

**Open Work Session  
November 20, 2018  
MS4 Permit Update**

Mr. Dallas Baker, Director of Public Works, and Mr. Weston Young, Deputy Director of Administration, came before Council. Mr. Young said many times in Council conversations, whether it is about drainage issues or the Chesapeake Bay cleanup effort, the TMDL (Total Maximum Daily Load), also known as WIP (Watershed Implementation Plan), and the MS4 (Municipal Separate Storm Sewer System) have been brought up about potential regulations. He said Mr. Baker has put together a presentation where he will touch on aspects of what this MS4 permit implies, and they will be glad to answer any questions after the presentation.

Mr. Baker said one of the things he wants to talk about up front is the difference between a Phase I community and a Phase II community. He explained, a lot of times they will hear on the news about how expensive the MS4 permit is, and how there are going to be hundreds of millions of dollars of resources required to address the requirements in the permit. He said the MS4 program makes a distinction between large communities, medium communities, and small communities. He said the large communities are places like Anne Arundel County, Baltimore City, Baltimore County, Prince George, and Montgomery County, and medium ones are Carroll, Charles, Frederick, Harford, and Howard Counties, and then the State Highway itself has its own separate MS4 permit for the storm drain system it runs. He said, when they are talking about trying to address a 20 percent treatment of impervious areas in areas like Prince George, Montgomery, and Anne Arundel Counties, the price tag is substantially higher when they think about how much impervious area they have, but when they switch that over to an area such as Wicomico County that is largely rural, that impervious area reduction is significantly reduced. He said people are saying they hear MS4 is going to cost \$300 million dollars, and that is not accurate for Wicomico County. He clarified, that might be accurate for a place like Montgomery County where everything has been paved over, but here they have a substantially less effort to put into their permit than what those places do.

Mr. Baker said, when they talk about the Phase II permit, this is just for Wicomico County, and they are looking at three parts to the program, which are the Chesapeake Bay Restoration and meeting TMDL goals, outlining several minimum control measures they have to establish, and then they have to do evaluation recordkeeping, which, basically, just amounts to an annual report of the efforts they have been undertaking throughout the County. He said, again, it is really the difference between what is required from those larger Counties on the Western Shore versus Wicomico County, and they are not going to see the type of millions of dollars of price tags associated with this permit that sometimes the media will try to get everybody spun up about.

Mr. Cannon asked what it means in layman's terms when Mr. Baker says Phase II permit involves several parts, and what are the obligations of Wicomico County, to which Mr. Baker responded, that is what the next slide will tell him. He said everything through this presentation addresses these three bullets. He said, with this presentation, he is going to walk Council through the requirements of the permit.

Mr. Baker said first he will talk about meeting their TMDL goals. He showed a map on his presentation of what the Maryland Department of Environment (MDE) has established as Wicomico County's metro core, which is the purple area outlined on the map. He said, inside of that is, obviously, Salisbury, Delmar and Fruitland's metro core. He said they are not responsible for anything inside the orange area,

but they are responsible for the difference between where Salisbury's metro core ends and where MDE says the County's metro core ends, so they are looking at places out on Nanticoke Road, areas in Parsonsburg, and areas in Hebron that, again, are outside of the metro core. He said they have to address 20 percent of the stormwater runoff from those areas, and that can be done through establishing stormwater management ponds, or it can be done by reducing impervious area, or any combination thereof to show that they are treating 20 percent of that area. Mr. Cannon asked Mr. Keith Hall, Deputy Director of Planning and Zoning, who was sitting in the audience, if this coordinates with the designated growth area, to which Mr. Hall responded, actually, the purple area is what is known as the urbanized area for the Salisbury-Wicomico region that is developed by the Census Bureau every ten years to go in as part of the census. He said they look for certain thresholds, one mainly being population of 1,000 persons per square mile, and so forth. He clarified, when they hear metro core, it is a distinct use of the word versus their designated growth area. Mr. Cannon asked if it is separate from a designated growth area, to which Mr. Hall responded, yes, it is.

