



City of Rockville
Mayor and Council
Agenda Item

For the meeting on:	December 17, 2007
Agenda Item Type:	Introduction
Department:	Public Works
Division:	Engineering
Responsible staff:	Lise Soukup, Civil Engineer II; Engineering phone: (240) 314 - 8515 email: lsoukup@rockvillemd.gov

Subject

Introduction of Ordinance to amend Chapter 19 of the Rockville City Code, entitled "Stormwater Management and Sediment Control" so as to provide for a system of charges to support the City's stormwater management, storm drainage, and related water quality programs by adding a new Article VI, entitled "Stormwater Management Utility," providing for, among other things, the establishment of an annual Stormwater Management Utility Fee based on impervious surface measurement of real property, classification of real property for purposes of determining the applicable Stormwater Management Utility Fee, a more detailed description of the Stormwater Management Fund and its sources of revenue and permitted expenditures, authorization for Regulations implementing the provisions of Article VI to provide, among other things, for credits against the Stormwater Management Utility Fee and adjustments to the Fee, and providing for the collection of the Stormwater Management Utility Fee; and to further amend Chapter 19 by amending certain existing definitions and adding certain new definitions, and by otherwise generally revising and amending the provisions of Chapter 19 of the Rockville City Code.

Recommendation

Staff recommends that the Mayor and Council introduce an ordinance to amend Chapter 19 of the Rockville City Code, entitled "Stormwater Management and Sediment Control", to establish a Stormwater Management Utility Fee. Staff also recommends that the Mayor and Council proceed with a Public Hearing on the draft ordinance, SWM Utility Fee Regulations and SWM Utility Rate Schedule.

Change in Law or Policy

Under Maryland State law, a municipality is empowered to establish a "system of charges" to support its water resources and Stormwater Management (SWM) functions. This is not considered a tax under State law.

Staff proposes the establishment of a SWM Utility Fee by amending Chapter 19 of the Rockville City Code, Sediment Control and Stormwater Management, and the Sediment Control and Stormwater Management Regulations. The purpose of the SWM Utility Fee is to provide reliable and stable funding which will support regulatory requirements of the City's stormwater management and water quality programs, to provide for needed maintenance for the public stormwater management and storm drainage infrastructure

while keeping the Stormwater Management Fund fiscally solvent. All other provisions of the existing ordinance and regulations, which govern the City's SWM and sediment control requirements for developers, shall stay in effect.

The proposed changes to Chapter 19 (Attachment 1) include:

- Establishing a system of charges called the SWM Utility Fee to help fund the City's SWM, storm drainage and water quality programs.
- Applying the SWM Utility Fee to all real property in the City, including government-owned and tax-exempt property.
- Establishing a mechanism for the City to incorporate private SWM facilities that primarily serve single unit detached dwellings or townhouse communities into the inventory of public SWM facilities, in order to provide more effective maintenance of those facilities than homeowners associations have typically provided.
- Specifying revenue sources and allowable expenses for the City's SWM Fund. The new Stormwater Management Utility Fee revenue will be added to existing revenues, which include developer permit fees and SWM monetary contributions, interest income, grants, and fines from developer activity or water quality violations. Expenses will include staffing, operating expenses and capital costs necessary to support stormwater management, floodplain management, stream restoration, storm drainage, water quality programs related to State or federal law, and water quality education and outreach activities. The program will support studies, design and construction, inspection, maintenance, and repairs to the City's water resources infrastructure. Finally, the SWM Fund will maintain cash reserves for capital and operating expenses.
- Establishing the Equivalent Residential Unit (ERU) as the impervious surface area associated with the City's typical single-unit dwelling. The ERU represents a basic unit of impervious area, and is used to calculate SWM Utility Fees for all properties, as described in the Fiscal Impacts section. The ERU was determined in the 2006 SWM Utility Fee Study to be 2,330 square feet of impervious surface area (roughly equal to a 40-foot by 60-foot area). It equals the median impervious coverage for the City's detached residential lots, as determined by statistical sampling of detached house lots through Rockville. The sampled lots represent a wide variety of neighborhoods and years of house construction.
- Classifying City properties for purposes of assessing the SWM Utility Fee:
 1. All Single Unit Detached Dwelling lots will be charged the same SWM Utility Fee, regardless of lot size or extent of impervious cover;
 2. Other Improved Lots: Multi-family dwelling units (apartments and condominiums), office, retail, and institutional uses will be charged a SWM Utility Fee based on the property's actual impervious surface area, as measured by aerial photography or other analysis tools that will provide a recent image of the property's impervious condition;
 3. Townhouses and Semi-Detached Dwellings on Separate Lots: These will be charged for the average impervious cover of a townhouse or semi-detached lot within their community using the same measurement methods as in Other Improved Lots. There are provisions for equitably sharing costs for common areas between owners within each homeowners association;
 4. Unimproved Lots: no SWM Utility fee will be charged for lots with less than 100 square feet.
- Providing collection measures and penalties for delinquent SWM Utility Fee payments.
- Establishing an adjustment process to correct errors with the SWM Utility Fee. Requests for fee adjustment are made through the Department of Public Works. Decisions by the DPW Director may be appealed to the Circuit Court for Montgomery County.

