



## Memorandum

*To: Stormwater Advisory Committee*

*From: CDM*

*Date: January 7, 2011*

*Subject: Stormwater Advisory Committee Meeting #7*

On December 16, 2010, the CDM team facilitated the seventh meeting of the Stormwater Advisory Committee (SWAC) for the City of Lynchburg (City). The session was held at 6:00 pm at the City's College Hill Water Plant and also via a live webcast.

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
- Review Preliminary Recommendations
- Path Forward and Next Steps

### Summary of Previous Meetings

David Mason with CDM provided a summary of the previous meetings. At Meeting #6, the committee discussed the types of fee credits used in other Virginia cities that have implemented a stormwater user fee. The credits are typically available for structural and non-structural controls. Also, the committee previously discussed a variety of options for funding, which would be revised at Meeting #7.

As a wrap-up, Mr. Mason also provided an update on the Chesapeake Bay TMDL process. He stated that the State of Virginia submitted its revised Watershed Implementation Plan (WIP) to EPA on November 29<sup>th</sup>. The Virginia WIP included a heavy reliance on non-retrofit management actions, additional BMP implementation to "close-the-gap" to desired target load reductions, a phased implementation approach, and a request for additional study of the James River. Based on preliminary estimates, the revised cost for stormwater BMP implementation may be \$120 million. The State is now awaiting EPA's final response, which is expected by the end of 2010.

Lastly, Mr. Mason addressed one parking lot item from the last meeting. A committee member asked if it was possible for the City to offer some form of tax abatement for property owners that implement on-site BMPs. City Staff reviewed this question with the City Attorney and City Assessor, who noted that the assessed property value does not currently consider stormwater improvements and current State Code does not allow tax abatement or tax exemptions for stormwater improvements. A committee member noted that this could be changed in the future.

## **Review Preliminary Recommendations**

Steve Sedgwick from CDM facilitated a presentation on preliminary recommendations from the committee. The City Manager has recommended that a presentation be made to City Council at the January 25, 2011 Work Session. The presentation should include findings and SWAC recommendations regarding level of service, funding source and stormwater fee options. With assistance from City Staff, CDM developed a DRAFT presentation that would be presented to City Council.

The presentation began with a summary of the SWAC Purpose, which included public participation, representation by a broad spectrum of the public, and to make recommendations on the items mentioned above. Mr. Sedgwick also discussed the findings of the project to date, which included the following: 1) the current program provides the bare minimum for existing compliance, 2) the SWAC recognized a need to provide a higher level of service, 3) current resources are not sufficient to meet future requirements, and 4) a user fee is more equitable than a tax to fund stormwater.

The presentation continued with a point-by-point summary of the SWAC recommendations, as understood by the consultant and City Staff. The SWAC was asked to provide feedback and verification on the recommendations. The first recommendation was for the City to raise the level of stormwater service to level 3.5 on a scale from 1 to 5. A level 3.5 program requires funding of approximately \$3.2 million annually. The SWAC emphasized that program management and operation and maintenance should be prioritized early in the program.

Next, recognizing that an increased level of service would require more funding, the SWAC recommended that a stormwater user fee should fund a portion of the stormwater program. Advantages and disadvantages of each option were summarized, with equity highlighted as the key differentiator between the options. A user fee is more equitable since the fee charged to a property is based on the amount of runoff generated by that property.

Mr. Sedgwick discussed the possible options for funding the program. At the last meeting, the committee suggested that the program be funded through a combination of sources, including a stormwater user fee, general fund, and VDOT contributions. The committee also suggested that the stormwater fee should be capped at 55% of the total program cost.

However, the committee wanted additional information on the impact to various property classes if a combination of sources is used.

Mr. Sedwick then presented a series of pie charts to show the breakdown of funding (by percentage) from various property classes for the four scenarios discussed. In the first scenario without a user fee, the burden of funding falls primarily on single family homeowners (40%). Under the second scenario where a user fee is implemented but general fund dollars are still used, single-family homeowners will fund approximately 30% of the program. The change is primarily due to the contributions by tax-exempt properties for their share of the impervious surface in the City. Scenario 3 assumes no contribution from the general fund but continued contribution by VDOT. Under this scenario, all properties would pay an equitable share of the cost to fund the program based only on the amount of impervious area on their property, excluding those programs that could continue to be funded via VDOT reimbursement. The final scenario shows the entire program only funded via a user fee with no VDOT contribution. This recognizes that the City spends much more money annually on VDOT eligible expenses so the VDOT could be used to fund other areas of the street maintenance program besides stormwater specific items.

At this point, Mr. Sedgwick paused to ask the committee to consider the information regarding level of service and fee options and to recommend (by vote) to the City which option is most appropriate for the City Council to consider. The committee was asked to consider three items: 1) Recommended Level of Service, 2) Funding Scenario, and 3) 55% Cap on User Fee Funding. Attached Table 1 provides a summary of the voting during the meeting. Additional votes are being solicited from non-attending SWAC members by staff. The consensus of the committee members attending recommended a level of service 3.5, funding via a combination of user fee, general fund and VDOT, with a 55% cap on stormwater fees. Additional comments provided by the group are provided in the discussion section below.