Mr. Kilmer said, within that, there are some of those areas that are in the purple area, such as on Nanticoke Road where there have been some flooding issues and things like that, and he thinks Pratt Road looks like it is in there. He then asked, as the County undertakes some of the Pratt Road drainage issues, for instance, would their drainage issues, if they address the Pratt Road area, count towards this permit's goals, and how would those work together, to which Mr. Baker responded, yes. He said there are a lot of opportunities within the MS4 program to overlap with their WIP goals, and with their TMDL goals. He clarified, there are outlying fringes where they do not overlap, but there are a lot of places where they really do. He said, if they were to go in and adjust stormwater management in a certain area, they can look for opportunities. He said, if they address one part, but then do a little bit more, they can have WIP goals and MS4 both within one project, so there are a lot of opportunities for overlap.

Mr. Baker said, when they calculate the 20 percent, they do not just look at that area between the purple line and the orange line, but they calculate what is currently being done, and how much impervious area is between those two boundaries. He said that is being done in partnership with Salisbury University and Eastern Shore Regional GIS Center (ESRGC), who have calculated that, and it is 100 percent complete, which was the first step.

Mr. Baker said the next step is to start subtracting out all of the areas that have already had stormwater management practices in place, so, if they have a stormwater management pond that was built between 2002 and 2016, they can subtract that area out already. He said ESRGC is working on that right now, and they are about 15 percent complete on that. He said, once they subtract that out, they have to treat 20 percent of the remaining area. He said any area within that area that has a best management practice (BMP) built between 2006 and now can count towards their reduction. He explained, after their calculations, if they say they need to treat 100 acres, but since 2006 they have built 40 acres' worth of ponds, now they only have to treat 60 percent of what is remaining, so they slowly subtract down all of these different requirements and can keep whittling down the actual area they have to treat to try to minimize that. He said the smaller the area they have to treat Countywide reduces how much money they have to spend to do that treatment, and, again, ESRGC is working on this. He said coming up with how much area they have to treat within this boundary is one of their goals for year one. He said the permit went into effect October 31<sup>st</sup> of this year, and they have until October 31<sup>st</sup> of next year to complete it, but they are on track to complete this item by April 2019, so they are almost six months ahead. He said, when this is due, they are going to already have this calculation done and sent to MDE as part of the permit because they started working on this last year when they knew it was coming.

Mr. Dodd asked if they are responsible for anything beyond the red line, to which Mr. Baker responded, no. He said they are looking at what is between the red line and the purple line. Mr. Dodd asked why not beyond, to which Mr. Baker responded, because beyond the purple line is what MDE is classifying as a rural area, and does not meet the population density. Mr. Dodd asked why not further out in the County, to which Mr. Baker responded, what is inside the orange line is what is the responsibility of the City of Salisbury and the responsibility of Fruitland, and the County is responsible beyond the municipal boundary, but out to where development has occurred within the County. Mr. Young clarified, it is just as the name of the permit implies, Municipal Separate Storm Sewer System. Mr. Dodd said he is assuming everything in that metro core area that is not municipality would be the responsibility of the County, to which Mr. Baker responded, within a certain density of population. He explained, when they go down to Tyaskin, for instance, it is so sparsely populated, so MDE is not concerned about addressing it. He said they have enough area between where the impervious area is to run over grass, streams, and roadside ditches so that, before it hits the Bay, it has had enough time to interact with a dirt-vegetated surface to remove those nutrients, whereas in these areas where the population is clustered together, they have to take additional steps to make sure they are removing or reducing that nutrient before it gets to the River.

Mr. Baker said, regarding working on the first year impervious area work plan, this work plan that is developed is outlined specifically in the permit with everything they have to do in the first year which includes, again, developing their impervious area baseline assessment. He said, as he mentioned, they are due to have this completed this coming April. He said they have to develop a restoration work plan, which is how they are going to treat that area once they know what area they are going to treat. He said they do not have to actually do it, but they have to tell them how they think they are going to do it. He said they have to look for opportunities for implementing water quality best management practices (BMP), and, again, this is where they are talking about projects to overlap with their WIP projects, such as what Mr. Kilmer mentioned, Pratt Road. He said, if they are going to be doing a drainage project there, that would be an opportunity for them to address a need for this MS4 permit. He said they also are looking for opportunities to develop partnerships with other National Pollutant Discharge Elimination System (NPDES) permittees. He said, if they know that Salisbury, for instance, is going to be addressing a particular area with a stormwater project, maybe there is an opportunity to partner with them and make it a little bit bigger so they both benefit from it. He said they are just looking for what other places there are in their area, and there are only a handful as Salisbury and Fruitland are the only other two MS4 permit holders in the County. He said they also need to determine their funding needs and develop a long-term budget.

