

MEMORANDUM

TO: Mayor and Town Council

FROM: W. Calvin Horton, Town Manager

SUBJECT: Public Forum on the Potential Establishment of a Town Stormwater Utility

DATE: February 16, 2004

INTRODUCTION

The purpose of tonight's Public Forum is to present recommendations for potential establishment of a stormwater utility that would provide a stable source of revenue to support a comprehensive Town stormwater management program. The attached report was prepared by the Town's consultant, AMEC Earth and Environmental, Inc., in conjunction with the Council-appointed Stormwater Utility Policy Review Committee and Town staff.

The Forum provides an opportunity for the Council and citizens to ask questions and to make comments about the proposed stormwater utility and the stormwater management program it would support.

RECOMMENDED PROCESS FOR CONSIDERATION

If the Council wishes to continue consideration of establishment of a stormwater management utility, we recommend the following process:

February 16: Refer the consultant's report and all comments and questions to the Manager and Attorney and to all Town advisory boards for consideration.

March 24: Review comments from the Manager and Attorney, advisory boards, and citizens at the Public Forum on development of the 2004-05 budget.

April: (The Council originally scheduled a Budget Work Session for March 31, but that date is in conflict with an important meeting of the regional Transportation Advisory Committee) On a date to be determined by polling of the Council, conduct a follow-up discussion of the stormwater utility proposal to provide additional guidance to the Manager.

April 26: Receive Manager's recommendation for establishment of a stormwater utility along with the Manager's Recommended Budget for 2004-05.

May 12: Receive further citizen comment about the proposed stormwater utility at the Budget Public Hearing.

May 19: Discuss stormwater utility proposal as part of the Budget Work Session.

June 14: Consider action to establish a budget for the proposed stormwater utility, including adopting a fee schedule and enacting an appropriate ordinance.

The above schedule would allow the proposed stormwater utility to be considered as a part of the Council's budget deliberations for fiscal year 2004-2005 and would allow establishment of the utility effective July 1, 2004.

Alternatively, the Council could extend consideration of a stormwater utility until July 1, 2005 or later to allow further work and discussion.

If the Council chooses not to proceed with establishment of a stormwater utility effective in 2004-05, we will need to budget additional funding necessary to:

- meet the requirements of the Town's National Pollutant Discharge Elimination System-Phase Two(NPDES-II) permit;
- meet the requirements of the Town's Hazard Mitigation Plan; and
- provide sufficient staff in the Engineering Department to implement and monitor compliance with regulatory requirements for stormwater quality and quantity management.

The Town Engineering Director, George Small, estimates that these costs would total about \$77,500.

BACKGROUND

In January 1999, the Stormwater Utility Technical Review Committee presented its Final Report to the Council. The Committee recommended that Chapel Hill consider a utility for the purposes of funding enhanced stormwater management programs and services and to meet State and federal mandates for managing stormwater quality and quantity.

In August 1999, the Council authorized establishment of a Stormwater Utility Development and Implementation Study Committee to prepare a report regarding implementation and operation of a Stormwater Utility to serve Chapel Hill, and possibly surrounding areas.

In November 2001, the Stormwater Utility Development and Implementation Study Committee presented its final report to the Council including a recommendation that the services of an experienced consultant be obtained to evaluate and make recommendations about the feasibility of establishing a local stormwater utility, including possible financing structure(s), billing systems, program elements and legal issues.

In February 2002, the Council authorized the Manager to contract with a consultant (AMEC Earth and Environment, Inc.) to prepare a pro forma business plan report concerning the

development and implementation of a utility-based stormwater management program to serve Chapel Hill.

In June 2002, the consultant's Stormwater Utility Pro-forma Business Plan Report was received by the Town Council for consideration.

In October 2002, the Council approved funding to begin development of a utility-based stormwater management program to serve Chapel Hill.

In December 2002, the Council authorized the Manager to solicit applications and to convene a Town Stormwater Utility Policy Review Committee charged to discuss draft policies, reach consensus on important issues, and provide thoughtful input and recommendations. The Committee began meeting with Town staff and the Consultant in March 2003.

In November 2003, the Council received a status report discussing the progress on utility development activities and key issues yet to be resolved.

In January 2004, the Council held a work session on the potential development of a Town stormwater utility, and adopted a resolution scheduling tonight's Public Forum.

DISCUSSION

At its January 28, 2004 work session, the Council received information about the recommended program elements that could be included in a comprehensive Town stormwater management program, and information about how a utility could be established to provide funding for such a program. This information, presented by Town staff, the Consultant and Committee representatives included discussion of:

- Program elements, levels of service, and associated costs
- Program cost model and associated rate study
- Flat rate vs. tiered rate fee structure
- Billing and collection alternatives
- Credit and exemption alternatives
- University participation

WORK SESSION ISSUES

Below we comment on key issues raised in the Council's previous discussion of the Stormwater Utility Report.

1. *Representatives of the Stormwater Utility Policy Review Committee recommended that a Board of Directors be established that would oversee operations of the Utility, similar to the OWASA board.*

Comment: We recommend that a citizen advisory board be established to provide advice and recommendations about stormwater utility operations with the Council making final decisions on program and budget matters.

2. *A Council member suggested that more policy guidance from the Council is needed prior to embarking on the proposed utility-based stormwater management program and setting fee rates.*

Comment: We agree that further policy direction from the Council is necessary. We recommend that the Council refer this matter to its advisory boards for review and comment, continue discussion during its budget meetings and work sessions this spring and provide additional direction to the staff.