#### **Discussion and Comments From Voting Process**

- *A committee member wanted to go on record in support of the 55% cap. He stated that if other funds should become available (like federal funding, etc), the City should take that off the top and maintain the 55% of the remaining funding requirement.*
- *One committee member did not support implementation of any fee and stated that the level of service should remain as it is today until details of the Chesapeake Bay TMDL are finalized.*
- *One member stated that it is not constructive to assume we will not have to increase the level of service to meet future needs. The needs are inevitable. Also, the City's current needs already exceed existing requirements without the Bay TMDL*

**City of Lynchburg, VA  
Stormwater Advisory Committee  
Meeting #7 Voting Results**

<b>NAME</b>	<b>Category</b>	<b>Company Name</b>	<b>Q#1 - Level of Service</b>	<b>Q#2 - Funding Scenario</b>	<b>Q#3 - 55% Cap</b>
Edward McCann	Housing	Lynchburg Redevelopment and Housing Authority	3.5	2	Yes
Lee Beaumont (for Maggie Cossman)	Universities	Liberty University	2.5	1	n/a
Gary Case	Development	Gary W Case & Co Inc	3.5	2	Yes
Preston Craighill	Contractors	C.L. Lewis Construction	3.5	2	Yes
David Rakes	Large Industry	R.R. Donnelly	3.5	2	Yes
Mike Lucado	Multi-family	Brownstone Properties Inc.	3.5	2	Yes
Laura Dupuy	Downtown Special Interest	Lynchburg Neighborhood Development Foundation	3.5	2	Yes
Tom Fitzgerald	Engineering Firm	Wiley & Wilson	3.5	2	Yes
Eugene (Gino) Palladino	Residential	Rivermont	3.5	2	Yes
Dr. Jim Mundy	Downtown Special Interest	Lynchburg Community Action Group	3.5	2	Yes
Tammy Driskill	Residential	Fort Avenue	3.5	2	Yes

- *A committee member agreed that the City is only meeting the minimum today but future needs will exceed current funding levels. The member stated that Council has requested input from this group regarding future needs as well as existing.*

Following the voting exercise, Mr. Sedgwick continued the presentation. The next recommendation noted that Fee Credits shall be offered for on-site reductions in runoff and pollution. A fee credit manual will be developed at a later date if a fee is approved. Mr. Sedgwick also noted that State law requires development of a credit program for communities that implement a stormwater fee. In response to a question by a committee member, Mr. Sedgwick noted that credits are not granted in perpetuity. On an annual basis, customers must submit documentation that they have maintained their stormwater BMP throughout the year and that it continues to operate as intended. The credit is renewed at that time or cancelled if the work is not complete.

Next, Mr. Sedgwick noted the committee's desire for a three-tiered rate structure for single family dwellings and that non-residential customers should pay a fee in proportion to the measured impervious area on their individual lots. For multifamily property classes, a rate will be assigned in proportion to the average impervious area measured for a sample of these properties.

## **Discussion Session**

At this point, Mr. Sedgwick opened the floor for discussion. The committee was provided with a list of discussion topics. The following is a summary of questions and discussion related to these items:

### ***Topic #1 – Is the Summary of SWAC Recommendations ready for presentation to Council?***

- The committee agreed that the presentation is nearly complete with only a few minor edits.

### ***Topic #2 – If a fee is implemented, who should receive the bill? The property owner or tenant?***

- The tenant can change frequently so it makes sense to bill the property owner.
- Staff believes it makes sense to bill the property owner since only the owner has the ability to alter the impervious area on-site.
- If it's a multi-family situation, the property owner can come to some agreement with the tenant. Also, for enforcement reasons, it makes sense to bill the owner so you can put a lien on the property if the bill isn't paid.

- **Will the fee be billed annually or monthly?** City staff noted that this question is being explored internally. The initial thought is to use the water/sewer bill so the fee can be billed monthly and spread out over 12 payments. This will avoid sending one large bill to a customer. The City may also consider quarterly bills.
- **Can the fee be wrapped into escrow payments?** Staff noted that they will explore this but did not think it was possible and had not seen it done.
- One committee member suggested that it just be sent as a separate bill.
- **Consultant Comment:** We have been researching this issue statewide. Typically, communities bill the owner. When there is a tenant vs owner situation, a separate bill is sent to the owner.
- The consensus of the group was for the City to bill the owner for any stormwater fees.

***Topic #3 – Are there any volunteers to participate in the presentation of these recommendations to City Council?***

- Two committee members volunteered to make the presentation to City Council. Both offered comments regarding potential conflicts of interest. Staff noted that they would follow up with the committee at a later date regarding volunteers.

***Topic #4 – Are there any additional thoughts that the SWAC would like to convey in the message to Council?***

- The committee expressed a desire to continue in some form to provide feedback to Council and Staff on implementation issues as well as ongoing stormwater policy issues that may impact Lynchburg.

## **Path Forward and Next Steps**

Mr. Sedgwick concluded the meeting with a summary of next steps. As noted, City Staff and a representative from the committee will make a presentation to City Council on January 25, 2011 at 4pm. All committee members are invited and encouraged to attend. At this time, no additional SWAC meetings are scheduled.

Tim Mitchell, City of Lynchburg Director of Public Utilities, thanked everyone for their hard work throughout the process and their candid thoughts in considering the many challenges (both at the local level and the regulatory level) in addressing stormwater.