Mr. Young said he would like to add that, for the Phase I permits, they require significantly more steps, which is mandatory street sweeping, and certain programs like that. He said that is where the concept of the rain tax came about, and how to fund these permits that are putting such constraints on these larger highly impervious Cities or Counties, such as Baltimore City, and the property values as well. He explained, to put in a bio retention or a pond is not the same as down here in Wicomico. He said their cost to handle these types of permits are significantly more, so they looked at funding mechanisms. He said he wants to say the County's intentions are to try to do it all in-house. He said it will require additional paperwork, and they may need a position or two down the road, but he does not currently see anything too crazy, and he does not see them coming before Council asking for a rain tax of any sort.

Mr. Dodd asked how often they do street sweepings, to which Mr. Baker responded, they have two street sweepers, and 700 miles of road, so they, generally, take about 18 months to complete all 700 miles of road. Mr. Joe Holloway said they do not use the street sweepers on a lot of the County roads, to

which Mr. Baker responded, no. He clarified, what ends up happening is they tend to visit the same areas more than once. He said, if they took the two street sweepers and ran them through the 700 miles of road, it would take them 18 months. He said, however, there are places that do not particularly need street sweeping, and there are places that need it more frequently through some of the residential communities, so the hot spots tend to get hit more frequently. He said he will send them out ahead of storms if they know there are inlets as opposed to open drainage. He said, if the road drains directly to a swale on the side of the road, it is not as critical to street sweep those areas as it is to go to a place that has curbing and inlets to make sure they are clear. He said Mr. Joe Holloway is correct in that there are roads they do not street sweep. Mr. Cannon asked which roads are predominantly street swept, and whether they are neighborhoods where the County has taken over those roads, to which Mr. Baker responded, County roads within residential communities are frequented. He said, as he mentioned, if they have curbing, or if they have storm drain inlets as opposed to some type of open drainage system, and also places where they see frequent litter. He said some roads that have proximity to the landfill, such as Brick Kiln Road, will be done a little more frequently. Mr. Dodd said he asked that because, when they think of street sweeping, they think in the municipalities, and not on the County roads, and that was part of the Phase I.

Mr. Young said one of the thoughts behind the MS4 permit is, if they had a bucket of polluted water and they dumped it in rural parts of the County, it is going to go into a ditch and infiltrate, whereas, if they dump it right outside this building, it is going to go into a pipe network and right into the river without any sort of infiltration or treatment. He said the MS4 permit acts as sort of good housekeeping for urban areas because, if they have a spill, it goes right into pipes, in most cases. He said, with street sweeping, they are trying to keep out leaves and trash, and, depending on the sweeper or the vacuum method, they can get brake dust and other contaminants that are on the roadways from going into the inlets and pipes, clogging them up, and, ultimately, making their way to the River. He clarified, this is a mechanism to try to keep urban areas as clean as possible. Mr. Baker said this is an opportunity where they can take credit in the permit for a practice they are already doing so they are not spending money to do something new. He said it is something they already have the ability to do, and it is just maybe pulling the areas of where they are street sweeping more frequently to hit the areas within the purple line.

Mr. Joe Holloway said they have a lot of large parking lots in the City and the County, and he knows a lot of them do their own sweeping as he sees the little trucks going around at night. He then asked if there are any regulations controlling those to make sure those drains are kept clean, and that their parking lots are functioning like they should after they are built. He said he knows they are built to specifications, and they put all of that in. He then asked if there is anything ever done later to make sure parking lots are not getting clogged up, to which Mr. Young responded, they have a gentleman who is their stormwater inspector, and he goes out to each site. He said ponds are the most common stormwater thing people think of. He said he thinks it is on a three-year basis, worst case every five years, but they aim for every three years to go out and make sure it is operating as intended. He said he does not think they go into the level of street sweeping, but they will look at whether private pipes in a parking lot are clogged and need to be cleaned out, but really they look more at the purpose of stormwater. He said the purpose is to not flood neighbors, and to have what leaves their site be less than it would be with all the pavement there. He said the second purpose is to have it leave cleaner and making sure that the pond is still functioning as it is intended. He said, in these inspections, they will call out if there are any visible issues or known issues, or if it looks like sediment laden runoff is then going out into streams, and they work with those people to fix those.

