

**CITY OF NEWBERG
STORMWATER AD-HOC COMMITTEE**

July 7, 2011

7:00 a.m.

Newberg Public Safety Building - 401 East Third Street

I. CALL MEETING TO ORDER

Chair Clyde Thomas opened the meeting at 7:04 a.m.

II. ROLL CALL

Present:	Chair Clyde Thomas	Al Blodgett	Don Clements
	Joe Kavale	Leonard Rydell	Jadene Stensland
	David Craig		

Staff

Present: Sonja Johnson, Environmental Specialist
DawnKaren Bevill, Minutes Recorder

II. APPROVAL OF JUNE 23, 2011 MINUTES

Jadene Stensland noted a correction on page 4 from the word “judicial” process to “civil” process.

<p>MOTION #1: Rydell/Craig moved to approve the June 23, 2011 minutes as amended. (7 Yes/ 0 No/ 0 Absent) Motion carried.</p>
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III. STAFF REPORT

Sonja Johnson gave the staff report (see meeting record for full report). A Stormwater Management Code Summary was provided to the committee that provided a matrix of the code requirements. Based on the committee’s discussion, staff has tiered the requirements for stormwater management according to the net impervious area created by a project. The tiers include: 1) more than one acre of disturbed land which is the requirement of the TMDL, 2) a net impervious area of more than 2,877 square feet which is equal to 1 EDU and is the average impervious area for a single residential home, and 3) 500 square feet to 1 EDU of net impervious area. Ms. Johnson stated the square footage can be changed by the committee if they so choose. The committee was concerned about over-regulating the smaller homeowner and small developer regarding small projects. The first tier is for one acre and above and the project will need an engineered design due to the amount of stormwater large projects create; the second tier will be required to have stormwater facilities but may not require an engineered design; and the third tier may not be required to have stormwater facilities.

David Craig asked how the City can require stormwater treatment without a facility. Ms. Johnson gave the example of sheetflow across a grassy area would not be considered as a facility per se but it would take care of stormwater treatment. David Craig stated the City would be requiring treatment for small areas but what will be accomplished by doing so? The facility and the treatment requirements should go hand-in-hand.

Leonard Rydell stated that sheetflow across grassy areas is the cheapest and most effective way of solving these problems.

V. PUBLIC COMMENT

None.

VI. DISCUSSION OF PROPOSED STORMWATER CODE REGULATION

David Craig stated clarification is needed on what a facility is. Ms. Johnson explained a facility is defined as something that has been designed to control stormwater and which the City has approved. As long as a new impervious area of not more than 500 square feet is created, there will not be a requirement for facilities. Regarding smaller projects and stormwater treatment, infiltration will be considered treatment which is why the City would accept sheetflow across a grassy area as acceptable treatment as long as it decreased the stormwater volume. David Craig stated that he did not think an average homeowner would understand the facility requirements.

Leonard Rydell stated stormwater treatment should be required for every project. There are two types of projects – building permit projects and public works projects. At the building permit stage, there should be a volunteer program when the site plan is reviewed that suggests stormwater facilities such as grassy swales to the homeowner. There should not be a fee or maintenance bond; rather it should be handled by the Planning, Building, and Engineering Departments alone. In his experience, performance bonds are generally only required if you want to record a subdivision before the street is built. Mr. Rydell stated he would rather not have a performance bond at all. A maintenance bond should only be for engineered facilities and those covered by development permit. Generally a maintenance bond should not be required for a single family residence. It is difficult to do anything without a permit from the City but it needs to be kept simple yet conscious of the impact on the environment. A stormwater review should be done at the time of applying for a permit. Facilities should be suggested on a voluntary basis.

David Craig agrees as part of the education process to encourage management of stormwater. Regarding permits, there are many things you can do that do not require them. Decisions need to be made regarding bonds since it is a substantial burden on developers and homeowners. The City has allowed bonding lands on landscaping but it is purely voluntary.

Sonja Johnson stated the performance bond is to guarantee the facilities are built correctly and are only required with an engineered design facility. The maintenance bonds are to maintain the stormwater facilities for 2 years. If the maintenance is for vegetative cover, the bond would be much lower than something more complicated. It makes sure the maintenance organization is able to properly take care of the facility.

Chair Thomas called a few people who work in the banking industry; one being a Vice President for Bank of America and a few Certified Public Accountants and asked them about bonds in regard to single family residences. They commented they had not heard of such a thing.

Jadene Stensland stated when she has seen bonds they are usually through a surety and not through a bank. Ms. Stensland asked staff the cost of a maintenance bond for the homeowner and for a non-engineered facility. Ms. Johnson stated she has not researched the cost.

Leonard Rydell suggested deleting the performance bond section in its entirety. Many people do not have the ability to get a maintenance bond and he does not recommend them for all facilities but for facilities greater than 2,878 square feet. There should be no bonding requirements for a single family residence. Mr. Rydell stated the face value normally required for a bond is 20%.

Sonja Johnson stated the City has not talked about the dollar amount to be charged but she will look into it and can supply information to the committee within the next two weeks.

Don Clements stated that the cost and burden of the regulations is the reason this committee is here. There is no information on the cost, the benefits, or the analysis and the answers needed in order to make an informed decision. Mr. Clements requested asking a bonding expert to come in and address the committee in order to be better informed before making a decision on this matter. The committee agreed.

