

**STORMWATER ORDINANCE UPDATE  
STAKEHOLDER ADVISORY COMMITTEE (SAC)**

**Meeting #1: Tuesday, August 14, 2007**

**Public Works Operations Conference Room B-1**

**4700 NE 78<sup>th</sup> Street, Vancouver**

**6:00 - 8:00 p.m.**

**N O T E S**

The meeting was called to order at 6:05 p.m.

**Introductions**

Members Attending

Bob Blakemore, Dan Bodell, Eric Golemo, James Howsley, Steven Madsen, Don Moe, Doug Stienbarger, Art Stubbs

Members Absent

John DiVittorio, Reg Martinson, Joel Rupley

Staff & Consultants

Jim Gladson, Heath Henderson, Trista Kobluskie, Tim Kraft, Robin Krause, Earl Rowell, Sue Stepan

Audience

Sean Darcy, Jason Mattos, Thom McConathy, Kate Peal, Sheila Pendleton-Orme, Don Stajgr

Facilitator

Francine Raften

Business Notes

Members of the public may provide comment near the end of the meeting. Copies of agenda and handouts are on the table. Display copies of documents are available for review during the meeting.

**Ground Rules, Agenda & SAC Charge**

Ms. Raften reviewed the notebooks, agenda, and ground rules. Ground rules were adopted by the committee.

Ms. Raften reviewed the SAC Charge. The committee amended the SAC charge to allow a member to send a non-voting alternate.

**Background & Overview**

Mr. Krause reviewed the reason for convening SAC: to revise the Clark County stormwater code.

County Stormwater & Drainage Code History

13.24 - 1978, storm drainage policy

- 13.25 - 1995, stormwater control ordinance
- 13.25a - 1999, updated water quality requirement
- 13.29 - 2000, redevelopment and erosion control requirements
- 40.380 - 2003, the current code
- 13.26a - Water Quality code also must become equivalent

#### NPDES Permit History

First issued to the county in 1999, the NPDES Phase I Municipal Stormwater Permit precipitated changes to the development code pertaining to stormwater. The current permit was issued in February 2007, and it requires county development code to meet technical requirements of the *2005 Stormwater Management Manual for Western Washington* (hereafter *2005 Manual*).

The county is appealing sections of the permit that do not affect the stormwater code requirements. Regardless, the appeal has not stayed the implementation of the permit.

The handout "Ordinance Revision Overview" contains actual quotations from the NPDES permit that are relevant to the committee's charge. Topics include:

- Stormwater management program
- Low impact development
- Permit timeline and deadlines
- Procedures to implement the code
- Update *Stormwater Pollution Control Manual*
- Update *Water Quality Best Management Practices for Operation and Maintenance of Publicly-Owned Property*
- Update *Stormwater Facility Maintenance Manual*
- Codify education direction
- Update code so exemptions match prohibited discharges
- Operation & Maintenance program

Mr. Stubbs asked how the committee could accomplish its task in only four meetings. Mr. Krause stated that the committee could choose to meet more frequently or to form subcommittees. SAC will provide policy-level direction to the Technical Advisory Committee (TAC), staff, and consultants, who will then produce concept codes for review by SAC.

#### Expectations for SAC

Mr. Krause asked SAC to be a sounding-board for changes to stormwater code and to help identify the big issues. Mr. Bodell asked if staff has already written draft code. Mr. Krause: no. TAC and staff have begun working on it. The idea is for TAC to work on the nuts & bolts and bring concept codes to SAC for review and comment.

Mr. Stubbs asked if SAC must devise methods for implementing or complying with code revisions. Mr. Krause: no, SAC will provide input and recommendations on revising the development code, not for administrative procedures to implement it.

#### **Process Protocols**

Mr. Krause reviewed how staff, TAC, SAC, and the Clean Water Commission will concurrently proceed to produce a draft code. The "Stormwater Ordinance Update Project - Code Development Process" flow chart represents the process. One goal is to present pieces of draft code language to the Board of County Commissioners (BOCC) over several meetings, rather than presenting an entire draft code at once. Work has already begun by staff on LID research and on BMP manuals analysis, and by TAC on reviewing permit requirements.