Mr. Dodd said they are in season for deciduous trees to start shedding, and they have been. He then asked if they educate the public on raking their leaves and disposing of them properly so they do not clog the drains, to which Mr. Baker responded, they try. He said he cannot say it is always successful, but they experience a lot of leaves clogging up driveway pipes during this time of the year. He said they were just at a site where they had a drainage problem, and, when they looked into it, the neighbor two or three houses downstream from where the flooding was occurring had filled up their swale with leaves and old newspapers, so they got out there and cleared that out, and got the water going. He said they try to tell people not to throw their leaves into their swales, and a lot of times they will see folks blowing them into the road. He said, typically, they will get calls from a neighbor saying someone is blowing their leaves in there, so they go out and ask them not to do it, and explain to them why, and, in general, people are understanding of it. Mr. Dodd said he walks his dog a lot and he sees a lot of the drains covered, and that contributes to a lot of flooding as well. He said there is always a lot of debris covering them, whether it is leaves, sticks, or trash. Mr. Joe Holloway asked if some of the media outlets would be open to a public service announcement to announce these kinds of things, to which Mr. Baker responded, it is something they certainly can explore. Mr. Joe Holloway said they could do a little commercial where somebody could get on TV or the radio, and say it is that time of the year to keep drains clear. Mr. Young said one of the elements of the MS4 permit is education and outreach, such as explaining that there are better options to put leaves elsewhere. He said once it gets into a drain or a pipe and makes its way to the river, there are added nutrients that break down over time, which, naturally, is okay, but, with development and civilization, they tend to overwhelm their Rivers and the Bay. He said, even with leaves, they tell people to mulch them, or keep them on site because it is good for their yard, or compost them. He said they do accept the larger things, like brush, at the landfill for free to citizens, so there are opportunities. Mr. Dodd said he likes the idea of the PSAs.

Mr. Baker said the permit has a specific work plan, and he wants to highlight what is required in the first year. He said, again, the clock just started ticking, and they are well on their way to meeting the requirements for this first year. He referred to his presentation, and said what they see in years 2 and 3 is just simply keeping their system updated with any new improvements that have been made, keeping track of what has been done, or any new improvements that have been made, and keeping their reporting up to date. He said it is very similar through the future years. He said the goal of the permit is to meet their 20 percent restoration by 2025. He said one of the things that is very interesting with the County is that, as he was showing Council the County metro core earlier, they do not have to limit all of their projects to just in that area, but they can do projects outside of that, and take credit for that 20 percent reduction. He said, for instance, the WIP project with Barren Creek can help meet their MS4 permit goals even though it is outside of the boundary. He said the boundary tells them how much area they have to treat, but it does not limit the projects to occur in that area, and they can go around the County, which makes it easier. He said that is where they have an advantage over places like Prince George and Montgomery County where they have land where they can go out and do things and do not have to tear down four or five City blocks of concrete and asphalt, so they have the ability to meet these goals.

Mr. Cannon said a lot of the individual years Mr. Baker has described in the presentation seem to just be somewhat rhetorical where it says update management practices, and he is looking for hardline statements that say what they are going to be working on. He said he assumes year five is 2022-2023, and it is between 2020 and 2025 that they really do the actual implementation, to which Mr. Baker responded, these bullets are verbatim out of the permit. He clarified, they are left intentionally vague. He said MDE was not trying to pin them down to something, and it does allow flexibility on their part to just keep meeting their goals. He said they have to keep a picture in their head of 20 percent reduction

