

Stormwater Advisory Committee Notes for April 26, 2016

Attending Members

Tim Smith, Chair
Councilor Kim Freeman
Mark Caillier
Sam Kidd
Heather Dimke
Matt Knudsen
Alex Wade
Mike DeBlasi (call-in)

City Staff

Bill Lawyer
Elizabeth Sagmiller
Kat LaFever
Mike Griffin

Absent

Councilor Dennis Koho

Elizabeth called the meeting to order at 12:00pm (Committee Chair running late)

Meeting Minutes Approval from July 2015

Elizabeth proposed approval of the meeting minutes from the July 2015 meeting. She asked if there were any objections or corrections to the minutes. There were none, and there was a motion to approve the minutes. The minutes were approved by unanimous consent.

Proposed 2015/16 Rate Increase (Bill Lawyer)

Bill Lawyer said that due in part to the increasing cost of Capital Improvement Projects (CIP), the rate increase slope predicted in the Long Range Plan for the Stormwater Fund (created in 2012) for the first year will fall short of program costs. He presented to the Long Term Planning Committee a few weeks ago, informing the committee that the proposed budget for 2016/17 will include a \$0.10/ESU jump over the projected yearly rate increase (a proposed increase of \$0.50/ESU instead of \$0.40). He said this is not to cover new projects or permit requirements, but is what's required to cover existing requirements.

In 2012 when the five year financial planning document was created, CIP costs were set at \$250,000 per year. But often projects cost more than this benchmark, and the projects for next year are estimated at \$325,000. In order to meet that need and still have the required funds in the 60 Day Cash Supply, the existing rate slope isn't adequate. In addition, the Stormwater fund will borrow from Transportation for the first time. Borrowing is used to keep the rate slope from spiking during higher expenditure events.

Mark Caillier stated that our rates are still relatively low when compared to other municipalities around the state. Bill Lawyer said while the percent increase for the rate seems large, the actual increase above the normal rate slope (+ \$0.10) is low. Tim Smith said that gets higher for large ESU projects (e.g. big box stores with large parking lots)

Stormwater Updates (Elizabeth Sagmiller)

The draft NPDES General Permit is due out next week, an early release for comments, only to MS4 Advisory Committee (MAC) members. The DEQ has shown no indication of being willing to deviate from or slow the process. The MAC and ACWA has been asking questions, providing input, and requesting information from DEQ, but the uniform response has been to wait until the draft is out.

The MAC will meet with DEQ on May 10th to discuss the draft language, then the DEQ will craft final language, with the official draft permit out for public comment July 1st. The final permit is schedule for issuance on September 30th. There is no 'permit negotiation' as with individual permits.

Once the permit is issued, every Phase II agency will have exactly the same permit, with the same requirements, though first time permittees may be given later compliance dates. Formerly with our individual NPDES permit, the details were in the Stormwater Management Plan (SWMP). With a general permit, all requirements will be in the permit itself. Many of these program requirements will have compliance dates which if not met, will mean non-compliance with the permit.

In addition to the increased specificity and prescriptive nature of the new permit, previous drafts have included language which stated that 'current levels of effort' could not be decreased. In other words, if a city has an existing program which is not specifically required in the new permit, they won't be allowed to drop those programs to free up time/funds for new requirements. If this language remains, it could result in a hugely increased effort to maintain compliance.

Tim Smith commented that it seems the DEQ is requiring us to continue doing everything, without getting credit for it, as well as doing everything they will additionally require in the general permit.

Bill Lawyer reiterated that the current budget to be brought to Council (for 2016/17) doesn't cover any changes on the new permit, as they are unknowns at this point. If the new permit requires a large increase in effort, Stormwater may have to raise rates again the following year.

Mark Caillier said if the new permit is issued in September 2016, it seems there might even be a need for a mid-fiscal year increase.

Elizabeth said it will be important for the SWAC to meet soon after the DEQ releases the draft language, to begin planning how to deal with the new requirements and timelines. Some examples of new requirements in previous draft language include making permittees responsible for ensuring that all private stormwater and Low Impact Development (LID) or treatment facilities are functioning correctly. This means a huge additional and ongoing workload to map, inspect, inform owners of deficiencies, re-inspect, enforce, and report to DEQ.

