

MEMORANDUM

TO: Mayor and Town Council

FROM: W. Calvin Horton, Town Manager

SUBJECT: Recommended Program and Budget for Proposed Stormwater Management Utility

DATE: April 26, 2004

This report discusses the Manager's recommended program and budget recommendations for a proposed Town Stormwater Management Utility.

No formal Council action is being requested at tonight's meeting; however, these recommendations are an important part of the Manager's Recommended Budget for 2004-05.

INTRODUCTION

Key elements included in the Manager's recommended stormwater management program are:

- Implementation of stormwater management activities necessary for compliance with existing and new State and Federal regulations;
- Development of a master plan in year one intended to identify and schedule program activities in future years;
- Continuation and enhancement of stormwater management services currently being provided by the Town;
- Provision of stable and sufficient funding for capital improvements and drainage assistance projects;
- Provision of an emergency reserve fund;
- Reimbursement to the Town General Fund for Utility development costs;
- Identification of existing General Fund costs that could be billed to the Utility;
- Establishment of broad-based public education and information activities to maximize community involvement in managing stormwater;
- Minimal increases in Town staff to support the Utility program, with emphasis on using contract services;
- Establishment of an Equivalent Rate Unit (ERU) of 2000 square feet of impervious surface area and an annual Utility fee of \$45.00 per ERU;
- Approximately 90% of Chapel Hill properties involve three or less ERUs; and
- Annual program budget between \$2 and \$2.5 million over first five program years.

The following materials are included with this report:

- Summary of a utility-based stormwater management program recommended by the Town Manager.
- First year operating budget for the Manager's recommended program.
- Draft Ordinance establishing a stormwater management utility and advisory board.
- Summary and responses to questions and comments from the March 24, 2004 Public Forum.
- Advisory board recommendations.

BACKGROUND

On March 24, 2004, the Council held a Public Forum to discuss and receive public comment on the proposed establishment of a Stormwater Management Utility that would provide a stable source of revenue to fund a comprehensive stormwater management program. The comments and questions raised at the Public Forum, with our responses, are summarized in Attachment 8.

Materials regarding the proposed stormwater management utility have been distributed to all Town advisory boards for comments and recommendations. We have received comments from the Planning Board, the Transportation Board, the Community Design Commission and the Historic District Commission. Attachment 3 includes comments and recommendations from Town boards and commissions. Attachment 9 includes correspondence we have received regarding the proposed stormwater management utility.

The Council requested suggestions from the Stormwater Utility Policy Review Committee regarding the makeup and responsibilities of an advisory board to be established concurrently with the Utility. The Policy Review Committee has not provided us with its recommendations to date. We will include the Committee's comments and recommendations with future materials presented to the Council on this matter.

Reports and background materials previously provided to the Council for consideration regarding the proposed stormwater management utility can be viewed on the Town's web site.

For past reports to the Town Council:

http://townhall.townofchapelhill.org/stormwater/stormwtr_utility.htmlreports

For supplemental background information:

http://townhall.townofchapelhill.org/stormwater/stormwtr_utility.html#background

DISCUSSION

Based on Council discussions and comments from citizens and advisory boards, we have developed the following recommended stormwater management utility program and operating budget. The recommended program would focus the first year of operations on program organization, master planning and public education/involvement activities, and would reimburse all of the Town's sunk costs for Utility development work and materials in the first year of the utility operation.

MANAGER'S RECOMMENDED PROGRAM

The recommended program is consistent with the Policy Review Committee's recommended top priority of master planning. However, it would defer other program elements and activities to future years in accordance with the program master plan.

The key elements included in year one of the Manager's recommended program are:

- A stormwater management program master plan would be developed to identify program activities in future years, and to establish an implementation schedule including associated resource needs and costs.
- A comprehensive public education and participation plan would be developed to provide outreach services.
- Existing stormwater management services would be continued and required new services would be provided.
- A portion of the utility revenue would be reserved to establish a capital improvements project fund account (proposed at \$60,000 in the first year).
- A portion of the utility revenue would be reserved to establish an emergency fund account (proposed at \$50,000 in the first year).
- A portion of the utility revenue would be reserved to establish a 10% fund balance for operational reserves and to meet Town accounting standards (\$188,000 in the first year).
- A portion of the utility revenue would be used to reimburse the General Fund for all costs associated with the development and establishment of the Utility. Attachment 4 provides a summary of these reimbursable costs to date, totaling approximately \$402,000.
- The utility would be charged for costs incurred by the Town for providing stormwater management services. Based on the Consultant's study, the Town's

estimated annual billable cost for stormwater management is approximately \$779,000. Attachment 5 provides a detailed summary of current General Fund costs that we believe should be paid by the Stormwater Management Utility. The summary identifies and differentiates costs that are either partially billable or fully billable.

