



Residential Subdivision Stormwater Drainage

Mark Belton, County Administrator

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Current Policy

- ▶ Our current policy follows the Charles County Storm Drainage Ordinance.
- ▶ Adopted August 1, 2010
- ▶ Sections 14 and 18 are specifically applicable.
 - ▶ CCG is **responsible** for maintaining systems on county-owned property or within county-owned easements. (Section 14)
 - ▶ CCG is **authorized** to enter private property for emergency maintenance in cases of risk to Health, Safety & Welfare. (Section 18)



14.0 Ownership of Storm Drainage Systems

“Unless approved otherwise by the County Engineer, storm drainage systems for private developments shall be located outside of County owned right-of-ways and properties.

- A. Residential Subdivisions - Private storm drainage systems for residential developments **shall be maintained by a Homeowner’s Association.**
- B. Nonresidential Subdivisions - Storm drainage systems located in nonresidential areas such as commercial, industrial and institutional development shall be located on the developer’s property and **shall be maintained by the owner of the property.** Systems conveying stormwater that is generated from or through County right-of-ways or County properties shall be enclosed in private drainage easements.
- C. Public Development & Maintenance - **The County will maintain** any stormwater conveyance system conveying stormwater that is generated from or through County right-of-ways or County owned properties as determined by the County Engineer and/or the Director. Such systems shall be enclosed in public drainage easements.”



18.0 Maintenance

“A. If any maintenance required by this ordinance is not done, the person responsible shall be notified of the deficiency and a time frame in which the repairs must be completed will be specified. A subsequent inspection shall be made to ensure completion of repairs. The required work shall be performed within a given specified time. In the event of an immediate danger to the public health or welfare of the community, nuisance and/or safety, notice shall be given by the most expeditious means and the hazard shall be eliminated immediately. In the event that the person responsible fails to take corrective action, the Department shall complete the required work. The cost of such work by the Department shall be paid to the County by the person who failed to take corrective action and shall be a debt due to the County.



18.0 Maintenance (continued)

B. The County reserves the right of entry and the right to operate and maintain all private storm drainage for which the Owners have failed to perform under the conditions of their Stormwater Maintenance and Inspection Agreement and/or Private Drainage Easement Agreement. All costs incurred by the County for operation and maintenance shall be charged to the Owners of the systems and such costs shall constitute a lien against all property subject to and benefitted by the original agreement. Such costs shall also be personal obligations of the property Owners at the time they are incurred, and shall be assessed, levied, collected and enforced as County real estate taxes are now, or may hereafter be, by law levied and collected, and shall have the same priority rights, bear the same interest and penalties, constitute a lien upon the real property so assessed and in every respect be treated the same as County real estate taxes.”



The Problem

- ▶ Many residential subdivisions pre-date the ordinance and consequently have no County-owned easements or maintenance agreements - perhaps as many as 100 neighborhoods.
- ▶ Many HOAs have either gone defunct or have not kept up with necessary maintenance on their stormwater infrastructure. Communities without HOAs lack the organization and/or resources to address the problem. Consequently, the systems have degraded and are in various states of disrepair.
- ▶ The accelerated impacts of climate change on Charles County include sea level rise in tidal areas and an increased frequency and intensity of storm events. This is making a bad situation worse.
- ▶ Failing systems will eventually become **emergency** situations impacting County-owned infrastructure, public safety, and Chesapeake Bay water quality.
- ▶ The financial resources and personnel capacity to address the problem is significant.



Recent Examples





Proposed Solution

- ▶ CCG should formally offer/resolve to take responsibility to repair and maintain residential subdivision stormwater drainage systems in perpetuity. Certain conditions and circumstances would apply.
 - ▶ CCG's responsibility for these systems would take place over time and in priority order based on several relevant criteria. (Slide 9)
 - ▶ Costs for system repair would be borne by CCG from a variety of sources. (Slide 10)
 - ▶ Property owners would be required to donate the necessary easements to CCG for repair and maintenance. This complies with the ordinance and ensures the willingness of impacted residents.
 - ▶ Natural solutions will be preferred wherever possible to maximize opportunity for multiple benefits (storm surge buffering, pollution abatement, carbon sequestration attainment, water reuse, etc.) along with the grant opportunities that may accompany them.
 - ▶ The Capital Projects Management (CPM) Department would oversee the program to ensure the most effective process and lowest cost to taxpayers (solution selection, CCG vs. Resilience Authority [RA] oversight, etc.)



Criteria for Subdivision Prioritization

- ▶ Urgency of Need - Residential subdivisions are in various stages of disrepair.
- ▶ Availability of funding - Should a residential community be willing to shoulder a portion of financial responsibility for the County's preferred solution, grant funding becomes available for its unique attributes, or other factors arise that would reduce the overall financial burden on taxpayers, it could receive a higher priority for completion.
 - ▶ Example: Department of Housing & Community Development (DHCD) or Bay Trust Fund grants
- ▶ Equity - Demographic data resulting from the 2020 census will be used to ensure fairness, and the CCG Chief Equity Officer will be involved in the prioritization process.
- ▶ Dual benefits - In some situations, where noteworthy dual benefits can be attained, the project could receive a higher priority.
 - ▶ Example: MS4 Permit Compliance or Emergency Services access concerns



Funding

- ▶ American Rescue Act Plan - A significant one-time infusion of funds for which stormwater drainage systems are eligible. A proposed CCG spending plan is scheduled for BoCC discussion/approval later during today's public meeting.
- ▶ Debt Service - CCG regularly budgets for projects funded via the Watershed Protection and Restoration Fund for retrofit projects that help attain our MS4 Permit obligations.
- ▶ Federal, State and Private Grants - Ex: DHCD, Bay Trust Fund, DoD. Additionally, one advantage of creating a government instrumentality such as the RA is that, as a **nonprofit** organization, it may be eligible for foundation and private grants that otherwise do not fund local governments.
- ▶ Annual Budget Surplus - CCG departments have been particularly cost-conscious, routinely underspending annual budget allocations.
- ▶ Federal Infrastructure Legislation - The new Federal administration is emphasizing climate change readiness and moving forward with a significant infrastructure funding bill, which includes stormwater systems.
- ▶ Congressional Earmarks - The reinstatement of this process could be beneficial to this program. Infrastructure projects are attractive and often applicable to federal appropriation bills.



Why This? And Why Now?

- ▶ Our county's biggest **unsolved** problem...and its worsening.
- ▶ While HOAs are responsible, many are proving unable, and CCG is capable.
- ▶ It is preferable and less expensive to deal with the problem before it becomes an emergency.
- ▶ A combination of factors have come together at the right time for CCG to address this issue:
 - ▶ Financial resources, both actual and potential.
 - ▶ The creation of our RA and the CPM Department.
 - ▶ An increased awareness and concern of climate change-related problems and actions at all levels of government and society.
 - ▶ Our strong financial position, partnerships, organizational talent and innovation, are all aligned with the community demand signal. We have a well-regarded (AAA grade from every rating agency), award winning (MACO and NACO awards), and high-achieving county government with a talented workforce and a reputation for getting things done. We can do this.



Next Steps

- ▶ Approve the program as direction to staff.
- ▶ Direct staff to present a recommendation regarding the development of a residential subdivision prioritization list, with consideration given to requesting the Resilience Authority of Charles County as the contracting entity.



Questions?



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It is the policy of Charles County to provide equal employment opportunity to all persons regardless of race, color, sex, age, national origin, religious or political affiliation or opinion, disability, marital status, sexual orientation, genetic information, gender identity or expression, or any other status protected by law.