



TOWNSHIP OF FERGUSON

Ferguson Township – Stormwater Advisory Committee (SAC) Phase II Meeting #4 July 17, 2019 (@ 12pm)

Attendees

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

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

Stormwater Advisory Committee: Todd Giddings, Ken Jenkins, Jim Carpenter, Wes Glebe, Albert Jarrett, Craig Bowser, Brian Hoffheins, Rob Cooper, Todd Irvin, 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.

Welcome and Introductions

Continued Policy Discussion regarding Stormwater Drainage System Responsibilities Review of survey results evaluating the SAC's feedback on private/public conveyance system ownership, maintenance, and funding concerns.

Private systems serving private property only:

- Survey results indicate the SAC's focus is:
 - Township will inspect all drainage components (currently inspect post-2003 above - ground facilities).
 - Township enforce code to address deficiencies.
 - Township will require maintenance agreement defining responsibilities.
 - Private owner is responsible for maintaining, repairing, and rehabilitating all drainage infrastructure.
- Can the Township enter private property w/o notice? Typically, on a Land Development Plan, there will be language that allows the Township access for inspection, sometimes an easement is provided. This is for land development type projects as well as typical residences (grading/stormwater plans).
- SAC indicated there is no support for the Township to provide operation, maintenance, or repairs to private systems serving private property only.

Private system conveying "public" stormwater discharging to public system:

- Survey results clearly indicate that the SAC supports:
 - Township will inspect all private drainage components (pre-2003 and post-2003 facilities).
- **Discussion** regarding the following responsibilities:
 - Township will partner with private owner to address conveyance system failures in system components carrying public flows on a case by case basis.



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- Township will maintain drainage system components carrying public runoff, with a dedicated easement.
- Each of these scenarios provide a different level of cost associated, the first would be a cost sharing situation while the second relies on the Township to face the costs.
- Of the complaints handled by the Manager, private/public partnership for privately owned stormwater facilities is one of the most difficult to mediate. Some examples include the private owner having the funds but lacking the technical expertise to solve an issue.
- Suggestion to develop the responsibility depending on the source of the runoff, i.e. if there is no stormwater from the lot added to the pass-through pipe, the Township should take 100% responsibility of this, but if 50% of the runoff is from the parking lot and 50% is from offsite, a 50/50 partnership seems appropriate.
- Suggestion to have existing situations as “partnered” but moving forward drainage easements would be required (with clear responsibilities outlined).
- Suggestion that partnering makes the most sense for year 1 but review once there is a better understanding of the system.
- Sharing should be developed on a logical and real-world site-specific evaluation, so the property owner can understand their contribution and the cost allocation.
- SAC consensus moved to the Township potentially partnering with private conveyance system owners to provide operation, maintenance, or repairs to private system conveying “public” stormwater discharging to public system, the cost to be shared based on stormwater flow.

Public and private stormwater flows are discharged into a private facility with no HOA and multiple properties served; no designated ownership of infrastructure:

- Survey results clearly indicate the SAC’s support for:
 - If an HOA implementation was a requirement of development, the Township will enforce HOA establishment and assign responsibility for the interconnected private system components and basin.
 - Township will inspect all drainage components (pre- and post-2003)
- **Discussion** regarding the following responsibilities:
 - Township maintains all system components and assesses costs to all served property owners.
 - Township maintains, with dedicated easement, all drainage system components carrying or receiving public stormwater flows.
 - In the Township it is more common that an HOA ‘exists’ on paper but was never formalized. The Township is not aware if they can enforce the ‘establishment’ or ‘formalization’ of an HOA.
 - In the past, the Township would assess all homeowners for any required work that occurred ‘on behalf’ of the ‘non-existent’ HOA.
 - Suggestion to send out notifications to properties that should be a part of an HOA.
 - The Township will seek legal advice regarding the ability to ‘charge’ homeowners of ‘assumed’ ownership if there was no clear ownership established.
- SAC moved to consensus that the Township partner with all homeowners within an intended but non-existent HOA to provide operation, maintenance, or repairs to private facilities conveying “public” and “private” stormwater. The conditions include: there is no functioning



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HOA and multiple properties are served including no designated ownership of infrastructure. If partnering is not legally permitted, the SAC indicated that the Township should provide operation, maintenance, and repair to these facilities. The Township should notify the homeowners of the decision made.

