met on Tuesday, October 19th, 2004 to discuss the proposed Construction Site Stormwater Erosion and Sediment Control Ordinance. The Ordinance would promote public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land within the County MS4 Area in Howard County.

Mr. Lake introduced Mr. Mark Chmeliwskyj, Environmental Engineer and Consultant from Butler, Fairman and Seufert. Mr. Lake recapped that Howard County is required to adopt both the Illicit Discharge Detection and Elimination Ordinance and the Construction Site Stormwater Erosion and Sediment Control Ordinance by November 1, 2004. A third ordinance, Post Construction Site Stormwater Erosion and Sediment Control Ordinance must be adopted by January 1, 2006.

The draft of the Construction Site Stormwater Erosion and Sediment Control Ordinance was distributed for perusal. Mr. Lake explained the purpose of this ordinance is to bring Rule 5 regulations to a local level and establish procedures for local enforcement instead of enforcement by I.D.E.M. The ordinance is not going to change how local developers and builders do their work.

Several homebuilders attended the previous public meeting and actively participated in discussion of the Illicit Discharge Ordinance. Mr. Lake has provided a draft of the Construction Site Stormwater Erosion and Sediment Control Ordinance to those who had provided an e-mail address at the last meeting.

Mr. Bob McKean, a local homebuilder, questioned the verbage in Line 214 in Section III Permits, which states, “A Site Development Permit may be denied, if in the opinion of the MS4 Operator, the proposed plan is likely to result in runoff that causes undue channel erosion, increases water pollution by scouring or the transportation of particulate matter, or endangers property or public safety.” Mr. McKean was concerned with the level of authority in case a future MS4 Operator would be inclined to make unreasonable determinations. Mr. Bagwell commented that an evaluation and opinion are going to be needed at some phase of the construction. County Attorney Larry Murrell pointed out that terminology in Section III, Paragraph G, pertains to runoff only. According to Line 227 in Section IV Review and Approval, Mr. Lake advised that the MS4 Operator “shall issue a Notice of Plan Approval (NPA) if the permit application is found to be consistent with the requirements in the ordinance”. As stated in Section IV, the possible action of the MS4 Coordinator is to approve, approve with conditions, or disapprove the permit application. If the application is approved with conditions or disapproved, there is time to resolve the problem and submit a revised application.

Mr. McKean preferred to have a set of standards available for reference and clarification instead relying on an opinion of an MS4 inspector. Attorney Murrell advised that Section III B. keys-in all of the documents required by Administrative Code 327 IAC 15-5. These same documents were previously submitted on the State level. Mr. Lake explained the paragraph originated due to the fact that particular practices that work in certain locations in Indiana may not work in Howard County.

Mr. McKean asked about seeding in winter. Mr. Lake stated there would be other sediment control practices in place. However, if the site remains dormant for 15 days, the area is normally required to be seeded. Mr. Lake advised that developers should contact Mr. Don Cree at the Howard County Soil & Water Conservation District regarding the seeding requirements.

Discussion ensued regarding clarification of who prepares the Erosion and Sediment Control Plans and whether a stamp is required from a professional engineer, licensed land surveyor, or certified professional in Storm Water Quality. There was also discussion about the manner in which to maintain a copy of the approved Storm Water Pollution Prevention Plan on the construction site.

Mr. McKean anticipates that these new regulations would add considerable costs to the purchase of newly constructed homes. Mr. Don Cree reminded Mr. McKean that the erosion control regulations have been in place

since 1999. Plan Commission Director Glen Boise commented that erosion issues have been a problem in Howard County and those issues need to be addressed.

Following the discussion, the Commissioners determined that the following changes should be made to the ordinance:

1. **Section II. Definitions**

Item #22: (Lines 104 through 108) Notice of Plan Approval (NPA) – A notification from the MS4 Operator to the project site owner that the construction plan for a project site has been reviewed and approved by the MS4 Operator. The project site owner must insert the NPA with the Notice of Intent to the Director of IDEM **and the MS4 Operator** at least forty-eight (48) hours prior to initiating land disturbing activities at the construction project site.

2. **Section III. Permits** (*Lines 180 through 199 – Rearrange Paragraphs A through D*):

- i. Exchange paragraph “A” to “C”.
- ii. Exchange paragraph “B” to “D”.
- iii. Exchange paragraph “C” to “A”.
- iv. Exchange paragraph “D” to “B”.

3. **Section IV. Review and Approval**

F. 1. (Line 265) The permit is terminated under Section **VII**.

4. **Section V. Inspection**

Section A. (Lines 273 to 274 - Change the wording as follows): The permittee shall have a copy of the approved Storm Water Pollution Prevention Plan **readily available**.

5. **Section VI. Enforcement**

B.2. (Line 322 - Remove extra space in last sentence of paragraph) “In addition or in the alternative, the Court, in its discretion, **may** impose fines not exceeding \$2,500.00

In conclusion Mr. Lake, together with Attorney Murrell, would complete the changes as listed above. The final version of the Construction Site Stormwater Erosion and Sediment Control Ordinance would be submitted to the Board of Commissioners at the regular meeting scheduled on **Monday, November 1, 2004, at 8:30 a.m. in Hearing Room No. 338 of the Howard County Administration Center.**

There being no further business, Mr. Bagwell made a motion to adjourn. Mr. Raver seconded the motion, which carried. The meeting closed at 7:40 p.m.

THE HOWARD COUNTY BOARD OF COMMISSIONERS

JOHN B. HARBAUGH, PRESIDENT

PAUL J. RAVEN, VICE PRESIDENT

BRADLEY J. BAGWELL, MEMBER

ATTEST:

MARTHA J. LAKE, AUDITOR
Commissioner Minutes, October 28th, 2004