



TOWNSHIP OF FERGUSON

Ferguson Township – Stormwater Advisory Committee (SAC) Phase II Meeting #3 June 5, 2019 (@ 12pm)

Attendees

Ferguson Township: David Modricker, David Pribulka, Ron Seybert, Kevin Bloom, Eric Endrensen

Wood / Gannett Fleming Team: Elizabeth Treadway, P. Eric Mains

Stormwater Advisory Committee: Tom Songer, Ken Jenkins, Todd Irvin, Wes Glebe, Albert Jarrett, Rob Cooper, Scott Plumm, Todd Giddings; Jason Little, Jim Carpenter, Jennifer Myers, Craig Bowser, Steve Balkey

The following minutes/notes are intended to be an overview of the presentation and discussion that occurred at the above referenced meeting. There are provided to document the general content of those discussions such that they can be used as a tool with future meetings and stormwater program discussions. They are not intended to be a transcript of the meeting. However, any noted differences, exclusions, or variations from personal notes of the meeting should be brought to the attention of the Township so that they can be considered for the final record.

The following minutes were captured.

Welcome and Introductions

- Information from Phase I can be found here: <http://www.twp.ferguson.pa.us/Stormwater-User-Fee/>
- Agenda focused on two things:
 - Policy Discussions – Private Drainage Systems Serving a Public Purpose
 - Level of Service Zone and Rate Options

Private Systems Serving a Public Purpose

Eric Mains, utilizing a PowerPoint presentation, provided a case-by-case review of five specific examples of conditions where there is interconnection between various private drainage components and the public system. The presentation provided scenarios of each example, with an understanding that these do not represent the totality of incidents in the Township. Ron Seybert noted that these cases provide a general review of system issues and that there could be more than 50 such examples throughout the Township.

The purpose of presenting these scenarios is to focus the committee discussion to provide advice on current policy, as well as potential changes, that impact the service level and public resources needed to address the impacts public systems have on private drainage components.

Scenario #1: Stormwater originates solely within the “development” and is conveyed to (or through) the private system and/or BMPs for the same development.

Issue: Current Township Responsibility is Complaint Driven, and there is no Maintenance Agreement on Pre-2003 BMP

Example: Mid-State Bank (1423 N Atherton St) - Stormwater from the development parking lots and building flows into a private collection system, where it is conveyed to a private BMP (e.g. stormwater detention basin) and ultimately discharged to the N Atherton stormwater system.

Discussion:

Question: Clarify for the committee when inspections occur and on what components.

Answer: Pre-2003 above-ground facility – by complaint and post-2003 facility, every five years. Pipes are not currently inspected.

Questions: What does enforcement look like when a complaint or inspection indicates a problem with a facility?

Answer: If corrective action is required, the owner is notified of deficiency and action needed. If correction does not occur, the Township will repair/correct condition and charge the owner for the cost of repair/correction.

Question: In the example provided, will this property owner pay a fee if a utility is implemented? Yes.

Question: What are the standards that must be met?

Answer: 90% of detained water must be reduced/discharged within 72 hours and failure to do so, requires mitigation (to avoid issues such as mosquitoes).

Feedback on Scenario #1:

- Add the pre-2003 facilities to the inspection program (update inventory and then add to schedule)
- Township was involved in original engineering design; make sure standards are appropriate and met.

Scenario #2: Stormwater originates from outside the “development” and is conveyed to (or through) a private stormwater system and/or BMPs (not owned by the Township or State).

Issue: Current Township role is complaint driven, public stormwater system relies on private maintenance efforts to ensure performance of private system do not impact public drainage system.

Example: Joel Confer Toyota (120 E Clinton Ave) - Stormwater from the streets in Overlook Heights drains to street inlets along Clinton Avenue and flows into a private pipe network that is part of the Confer Development, passing through the development, to discharge into the Big Hollow Drainageway. There are no intermediate BMPs, public drainage flows are “bypassed” through the development.

Discussion: This is a legacy condition where upstream properties must use private pipe network to carry flow to a public drainageway.

Feedback on Scenario #2:

- Inspect system to identify condition and potential problems or issues; place pipe into program for continuing evaluation of the conveyance system.
- Based on findings from initial inspection, determine who should own the problems identified, if any.
- Research to determine if an easement exists and the type of easement, if found.
- Provide technical assistance.
- Potentially:
 - Partner with an established/negotiated maintenance agreement
 - If agreement created, ensure that it “runs with the land” so regardless of a sale of property, the agreement is binding to owner.
 - Routine maintenance should be the responsibility of the private land owner.
 - Manage by “exception” based on the degree of impact from upstream runoff from public conveyance.
 - Add private pipe to an on-going inspection program.
- Question: Would open channels be considered in the same manner as the pipe example? The policy for pipe connections would apply in the same manner to open channels.

Scenario #3: Stormwater originates from outside the development, is combined with private “development” runoff and then flows to and through a privately-owned BMP, ultimately ending up back in a private stormwater system (then to public system).