The proposed amendments to the City of Rockville Department of Public Works "Sediment Control and Stormwater Management Regulations" (Attachment 2) include:

- Methods of measuring impervious surface area on properties.
- Provisions for exempted impervious areas, which include unimproved lots with less than 100 square feet of impervious area, and impervious areas within public street rights-of-way.

- Submittal requirements for requests to adjust the SWM Utility Fee in cases of error.
- Provisions for requesting and qualifying for SWM Utility Fee credits that reduce the fee for owners of private SWM facilities meeting certain requirements. Credits recognize that properly functioning private SWM facilities help reduce the burden on the public water resources infrastructure by controlling runoff within the private property. For cases where the SWM facility does not manage the entire property, these credits will be prorated to match the impervious areas within the property that are treated. To qualify for credits, the owner must demonstrate that the facility is functioning as originally designed and has been properly maintained.
- List of potential fee credits:
 1. No credit is available for failed or neglected facilities, or for facilities built by developers for a subdivision and turned over to the City for public maintenance.
 2. Private SWM facilities meeting current State SWM standards are eligible for a 25 percent fee reduction for water quality controls, and an additional 25 percent credit for water quantity controls. Many facilities built after 1997, and all facilities built after 2001 meet this standard.
 3. Private SWM facilities that were built to an earlier SWM standard are eligible for a 10 percent fee reduction for quality controls and an additional 10 percent reduction for quantity controls. This reflects that the facilities may provide a partial benefit to the public water resources infrastructure.
 4. Private SWM facilities that receive public funding through a cost-share program with the City have special conditions that limit the allowable fee credit for a period of time until the City's costs are recovered. This credit is part of an effort encouraging private owners to retrofit outdated SWM facilities, and is only available for facilities identified in the City's watershed studies as priority watershed improvements. Less than five private facilities are so identified in current watershed studies.
- Provision of two alternative methods for billing homeowners associations for their common areas.

Discussion

The SWM Utility Fee has been proposed to fund Rockville's existing and expanded stormwater, storm drainage and water quality programs (the SWM Utility program). Rapid development funded much of Rockville's stormwater management over the past three decades with fees imposed on builders. Most of the City's public SWM facilities and stream restoration projects were either built by developers or built using developer monetary contributions. With new development nearly completed and redevelopment presenting different challenges, Rockville must seek other funding sources to cover maintenance of the public stormwater infrastructure and new programs mandated by the state and federal governments.

The Stormwater Utility program will allow the City to consolidate programs and services for SWM facility and storm drainage maintenance and retrofits, stream restoration, drainage improvements, sediment control, and federally mandated water quality requirements such as illicit discharge prevention and watershed education and outreach, under one funding source, the City's SWM Fund, and to manage these programs in a more comprehensive manner. The recommended SWM Utility program is proposed to begin in Fiscal Year 2009 (FY09).

Mayor and Council History

On February 17, 2004, the Department of Public Works (DPW) discussed upcoming cash flow concerns for the SWM Fund with the Mayor and Council. The Department of Finance projected a downward trend in the net balance of the SWM Fund, which is the City's enterprise fund for watershed planning and management, stormwater controls, permit review and construction inspection of private sediment control and SWM facilities, and stream restoration. At the direction of the Mayor and Council, DPW hired AMEC Environmental, Inc. to assess the City's water resources program.

