



STORMWATER ORDINANCE UPDATE
STAKEHOLDER WORK GROUP
MEETING #4 - APRIL 29, 2009

Water Resources Education Center

4600 SE Columbia Way
Vancouver, Washington
4:30-6:30 p.m.

The meeting was called to order at 4:30 p.m.

Members Attending

Bill Custis, Eric Golemo, Tim Kraft, Steve Madsen, Chad McMurry, Stephen Murphy, Greg Winters, Annette Griffy, Brian Carlson and Al Schauer, facilitator

Staff

Kris Olinger, Mark Hazuka, Debbie Navatta, Loretta Callahan, Nancy Brown, Dorie Sutton

Public

Sean Darcy, Carol Panfilio

Mr. Schauer called meeting to order at 4:30 p.m. He asked for comments on last week's minutes.

Mr. McMurry said only what he had submitted by e-mail on Monday.

Ms. Navatta said that the change had been made and that two emails were received.

Ms. Griffy said that one comment on low impact development was received from Mr. McMurry through the surfacewater@ci.vancouver.wa.us e-mail address and that the Work Group will incorporate that into today's discussion and next week's meeting. (*Noted below*)

From: Chad McMurry

Sent: Wednesday, April 29, 2009 8:33:12 AM

To: SurfaceWater General Delivery

Subject: Low Impact Development Manual selection

As we discussed at the Stakeholders' Meetings, I have reviewed several Low Impact Development Manuals from Western Washington and Northwest Oregon. In my opinion, the recently adopted Clark County Stormwater Manual, Chapter 4, is a well-balanced manual which provides flexibility for the engineer along with technical information detailing the expectations for each best management practice while providing BMPs which will protect our water resources. The Department of Ecology has not found any fault with this portion of the County's manual at this time. The City of Vancouver should consider using this manual as guidance when preparing the General Requirements which will be applicable to LID techniques and BMPs.

Chad McMurry, PE

Olson Engineering
Stakeholder Committee Member

Mr. Carlson arrived at the meeting.

Mr. Schauer asked if the Group wanted to return to where we left off last week at 14.25.220 Flow Control. He said that nothing had been resolved and there were a number of issues.

Ms. Griffy said that staff did develop a table and she distributed copies. She said this table is a summary of the suggestions, revisions and corrections to erosion control portion of the code that the Work Group spent the first two meetings on. She added that this table will be amended as the Work Group continues through this process.

Mr. Madsen asked what "backsliding" meant.

There was a group discussion:

The term 'backsliding' refers to Permittees – in this case, the City vis-a-vis its NPDES permit - who have existing local requirements that are more stringent than the one-acre threshold of the Phase II Permit and must continue to regulate at that level or apply the Minimum Requirements. The Work Group then discussed at length the one-acre threshold from Figure 3.1 on page 8 of Appendix 1 of the Phase II Permit whether to regulate at the existing level or just apply the Minimum Requirements from the Phase II Permit. Ms. Griffy said "additions to Figure 3.1 will need to be simplified and easy to follow" then described three specific areas applicable to the City of Vancouver: Erosion Control, Flow Control, and Water Quality. The Work Group's discussion included how this affects projects and the issues involved with using the current City regulations versus applying Minimum Requirements from the Permit. A number of Work Group members said they would prefer a flow chart describing the City's requirements.

14.25.225 Low Impact Development

A lengthy group discussion on low impact development followed: Mr. McMurry and Mr. Golemo would like the city to adopt Clark County's Chapter 4 Low Impact Development (LID) section because they said it represents the local conditions present in Clark County better than the other state-approved LID manuals. Annette said that the City may adopt some sections of the Clark County LID manual, but she would need to check with City legal staff to see if it meets legal requirements. She said the City will want to make sure if the county standards are incorporated into the General Requirements, the City has latitude to amend with new Ecology standards as they become more refined.

The discussion then was focused on public vs. private low impact development techniques. Mr. McMurry and Mr. Golemo would like the same LID techniques offered for the right-of-way as allowed for the private side. Staff's response was that the City's Transportation Services is not comfortable with allowing rain gardens or pervious pavement in the right-of-way. They have allowed a few test cases and will monitor them for maintenance and other issues. A road modification would be required from the Transportation Services for using pervious pavement or rain gardens in the public right-of-way. Annette said that LIDs may become more of a common practice because of Underground Injection Control (UIC) requirements. Mr. Golemo also pointed out that LID is not just stormwater but affects transportation, building and planning.