Issue: Complex “bridging” of ownership and maintenance obligation that creates critical links of public drainage system relying on private initiative to perform maintenance.

Example: Good Hope I (Chelsea Lane) – Stormwater from West College Avenue and Science Park Court drains into a cross lot drainage system that also accepts runoff from Chelsea Lane in two locations before being discharged into a private swale located in The Landings. The cross-lot drainage systems are in an easement on private property and do not have an assignment of ownership.

Discussion: Key in this case is the absence of an HOA, where there are multiple owners of the parcels served by the public and private conveyance, there is not an assignment of ownership of the drainage infrastructure on a plan or easement.

Question: Is there Township authority to allow a special assessment when a pipe needs to be replaced? The Township can do the repair/rehabilitation and charge the cost to the owners served by the system.

Feedback:

- If the Township can force the creation of an HOA it should work with the neighborhood served by the system and establish the HOA to take responsibility for maintaining the private components.
- If no HOA is created, the Township should add these private system components to the publicly maintained inventory and provide general O&M, rehab or repair, charging the individual owners for services delivered.

Scenario #4: Stormwater originates within a development and possibly carries flows from upstream, is conveyed with the addition of public runoff, and ends up discharging to a single-owner BMP. The BMP is not dedicated to an HOA, nor the Township.

Issue: Is there a Township responsibility to individual owner, where the Township takes an expanded role beyond oversight of BMP condition?

Example: Shamrock Estates (113 E McClary Ct) - Stormwater flows are captured by a collection system of inlets on Grace Court and McClary Court and conveyed to detention facility on 113 E McClary Ct, discharging to the Township’s system. There is no record of dedication to an HOA or to the Township and the BMP facility serve multiple properties runoff (both public and private flows).

Discussion: In this example, there is no HOA. There is a single owner of the BMP and the flows include public stormwater runoff from outside the development boundary. Similar to Scenario #3, the question of whether the Township can “force” the creation of an HOA was considered. This will require research to determine if it is possible. It was also discussed that the Township may be able to engage the neighborhood served by the BMP to get a formal agreement negotiated between landowners to assist in the maintenance of the single-owner BMP.

Feedback:

- Consider the option of creating an HOA (also can the Township be a party to such an agreement)?
- The Township should partner with the single-owner with a formal agreement on responsibilities (e.g., owner does routine maintenance such as mowing, and any debris removal and the Township takes care of the structural components.
- Add the BMP to the inspection program if it is not currently. Do an assessment and determine the nature of issues that may be present today.
- The Township received a dedicated easement, maintains the BMP, and charges all served properties for services.

Scenario #5: Stormwater originates within a development and possibly some from upstream, is conveyed with the addition of public runoff, and discharges to a single BMP is dedicated/owned by an HOA.

Issue: Is there a Township responsibility to an HOA when public stormwater runoff is managed, along with private land runoff, by the HOA in a BMP/facility? Should there be an “option” to have Township involved?

Example: Chestnut Ridge - Stormwater flows are conveyed by a Township stormwater collection system from inlets on the streets in Chestnut Ridge and conveyed, with interconnections to pipes located on private property, to a detention facility at the corner of Sleepy Hollow Drive and Chestnut Ridge Drive, and ultimately discharging to Township’s system. Basin is owned and maintained by HOA.

Discussion: The BMP is an HOA facility that has the responsibility of receiving and managing public flows. It was pointed out that “ability” to pay for the operation and maintenance of the basin should not be considered in making policy. Though this example represents a case where the HOA is financially capable, there are other similar examples where the financial capacity to provide maintenance is limited.

Feedback:

- The Township should include in the inspection program, if not already included.
- The Township should evaluate these situations on a case by case basis to determine the degree to which the BMP serves a public purpose.
- The Township should have at a minimum, an agreement in place to either share responsibility or, with a dedicated easement, take over the maintenance and operation of these BMPs. The key is the degree to which public stormwater flows are served by the BMP. In the example case, the Township should take responsibility.
- The Township could have an operating agreement with the HOA to provide O&M and capital for major repairs to structural components and the HOA do minor maintenance (mowing and debris removal).

General Discussion:

Committee members reminded everyone that if the Township charges for a service, there has to be a recognizable change in service. The community will expect to see impacts of the new revenue. The Township should be sure that the community understands what it receives in services and how they are changed by the new revenues. Project should be ready to implement with the adoption of the user-fees.

Request for a Survey: Several committee members asked if between meeting #3 and #4, a survey could be provided to allow the committee members to think about the options and provide feedback on each scenario before asked to make consensus recommendations as a body. The consultant team indicated that this can be done and will provide an online survey based on the five scenarios.

Future Meeting Logistics

- Next meeting July 17 will focus on conclusion regarding the above discussion and start consideration of the Level of Service policy.
- Additional Meeting set for August 7 – confirmed with the committee
- August 21 - this meeting date will be confirmed on July 17