Public and private stormwater flows are discharged into a single-owner basin serving multiple properties:

- Survey results indicate the SAC's support for:
 - Township will inspect basin (pre- and post-2003)
 - If an HOA exists, the Township will require HOA to support maintenance and operating costs of single-owner basin.
- **Discussion** regarding the following responsibilities:
 - Township maintains basin and assesses **all** properties within the "development" served for cost of operation (routine and major repair/rehabilitation).
 - Township maintains conveyance components carrying public runoff and assesses costs to all served property owners.
 - Township maintains basin and conveyance components carrying public runoff, with dedicated easement.
- It was recognized that this example is different from the previous (in which infrastructure ownership is in question). SAC moved to consensus that the Township partner with all properties being served by a single-owner basin to provide operation, maintenance, or repairs to private facilities conveying "public" and "private" stormwater. The Township will work with the HOA to establish an agreement of responsibility for the on-going maintenance and repair of the basin.

HOA-owned basin serving primarily public stormwater flows from public conveyance system:

- Survey results indicate the SAC's support for and consensus that:
 - Township inspects basin (pre- and post-2003).
 - Township establishes a shared responsibility with HOA maintaining basin for routine service (mowing, debris removal); Township maintains critical components (dam, riser, outfall).

Policy Discussion Regarding Stormwater Drainage System Level of Service (LOS)

- There are adopted user fees that do not take the variability of Level of Service into account and have had successful programs for decades. The SAC indicated that this is an important policy discussion for Ferguson due to the variability of services delivered across the Township.
- Phase I of the Study looked at different rate structures to address differences in LOS. They included:
 - Two-factor (urban/rural)
 - Multi-factor (density of development, urban/rural)
- The challenge is to establish the approach to equitability of the fee with various levels of service provided by the Township.



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- Though the rate structure can address LOS, it isn't beneficial when the rate is very complicated, especially if the elected body is not able to easily explain the basis of the fee.
- Zones of LOS (service areas) can be delineated by the type of infrastructure that's in place. Ron reviewed the process for assigning costs based on the infrastructure adjacent or parallel to the individual property. Ownership of the system is part of the analysis as well for establishing service areas. For example, properties along state-system roadways would be assigned to a lower level of service because the state is responsible for drainage services along their road network.
- Using type of infrastructure and system ownership can provide an alignment to the costs and services provided by the Township. Service zones can be established based on the infrastructure complexity which drives the costs incurred.
- Zones (service areas) can be contiguous (such as setting a LOS boundary within the Township) or can be identified by other infrastructure attributes such as the presence of a pipe network, curb and gutter, ribbon pavement/drainage ditches, or similar features. Geographical boundaries can create inclusion of exceptions to the LOS based on the nature of the property (e.g., agricultural lands within an urban service area).
- Service areas can be defined in terms of urban attributes versus rural attributes also. Staff indicated a preference to avoid "urban vs rural" classification. Other elements to distinguish service levels may include land use characteristics such as residential high-density with water quantity controls or without water quality treatment, though this option may require more administrative burden to administer and greater complexity to explain to the community.

Discussion:

- Suggestion was made to move away from term "zone" to avoid confusion with Zoning.
 - The use of LOS service areas is not based on "Zoning" as it doesn't always represent what development is present on the property.
 - Impervious cover will still be the primary basis in the rate structure.
 - The cost model capable of assigning costs by the infrastructure served. Service areas in Ferguson have a historical expense that can be aligned to a rate methodology, and the rate can be established on this methodology.
 - The routine 'overhead' costs should be shared across service areas.
 - It was noted that the SAC would like to see how the alignment by type of infrastructure will play out. Staff and the consultant noted that at the next meeting of the SAC, a presentation on the type of costs assigned to each level of service as well as the geographic representation of two service areas will be provided to demonstrate how a policy based on infrastructure type and ownership can be applied.
 - It was noted that property owners in the service area with lower LOS based on the stormwater infrastructure do utilize the Township stormwater system found in the higher-level service area. It was noted that consideration should be given to an allocation of a minimal portion of the high-service area costs to all property owners. A 10 percent share was suggested.



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- It was suggested that the Township minimize complexity and evaluate effectiveness after a few years of operation to see if the concepts of increased equity hold.
- Next steps include reviewing this type of rate structure and evaluating potential consequences, including defining decisions that need to be made.

Comment: The issues of revenue neutrality was raised, and staff indicated that this may not be an option since, with the stormwater fee, additional stormwater work and services will begin in order to maintain the increasingly failing infrastructure and providing the necessary LOS. Some of these services are not currently being provided, as well as the additional work required with permit and organizational responsibilities.

Future Meeting Logistics

- August 7th 12pm
- September 4th 12pm
- October 23rd 10am