On November 27, 2006, the Mayor and Council directed staff to proceed with implementation of the Stormwater Management Utility Fee. Implementation was to include an extensive public outreach campaign; preparation of revisions to Chapter 19 of the City Code for Sediment Control and Stormwater Management and the accompanying Regulations; and an updated fiscal rate model.

The Mayor and Council held another worksession on December 3, 2007, where staff presented the final draft enabling legislation and updated SWM Utility rate projections in preparation for formal introduction. The Mayor and Council voted 5-0 to direct staff to proceed with introduction of the ordinance to enact the SWM Utility Fee. Discussion included methods for continued public information and outreach, questions about staffing and General Fund savings, and resolution of billing issues with Montgomery County. The Mayor and Council indicated that they intend to hold a public hearing or hearings for comment on this ordinance and the regulations, which will be scheduled for January-February, 2008. The agenda item for the December 3 worksession may be found on the City's website.

Options Considered

Also considered was using the general fund to support the mandated SWM program.

Public Notification and Engagement

A work group, Stormwater Adviosry Group, which was comprised of residential and business members, was formed in 2005 to provide input on the Stormwater program levels of service and financing options. Staff engaged in public outreach efforts on the proposed SWM Utility Fee as described below.

April, 2007 - ongoing	Staff began education campaign and flyers, brochures, FAQs, web information, etc. were developed. Staff attended public meetings and events such as Science Day and the Neighborhood Network Learning Series to hand out educational information. Rockville Cable TV aired a special report on the Utility program.
April – June, 2007	A three-part series on the SWM Utility program ran in Rockville Reports (delivered to all Rockville residents).
May, 2007 - ongoing	Neighborhood Resource Coordinators offer presentations on SWM at neighborhood meetings and to interested community and business organizations upon request.
June, 2007	Staff held an informational meeting at City Hall for business owners, churches and other institutions. Staff held an open house for residents and the general community.
August, 2007	Staff presented the SWM Utility program to the Chamber of Commerce.

Boards and Commissions Review

Staff met with the Commission on the Environment in June 2007, to update them on the SWM Utility Fee and program. The Commission had a member on the Stormwater Advisory Group during 2005-2006. The Commission was very supportive of the programs and services this will provide, and will work with staff to assist with implementing homeowner services, including encouraging Low Impact Design features such as rain gardens and rooftop disconnects. Staff presented the final draft of the proposed changes to Chapter 19 and the Regulations to the Commission on November 13, 2007 for comment. The Commission sent a statement of support for the proposed SWM Utility Fee to the Mayor and Council on November 27, 2007. The Commission is reviewing the proposed legislation and will offer comments during the public review process.

Fiscal Impact

The SWM Utility Fee is a charge for water resource utility services, such as providing and maintaining storm drains and SWM facilities, reducing existing stream erosion and pollution, and protecting water quality through eliminating illicit discharges to the storm drain system. The SWM Utility Fee is based on the Equivalent Residential Unit (ERU) Rate, which will be set by the Mayor and Council each year as the cost for a basic unit of impervious area in the City. The ERU Rate is derived by determining the total SWM Utility program annual costs for stormwater management, storm drainage and water quality; subtracting

other revenues (such as interest earnings and developer contributions); and then dividing residual expenses by the City's total number of Equivalent Residential Units, or ERUs, as measured in the City's GIS impervious cover analysis.

The ERU is the median impervious area of a single-family lot in Rockville, which is 2,330 square feet. It represents a typical lot's paved footprint, which might include a house, driveway, patio, shed, or other impervious features. In keeping with the majority of SWM Utility programs across the country, the City's SWM Utility fee will be a flat rate for all single unit detached dwelling lots. In FY09, the first year of the program, the estimated ERU Rate is \$55.80 as shown in the proposed SWM Utility Fee rate table, Attachment 3. As new services and staff are brought on during the first three years of the program and cash reserves are set aside, the rate is expected to rise to \$76.20 by FY13, the fifth year of the program.

Some program elements that are currently funded by the General Fund will be funded by the SWM Fund in the FY09 budget if the SWM Utility Fee and program are adopted by the Mayor and Council. These elements include the City's storm drainage program and the National Pollutant Discharge Elimination System program. The movement of these programs to the SWM Fund will result in available resources in the General Fund of approximately \$390,000 to \$500,000 for FY09. The exact amount of available resources in the General Fund will be available after the FY09 budgets are developed. Certain services related to DPW permit work, such as development plan reviews and inspections, should be cost-neutral.