Al Blodgett stated homeowners should not be discouraged with unnecessary bureaucracy regarding single family residences.

Joe Kavale stated if the purpose of the maintenance bond is to cover the cost to the City, then why shouldn't the City have the right to place a lien for the value of the cost of maintenance of the facility and tie the deed up if need be? David Craig replied the challenge is when there is a homeowner's association and knowing which property to place the lien on.

David Craig feels he has enough information and experience regarding bonding to say that the performance bond should be eliminated as well as the maintenance bond requirements for anything except one acre and over.

Jadene Stensland stated from a municipality's standpoint, the costs will be passed on to everyone if something goes wrong. The cost should be placed on the person doing the development, thus having performance bonds and maintenance bonds, except no maintenance bonds under one EDU.

Chair Thomas asked about the use of a lien instead of a performance bond and is there a way to word the ordinance in order for the City to go back and enforce a lien. David Craig believes there is already language in the City code when penalties are not paid. Ms. Johnson stated there is a Summary Abatement in the current code; if the facility is not maintained and it threatens downstream facilities or other people's property, the City has the right to go in and make sure the facility is properly functioning and bill that cost to whoever owns the facility and will attach it as a lien.

Chair Thomas summarized some of the suggestions: to remove and strike the performance bonds in all three tiers; remove the maintenance bond up to 1 acre; and the option to work with a lien instead. Leonard Rydell would recommend maintenance bond only if an engineering design is required; greater than 2,878 square feet. Sonja Johnson will find out whether the bonds are negotiable as well as something to back that up.

Don Clements suggested bringing back those who testified earlier in order to present their comments before the committee concludes in order to be sure concerns have been addressed.

Jadene Stensland asked staff for information regarding performance bonds for one acre or greater.

Leonard Rydell stated the number of performance bonds on projects are not typical and does not understand why the City would want to do them now.

Chair Thomas, referring to the Stormwater Treatment section of the Stormwater Summary handout, asked if the requirement to discharge to the stormwater system or a stream refers to overflow. Sonja Johnson replied yes; the reason it was included is the code says stormwater facilities cannot discharge to the City's wastewater

system so they must discharge overflow to either the stormwater system or the stream. She asked the committee to look at the actual code on this and delete the bullet point in the handout.

Jadene Stensland, referring to the Stormwater Treatment section of the code that requires controlling peak stormwater, stated that peak discharge is not the only issue in Oregon due to the small storms that come in one after the other; peak discharge combined with storm duration causes erosion problems. She recommends using a 72-hour storm duration.

Leonard Rydell sees danger in that due to calculations. The policy should be to keep stormwater volumes at the same level as they were pre-development. Sonja Johnson stated, in regard to the erosion in the streams, we used to keep the stormwater back and let it out slowly but keeping the higher discharge rates for a longer time causes more streambank erosion. If you have higher discharge rates going through a stream for a longer period of time, a lot more streambed material is moved by the stream and she believes that is why cities have moved to a 72-hour duration storm requirement instead of a design storm based on annual frequency.

Sonja Johnson referred back to the section requiring treatment of 500 square feet of net impervious area up to one EDU and asked if the committee is okay with it. She also asked if the committee agreed that the City should keep the discharge rate and stormwater volume down in order to not inundate downstream facilities or increase flooding and erosion problems downstream, and that projects follow the Oregon Drainage Law.

David Craig believes that it is open-ended. It could be stated that the requirement is zero net increase in run-off.

Leonard Rydell referred to the Oregon State Highway Department Drainage Manual which states you cannot keep water from upstream properties from running across your own; cannot change where it runs or divert it from one place and have it discharge somewhere else, and cannot increase the flows downstream.

Sonja Johnson stated that the City is not asking for zero run-off but does not want to create a problem downstream and definitely does not want to increase flooding or erosion problems downstream. There is a clause in the code that states if a project cannot fulfill the intent of the code then an applicant can ask for the City for a variance.

David Craig stated the definition for “facility” needs to be clarified. Leonard Rydell stated all would be called a facility due to the problems that would be caused in ground disturbance even if just a landscaping change.

Sonja Johnson will change the definition of a stormwater facility to say, “has been required by the city”.

David Craig stated you can have both kinds; a stormwater facility that is not required by the City and also a required facility. Jadene Stensland is hesitant to use the same definition twice; a definition for “required” is what is needed.

Don Clements referred to facility maintenance and stated there should be one statement that says publicly or privately owned and shows everyone is responsible. Sonja Johnson will change the language in section A to, “the city shall operate and maintain public stormwater facilities.”

VII. OTHER BUSINESS

Sonja Johnson asked the committee if they would be able to meet on Wednesday, July 20, 2011 from 7:00 – 9:00 a.m. instead of 7:00 to 9:00 a.m. on Thursday, July 21, 2011 since the recording secretary will be unable to

attend due to a meeting conflict. The committee will be unable to change the date so the recording secretary will transcribe the meeting from the audio recording.

**VIII. NEXT MEETING JULY 21, 2011
7:00 A.M. TO 9:00 A.M.
PUBLIC SAFETY BUILDING, 401 EAST THIRD ST.**

X. ADJOURNMENT:

Chair Thomas adjourned the meeting at 9:04 a.m.