

SWAC Notes for October 7, 2014

Attending Members

Tim Smith (Chair)
Councilor Kim Freeman
Brandon Smith
Mark Caillier
Sam Kidd
Michael De Blasi (call in)
Matt Knudsen (call in)

Staff

Bill Lawyer
Elizabeth Sagmiller
Mike Griffin
Kat LaFever
Billy Johnson

Absent

Councilor Jim Taylor
Mayor Lore Christopher

Meeting came to order at 12:02 p.m.

Chair Tim Smith called the meeting to order. Elizabeth walked the committee members through the language changes proposed to the Stormwater Utility ordinance (Ord. No. 2007-563). Various changes had been proposed by Public Works staff, by the committee in previous meetings, and by Legal staff after review.

The new ordinance, if accepted by Council, will bring the ordinance language up to date with existing City state/federal permits, and remove outdated or unclear language. Mark Cailler pointed out that Legal added in new sections related to fee collection, repeal of the old ordinance, and so forth.

Bill Lawyer gave some explanation of the legal language surrounding collection of fees, and liens which may be applied if not paid. Bill explained that the ability to lien property was consistent with other public utility language for the City of Keizer. The committee discussed whether the City could turn off customer water in order to ensure payment of the stormwater utility. Bill Lawyer said that is likely one legal recourse, but in the ordinance Legal only references a lien against the property if necessary, and mentioned that this option isn't always possible if the property doesn't have a water or sewer services.

Michael De Blasi expressed confusion as to Section 3, which seemed to say that the City would be responsible for stormwater facilities, then next says that the 'person responsible' will be. Then it was pointed out that 'person responsible' is a defined term, and also that the City is only responsible for 'public' stormwater facilities. He had no further issues.

Matt Knudsen wondered if it were still appropriate to use the word "establishing" in this new ordinance, since this is not the first version of this ordinance. However, because this ordinance will take the place of the previous ordinance (which will be repealed), the committee believed it was likely correct. Nevertheless, staff will check this understanding with Legal to make sure.

Tim Smith wondered why this new version of the ordinance, specifically Section 10 'excuses' the City from paying the utility fees, since Keizer Streets has always paid before (as city streets represent a large portion of impervious surface in the city). Bill Lawyer gave some history of the various ways Streets has paid into the Stormwater fund (from paying for Street Sweeping, to paying for impervious) and clarified that, while not explicitly stated, Streets will still be paying funds into the Stormwater fund to cover the appropriate amount of ESUs.

The committee therefore recommended that this be clarified in the ordinance language if possible. One option would be to add wording to the effect of, "this may not refer to dedicated rights-of-way". Brandon Smith suggested adding a definition of "City owned property" which clarified what that meant or didn't mean. The committee preferred that option.

Sam Kidd pointed out that the language in this ordinance still says that utility customers should be able to control the amount of their fee. But later in the ordinance it says the minimum fee would be no lower than 1 ESU, making it impossible for customers at that level to lower their fee further. Elizabeth Sagmiller agreed, and suggested striking the sentence entirely (Section 1 – E, 2nd sentence). It will be proposed to Legal and see if that is acceptable. If it must remain, the committee suggested it be reworded to remove the language about the right to lower the fee.

Mark Caillier was concerned that there is a definition for "Master Plan", but all references have been stricken from the ordinance (because the current Master Plan is from the 1980's and is so out-of-date as to be unusable). He also desired not to lose the Public Works Director's ability to have say over the manner in which projects are developed in regard to runoff and water quality. Elizabeth said that because the current Master Plan is so old, it really shouldn't be referenced in this ordinance, lest someone be able to appeal to faulty information in the old plan to supersede the ordinance. However, she had already planned to ask Legal to strike the definition, as it was likely an oversight. Mark noted that he had found another portion of the ordinance that gives the Public Works Director flexibility over new projects so he was not as concerned about losing the striking the language regarding runoff.

Remaining members were asked for any additional comments, but none had anything further.

Mark Caillier made a motion for the Committee to approve the repeal of the old ordinance, and recommend to Council the newly worded ordinance as written and amended based on this meeting.

Brandon Smith asked for clarification that staff determine if the "City owned property" definition could be added in order to reconcile the concerns about Section 10.

Councilor Kim Freeman seconded the motion.

Tim Smith called a vote, and all were in favor, none opposed.

Tim Smith asked Elizabeth if any progress has been made with DEQ to have inclusion under the 1200-CN permit, so contractors are not required to pay Erosion Control Permit fees twice. Elizabeth said that the DEQ recently hired a new permit writer to fill the vacancy, and so forward progress towards a new permit may resume sometime soon. However, there is no timeline yet from DEQ as to when this will be fixed.

Meeting Adjourned at 12:55 p.m.