Sam said in Salem (a Phase I permittee) they had to re-write and draft new ordinances to allow inspections, and they now require easements on all property having stormwater or LID facilities. Tim Smith said Keizer may need to look at those ordinances and easements as template language for Keizer.

Another example from the previous draft language included highly detailed and specific outreach, training and education activities. We are hoping to continue to use our regional outreach coalitions, but it's uncertain if they will meet the highly prescriptive permit requirements. In the past, we would report on the number of trainings and describe the topics covered. In future, we may be required to track that the invites were sent, that the training was scheduled, photos, materials used, attendee lists, etc. In other words, reporting is transitioning into providing evidential 'proof' that events took place.

The permit will likely require a complete re-do of the Stormwater Development Code (SDC) and development of Post-Construction Standards to include capture and treatment of 80% of average annual rainfall, and the inclusion of LID, vegetation preservation and reduction of impervious surface for all new and redevelopment. Staff has been meeting weekly on this for over a month, with that workload scheduled through the fall. The DEQ is aiming to bring Phase II and Phase I permittees up to the same standards over time.

Mike DeBlasi asked if the new requirements (LID, minimize impervious surfaces, native vegetation preservation) would be required site by site, or in aggregate. Elizabeth said the requirements would be applied to a site, depending on whether it meets the threshold to 'trigger' post-construction standards. Staff is looking at two different methods to trigger these requirements, one based on 'connection' (e.g. if the project connects to public system, it would have to meet required standards) or a more traditional trigger based on a square foot threshold (e.g. a project with 2000sqft of additional impervious surface).

Tim Smith said that most of his projects in various cities require some percentage (~25%) of landscaping. Would this mean an increase in that percentage of landscaping/open space? Elizabeth said since this is an NPDES permit, they are concerned with releasing to the waterway. If the development doesn't have an MS4 connection, some would argue they shouldn't have to meet NPDES permit requirements. But we've not decided that yet, and the permit may require LID everywhere (connection or no connection). Or Keizer may (as a city) wish to limit impervious surface increases for livability reasons.

WPCF Permit Updates

DEQ has been pretty heavy handed this last 6 months with fines for not completing monitoring according to permits. Tri-Met, the City of Canby and Parkrose School District have all been hit with fines ranging from several thousand to nearly \$20,000. Reasons given for not successfully getting enough samples or storms, including being understaffed due to turnover, and missing storm timing were not considered. City of Keizer has completed its required sampling and so won't be fined.

DEQ has developed a WPCF general permit for private facilities. Two permits have been issued so far. Cities don't have the opportunity to comment on these permits, though one has been issued in Keizer (for Bonaventure).

1200CN Update

Elizabeth has been in regular contact with Eric Brandstetter at DEQ, who emailed in March to say he had put together a team to work on the 1200-C and CN issues. Elizabeth emailed him recently for an update (after these two months of effort) and asked for what has been accomplished. There has been no response.

Rate Increase Recap

Councilor Kim Freeman said it's challenging because the permit requirements are unknown (until the draft language is released) so we can't know what it will do to rates. And because the current proposed rate increase is a high percent change (the difference between \$0.50 and \$0.40 is a 25% change) it makes even the current rate increase seem large.

Elizabeth said since the SWAC has a better understanding of the regulatory component than just about anyone, it is important to have a Council representative on the SWAC. The group will be called upon to provide recommendations to Council on potential rate changes or increased levels of effort required by the new permit.

Bill Lawyer said that at least once we have the general permit language, we'll have our marching orders, and begin to develop a stable funding process to comply with known requirements. We may need a Stormwater Master Plan update as well. These will provide the groundwork for a more detailed defense of a rate increase next fiscal year (if needed).

Mark Caillier said the way the DEQ is functioning has changed. It seemed before that the DEQ understood and accepted programs that met the intent of the permit. Now they seem to be moving to dictating program specifics and requiring exact compliance or be fined.

Elizabeth said that as soon as the draft permit language is released and staff has had a chance to review it, she will send out a Doodle poll to SWAC members for a meeting in June to plan how to meet the new permit requirements.

Meeting Adjourned by Tim at 12:55 PM