



STORMWATER ORDINANCE UPDATE
STAKEHOLDER WORK GROUP
MEETING #1 - APRIL 8, 2009

Water Resources Education Center
4600 SE Columbia Way
Vancouver, Washington
4:30-6:30 p.m.

The meeting was called to order at 4:35 p.m.

Introductions

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, Dorie Sutton, Rhonda Morgan, Doug Wise, Loretta Callahan

Public

Sean Darcy, Darin Crow

The goal of the Stormwater Stakeholder Work Group is to engage in a meaningful dialogue concerning ordinance revisions and to return to the City Council in June with stormwater ordinance updates for first reading consideration, followed by adoption of ordinance language that meets the requirements of the City's NPDES Phase II permit.

Mr. Carlson welcomed and thanked everyone for coming and Al Schauer for facilitating this work group. Mr. Carlson would like to take something back to council on June 1, 2009, that will satisfy the workgroup and meet the NPDES permit requirements.

Mr. Schauer asked everyone to introduce themselves and to share some background and experience information with the work group.

Housekeeping Rules

- Follow the agenda.
- The goal is to open dialog and to come to a general consensus on revisions that meet permit requirements and return to the City Council with a finished product on June 1, 2009.

- This work group will meet once a week, every Wednesday from 4:30-6:30 p.m. for eight weeks, as needed.
- Stick to the ground rules.
- Focus on the ordinance revisions needed for the NPDES Permit.
- This is not an open forum for topics that are basically legal determinations.
- Stay on track.

Mr. McMurry asked if design (General Requirements, technical requirements) would be part of this discussion.

Ms. Griffy said Surface Water currently has something similar to the sewer general construction requirements. Ecology approved conditions can be incorporated to the General Requirements.

Mr. Carlson suggested the work group may need to go over the General Requirements in a future meeting. He also recommended that if there are topics that need the involvement of the City's legal staff, a separate meeting may need to be held for those topics.

Ms. Griffy discussed how the City will incorporate some of Clark County's Manual that was approved by Ecology (i.e. infiltration testing and safety factors).

Mr. Kraft stated that Ecology has recommendations but they do not have the final say in the safety factor.

Ms. Griffy is researching into Phase 1 to see what regulations can be adopted for Phase 2.

Mr. Carlson suggested discussing these issues at a later meeting.

Ground Rules

Mr. Schauer informed the members that there will be only one speaker at a time. He will identify who has the floor and keep the process moving to find resolution. He will forward to staff any items that can't be settled and keep the meeting on track, so the work group can be given time to talk about it at a later. He asked everyone to be respectful. He would like to have every member participate in the meeting. Mr. Schauer suggested there be a "voting process" – thumbs up as yes, thumbs down as no, and thumbs sideways, meaning can live with it but some concerns. The City will count as one vote and Mr. Schauer and Mr. Winters will not participate in the voting process. All non-consensus items will be reported back to the Council along with the others.

Protocols

Mr. Schauer: This work group is operating as a committee of the City Council. That means all emails and correspondence pertaining to this meeting are open to public record disclosure requests. Everyone was asked to provide their email address and phone number they'd like used for contact.

Mr. Schauer would like to review the Stakeholder Work Group binder page by page and the ordinances to ensure all items are covered.

Mr. Golemo commented that ordinances are more procedural – need manual for technical details.

Ms. Griffy said staff is hoping to get input of what should be in the ordinance from this work group. She also suggested that the City can try to incorporate what the County has done in some areas where possible and approved by Ecology. She is interested in hearing what is important to the work group.

Mr. Kraft was concerned that the group won't have enough time to resolve all of the issues by June 1, 2009. He asked if there will be list of topics that the group can be prepared to discuss.

Ms. Griffy responded by saying there may not be enough time but the City is not in a position to adopt the County's manual. She said we need to look at what we already have. She suggested making a list of the top issues and focusing on those and discussing what will need extra time to refine.

Mr. Kraft asked what the objective is for June 1, 2009.

Ms. Griffy suggested that we try to complete as much as possible in the time allowed.

Mr. Golemo asked what do the City would do if the ordinance is not completed, what happens to projects.

Mr. Carlson informed the group that the City has to adopt an ordinance. He said the draft ordinance revisions were basically adoptable in February. Now we need to get issues out on the table and addressed and do the best to resolve them and know there are other issues where we're going to have to continue to work on.

Mr. Schauer asked if the City is willing to make amendments after the adoption.

Ms. Griffy responded that the permit allows adjustment to local conditions.

Mr. Carlson responded that Phase 2 does not have to be submitted to Ecology for the same kind of approval as Phase I.

Ms. Griffy will review the County manual and see where they are in their approval process. She said we can not separate the manual from the ordinance, but we need to adopt a manual that allows for adjustment later. Adjustments will not have to go back to Council if they are part of the Ecology approved manual or appendix.

Mr. McMurry said his biggest concern was how the ordinance will be handled and the impact to engineers. They are concerned where this is all headed after the ordinance has been adopted and they would like a clear direction and certainty. Mr. McMurry said that the Clark County ordinance and manual are completely integrated and you can't do one without the other.

