

**GARRETT COUNTY PLANNING AND LAND DEVELOPMENT OFFICE**

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**MINUTES**

**The Garrett County Planning Commission** held its regular monthly meeting on Wednesday, November 2, 2011, at 1:30 p.m., in the County Commissioners Meeting Room. Members and guests in attendance at the meeting included:

Troy Ellington	Bob Gatto	Paul Durham
George Brady	Gary Fratz	John Nelson -staff
Tim Schwinabart	Tony Doerr	William DeVore-staff

1. Call to Order and Introduction of Guests – By Chairman Ellington at 1:30 pm.
2. The October minutes were unanimously approved, as submitted.
3. Report of Officers – None
4. Unfinished Business – None
5. New Business –

**A. Reduction of Nutrient Loading- Total Maximum Daily Load – (TMDL)**

**Program for the Chesapeake Bay-** Mr. Nelson updated the Commission on the progress for pollution load reductions under the TMDL program. The program involves the reduction of nitrogen, phosphorous and sediment that is entering into the bay.

Mr. Nelson reported that members of the Watershed Implementation Plan (WIP) Committee, representing the County met with representatives from the Maryland Bureau of Mines to discuss possible solutions to the mandated TMDL reductions. Mr. Nelson explained that computer modeling suggests that mine reclamation could be enough to offset nutrient reductions that are being imposed by the State as a result of the program. Some of the acreage assumptions in the computer tool are problematic, but according to the model, load reductions in the extractive category could be accomplished by reclamation of abandoned mine acreage. The computer model shows 3,650 acres of extractive land in that portion of Garrett County situated in the Bay Watershed. This acreage is nearly

identical to the acreage under permit for mining operations by the Bureau of Mines. Using prescribed Best Management Practices, the plan would be to reclaim approximately 20 percent of that land over a 10-year period. The computerized tools are, in some cases, not based on factual information, but these tools must be used by the County to formulate the required load reductions. The EPA model is based on loading, according to land use coverage in the watershed. The target load would be reduced in the extractive category, using this projected reclamation plan, which amounts to about 720 acres of reclamation. The WIP Committee feels that there is no other option to achieve the loading goal in this category. Other loading sectors are septic systems, new construction and agriculture. The Commission discussed the possibility that septic systems may have to be redesigned to be compatible with the new regulations.

Commission member, Tim Schwinabart explained that as mining acres are reclaimed, mining operators usually move to additional unaffected area on the same permitted mine site. The bonding system, as setup by the State to insure reclamation, allows for bond to be released or transferred from one affected area to another. Unless a mine is completed and closed, then the net acreage may remain the same, in the long term. Some commission members had questions concerning discharges from coal washing plants and acid mine drainage. Mr. Nelson noted that there are ongoing discussions to move back the 2020 Maryland deadline to 2025, to correspond to the EPA mandate. The 2025 date is being used by other states in the Chesapeake Bay watershed.

The Urban Nutrient Management Educational Program is another strategy that will be used to reduce loading. This is an educational campaign regarding fertilizer use. The County will receive a reduction credit for implementing the education program, where fertilizers are sold. Mr. Nelson also notes that all farms are now required to have a nutrient management plan with all soil applications reported to the Maryland Department of Agriculture.

Mr. Nelson noted reduction in nutrients under the Bay TMDL have been dictated by the MDE and the EPA. MDE is required to have a draft WIP by the end of the calendar year. Targeted categories, addressed in the program, include agriculture, forestry, wastewater treatment, residential septic discharges and urban runoff. The Commission decided to take no action at this time but will wait and monitor the progress of the WIP Committee. The chairman suggests that members go online and research the topic to find any available resources on the subject.

- B. Discussion on the “Revised Plan MD” document-** John Nelson reported that the Carroll County Commissioners held a meeting on October 31, in Pikesville, regarding Plan Maryland. Mr. Nelson and Commissioner Raley attended the meeting. Five different speakers addressed major topics related to Plan

Maryland, including climate change, transportation, nitrogen loading, and TMDL issues. The speakers debunked certain aspects and requirements of the Plan, including the negative effect that Plan Maryland could have on the State and the region. Mr. Nelson believes that information from the presentation will be available online soon. At the meeting, Secretary Hall accepted questions from the audience as part of the discussion. The strategy, resulting from the meeting, is for concerned citizens and officials to contact the governor and request a delay of the implementation of Plan Maryland. It is expected that the Plan will be used as a tool to support new legislation on the flush fee and new septic regulations.