Ms. Griffy discussed the issue further: LID standards within the public right-of-way must be addressed. Not many standards for private use will need to be adopted, she said. The public standards can be applied to most private applications. If needed Ecology approved best management practices (BMPs) can be assessed and added on a case-by-case basis. The city just approved the first use of pervious pavement in the public right-of-way. Application of this was due to high ground water and infiltration (UIC) regulations.

Ms. Griffy said: Part of problem is the City will have to be careful how it crafts and incorporates that because Ecology has approval of Puget Sound and gave approval to Clark County. By adopting the Ecology approved LID standards the permit requirements are met. Incorporating the LID standards in the General Requirements allows for administrative amendments to the standards as more standards and BMPs come on line. LID is currently very dynamic and the City will need to incorporate the rapid changes and advancements.

BREAK 5:33 - Meeting Resumed at 5:43 p.m.

14.25.227 Wetlands

There was discussion about the more stringent code language which Surface Water Engineering staff will have the City's Legal staff address.

Wetland protection was discussed and if whether stormwater facilities were or were not allowed in the wetland buffer. The City of Vancouver Critical Area Ordinance does allow storm facilities in some wetland buffers but minimum requirement No. 8 in the permit states "stormwater treatment and flow control facilities shall not be built within a natural buffer, except for conveyance or as allowed in accordance with guidesheet 1B."

There was also some discussion about discharges to wetlands. Projects discharging to wetlands will need to meet hydroperiod requirements and flow control. It was pointed out that the hydroperiod will become the dominate requirement if the flows differ from the flow control requirement in the Department of Ecology (DOA) manual.

14.25.230 Ownership and Maintenance

There were comments and brief discussion regarding the differences in how City handles ownership of facilities vs. how Clark County handles these.

Audience member Mr. Darcy had a general comment regarding requiring a Stormwater Pollution Prevention Plans for residential developments, asking who was responsible for maintaining private facilities. He added this could also be helpful for commercial properties as well. Mr. Schauer shared his experience with an Oregon organization where a maintenance manual was developed that the builders handed out to home buyers showing the features and how to maintain the facilities.

14.25.240 Bonds and Insurance

There was general discussion about the items that were stricken from the previous ordinance. City staff clarified those items would be covered in the General Requirements. Mr. McMurry and Mr. Golemo had comments regarding locations of stormwater facilities and preferred to use the Health Department standard for infiltration facility setbacks. Staff said they will look at that when updating the General Requirements language.

14.25.300 Basin Plans

Mr. Kraft asked about Section A, and said referencing Minimum Requirement No. 9 may be incorrect. In the Stormwater Manual, Minimum Requirement No. 9 is Basin/Watershed Planning. In the Phase II Permit, Minimum Requirement No. 9 is Operation and Maintenance.

Ms. Olinger agreed Minimum Requirement No. 9 is in the manual as Basin Planning, but not in the permit. Basin /Watershed Planning is Section 7, pages 29 and & 30 of Appendix 1. The reference in the code should change to reflect this.

Mr. McMurry was concerned regarding the more stringent requirement in regards to this section. He said this is the hierarchy issue that must be clarified and relates to the discussion ~~we~~ the Work Group had earlier and needs to be really clear.

Ms. Griffy commented the more stringent language should not preclude the basin plan.

Audience member, Mr. Darcy, added to B.3. ...basin plan must be approved by Washington *State* Department of Ecology. Draft language omitted 'State'.

14.25.315 Adjustments and 14.25.320 Exceptions

Ms. Griffy referred the Group back to Table to make sure everything was captured from previous discussions and all things are reflected as applies to Stormwater ordinance in the Adjustments and Exceptions sections. These are Items 21 and 22 in the Table. The Work Group briefly touched on it in the Erosion ordinance discussion and mentioned it would be more applicable to Stormwater ordinance.

The Work Group discussed concerns regarding the Adjustment vs. Exception process. The Group requests clarity on what the difference is between an Adjustment and an Exception. Ms. Griffy responded that she believes an adjustment is where the applicant wants to tweak the requirement a little, whereas an Exception is more like a variance.