by 2025, but, if they want to sit on their hands until 2024 and do all of it in the last year, they can do that, or, if they want to be responsible and spread it all out, they can do a little bit each year. He said MDE has allowed a lot of flexibility in meeting these goals. He said he agrees that, when reading some of this, such as “submit a narrative describing your progress,” that is the annual report, and is not hard to do at all. He said it does not say to go and do a specific project, or remove X pounds of nitrogen from the waste stream. Mr. Young said the Phase I gets into the specific projects and what is mandatory to do, and then, if they do not meet those, they are in trouble. He said this is a five-year permit, and they come in five year cycles, so, at the end of year five, they will then have a negotiation period with MDE where they will say they saw what they did over the last five years, environmental regulations are constantly changing over time, and they now have these new requirements. He said, if they drag their feet and MDE sees that, they can say now they are going to ramp it up, and add some enforcement mechanisms. Mr. Cannon said he was looking in the presentation for a description of what it actually was that the County has been implementing, but he does not see where it says that in here, to which Mr. Baker responded, the permit just started October 31, 2018. Mr. Cannon asked if it is not until 2023 when they are probably going to be effectively making progress, to which Mr. Baker responded, yes. He explained, they are talking about a permit that has been in effect for less than 30 days. He said, again, they have seen what Salisbury had to go through, and they know what the Western Shore had to go through, so this ball has been rolling for a very long time.

Mr. Kilmer said they are in Phase II because it is for 100,000 or fewer people, but Wicomico County’s population is right around 100,000, to which Mr. Young responded, this is within that purple boundary, and is a density. He said the growth area is not included because they have not grown out there yet, but, if they grow, the purple boundary will then start extending. He said, again, that is assuming they have the densities out there. Mr. Kilmer asked if they will be Phase II for a while, to which Mr. Young responded, they should be. Mr. Joe Holloway said there is a census coming up as well, to which Mr. Young responded, and that could change the boundary. He said they will notice the boundary went up to parts of Hebron, so when it gets to street sweeping, it does not make a lot of sense to just skirt around some of these Cities, but that is the boundary they decided to stick with. He said the fact that they can do projects outside of the boundary and get credit for it is a major advantage, so they are okay with that because that helps them. He said their typical WIP projects that they can put anywhere in the county can help them meet that 20 percent impervious.

Mr. Joe Holloway asked what involvement the small municipalities, such as Pittsville or Willards have in this plan because he knows they do not have street sweepers, to which Mr. Baker responded, they are not in the permitted areas. Mr. Joe Holloway asked if the County could use them to do street sweeping to get their numbers better, to which Mr. Young responded, right now there are also pockets of impervious surface, so when they put in BMP, which could be a stormwater pond or bio retention, they want more pavement and rooftops draining to that as much as possible. He said putting a bio retention in an area that is all grass or all woods is kind of pointless. He said that is why digging the pits out at Connelly Mill will not necessarily give them any WIP credits because they do not have pavement draining to it. Mr. Baker said one thing they can take credit for is the fact they have open drainage systems. He said where the majority of their roads drain to swales, they can claim credit for those swales for treatment on this MS4 program. He said they start to ask themselves what they need to do, and the answer is nothing because the road drains to a swale, and then that swale travels for four or five miles before it hits the river, and that type of thing is what they can already take credit for. He said, again, looking at the Western Shore, everything is curbed and guttered, and they do not see open swales. Mr. Cannon said, when Mr. Baker says they can take credit for it, that sounds like Monopoly money to him, and he does not know what that means, to which Mr. Baker responded, if their goal is to

