



Memorandum

To: Stormwater Advisory Committee

From: CDM

Date: December 7, 2010

Subject: Stormwater Advisory Committee Meeting #6

On November 18, 2010, the CDM team facilitated the sixth meeting of the Stormwater Advisory Committee (SWAC) for the City of Lynchburg (City). The session was held at 6:00 pm at the James River Conference Center.

CDM provided each member of the group with meeting materials including a set of PowerPoint slides. The following is a list of agenda items covered during the session:

- Review of Previous Meetings
- Parking Lot Items
 - Potential Impacts of Chesapeake Bay TMDL
 - Stormwater Fee Credits
 - Alternative Funding Strategies - Combinations
- Civics 101 – Budgeting and Rate Setting
- Preliminary Recommendations

Summary of Previous Meetings

David Mason with CDM provided a summary of the previous meetings. At Meeting #5, the committee heard additional information regarding the available stormwater funding options. The primary funding mechanisms for consideration include the General Fund (via property taxes) and the stormwater user fee. The advantages and disadvantages of each were discussed. The committee also reviewed alternative rate structures for the user fee, including the equivalent residential unit (ERU) and the single family unit (SFU). At the conclusion of Meeting #5, the committee broke into breakout groups to discuss the funding alternatives.

All groups supported the implementation of a user fee, although some groups felt the City should continue funding a portion of the program with general fund dollars.

As a wrap-up, Mr. Mason presented the group with a summary slide of preliminary SWAC recommendations as understood by the City and CDM. Summary recommendations included a level of service 3.5, preference for a stormwater user fee (funding percentage to be determined), and preference for the SFU method (tiered residential).

Parking Lot Items

Potential Impacts of the Chesapeake Bay TMDL

Per the committee's request, the City and CDM attempted to estimate the potential impacts to a stormwater user fee rate in response to implementation of the Chesapeake Bay TMDL. Three scenarios were discussed: 1) all stormwater pollutant reductions are achieved through the implementation of stormwater retrofit projects; 2) a majority of the stormwater pollutant reductions are achieved by implementing controls on the wastewater side and transferring credits to stormwater; and 3) dollars spent on stormwater pollutant reductions are "capped" via a similar affordability model used by EPA for the CSO program. It should be noted that Scenario #3 does not achieve the required pollutant reductions requested by the EPA.

Stormwater Fee Credits

Mr. Mason next presented information regarding stormwater fee credits that could be offered if the City chooses to implement a stormwater user fee. Credits are provided for customers who implement and maintain on-site controls (structural or non-structural) that provide a permanent reduction in post-development stormwater flow and pollutant loading. Virginia State Law requires the establishment of a fee credit system if a user fee is developed.

Mr. Mason summarized the use of fee credits in Virginia. Most stormwater utilities in Virginia offer fee credits for both water quantity reductions and water quality improvement. Examples of controls that may be implemented include stormwater wet ponds, wetlands, low impact development and/or infiltration practices. Non-structural measures that are available include compliance with an approved Virginia VPDES permit, education programs, lawn care management and other maintenance related activities.

Most credit policies typically include a set of eligibility criteria. These eligibility criteria may include such requirements as constructing the stormwater device to a minimum design criteria, definition of them improvement capability of the stormwater device (i.e. engineering calculations), and evidence of proper, ongoing maintenance. Typically, the customer is responsible for providing the justification of the fee credit. If applicable, the customer may apply for a partial credit if the stormwater control device partially meets the established standard.

Mr. Mason provided a summary of the credit policies currently in use in Virginia. Most communities that offer fee credits offer them only to non-residential customers, since residential programs are costly to administer and since there is little financial incentive for residential customers to implement any measures. On average, the maximum credit offered in the state for customers is typically 40 percent for those that implement a quantity/quality credits. For those that also have a VPDES permit, some communities offer a larger potential fee credit if certain other conditions/requirements are met.

Finally, Mr. Mason also discussed fee adjustments and exemptions. Typically, a user fee program has provisions for fee adjustments, which are changes made to a fee to correct an overcharge or undercharge. Fee adjustments may include impervious area changes, tier assignment or property classification adjustments. Exemptions from the fee are limited, but include local, state and federal roads, railroads, properties with minimal impervious area, undeveloped properties, greenways and/or properties within the City that may discharge into the county.

Alternative Funding Strategies

During the breakout sessions from Meeting #5, the committee expressed an interest in evaluating the potential for a combination of funding options to support the stormwater program. Mr. Mason stated that the current program is funded by a combination of the General Fund, VDOT reimbursements, and the sewer fund (for CSO related projects). If a user fee for stormwater is developed, dollars from the sewer fund would not be available for use by the stormwater fund. Mr. Mason presented a few options for the committee to discuss and consider.

Using an average annual program cost of \$3.2 million (which corresponds to LOS 3.5), the first option would include approximately \$800K from the General Fund and \$656K from VDOT reimbursements, each of which is consistent with current funding levels. The balance would be paid by a user fee. A note of caution by City staff on this option is that general fund and VDOT funds are not dedicated to stormwater and may change from year to year based on City Council's decisions. A second option presented includes no contribution from the general fund, but continued use of VDOT reimbursements. Lastly, Mr. Mason presented the option of funding the entire program with a user fee.