The City will pay its own annual SWM Utility Fee to cover parking lots, buildings, tennis courts and other paved surfaces at City facilities. Based on the GIS analysis, the City owns approximately 65 acres of impervious area, which is equivalent to about 1,227 ERUs. Based on the above rate, the City's FY09 SWM Utility fee will be approximately \$70,000. This fee may be reduced by Utility Fee credits, which are offered to owners of functioning private SWM facilities.

Next Steps

Staff will schedule a public hearing for comment on revisions to City Code Chapter 19, Sediment Control and Stormwater Management. Comments will also be accepted on the draft Regulations and the draft SWM Utility Rate Schedule. Staff will schedule public meetings and utilize other City information mechanisms for informing Rockville property owners of the pending SWM Utility Fee. After the public record closes, staff will return to the Mayor and Council for Discussion and Instruction on the ordinance and resolutions. The Mayor and Council approval process requires adoption of the ordinance to revise Chapter 19, and approval by separate resolutions of the revised Regulations and the Rate Schedule. Staff will work to finalize the billing system, either through Montgomery County or within the City's Department of Finance.

Staff proposes to put the Stormwater Management Utility Fee as a line item on the County property tax bill. Under this method, the County would collect the annual fee with taxes, and then return the revenue to the City for a small administrative charge. This method is preferable to the City creating a new billing system or modifying the existing City utility billing system, which does not reach all City property owners. The City contacted Montgomery County in summer of 2007 to request County billing of our SWM Utility Fee. The County is still investigating the feasibility of this option. If the fee cannot be placed on the property tax bill, then the City will work with AMEC to create the necessary billing records and proceed with issuing its own bills.

The proposed schedule includes:

December 17, 2007	Staff presents draft ordinance, and accompanying regulations and rate schedule
January, 2008	SWM Utility Fee estimates available on City's website for all property owners to view; information notices mailed to

	Montgomery County, Montgomery College, Montgomery County Public Schools and other owners with extensive impervious areas (e.g., top 100 SWM Utility Fee bills)
January-February, 2008	Public hearing (or hearings) and public meetings for discussion of the introduced ordinance, regulations and rate resolution
February, 2008	Mayor and Council Discussion and Instruction
March, 2008	Adoption of the ordinance and approval by resolution of the regulations and rates
Either July 1, 2008 or later in 2008	First billing cycle – dependent on use of Montgomery County property tax bill

Attachments

Attachment 1 - Ordinance for Introduction

Attachment 2 - Draft Regulations

Attachment 3 - 10-year Cashflow table



Attach1-Introduced SWM Ord-12-11-07.pdf Attach2-Draft SWM Regs-12-7-07.pdf Attach3-SWM Rate Model Summary-Ten Year-11-7-07.pdf
 (Note: Attachments 1 and 2 are no longer included)

Department Head: Craig Simoneau, P.E.; , Director of Public Works
 Approval Date: 12/11/2007