Mr. Winters added the manual for Phase 2 has not been reviewed by Ecology but audits will be done by Ecology near the end of the permit cycle, and third parties will be watching. Clark County was issued a Notice of Violation, and they have until April 18 to respond. The Department of Ecology doesn't know how they will respond or what will happen next

Mr. McMurry asked where the draft for Phase 2 modification falls into this process.

Mr. Winters replied the LID (Low Impact Development) provisions need to be in the revised ordinance, and the ordinance effective date could be October or November 2009.

Break 5:25 p.m.

Mr. Madsen said he has a concern regarding the point of vesting and vesting issues. He also expressed concerns regarding the manual and potential problem in could have in delaying projects. He said flushing out technical issues need to be done to keep the projects moving.

Mr. Schauer suggested at the next meeting to revisit erosion ordinance revisions since this is the work group's first meeting.

Mr. McMurry suggested that in the future to have a plan written out.

Erosion Prevention Draft

Ms. Griffy began to give the background and overview of the City's Erosion Prevention Program, along with the draft erosion prevention ordinance revision.

Mr. Madsen asked Ms. Griffy if someone is tracking the pending legislation dealing with construction erosion.

Ms. Morgan, City Surface Water Staff, stated that she does not think this will have any impact on this ordinance.

Mr. Madsen told the work group that he will bring any new updates on the legislation to the meetings.

Ms. Griffy informed the group that the City does not need to go back to Council for Ecology approved changes in the General Requirements.

Mr. Golemo asked who would be reviewing the Stormwater Pollution Prevention Plan (SWPPP).

Ms. Griffy said any land disturbing activity that doesn't meet the threshold will require an Erosion Control plan.

Mr. Kraft stated that everyone is required to do SWPPP in the County.

Mr. McMurry had concerns about the language of what wording should be used for erosion control or erosion prevention. Mr. McMurray suggested that the language be “Erosion Prevention and Sediment Control” be used rather than “Erosion Prevention.” He stated that the City should be consistent with other state and city documents and match current permit language.

Mr. Carlson responded that the reference to the section as erosion prevention was intended -- if you prevent erosion in the beginning you will not have to control it later.

Ms. Griffy is willing to work with the group on changing the title for VMC14.24.

Mr. Schauer suggested the EPA uses Erosion Prevention and Sediment Control.

Findings—VMC 14.24.010

Mr. Darcy, audience member, said he had concerns with the Findings Section not mentioning physical habitat.

Ms. Griffy said she was instructed by the city’s legal staff to leave the Findings Section as is.

Mr. Golemo said he was concerned with item 7 not mentioning other water bodies.

There was discussion as whether to hold public comments can be set aside until the allotted time at 6:10 p.m. or take questions as they arose. There was discussion that much would depend upon the size of the audience and having enough time, so it could be allowed on a case-by-case basis.

Mr. Golemo suggested that if someone in the audience truly needs to speak to raise their hand and wait for Mr. Schauer to acknowledge that they have the floor.

Since Mr. Custis and Mr. Murphy have not had sufficient time to read over the material being presented, no “vote” was taken on the section at this meeting.

Applicability—VMC 14.24.030

Mr. Kraft stated the twelve elements in the Phase 2 are different from the Ecology’s Manual.

Ms. Griffy said there are conflicts between the Permit and Manual. Appendix 1 needs resolution.

Mr. Kraft asked how this will be handled.

Ms. Griffy told Mr. Kraft that it needs to be better defined and that the City will follow the permit. There was a discussion about Appendix 1, City codes and the Manual, the differences and discrepancies.

Mr. Winters informed the group about Appendix 1 rules.

Ms. Olinger, City Surface Water staff, stated the Phase 2 permit elements are the same as the Manual, but the Manual has more details.

Ms. Griffy said the differences need to be clarified in the Permit and Manual. There is a need to check for errors and the correct verbiage in Ordinance and General Requirements.

Mr. McMurry asked what projects need a Stormwater Pollution Prevention Plan (SWPPP). He also asked if the City is planning on allowing erosivity waivers.

Ms. Griffy responded that the City will not be allowing any erosivity waivers.

Mr. Golemo asked if the County manual references the Permit. Mr. Golemo stated that the Permit is not Code and he finds the term "Permittee" confusing.

Mr. Kraft did not want people to have to refer to Appendix 1.

Ms. Griffy replied there may not be a good solution and that the General Requirements need to be reviewed.

Adoption of Manuals—VMC 14.24.035

Mr. Madsen stated the General Requirement is not referenced in the wording when referring to manuals.

Mr. McMurry asked the city to be careful with the language in Section D and to rework the wording to include all references.

Mr. Madsen also suggested a look at rewording Sections A and B.

Mr. Golemo asked which one is more stringent. He said the Clark County manual provides detail. Mr. Golemo agreed that Section D needs to be reworded. Mr. Golemo expressed the need for a stronger statement using General Requirements in this section, and added that Clark County says that the Clark County manual overrides the Stormwater State Manual.

Mr. Darcy, audience member, suggested that Section D add water quality to the erosion ordinance language.

In closing the meeting, Mr. Schauer informed the work group that the meeting next week will include a quick recap in the beginning.

Mr. Kraft asked what will happen with suggestions.

Ms. Griffy replied that all suggestions need to be review and a process needs to be created.

Mr. Schauer informed the group that the last three meetings should be reserved to review changes.

Meeting adjourned at 6:35 p.m.