Mr. Madsen asked about Section 14.25.315 B.5, what "average sensibility" means and why it is included there. Ms. Griffy responded that the section was included by the City Attorney's Office and she would have to check with them.

A question was raised about what is a Type 2 and Type 3 process. Mr. Madsen responded a Type 2 requires public notice with no hearing, Type 3 is public notice with a hearing and a Type 1 is an administrative process.

At 6:24 p.m., Mr. Schauer asked if any members would mind if the Work Group continued past its usual time to ensure finishing this section. There were no objections. Mr. Schauer also asked if there were any public comments at this time and there were none.

Mr. McMurry mentioned in Section 14.25.320, the 'Permittee' is required to keep records, and asked if that referred to the City. Ms. Griffy responded that is already reflected in the Table. It will be addressed.

Mr. Golemo asked about Section 14.25.320 B reference to "an unexpected economic hardship" He asked what is considered hardship and said this is subjective language. Ms. Olinger responded that is the language the City has been given in the permit. Discussion continued regarding the subjectivity of this language.

Mr. McMurry asked if the remaining items that have been struck through are going to be incorporated into the General Requirements. Ms. Olinger confirmed that they will be.

Mr. McMurry said he would like to see the General Requirements before finishing this process.

Ms. Griffy responded that the City is almost complete with Erosion Control section. The City hasn't finalized the chart which will be a companion to Figure 3.1 (Applicability thresholds) which the Work Group accepted as a best approach. Several City staff are working on portions of the document. Mike Swanson will be handling Flow Control, Mark Hazuka, LID and Kris Olinger, Infiltration. Ms. Olinger added that the City has also been working on clarifying Applicability.

Mr. McMurry added in regards to the infiltration testing, there are some formulas in the County Manual that are different from the ASCE draft White Paper. There were some errors in the draft paper, and the County Manual has the corrected formulas.

Ms. Griffy added City staff will bring forward to the Work Group what is available on General Requirements and items specific to flow control. Staff members are trying to pull the sections together as there is a lot covered in the General Requirements. She reminded the Work Group that she had handed out the items that will be covered in General Requirements and said staff are trying to be more specific. It will probably be a very rough draft and may not flow well, but staff will try to get to that point. She wanted to make sure staff can put more detail to the list and bring in code revisions to make sure it is all captured. Staff will probably not be ready for the Low Impact Development portion because of this question of legally meeting what is required for permit compliance.

Mr. McMurry asked if Ms. Griffy could foresee any chance of having the Flow control section minus LID by Wednesday afternoon.

Ms. Griffy said she believed that Water Resources Protection could be handled quickly. The Work Group can move forward with Water Resources Protection and that would give time to work more on flow control. The City's Transportation Services will need to be here when the Work Group talks about Low Impact Development and flow control. She suggested the Work Group consider water and flow control, then following with LID

Mr. Carlson noted that this was the fourth meeting of the stakeholders group. He indicated that he feels good progress and worthwhile discussions are taking place. He wanted to go back to a comment he made in the very first meeting which was: "Mr. Carlson informed the group that the City has to adopt an ordinance. He said the draft ordinance revisions were basically adoptable in

February". Mr. Carlson indicated that he wanted to state that it is clear from the discussions that have taken place over the past four weeks while the ordinance may have been adoptable, it is clear that the proposed code had several flaws that would have been required to be fixed and modifications made to the ordinance. He said that in retrospect he is glad that the City did not adopt it in February. The discussions, comments and suggestions to date have been value added and the City will have a much better product when it is brought forward for Council consideration and adoption in June as a result. He thanked everyone for their participation and hard work to date and reiterated that the process so far has been very worthwhile and productive.

Mr. Schauer agreed that he thinks it is a better ordinance. He said he had wanted to hold the last three meeting to do review, but was not sure the group would be able to do more than two meetings.

Mr. McMurry would like to see the revised codes and information out as early as possible.

Ms. Griffy said a lot had been covered in the table distributed today. Staff will continue to add to the table and distribute that information electronically, and check with the City Attorney's Office our on the issues that need to be verified with them and put code in the resolution and action column

Adjourned 6:43 p.m.