- A fee rate of \$45.00 per Equivalent Rate Unit (ERU) per year would be implemented, based on an ERU area of 2000 square feet. The first ERU would include 200-2000 square feet of impervious surface area, and there would be no cap on the number of ERUs per property. Each property owner would pay a fee based on the total square footage of impervious surface area found on the property, divided by 2000 square feet, to determine the number of ERUs present on the property. The number of ERUs multiplied by the fee rate per ERU would yield the annual utility fee assessed to the property owner.

Attachment 6 is a summary of the number of ERUs (22,088) found on single-family and two-family residential properties in Chapel Hill. The distribution of properties and associated ERUs shows that approximately 90% of properties would include three or less ERUs. This attachment also shows the number of ERUs by land use classification.

A listing of property parcels within the proposed utility service area as of March 2003, including the number of ERUs associated with each property, can be found on the Town's web site at:

<http://townhall.townofchapelhill.org/stormwater/search.asp>

The property parcel list can be searched for information on individual parcels by using the property owner's name or the property identification number (PIN).

- The Utility rate base would not include assessment of fees for public streets and/or other public access ways owned and maintained by the Town or by the North Carolina Department of Transportation because public roads and streets collect and convey stormwater runoff as an integral part of the public drainage system infrastructure.
- Property owned by the University would not be included in making the initial estimate of total Equivalent Rate Units. It is our understanding of the law that the University would be subject to the Town's utility ordinance, including payment of applicable fees. However, the University has a different understanding of the relevant law. Therefore, the Manager recommends that the Utility proceed without including any revenue from the University in the first-year revenue estimate; and, that the Council request discussions with the University to determine how we can best move forward to a mutually acceptable outcome.

- A stormwater management credit system would be explored during the first year of the program, and the Manager would provide recommendations for the Council's consideration regarding the issue of allowing credits.

To accomplish the above objectives, the first year of the program recommended by the Manager would involve primarily organizational, planning, and public information and participation activities, with new services limited to those mandated by State and federal regulations. New services would be linked for the most part to implementation of the Town's National Pollutant Discharge Elimination System, Phase Two (NPDES-II) permit requirements.

The following discussion provides details of the key stormwater management program activities, general resource needs, and estimated expenses associated with the program recommended by the Manager for 2004-05:

1. Stormwater Management Program Master Plan

A Stormwater Management Program Master Plan would utilize a holistic approach to identify and prioritize the short-term and long-term stormwater management needs of the Town by integrating stormwater management practices, regulatory requirements, public education, land use, restoration and resource protection, floodplain management and capital improvements. The Master Plan would map and schedule the Town's stormwater management program. It would include a prioritized, watershed-based strategy to develop individual basin plans focusing on water quantity and quality issues.

We would need the assistance of a consultant to achieve the objective of developing a Stormwater Management Program Master Plan within the first year of the Utility operation. We estimate that the first year costs for the development of a Program Master Plan would be \$200,000. Future costs to implement identified Master Plan activities (modeling, watershed assessments, basin plans, capital improvements, stream restoration, enhanced services, etc.) could be significant. However, the actual activities and costs would depend on the program Master Plan and schedule approved by the Council.

2. Public Education and Participation

The Public Education and Participation Program would be an important year one activity. This program would begin immediately upon implementation of the Utility. We believe that comprehensive and continuing public information and public participation activities would be critical to community acceptance of a utility-based stormwater management program and to the long-term effectiveness of such a program. This would require that we regularly disseminate clear and compelling information to the community concerning the importance of stormwater management as it affects both water quantity and water quality.

We also anticipate a significant increase in the volume of citizen requests for assistance and questions related to the new stormwater fee, how it is calculated and applied, and how the revenue is used. We would need to have the means to efficiently and effectively respond to citizens' questions and requests for assistance.

We anticipate that public information and public participation activities would include:

- Respond to citizens' requests for assistance and questions by phone and email.
- Develop and manage a website including interactive "question and answer" capability.
- Coordinate Orange County Big Sweep and implement other local stream cleaning and monitoring activities.
- Establish and manage a Stormwater Utility Service Line.
- Prepare and place multi-media advertisements.
- Prepare and distribute brochures, posters, maps, and other materials to homeowners, businesses, schools, etc.
- Design and install stream and watershed information signs and maps.
- Develop and participate in school education and student involvement programs.
- Develop and present relevant materials at public speaking engagements and presentations.
- Provide support and leadership in local and regional initiatives such as protection of Jordan Lake and the Cape Fear River Basin and the TJCOG clean water education partnership.
- Identify grant opportunities, write grant applications, and administer grant activities.