Senator Pipkin, from Cecil County who is an outspoken opponent of Plan Maryland, also held a meeting in Annapolis on October 27, on the Plan. Details of that meeting are not known at this time.

Chairman Ellington noted that an October 18, MACo letter pointed out the importance that “place designation”, would have in implementing the Plan. Mr. Nelson noted that the Priority Funding Area (PFA) designation would not change, but this new place designation is a refinement, or a reduction, in the PFA designation. For example McHenry is now a PFA but it may not qualify as a Growth Print area.

Mr. Nelson notes that Plan Maryland will probably be adopted this month and yet the criteria for selecting a Growth Print area may not be available for review until the spring of 2012. Another potential problem is that all State agencies are required to review their plans and procedures to see if they comply with Plan Maryland. If the agency does not comply with the plan, then that agency may not be able to release potential funding that the agency could have available. The Agland Preservation program maybe an example of funding problems resulting from Plan Maryland. As of now, the Priority Preservation Area criteria are not used to determine eligibility for funding. Currently, the County funds the Agland Preservation Program on a first come, first serve basis. Plan Maryland calls for a regulatory component that would be in place at the county level, to preserve 80% of the agricultural lands, identified in the Priority Preservation Area. Mr. Nelson and Chairman Ellington are concerned that over time, the County could loose some State assistance to the County’s land preservation efforts and other State funded programs.

Beginning in April, the counties will have the first opportunity to nominate the designated growth areas. This will occur after all of the criteria for the areas have been made public and vetted through the process. At this point, the counties will finally know the process that the State will use in selecting nominees for these designated areas. The State will make the final decision on which areas become designated growth areas. Mr. Nelson sees potential problems for extension of water and sewer into areas that are not growth areas, because MDE approval is necessary for an extension. Such an extension could possibly be denied by the State, if not consistent with Plan Maryland policies.

All of the municipalities will automatically qualify as designated growth areas. With the help of Duane Yoder and Community Action, the towns now have the “sustainable community” designation, which requires an update every three years.

Mr. Nelson noted that there is still opportunity to comment on Plan Maryland, until November 9, 2011. Commission Gatto noted that recently the Commissioners adopted a resolution, which was submitted to MDP, asking for more time before adoption of the Plan. Also the Commissioners requested an exception to Plan Maryland for certain counties with limited population growth.

The Commission directed Mr. Nelson to write a letter to the Maryland Department of Planning to reiterate the Commission’s position on Plan Maryland. The letter would ask for a delay in the adoption of the Plan by the governor until the criteria for the “designated places” is make pubic and also until the evaluation of State agency programs is completed, so the counties will have an opportunity to fully understand what the criteria and the strategies will be, as a result of the adoption of the Plan. The Commission voted unanimously, by a vote of 6 to 0, to send a letter to that effect.

## **C. Miscellaneous**

### **1. Deep Creek Watershed Zoning Appeals Cases –**

- a. SE-418-** an application submitted by Gary and Tamara McCarty, for a Special Exception permit for the conversion of a single family residence to an eight-bedroom Transient Vacation Rental Unit. The property is located at 72 Eyeopener Lane, tax map 49, parcel 123, lot 16 and is zoned Lake Residential (LR1).The Commission has no comment on the application for Special Exception.

### **2. Minor Subdivisions – None**

### **3. Waiver Requests– None**

### **4. Discharge Permit Application - None**

### **5. Surface Mine Permit Applications- None**

**D. Action on Major Subdivisions and Planned Residential Developments - None**

**E. Next Scheduled meeting** - The next regular meeting of the Planning Commission will be held on **December 7, 2011**, in the County Commissioners Meeting Room, at 1:30 pm.

**F. Adjournment-** 3:00 p.m.

Respectfully submitted,

William J. DeVore  
Zoning Administrator