treat 100 acres of impervious surface, they have to treat 20 acres of that area with some type of stormwater management. He said, of that 20 acres, if they say they have 5 acres of road that drains to swales, now they are down to 15, so they are just slowly whittling it off. Mr. Young added, there are a lot of good things they are doing now, such as inspecting these practices every three years. He said some of the nurseries out there recycle their water, so what drains off their site from a rain to ponds, which is going to carry the fertilizer they applied, they then pump for irrigation, so that is sort of a nutrient recycling system that the State does not know they are doing unless they report it. Mr. Cannon asked if he is saying that the County gets credit for a private company following best management practices, to which Mr. Young responded, in a way, yes. He said, for example, to build a Walmart, they need a series of ponds or best management practices to deal with storm water, and that is in a set of plans, and the State knows they are there. He said, in the case of going above and beyond somehow in dealing with their stormwater that the State is not aware of, such as in the case of nurseries where it is common that they collect the water that drains on their site and then use it for irrigation, that is a credit the County can take credit for. Mr. Cannon asked if that business gets some type of a write off for that from the State, to which Mr. Young responded, not right now. He said, in the larger municipalities that have implemented a stormwater utility tax, also known as rain tax, they will give credit for what they are billed for doing practices. He said, if they maintain their BMP, or if they have a lot of green space or plant trees, they can get a reduction in their bill for that. He said the County does not have any mechanism for that at the moment, but, as Mr. Baker mentioned, with the roadside ditches, that is impervious surface that they are saying is naturally treated, but where they are going to need to focus are the higher impervious areas, and the older developments that do not have stormwater and it would benefit the County to do something. Mr. Baker said there is a cost benefit as well when they go in and do these water recycling programs because they are able to significantly downsize some of their stormwater projects, which saves them money. He said, if they put a Super Walmart out in Parsonsburg, for instance, they would have to build stormwater management ponds, so the County would be able to claim credit for that stormwater management pond for that new construction, and they have to do that per the regulations. He said, if they go in and do some type of water recycling program, they can shrink that footprint so they save themselves money as well by doing these more advanced features.

Mr. Baker said he will move forward with his presentation because a lot of the topics they are hitting are covered in some of his other slides. He said they talked about the impervious area work plan, and he will go onto the second bullet, which is the minimal control measures. He said these are the items that include public education and outreach, public involvement and participation, illicit discharge detection and elimination, construction site stormwater runoff, post-construction stormwater management, and pollution prevention and good housekeeping. He said some of the items covered under these six items he has highlighted, for instance the education and outreach, which could be websites, employee training, or brochures. He said, under public involvement and participation, there are adopt a stream programs, and storm drain stenciling, which is, for example, if they have seen the top of a storm drain it will say "Bay Starts Here," and he thinks Salisbury has some little sticker they put on top of their inlets to remind people not to dump. He said they have to go out into the field and look at their storm drain outfalls. He said, if they have had a significant drought and no water really should be coming out of a storm drain, and they look and see a steady flow there, that is an indication that somebody has tied something in beyond just a storm drain. He said they can investigate that, and take it out of their system, but they have to take the connection off the storm drain and put it into the sewer. He said the construction site stormwater control is already handled through the Wicomico County Soil Conservation District. He said the post-construction stormwater management is where they review their stormwater plans, do post-construction inspections with the inspector, and then just routine maintenance, but these are all items they are already taking care of. He said the pollution prevention and good housekeeping is

operation and maintenance, and is where the street sweeping falls into, and maintaining a stormwater pollution prevention plan. He said there are three entities within the County that have to have these stormwater pollution prevention plans, and those are the Landfill, Roads, and the Airport. He explained, what this basically says is, if they have big drums of oil or degreaser, or something like that, they have to have some type of spill prevention so that if they tip over, it is not going to get into the storm drain, and then make its way into the Bay. He said they already have these pollution prevention plans in place for all three of these organizations, so, again, there are a lot of items specifically in these minimum control measures that the County is already undertaking that they can claim credit for. Mr. Cannon said he assumes that the work Mr. Baker has been doing over this last year on stormwater management, and the \$35,000 that was put forth for the study is credited towards this program, to which Mr. Baker responded, they can use it towards treating these. He said, for instance, if they take the Hunters Mill stormwater pond and enlarge that to handle more water, they are talking about flood reduction. He said, when they look at that pond, there are no modern water quality treatments in that pond. He said, if they make the pond deeper but then also put in some treatment so there are little areas to reduce the sediment from just passing straight through, or for treating nitrogen phosphorus reduction by putting in certain species, they can then claim they have made a reduction in how much stormwater flow goes down through Pratt Road, but they have also done it in such a way that they can claim credit for treating the impervious area that is coming to that pond. Mr. Cannon said this is more about being environmentally friendly than it is developing a safe infrastructure, to which Mr. Young responded, that is correct. He said there do not tend to be permits keeping them from flooding one another. He said it is more trying to keep the water that leaves a site or the County from being polluted and affecting others. Mr. Baker said the good thing is there is a lot of money out there for projects that treat impervious area that was not previously treated, so, if they can find money for that and then just find a way to get flood reduction out of it as well, they can look for ways to merge the two.