To accomplish this work we would need a new, full-time staff position at an estimated annual salary and benefits cost of \$50,000, plus approximately \$26,000 (\$0.50 per capita per year) for the cost of materials necessary to provide information and education services. The work of the new position would be coordinated through the Town Information Officer.

3. Stormwater Management Services

The Town's obligation to meet existing and new demands for stormwater management services must be addressed even if the utility is not established. Increasing and new demands for service resulting from Land Use Management Ordinance regulations, NPDES-II permit application requirements, Flood Hazard Mitigation Plan mandates, anticipated effects of the National Flood Insurance Program (NFIP) flood map revisions, and expected Total Maximum Daily Load (TMDL) mandates for the Upper Arm of Jordan Lake already exceed the capacity of existing staff to respond promptly and effectively to demands and responsibilities.

The following list identifies the primary stormwater management related activities and services provided by the Town Engineering Department:

- a. National Flood Insurance Program (NFIP) Administration.
- b. Project management services (Capital Improvements Program, Drainage Assistance Program, NC Big Sweep coordination, public education programs, etc.).
- c. Liaison with local, State, and federal officials (Federal Emergency Management Agency, NC Division of Water Quality, NC Division of Emergency Management, Orange County, neighboring communities, etc) concerning erosion control, Total Maximum Daily Load planning, local watershed planning and public education programming.

- d. Hazard Mitigation Grant Program project identification and implementation.
- e. Providing technical assistance to other Town staff, Manager and Attorney.
- f. Preparing reports and technical papers for the Manager and the Council.
- g. Monitoring and reporting on NPDES Phase-II permit compliance.
- h. Biological stream sampling, coordination and data management.
- i. Ambient water quality sampling and data management.
- j. Responding to citizen requests-for-assistance regarding water quality and quantity questions and issues.
- k. Providing development review and comments.
- l. Hazard Mitigation Plan development and implementation.
- m. Developing and providing Geographic Information System (GIS) products and managing GIS database(s).
- n. Performing stream classifications and delineating RCDs.
- o. Developing a comprehensive Townwide storm sewer infrastructure inventory and map.
- p. Preparing and revising the Town Design Manual and Standard Details including technical provisions and engineering methods.
- q. Develop and implement a Stormwater Management Utility Program.
- r. Provide liaison with public and private sector representatives with regard to stormwater management issues.

We need an additional staff engineer to provide an adequate level of service in responding to present and expected stormwater management demands. This position is necessary whether or not a Stormwater Management Utility is established.

The estimated annual salary and benefits cost of the new position is \$75,000.

4. Capital Improvements Program Reserve Fund

The Town currently has no reserve fund for drainage infrastructure capital improvements. There is a current backlog of known capital projects that need attention. We anticipate that additional capital improvements needs will be identified as a result of master planning activities. The recommended program would establish a reserve fund with a year-one allocation of \$60,000 for capital improvements project. This reserve amount could be adjusted in future years in response to the program master plan recommendations and schedule.

5. Emergency Reserve Fund

An emergency reserve fund would provide for unexpected and emergency projects and/or activities that require immediate response. The recommended program would establish a reserve fund allocation of \$50,000 in year one.

6. Reimbursement of Costs Incurred

The recommended program includes full reimbursement from the Utility to the General Fund of all costs incurred for the development and implementation of the stormwater management utility.

This would include the cost of consulting services, advertising, committee meetings and other direct expenses associated with the Utility development.

We believe that the recoverable costs total about \$402,000. Attachment 4 provides the details of the reimbursement amount.

7. Establishment of Ten Percent Fund Balance

We recommend that the utility establish a ten percent fund balance. General financial management standards for local governments mandate positive fund balances, and recommend that they be maintained at a minimum of 8-12% to ensure that operational reserves are in place to provide a stable operating cash flow and to provide for contingencies.

The estimated cost of establishing and maintaining a 10% fund balance is approximately \$188,000 in year one.

8. Purchase of Existing Services from the General Fund

The costs of existing stormwater management related services that are provided by the Town, and that are currently paid for through the Town's General Fund, could be billed to the Stormwater Management Utility. These include costs of direct services provided by the Public Works, Inspections, and Engineering Departments in addition to indirect costs for general management, financial control and reporting and other services. We recommend the same charge as is made to other Funds, 13.55% of payroll costs. This is estimated to be \$27,000.