Mr. Blakemore asked if adoption of the *2005 Manual* is a foregone conclusion. Mr. Krause listed various methods of meeting permit requirements for technical design standards: specify all standards within the code; adopt the *2005 Manual*; adopt an existing equivalent manual; or write a Clark County design or BMP manual. Some choices are unlikely at present, such as writing a local design manual. The first TAC meeting indicates that adopting the *2005 Manual* is a strong possibility, but no decision has been made.

Mr. Stubbs wondered if it is feasible to look ahead in time, knowing that Ecology will raise the bar again.

Mr. Blakemore offered the possibility of using the thresholds from the *Puget Sound Report*, though Ecology may not adopt them. Mr. Krause stated that TAC is researching the justifications for Ecology's thresholds.

Mr. Stubbs worried that if code is written to comply with current "minimum standards" that a builder may, in the future, find out that a project under development must comply with stricter standards than those under which the project began. Mr. Kraft replied that the permit will expire in 2012. It is likely that no new conditions will be imposed on Clark County until then. He stated that the permit requirements are quite invasive compared to previous requirements and might not be considered "minimum" by some.

Mr. Madsen stated he is interested in flexibility of the *2005 Manual*, assuming the county adopts it as written. He will want to know what changes are possible while staying within equivalency requirements.

Mr. Blakemore noted that ClearCreek Solutions, which wrote the Western Washington Hydrology Model, may incorporate soils maps from Clark County GIS into their program, so soil types would not be drawn from the Seattle region for Clark County development projects. Several agencies and jurisdictions may collaborate, including Clark County, city of Vancouver, and Oregon ASCE.

Mr. Bodell asked about the differences between standards for western and eastern Washington. Mr. Krause: there are two different manuals; the continuous modeling is different. Mr. Kraft: eastern Washington has different rainfall patterns, so the modeling principals are different.

Mr. Bodell asked if the county can thoughtfully change and lower specific elements of the *2005 Manual* in recognition of local realities and remain equivalent. Mr. Krause explained that the county would have to demonstrate through basin studies or other methods that the local requirement meets the same goal (e.g. treat same amount of metal, remove same amount of phosphorus, treat same percentage of stormwater). There are some areas in the permit where the local jurisdiction can make choices; for redevelopment, we can choose to look at square footage or at improvement value. Proposing something outside or lower than Ecology standards and thresholds would require a considerable work effort.

#### Timeline

Mr. Bodell asked what would happen if stormwater code were not rewritten by the deadline. Mr. Krause quoted, "not meeting the deadlines set by the permit will create a non-compliant situation. A third party lawsuit under the federal Clean Water Act is possible any time the county is not in compliance with the permit."

Mr. Krause explained that after the county submits the draft code to Ecology (deadline February 2008), Ecology intends to review the code in 60 days. After the county receives Ecology's comments, the deadline for addressing comments and adopting revised code is 90 days.

Mr. Krause listed the seven Phase I permittees he could recall: King, Snohomish, Clark, Pierce counties, Seattle, Port of Tacoma, WSDOT. (Point of Information: the city of Tacoma is also Phase 1 permittee; the Port of Tacoma and Port of Seattle are secondary Phase 1 permittees.)

Mr. Golemo asked where in the process is each of the other Phase I jurisdictions. Mr. Kraft noted that several, such as King County, have a much smaller code rewrite effort because their current codes already match the *2001 Stormwater Manual for Western Washington*, which is very close to the *2005 Manual*.

Mr. Golemo asked if the county has a plan for demonstrating equivalency if SAC, staff, or the BOCC decide to adopt less stringent standards.

Mr. Howsley asked if SAC could direct or suggest that TAC do some of that work. Mr. Kraft: yes, staff and consultants are the conduit between SAC and TAC. Mr. Howsley requested that SAC receive TAC material at least a week prior to SAC meetings.

SAC members agreed to distribute a contact list of members amongst themselves.

Mr. Golemo asked if SAC's task could be accomplished in the timeframe available. Ms. Raften replied that SAC could meet more frequently or form subcommittees at its discretion.

The committee discussed choice of software and status as proprietary or freeware.

#### Tentative Meeting Dates

Mr. Krause reviewed the meeting schedule handouts. He asked if five SAC meetings is sufficient.