Advantages and disadvantages of each option were provided. The primary advantage of using combined funding sources would be a reduction in the user fee and less financial burden to some customers. The disadvantages include additional administrative complexity to track funds, reduced equity to customers since the funding would not be based on the property's runoff contribution, and that all funding options are not dedicated.

Civics 101 – Budgeting and Rate Setting

City staff provided a summary of how the City develops the annual budget and how user fee rates are set each year. Staff noted that municipalities exist to provide services to citizens that they typically can't provide or buy individually and that the purpose of the City is to provide for common good. Lynchburg, for example, provides services for education, safety, transportation, health/welfare and quality of life. In order to provide these services, the City receives funding from the Federal government (typically dedicated to specific activities), state funding (which may or may not be dedicated) and local taxes/fees. Regarding fees, these funds are entirely or predominantly self-supported by user charges and are accounted for in a manner similar to comparable private non-profit enterprises. For the City, the sewer rate is established via the City's CSO consent order and the water rate is based on annual cost to administer the program. Therefore, a rate study is performed annually to establish the rate for the following year.

Staff also explained the current budget challenges facing the City. The City anticipates a \$4 to \$5 million deficit in the General Fund for FY2012. A portion of this deficit is related to an anticipated increase in new stormwater requirements. Other factors influencing the budget include flat revenues for the next fiscal year and a projected two percent decrease in overall assessed property value. Citizen expectation for continuation of the same service levels provided today also play a role in the projected deficit.

Preliminary Recommendations

Steve Sedgwick from CDM facilitated a discussed on preliminary recommendations from the committee. Topics for recommendations include level of service, funding source and stormwater fee options. Mr. Sedgwick presented a summary of preliminary recommendations from the committee to date. Regarding level of service, the committee expressed a preference for level of service 3.5, which corresponds to an average annual cost of \$3.2 million. However, the committee has not yet arrived at consensus on how the \$3.2 million will be funded. The committee does feel that a user fee is equitable and prefers the single family unit basis with tiers for single residential customers and variable rates for multi-family. Non-residential customers would be charge in direct proportion to their measured impervious area, as compared to the average single family dwelling.

At this point, Mr. Sedgwick opened the floor for discussion. The following is a summary of questions and discussion during this break as well as the remainder of the meeting:

Q – Do other communities offer a tax abatement for customers that implement a stormwater pond on-site?

A- Yes, we have seen tax abatements offered although a review of state law will have to be performed to see if that's an option in Virginia.

Q – How is a pond credit computed?

A- A customer that constructs a pond to City standard would receive the full credit. If the pond exceeds the standard, then that customer may be eligible for a higher credit (in proportion to the standard).

Q – Will the City pay for impervious area on their property?

A- Yes, all properties with impervious area will be charged a fee.

Q – The committee chose a level of service before knowing the cost. Can we re-evaluate the level of service?

A- Yes, nothing is set in stone.

Comment – I agree with the level of service 3.5 because it allows funds to perform important master planning to pro-actively meet future requirements, similar to the CSO program.

Q – Are VDOT dollars spoken for?

A- The City receives an amount based on eligible expenses. Historically, this amount does not cover all costs. Money received is divided equitably among departments that perform eligible services.

Q – If VDOT money is not available for a year, will that reduce the level of service?

A- It may. Or, additional funds would need to be generated through a fee or tax increase to cover the difference in cost.

Q – If a credit program is recommended, will the monthly stormwater rate need to increase?

A- No, the rate already includes consideration for credits.

Comment – A committee member wished to make a personal vote to earmark \$800K from the General Fund. The member suggested that if citizens step up to pay the fee, then the City should also be willing to commit dollars to the program.

Comment – A committee member noted that the City is already facing a shortfall. If funds are taken from the General Fund or VDOT and services are not reduced to offset those fees, we could be setting ourselves up for a tax increase.

Comment – The \$3.2 million is all coming from citizens, no matter how you pay for it. Also, this will go up with the TMDL.

Comment – Continuing a contribution from the General Fund will keep the City Council’s attention on the issue going forward. We need all the allies we can get.

Q – Can EPA force the City to address the TMDL on top of the CSO program?

A- Yes.

Comment – The City should try to be pro-active to get us the best deal, just like CSO.

Q – What if we capped the user fee at 55 percent of the total budget?

A – That is possible. The remainder would be paid by General Fund or VDOT.

Comment – If the program had to ramp up for the TMDL, this could have a huge impact on the General Fund.

Q – Will credits be presented?

A – No, credits will not be developed until City Council authorizes implementation of a user fee program. At that time, a policy will be developed. But, your recommendations can include a requirement for credits.

Recommendations for Consideration

The committee was asked by show of hands to vote on the recommendations regarding funding source. The committee supported the option of capping the user fee at 55 percent. One member expressed desire to keep the program funding via the tax rate only. The committee also agreed on the level of service 3.5, the SFU method and a requirement for credits. The committee’s recommendations will be summarized under separate cover and provided prior to the next meeting in December.

Next Meeting

The next meeting of the Stormwater Advisory Committee will be held on December 16, 2010 at 6:00pm at the James River Conference Center. Once again, snacks and drinks will be available. Attendees were thanked for their time and encouraged to attend the subsequent meetings.