We estimate that General Fund direct costs (\$751,000) plus general overhead costs (\$27,000) that would be billable to the Stormwater Management Utility are approximately \$778,000 per year. Attachment 5 provides a detailed summary table of General Fund costs that we believe could be billed to the Stormwater Management Utility.

9. Office Space Needs

If the Utility is established as proposed, and two new staff are hired in year one as recommended, we would require office space outside of Town Hall. Sufficient space is not available in Town Hall or in any other suitable Town building for two additional people with necessary furniture and equipment. We have evaluated the space needs and determined that approximately 1000 square feet of office space would be necessary for the two new staff members and the two existing employees, along with storage and conference space needed for the program. This work space estimate is consistent with comparable areas now serving similar functions in Town Hall.

The estimated cost for office space, furniture, phones, computers, supplies, and office equipment is \$76,500 in year one. Attachment 7 provides a summary of the relevant costs.

RECOMMENDED PROGRAM COST SUMMARY

The total estimated first year cost for the recommended program is \$2,031,255. Attachment 2 is a draft operating budget document and budget details for program year 2004-05, assuming the Utility is established effective July 1, 2004.

The following table summarizes estimated program revenues and costs for the first year of the recommended program.

DESCRIPTION	2004-05 Estimated Budget
TOTAL PROJECTED REVENUES	2,031,255
EXPENDITURES	
Personnel	297,730
Operations	429,525
Capital	125,500
Other (reimburse sunk costs; fund balance)	1,178,500
TOTAL PROJECTED EXPENDITURES	2,031,255

The annual program budget is expected to remain stable between \$2 and \$2.5 million over the first five program years, subject to changes directed by the Council in response to program master plan recommendations.

BILLING AND COLLECTIONS

We recommend that billing and collections be administered through Orange County. We are currently negotiating the scope and costs of billing and collection services necessary to support the Utility. We estimate that first year costs for these services would be approximately \$68,000. We will continue billing and collection discussions with Orange County with the objective of creating an inter-local service agreement for consideration by the Council if it decides to establish a utility as recommended. Billing for Chapel Hill properties in Durham County will be handled through a private contractor.

EQUIVALENT RATE UNIT (ERU) FEE

The program recommended by the Manager includes an ERU fee of \$45.00 per year per ERU. We believe it would be prudent to establish an initial fee that could support the program over a period of several years and that the proposed \$45.00 annual fee would be sufficient for the first three years of the program. We anticipate that the cost of services could increase over time because of increasing regulatory requirements and depending on the schedule for implementation of work identified in the program master plan. The fee rate would need to be periodically reevaluated in response to these changes.

The recommended program would exempt State and Town public rights-of-way from assessment of fees because public roads and streets collect and convey stormwater runoff as an integral part of the public drainage system infrastructure.

Property owned by the University would not be included in making the initial estimate of total Equivalent Rate Units. It is our understanding of the law that the University would be subject to the Town's utility ordinance, including payment of applicable fees. However, the University has a different understanding of the relevant law. Therefore, the Manager recommends that the Utility proceed without including any revenue from the University in the first-year revenue estimate.

ESTABLISHING ORDINANCE

Attachment 1 is a draft ordinance that would establish a Chapel Hill Stormwater Management Utility and a Stormwater Management Utility Advisory Board. It also would establish relevant definitions and an Enterprise Fund to account for utility revenues.

ADVANTAGES AND DISADVANTAGES

We believe that the main advantages of using a utility as a funding source for a comprehensive stormwater management program are: (1) a utility would provide a stable source of revenue upon which a program could be designed to accommodate current and future stormwater management needs; (2) a utility would provide a uniform and equitable means of assessing property owners for service demands placed on the Town's drainage system, based on impervious surface area; and (3) tax exempt properties would be required to participate.

We believe that the main disadvantages of using a utility as a funding source for a comprehensive stormwater management program are: (1) a utility would result in additional costs to citizens; and (2) fees would not be tax deductible.

CONCLUSION

We think that the first year of a utility-based stormwater management program should focus primarily on organizational and master planning activities to establish a solid basis upon which to implement program activities in an orderly and effective manner.

The Manager's recommended program retains the basic elements and intentions of the program goals and objectives developed by the Policy Review Committee while allowing sufficient time for thorough program organization and master planning.