Mr. Joe Holloway said it was announced on TV that they were going to reduce the size of parking lots of new businesses in the City. He then asked if that is something they see the County doing, and is the County involved with that in any way with the Planning and Zoning portion of it, to which Mr. Young responded, as far as he knows, they have not looked into that. He said it will help the City in some ways with development. He said, in some cases, a developer, after having reviewed plans, will complain that they are going to have no more than four cars, yet the Code requires them to have 15 spaces, so that will help in a lot of ways because there will not be as much parking lot impervious surface. He said that is something the County can look into as well, but with what the City is doing, that will not have any direct impact on what the County is required to do, or their goals set by the State.

Mr. Dodd asked if anyone is doing the pervious parking lots or driveways, to which Mr. Baker responded, some places are. Mr. Cannon said PRMC has one. Mr. Baker said they require a little more maintenance because they have to vacuum clean the porous areas, so they are a little more maintenance-intensive. Mr. Dodd said there was a big push for that a couple of years ago. Mr. Young said it comes down to the cost where sometimes it is cheaper to take a part of the property and dig it out for a pond or a bio-retention than to put in permeable pavers.

Mr. Baker said the last of the three initial bullets is the evaluation and assessment, recordkeeping, and reporting. He said they will have an annual report that is going to be due the 31<sup>st</sup> of every year. He said, in their first report they have to provide their impervious area baseline analysis telling them how much impervious area they have to treat in the County. He said MDE will look over that, and either agree or provide comments, and they will have to provide a restoration work plan of how they think they are going to meet the goals of treating that 20 percent of that impervious area. He said they will have to



provide an activity schedule for when they think these items will occur, and they have to develop a database. He said, because of the GIS technology and what ESRGC is doing, the BMP database is actually being developed at the same time they are developing their baseline analysis. He said they will be able to show a picture on the screen of where all the impervious areas are, where all the stormwater management ponds are, and then MDE simply wants that visual representation in a tabular format, and that can all be extrapolated out of what ESRGC is doing for the County.

Mr. Baker said, lastly, they have to report on the progress of the minimum control measures. He said they will want to know how many stormwater pipes they inspected, what activities they hosted, and that is where they get into the specifics of the numbers of what has been done. He said they will want to see, he believes, two public events per year, so they have to look at what public events they have already had that they can take credit for, or how many stormwater inspections they have done. He said, again, it is things they have already done that they just have to count up, report, and provide documentation on.

Mr. Baker said, lastly, they have to develop a budget. He said, again, ESRGC was awarded the contract last year to develop their baseline, and that was \$68,000. He said, when they get new plans in, they are just going to keep feeding them to ESRGC who will keep this model updated for the County for about \$5,000 per year. He said, in talking with the City about what costs they have been experiencing for developing and compliance strategy, they had about a \$30,000 price tag that was just a one-time fee, and their illicit discharge detection program was about \$15,000 to set up, and then they have a separate engineering company that does the surveys, and provides the inspections and annual reports for about \$35,000. He said right now in this year's budget they have about \$100,000 that was included, and he thinks they are on a good track to use that money for the MS4, and they will, certainly, be revisiting the budget over the coming years as they get more involved with what needs to be done.

Mr. Cannon said there was one year, he believes, where they were putting \$200,000 in, to which Mr. Young responded, that is for the Chesapeake Bay WIP. He said this is the regulatory hammer. He said, if the County is not showing they are doing adequate Bay cleanup efforts, or not reviewing development plans as they are supposed to, or not inspecting BMPs, this is how they come at them with fines and administrative orders. Mr. Cannon said the presentation says the County included \$100,000, to which Mr. Baker responded, they have \$200,000 a year going towards the WIP projects that they then use, typically, as matching grants for which they have applied to put in BMPs, stormwater ponds, or bio retention areas. He said the \$100,000 that has been budgeted would go towards keeping their baseline and their BMP database about developing the compliance strategy up to date, and then also developing their illicit discharge detection and elimination program. He clarified, it is for in-the-field construction projects, and for more of the regulatory administration that MDE also wants to see. He said, while they can do a WIP project that gives them MS4 credit, there are certain things that are exclusive to MS4 that are not going to meet their WIP goals. He said, for example, WIP does not care if the County has an up to date stormwater pollution prevention plan, but WIP cares if they build a pond that is going to treat a parking lot that was not being treated before, so that is why there are two separate pots of money. He said, while there is a lot of overlap, there are things that do not overlap, and they need to make sure they are using the money for what it was intended for. Mr. Young added, they cannot get WIP credits for education and outreach, but they do get credit in MS4 for talking to people and educating them about not putting leaves in their drains or ditches, and not to dump chemicals in certain areas.