3. *A Council member requested further information regarding the University's inclusion in the rate base of the proposed stormwater utility.*

Comment: The Consultant explained that the precedent throughout the State is that university and college properties are included in the rate base of municipal stormwater utilities currently in operation. The University has stated its position in the attached letter from Vice Chancellor Nancy Suttentfield. The Consultant estimates that the fee for a typical single-family residential rate payer would increase by approximately \$.50 per month if University property is not included in the utility fee rate base. We believe that further discussion with the University is necessary.

4. *A Council member inquired about the recommended level of service for stream restoration work and how that relates to work now occurring on local streams.*

Comment: Town Engineering staff explained that the Town has secured a State grant for watershed planning and that Town staff is participating in work that will provide a basis for restoring and upgrading the condition of local streams in the Little Creek and Morgan Creek watersheds. Continued and expanded watershed studies, master planning, and soil erosion/sedimentation control work would be undertaken as part of the proposed stormwater management program.

5. *A Council member requested further information on flat vs. tiered fee rates.*

Comment: The Consultant's report and materials presented tonight provide additional information on fee rate alternatives for the Council's consideration. The Committee recommends adoption of a tiered rate structure.

6. *The Mayor asked for more detailed information about how funds would be spent in the first year of the proposed utility-based stormwater management program.*

Comment: We continue to review the proposed program elements and service levels recommended by the Committee in relation to the associated costs. Attachment 6 provides a summary prepared by the Town Engineering Director of estimated costs for year one of the

proposed utility-based stormwater management program. If the Council continues consideration of the utility, we will make final recommendations as a part of the Manager's Recommended Budget to be presented on April 26.

As part of his analysis of first-year costs of the proposed utility-based stormwater management program, the Engineering Director also estimated new stormwater management costs that the Town might reasonably expect to incur in 2004-2005 if a stormwater utility is not implemented. Attachment 7 provides a summary of his estimate of new costs associated with additional personnel, compliance with minimum National Pollutant Discharge Elimination System-Phase II permit requirements, and implementation of the Town's State-mandated Hazard Mitigation Plan.

MANAGER'S RECOMMENDATION

That the Council adopt the attached resolution setting a schedule for the consideration of potential establishment of a Stormwater Management Utility.

ATTACHMENTS

1. Consultants Comprehensive Report on Implementation of a Utility-based Stormwater Management Program (3-ring binder).
2. Stormwater Utility Policy Review Committee Summary of Recommendations (p. 2-1).
3. Draft Stormwater Utility Ordinance (p. 3-1).
4. Progress Report on Potential Development of a Town Stormwater Utility (presented at 2/28/04 Council work session) (p.4-1).
5. Excerpt from Town Comprehensive Plan, Section 9F (p. 5-1).
6. Year One Budget Estimate for Proposed Utility-based Program (p. 6-1).
7. Estimate of New Stormwater Management Resources and Costs in 2004-05 if Utility is Not Implemented (p. 7-1).
8. Council Member Harrison's Comments Concerning the University (p. 8-1).

A RESOLUTION ESTABLISHING A SCHEDULE FOR FURTHER CONSIDERATION OF POTENTIAL ESTABLISHMENT OF A STORMWATER MANAGEMENT UTILITY TO SERVE CHAPEL HILL (2004-02-16/R-3)

WHEREAS, the Town of Chapel Hill must comply with the requirements of its National Pollutant Discharge Elimination System-Phase II permit application as mandated by the State; and

WHEREAS, the Town of Chapel Hill must comply with the requirements of its local Hazard Mitigation Plan to remain eligible for non-emergency disaster grants; and

WHEREAS, the Chapel Hill Town Council desires to establish a utility-based Stormwater Management Program to provide stormwater and floodplain management, drainage system maintenance, stormwater facility construction, water quality enhancements, and related stormwater management improvements; and

WHEREAS, the Council is aware of increasing stormwater management regulatory requirements, mandates and obligations for which the Town is or will be responsible; and

WHEREAS, the Town presently has only limited resources available for dealing with stormwater management problems, regulations and responsibilities; and

WHEREAS, State legislation has made it possible for local governments in North Carolina to establish a local stormwater utility to provide a stable source of revenue for stormwater management activities;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Manager to schedule further consideration of a Town utility-based stormwater management program as follows:

March 24: Review the comments from the Manager and Attorney, advisory boards, and citizens at the Public Forum on development of the FY2004-05 budget, including comments requested from the existing Stormwater Utility Policy Review Committee regarding the makeup and responsibilities of a proposed Stormwater Policy Advisory Committee to be appointed by the Council if a stormwater utility is established..

April: On a date to be determined by polling of the Council, conduct a follow-up discussion of the stormwater utility proposal to provide additional guidance to the Manager.

April 26: Receive Manager's recommendation for establishment of a utility along with Manager's Recommended Budget for FY2004-05.

May 12: Receive further citizen comment about the proposed stormwater utility at the Budget Public Hearing.

May 19: Discuss stormwater utility proposal as part of the Budget Work Session.

June 14: Consider action to establish a budget for the proposed stormwater utility, including adopting a fee schedule and enacting an appropriate ordinance.

This the 16th day of February, 2004.

Amended February 17, 2004.