We think that developing and implementing a comprehensive public education and participation program, continuing existing stormwater management services, and providing new services in response to federal and state mandates should all be accomplished in year one as well. The recommended program includes the addition of two (2) new staff positions in the Engineering Department and the lease of necessary office space.

Finally, we think that the preparation of a detailed master plan for the Town's stormwater management program would allow the program activities and work elements originally identified and recommended by the Committee and Consultant to be undertaken in an orderly sequence and on a reasonable schedule, if adequate resources are provided. Program work would include new and increasing compliance activities relating to State and Federal mandates.

NEXT STEPS

Following tonight's meeting we will continue to consider comments from the Council, citizens, and advisory boards and will revise our recommendations and the draft ordinance as necessary. Additional opportunities for discussion by the Council are available at the Budget Public Hearing on May 12 and at subsequent Budget Work Sessions.

We have tentatively scheduled Council action to establish a stormwater management utility for the June 14, 2004, regular Council meeting at the same time that the Council is scheduled to consider adoption of a budget for 2004-05.

RECOMMENDATIONS

Planning Board's Recommendations: The Planning Board recommends the *concept* of establishing a stormwater utility, including extensive public education in the first year. The Board also recommends: (1) more work to include participation of UNC, Carrboro, and Orange County in the utility program; (2) establishment of an acceptable credit system; (3) annual review of the program by the Planning Board; (4) provide more and improved field inspection activities; and (5) establish a precise procedure for enforcement of violations.

Comment: We agree with the Planning Board's recommendations and we think that the proposed stormwater management program would provide the desired outcomes.

Community Design Commission's Recommendations: The Community Design Commission recommends: (1) elimination of a cap on impervious surface area for calculating ERUs; (2) exempting affordable housing from the first 2,000 square feet of impervious surface area; (3) establishing the fee structure to encourage innovative stormwater management practices; (4) revising the fee structure so that it does not penalize large property owners with long driveways, and (5) using some method other than aerial photography to determine impervious surface area. The Commission also noted that it felt that public awareness of the proposed program has not been extensive; that more public education is necessary after establishment of the program; that the Council should expect citizen objection after fees notifications are mailed to property owners; and that the nature of the process appears to be creating a heavy-handed bureaucratic agency.

Comment: The cap has been eliminated from the fee rate calculations as recommended. We intend to explore alternatives for issuing credits and/or exemptions in the first year of the program, and will consider the Commission's recommendations regarding affordable housing, innovative practices, and properties with long driveways.

Transportation Board's Recommendation: The Transportation Board recommended that: (1) the minimum impervious surface that would be assessed a fee be 1500 square feet; (2) the cap be eliminated; and (3) the University be included in the assessment.

Comment: We think that the minimum impervious surface area for consideration should be 200 square feet (e.g. a 12' x 14' paved patio) because it generates stormwater runoff that places a demand for service on the Town's drainage system. The cap has been eliminated from the recommended program, and discussions regarding University participation are proposed in the first year of the program.

Historic District Commission's Recommendations: The Historic District Commission does not recommend establishment of a stormwater utility. The Commission commented that: (1) it is unlikely that a utility would cause a builder to reduce the amount of impervious surface associated with a new home; (2) consideration of pervious to impervious surface area is not logical unless consideration is given to total land area as related to total impervious surface area; (3) the Town already does a good job of managing stormwater and a utility is not needed; (4) the overhead costs for a utility could be costly; and (5) the data presented does not substantiate the cost.

Comment: We think that, in an urban area such as Chapel Hill, increased stormwater management service demand is directly related to increased runoff from impervious surface area, notwithstanding the total land area involved on the majority of lots within the service area. We believe that the Town will need to do more and better stormwater management, and that a utility could provide the necessary fund base with minimal overhead costs.

Note: Attachment 3 includes copies of the recommendations from each of the boards and commissions noted above.

Manager's Recommendation: That the Council discuss the proposed stormwater management utility and consider it as part of the 2004-05 Budget.

ATTACHMENTS

1. Draft Ordinance establishing the Stormwater Management Utility and Advisory Board (p.13.1).
2. Draft Operating Budget for program year one (p. 20).
3. Advisory Board Comments and Recommendations (p.30).
4. Reimbursable costs for the utility development (p. 35).
5. Billable costs to the enterprise fund (p. 36).
6. Equivalent Rate Unit (ERU) Tabulation (p. 37).
7. Estimated year one office lease space costs (p. 38).
8. Summary of Questions and staff comments from March 24, 2004 Public Forum (p. 39).
9. Citizens' email correspondence (p. 40).

Additional information is available through the Town's website as follows:

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