City Manager: Scott Ullery, City Manager
 Approval Date: 12/11/2007

City of Rockville											
Stormwater Cost of Service Analysis/Rate Model											
Revenue/Expenditure (Cash Flow) Analysis											
Stormwater Fund Analysis	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	
Unappropriated Fund Balance - July 1	\$ 9,676,800	9,492,045	\$ 9,421,149	\$ 8,679,657	\$ 7,898,125	\$ 7,302,869	\$ 6,720,907	\$ 6,290,652	\$ 6,004,740	\$ 5,647,059	
Revenues											
Bond Sales	\$ -	\$ 2,660,000	\$ 740,000	\$ 1,740,000	\$ 850,000	\$ 700,000	\$ 700,000	\$ 700,000	\$ 700,000	\$ 700,000	\$ 700,000
Developer Fees and Charges	\$ 700,000	\$ 700,000	\$ 650,000	\$ 550,000	\$ 550,000	\$ 550,000	\$ 550,000	\$ 550,000	\$ 550,000	\$ 550,000	\$ 550,000
Grants	\$ 137,930	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Interest Income	\$ 553,347	\$ 549,874	\$ 571,192	\$ 551,341	\$ 524,252	\$ 505,674	\$ 483,877	\$ 474,136	\$ 471,664	\$ 466,319	\$ 466,319
SWM Utility Fees	\$ 2,174,638	\$ 2,367,549	\$ 2,588,915	\$ 2,839,716	\$ 3,120,957	\$ 3,408,785	\$ 3,728,515	\$ 4,081,212	\$ 4,467,971	\$ 4,863,760	\$ 4,863,760
Miscellaneous Collections - Delinquencies	\$ -	\$ 19,170	\$ 21,311	\$ 22,738	\$ 25,371	\$ 27,829	\$ 30,585	\$ 33,650	\$ 36,539	\$ 38,996	\$ 38,996
Subtotal - Revenues Earned	\$ 3,565,915	\$ 6,316,593	\$ 4,571,418	\$ 5,703,795	\$ 5,070,580	\$ 5,192,288	\$ 5,492,977	\$ 5,838,998	\$ 6,226,174	\$ 6,619,075	
Expenditures											
Operating Expense	\$ 2,619,809	\$ 2,727,380	\$ 3,272,014	\$ 3,572,360	\$ 3,751,917	\$ 3,934,329	\$ 4,031,926	\$ 4,245,695	\$ 4,476,678	\$ 4,715,588	\$ 4,715,588
Capital Expense	\$ 325,000	\$ 3,404,000	\$ 1,500,000	\$ 2,345,500	\$ 1,250,000	\$ 1,100,000	\$ 1,106,000	\$ 1,000,000	\$ 1,000,000	\$ 1,006,500	\$ 1,006,500
Bond Issuance Costs	\$ -	\$ 53,600	\$ 14,800	\$ 34,800	\$ 17,000	\$ 14,000	\$ 14,000	\$ 14,000	\$ 14,000	\$ 14,000	\$ 14,000
Bond Debt Service	\$ 72,663	\$ 72,663	\$ 276,123	\$ 332,302	\$ 464,399	\$ 528,930	\$ 582,072	\$ 635,215	\$ 688,357	\$ 741,500	\$ 741,500
Account Mgmt Costs - Bad Debt and Credits	\$ 78,246	\$ 102,953	\$ 113,814	\$ 125,279	\$ 137,631	\$ 151,388	\$ 164,835	\$ 176,557	\$ 197,075	\$ 212,424	\$ 212,424
Subtotal - Expenditures	\$ 3,095,718	\$ 6,360,596	\$ 5,176,751	\$ 6,410,241	\$ 5,620,947	\$ 5,728,647	\$ 5,898,833	\$ 6,071,467	\$ 6,376,110	\$ 6,690,012	
Contribution to Operating Reserve	\$ 654,952	\$ 26,893	\$ 136,159	\$ 75,087	\$ 44,889	\$ 45,603	\$ 24,399	\$ 53,442	\$ 57,746	\$ 59,728	
Contribution to Capital Reserve	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 150,000	
Unappropriated Fund Balance June 30	\$ 9,492,045	\$ 9,421,149	\$ 8,679,657	\$ 7,898,125	\$ 7,302,869	\$ 6,720,907	\$ 6,290,652	\$ 6,004,740	\$ 5,647,059	\$ 5,366,394	
Reserved Fund Balance (June 30)	\$ 654,952	\$ 681,845	\$ 818,004	\$ 893,090	\$ 937,979	\$ 983,582	\$ 1,007,981	\$ 1,061,424	\$ 1,269,169	\$ 1,478,897	
Ending Fund Balance (June 30)	\$ 10,146,997	\$ 10,102,994	\$ 9,497,661	\$ 8,791,215	\$ 8,240,848	\$ 7,704,489	\$ 7,298,633	\$ 7,066,164	\$ 6,916,228	\$ 6,845,291	
2007 Rate Projections											
Recommended Annual Charge/ERU	\$ 55.80	\$ 60.00	\$ 64.80	\$ 70.20	\$ 76.20	\$ 82.20	\$ 88.80	\$ 96.00	\$ 103.80	\$ 111.60	
Recommended Monthly Charge	\$ 4.65	\$ 5.00	\$ 5.40	\$ 5.85	\$ 6.35	\$ 6.85	\$ 7.40	\$ 8.00	\$ 8.65	\$ 9.30	
Percent Rate Increase		7.5%	8.0%	8.3%	8.5%	7.9%	8.0%	8.1%	8.1%	7.5%	