Mr. Taylor said he would like to offer a couple of thoughts on this. He said he has been following this particular permit, and he has gotten involved across the Bay with a couple of just marginal situations

that involve this type of permit. He said he thinks that the dollar amounts that have been suggested today need some scrutiny, and he means that going forward. He clarified, he understands it is hard to come up with a dollar amount before they have their baseline and have gone through their plan and whatnot, but the ten Western Shore Counties are now figuring something in the range of \$2 billion dollars total, to which Mr. Baker responded, again, that is the difference between a Phase II and a Phase I. Mr. Taylor said he understands that there are differences in size and the amount of work, but they have a 20 percent mediation requirement, and that is the big banana, and that is why that \$2 billion dollars is there, and not because of the other stuff. Mr. Baker said, when they are talking about an area that has 100,000 acres of impervious area versus some place that has 5,000 acres, that is where the cost comes in, to which Mr. Taylor responded, he understands they cannot come up with an amount, but he is just suggesting they take 1 percent of \$2 billion dollars, and that is a lot of money. He said he does not know how much they can cut that down, but that is for the future. He said, in fact, he thinks when they turned in their notice of intent they had to give an estimated amount, to which Mr. Young responded, there is a big difference between a Phase I and Phase II, and those numbers are based on Phase I. He said Wicomico County is not Baltimore County, and they are not Montgomery County. Mr. Taylor said, looking through the Phase II permit, there are some things that he thinks Council will have to be involved in other than what they have been talking about here. He said one is the requirement to adopt an MDE-approved stormwater management ordinance that provides plan review and approval processes, to which Mr. Baker responded, which they already do. Mr. Taylor said he understands they passed one several years ago per State regulations, but these are new State regulations, and one of the things that has to be provided now is inspection and enforcement procedures, to which Mr. Baker responded, which they do already. Mr. Taylor said he knows the City of Salisbury has just revised theirs based on the fact they are under the MS4 permit too, to which Mr. Baker responded, they got dinged because they did not have a stormwater inspector like the County does. Mr. Taylor said the other thing is to adopt an ordinance that prohibits illicit discharges, and he does not know if they have that yet or not. He said another thing is to establish and document legal means for gaining access to private properties to investigate and illuminate illicit discharges, so there are some things that are going to have to come before Council that are under the MS4 permit that they have now given a notice of intent on. He said he thinks another issue is how to address all of these plans, and whether they want them to come before Council for review before they are submitted, and he thinks this is something they, possibly, need another Work Session on. Mr. Cannon asked if that is a directive the Executive Branch will have to initiate, to which Mr. Taylor responded, certainly, but what he is saying is, before they are submitted to the State, should they come before Council for review and/or approval. He said it is something, he thinks, they should get hammered out so there is no question about that. He said there is just another thing that is somewhat related to this, which is new State Legislation that requires a nuisance flooding plan, and he has talked to Mr. Baker briefly about that, but that is another item that he thinks probably should come before Council before it is submitted to MDE, and they can talk about that at a Work Session. He said he thinks it might be wise to have a general planning type Work Session on this topic around the first of the year. There was no further discussion.

*Signatures on next page*

**Open Work Session  
November 20, 2018  
MS4 Permit Update**



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John T. Cannon, President



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Larry W. Dodd, Vice President, District 3



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Ernest F. Davis, District 1



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Marc Kilmer, District 2

absent

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John B. Hall, District 4



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Joe Holloway, District 5

absent

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Matt Holloway, At-Large



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Laura Hurley, Council Administrator