Mr. Madsen wondered how much policy-level input will be required in this process, as opposed to work to describe technical standards. Mr. Krause replied that whether or not to adopt Thresholds and Minimum Requirements is a policy-level decision; dealing with exceptions and exemptions, same. Mr. Kraft: SAC won't discuss the nuts & bolts. Also, existing code has a lot of issues; SAC will address questions and concerns that people have.

Mr. Golemo added that LID features pose numerous policy-level questions, such as ownership, placement, and maintenance.

Mr. Bodell asked if the committee will address costs. Mr. Krause: no. Fees will be addressed through other public involvement processes. Mr. Rowell stated that the Clean Water Commission will review the fee structure and amount. The BOCC has not directed staff to update the fee schedule at this point.

#### Subcommittee Formation

Ms. Raften asked if the group would like to form subcommittees. Mr. Moe stated that they need to know which topics will be covered before deciding on subcommittees. Mr. Krause listed LID, and Minimum Requirements & Thresholds. He said that conveyance is not covered in the *2005 Manual*, so the county will have to write specs in code or adopt another manual. Mr. Kraft listed LID, design standards, maintenance, conveyance, impacts to other codes.

Mr. Krause said that staff will present concept codes for Thresholds & Minimum Requirements to SAC at the next meeting.

#### **Draft Public Involvement Plan**

Mr. Gladson reviewed the Public Involvement Plan for the entire Stormwater Management Program (SWMP) update, which includes the code rewrite the SAC is engaged in. He stated that

staff will begin a starter document on how we interact and with whom for public outreach of this process based on SAC input.

For the SWMP update, the Clean Water Commission will lead the public involvement process. He asked SAC members to provide leads to constituencies that need to be informed. He invited agencies and organizations to link to the SWMP update page at [www.clark.wa.gov/water-resources/SWMP/stormwater\\_public\\_involvement.html](http://www.clark.wa.gov/water-resources/SWMP/stormwater_public_involvement.html). He encouraged members to present information about the code rewrite to their constituencies; if a member needs support for a presentation, staff will be glad to help. If a member wants Public Works staff to talk to an organization, that can be arranged. He stated that the county wants this to be transparent and inclusive. He listed multiple opportunities for public participation, including:

- open houses
- Planning Commission
- Formal adoption process with comment periods
- Electronic & print communication

Ms. Raften asked SAC members to call out other constituencies, avenues for contact, electronic listserves or existing mailing lists the county can use to notify potential stakeholders.

Mr. Bodell asked if constituencies with strong opinions, such as that the NPDES permit is an unfunded mandate, or that the permit is not protective enough of water quality, are out there. Mr. Gladson: yes. General information is available; releases have been published. Those who are paying attention have the opportunity to get engaged. The environmental community is not represented tonight because of one schedule conflict and one rejection of an invitation to join. John DiVittorio, a representative of Fish First, is a SAC member and plans to attend future meetings.

The group made a list of other stakeholders to inform and avenues for contact:

- Other jurisdictions within the county because they're likely to follow suit - Mr. Howsley
- The recreation community, such as boaters - Mr. McConathy
- Excavation firms such as Wubben or Nutter, or others that actually build stormwater facilities - Mr. Madsen
- Inform the county contractors list? -Mr. Gladson (Mr. Madsen said Yes)
- Environmental consultants, such as The Resource Company - Mr. Howsley
- Geotechnical firms - Mr. Krause
- Environmental educators - Mr. McConathy
- [www.e3washington.org](http://www.e3washington.org) - Mr. Madsen (He will distribute information to E3 conference attendees on August 21.)
- [www.projectgreenbuild.com](http://www.projectgreenbuild.com) and Brandon Taucher - Mr. Madsen
- Mike Merrill - Mr. Madsen
- Chamber of Commerce & CRDC - Mr. Golemo (Mr. Krause noted that the two groups were non-responsive to invitations)
- Sustainability Conference attendees, Pete DuBois may be able to provide e-mail addresses - Mr. Rowell
- Bill Zimmerman for farm representation - Mr. Madsen (Mr. Krause noted that the group was non-responsive to invitations)
- *The Columbian* - Mr. Stubbs
- Small landowners affiliated with WSU Extension - Mr. Gladson (Mr. Stienbarger offered to inform Extension constituents.)
- Realtors are interested in affordability and inventory of homes - Mr. Madsen
- Responsible Growth Forum - Mr. Howsley

Mr. Gladson: we know that we are making decisions that can affect people's lives and livelihoods, and we want those people to be involved before the codes are in front of the BOCC or are already adopted. He requested that SAC members encourage those who should be paying attention to get involved.

