

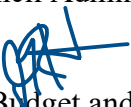



June 26, 2024

FISCAL AND POLICY NOTE

TO: Jennifer A. Jenkins
Council Administrator

Colette R. Gresham, Esq.
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Alex Hirtle 
Legislative Budget and Policy Analyst

Policy Analysis and Fiscal Impact Statement
CR-049-2024 Stormwater Pond Task Force

CR-049-2024 (*proposed by:* Council Members Blegay and Watson)

Assigned to Transportation, Infrastructure, Energy, and Environment (TIEE) Committee

A RESOLUTION CONCERNING STORMWATER POND TASK FORCE for the purpose of creating a Stormwater Pond Task Force to study stormwater pond issues and determine the status of all stormwater ponds that are not under the management of the County and determine what actions that should be taken to address infrastructure concerns.

Fiscal Summary

Direct Impact:

Expenditures: Potential moderately significant additional expenditures.

Revenues: No foreseen revenue impact.

Indirect Impact:

Potentially favorable.

Legislative Summary:

CR-049-2024 will create a Stormwater Pond Task Force to study stormwater pond issues and determine the status of all stormwater ponds that are not under the management of the County, and determine what actions should be taken to address any infrastructure concerns.

Specifically, the Task Force will identify the current stormwater ponds that are operated or maintained by Homeowners Associations, Common Ownership Communities, and similar entities, determine what operation and maintenance entails for the infrastructure of the stormwater ponds, establish the capacity for the owner or entity to operate and maintain the stormwater ponds and identify alternative solutions if concerns exist, which may include a program of transferring responsibility to the County, and recognize funding sources for operations and maintenance of the stormwater ponds.

The Resolution calls for a written study to be submitted to the County Council within eight months after the effective date of the Resolution, outlining the above criteria, including strategies and recommendations on management of stormwater ponds owned by Homeowners Associations and Common Ownership Communities. An analysis on the risk and equity of transfer of stormwater ponds to government entities, and an analysis of the cost to operate and maintain the stormwater ponds is also a requirement of the Resolution.

The Resolution outlines the membership of the Task Force, to include: five members from Homeowners Associations and residential communities County-wide that operate a stormwater pond; a member appointed by the Prince George's County Delegation; a member that is a County-based Professional Engineer; two members of the County Council whose Districts are heavily impacted by stormwater ponds controlled by a Homeowners Association or community group; a member from the Maryland-National Capital Park and Planning Commission; a member from the Department of the Environment; a member from the Department of Public Works and Transportation; a member from the Soil Conservation District; a member from the Department of Permitting, Inspections, and Enforcement; and a member from the Commission on Common Ownership Communities.

Current Law/Background:

Section 506 of the County Charter provides that the County Council may appoint, for designated periods, one or more temporary advisory boards of citizens of the County who shall assist in the consideration of the County policies and programs.

Regulations for stormwater management ponds are outlined in Subdivision 3, Section 32 of the County Code. This includes design criteria, ownership, and maintenance of this type of stormwater infrastructure.

Several councilmembers have addressed concerns of Homeowner Associations and Common Ownership Communities within their District that have failed to maintain privately-owned stormwater ponds. The County has recognized, in the past, the need to transfer maintenance duties for stormwater ponds from these communities to the purview of various County agencies, relieving the (financial) burden from them. Additional details on the County policy of this transfer process were not provided by the Department of Public Works & Transportation, Department of Permitting, Inspections, and Enforcement, or Department of the Environment, or the Administration.

Resource Personnel:

- Devan Martin, Chief of Staff, Council District 6

Discussion/Policy Analysis:

This Resolution intends to address an ongoing concern in the County: stormwater management ponds that are owned and should be maintained by Homeowners Associations or Common Ownership Communities but, usually for financial reasons, have not been maintained or properly maintained.

Sections 32-194 and 32-195 of the County Code distinguish stormwater measures between private and public ownership based on their function (which could include infrastructure, such as a stormwater management pond). There are also required agreements of access to these measures, which are recorded in land records prior to the issuance of the project's use and occupancy permit.¹ This allows an entity like the County to access the facility and inspect for proper maintenance and safety of infrastructure like stormwater management ponds, dams, etc.

Under normal procedures, once these structures are deeded to a Homeowners Association or Common Property Community, it's the responsibility of that entity to provide the prescribed maintenance for proper function and safety of the infrastructure. However, in recent years, more communities have relied on the County to assist or requested transfer of the maintenance duties to the County.

In the Department of Public Works & Transportation's Budget for FY 2025, \$9 million was approved for the maintenance of infrastructure that included mitigating stormwater management and flooding. The Department reported that, as part of the Maryland Department of the Environment's Consent Program with the County, twenty stormwater management ponds had been

¹ County Code, Sec. 32-194 and Sec. 32-195

rehabilitated, for a total of thirty-six ponds as of February 24, 2024. The Department's Office of Storm Drain Management reported the rehabilitation included vegetation management, structural rehabilitation, and sediment removal.² The Department did not respond to inquiries regarding specifics of how many ponds were privately owned.

Given the context of the above information, there are concerns as to what this Resolution requires: it creates a Task Force to identify and evaluate each non-County-owned stormwater management pond in our jurisdiction and submit a report as such within eight months. The Soil Conservation District for Prince George's County reported privately owned stormwater management ponds number in the "hundreds" within the County, and evaluation of such a facility requires certain equipment and expertise.³ The process could be costly and require a lengthy period of time. If agency resources are not available to perform the work, an outside consultant's work could be a significant expense. No agency responded to inquiries about an estimated cost.

Furthermore, the County has to consider its role in assisting with infrastructure maintenance for private entities- will it assist one Homeowners Association that refuses to raise community fees to maintain its stormwater management pond while still requiring other Homeowners Associations to maintain their infrastructure, which raised fees to do such? The Task Force is not charged with making these decisions, but their final report and analysis will provide data that the Council and Administration may use to refine or solidify future policy for assistance with stormwater management ponds currently not owned by the County.

Fiscal Impact:

- *Direct Impact*

Enactment of CR-049-2024 could potentially have a moderately significant adverse fiscal impact on the County by the completion of the study and analyses as required by the Resolution. As stated earlier, agencies did not respond to inquiries regarding the fiscal impact, but given the scope of what is required within the text of the Resolution, and the unknown but estimated "hundreds" of private stormwater management ponds within the County, the cost and time to complete this work could be significant.

- *Indirect Impact*

Enactment of CR-049-2024 could have a favorable indirect impact on the County by the provision of data acquired by County to rank, and renovate or repair the most vulnerable stormwater management ponds within our jurisdiction. This could provide added safety to the most vulnerable communities with poorly maintained ponds, as well as improved aesthetics, and reduced nuisance.

² Department of Public Works & Transportation, Budget First Round Responses, response to Question # 46.

³ Telephone conversation with Director of Prince George's County Soil Conservation District, June 24, 2024.

- *Appropriated in the Current Fiscal Year Budget*

No.

Effective Date of Proposed Legislation:

The proposed Resolution will be effective on the date of adoption.

If you require additional information, or have questions about this fiscal impact statement, please reach out to me via phone or email.