Mr. Madsen requested an electronic brochure or FAQ to forward to constituents.

Mr. Madsen requested clear examples of the effects of the code updates to facilitate communication. Mr. Krause agreed. He stated that staff is seeking sample projects to compare outcomes and costs under current code with new proposed code, then under LID. Mr. Madsen stated that Hopper, Dennis, Jellison ran some comparisons.

Mr. Howsley asked how the committee might handle differing opinions in making recommendations. Can the committee submit a minority opinion where consensus is lacking? Mr. Gladson said that staff will acknowledge any lack of consensus to superiors and the BOCC when presenting draft codes. He invited Individual SAC members to continue to express their own opinions publicly, as long as they do not imply that they speak for the group.

### **Public Comment**

#### Mr. McConathy stated:

I find myself frustrated. Everything possible has been done to keep the public from participating. There is a complete lack of stakeholders in many areas. This is reprehensible. Many are paid from their constituency, that is why they are here. Staff has not reached out to recreation, fisheries, or traditional watersheds. This is reprehensible - not allowing those people at the table.

You are being handled by staff in such a way that your effectiveness will be minimized because you have no leadership yourselves. You will not be able to divide yourselves to form subcommittees. This is happening too fast, so you will have little choice but to rubberstamp staff decisions.

It is reprehensible the way you are treating people. Lack of public participation can open the county to second-party lawsuit. I have been part of such a lawsuit, which caused the county to get its first NPDES Permit.

You just are not meeting often enough to be effective. It is going to cripple you if you accept this. Please do not let them treat you that way. If you want to be effective, have people from recreation and environment at this table. Right now, SAC is not a credible group.

#### Mr. Darcy stated:

I am from Stormwater Solutions. In reference to LID, there are multiple definitions. One thing that may help you is to think of how you want to define what LID is. There are multiple strategies out there. Oregon's Bull Run, for example, has a no development - no impact strategy. Another strategy is architectural development like Puget Sound - minimize land disturbance as much as possible, minimize impervious surface. Another system is to use minimum excavation foundation systems, so soil compaction is not being done. It is way too difficult to try to get it in such a short period of time. It will be simpler to narrow your scope, define one strategy as LID in the county, and go with that approach. Over the years, you can expand the definition.

## Next Steps

At the next SAC meeting, the group will review the TAC work on Thresholds and Minimum Requirements. If this group wants to meet sooner, the group may.

Mr. Gladson stated that TAC meeting minutes will be posted on the web; SAC and the interested public will be notified when they are posted.

Mr. Madsen asked for a process for posing questions from non-members about the process. Mr. Krause: send me an e-mail. If questions need to go to TAC, they will.

Mr. Golemo and Mr. Madsen requested to receive the next meeting's review materials prior to Labor Day weekend.

Mr. Bodell asked if TAC is looking for policy cues from SAC to which they'll respond, or if TAC first will define what they think they can do, leaving SAC with responding. Are we responding or guiding? Mr. Krause: both. Staff will bring things from TAC that you will not have thought about; from a policy perspective you'll be providing guidance. Mr. Bodell asked what TAC needs from SAC tonight. Mr. Krause replied that TAC will expect this committee to provide feedback on its concept codes at the next SAC meeting.

Mr. Bodell requested that SAC clear the deck of preconceptions and leave out code language that is more stringent than the *2005 Manual* unless there is a compelling reason to include it. He advocated a code that simplifies the end result in the sense of expediency and flexibility.

## Adjourn

The meeting adjourned at 8:05 p.m.

The next meeting will be held on September 11, 2007 from 6:00 - 8:00 p.m. at the Clark County Public Works Operations Center B-1, 4700 NE 78<sup>th</sup> St., Vancouver.

Respectfully Submitted,

Trista Kobluskie

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August 28, 2007