



## TOWNSHIP OF FERGUSON

### **Ferguson Township – Stormwater Advisory Committee (SAC) Phase II Meeting #7 October 23, 2019 (@ 10am)**

#### **Attendees**

**Ferguson Township:** Ron Seybert, Kevin Bloom, Eric Enderson

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

**Stormwater Advisory Committee:** Jim Carpenter, Wes Glebe, Craig Bowser, Todd Irvin, Todd Giddings, Albert Jarrett, Rob Cooper, Brian Hoffheins, Ken Jenkins, Jennifer Myers, Tom Songer

The following minutes/notes are intended to be an overview of the presentation and discussion that occurred at the above referenced meeting. They 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**

#### **Continued Policy Discussions**

##### **Credit Program**

1. The Summary Paper provided was based on our understanding of the Meeting No. 6 Credit Program Discussions. The General Takeaways and discussion regarding the Credit Program were summarized for a general consensus by the members in attendance:
  - a. Evaluate Stormwater Ordinances – evaluate the current ordinances to ensure they support a strong overall stormwater program in regard to water quality, flooding, and recharge - YES
  - b. Delayed Credit Program - focus on an operational and cost-effective program prior to establishing a credit program. When asked to confirm if this is the consensus of the SAC, general agreement was indicated with comments noted:
    - i. There was a noted concern about a vague delay and lack of connection to the equitability of the stormwater program without a credit program. The SAC would like to see this explicitly determined and codified.
    - ii. Interested in seeing a specific recharge credit program in order to answer how the stormwater program address climate change and sustainability of water resources.
    - iii. MS4 Credit should not to be delayed. The SAC anticipates that types of credits will develop with a roll-out over time. A general guideline to establish water credits that will be available at various times should be established.
    - iv. It was reiterated that the fee is not quantitatively tied to the amount of water generated/leaving the site and that there are other parts of the program that need to be funded and incorporated. Impervious area is the surrogate or 'meter' for the fee given its tie to runoff generated. Property owners receive a benefit for the drainage network to be up and functional.

- v. Some sample Ordinances offer an effective impervious or low impervious percentage credit. It was noted that this is incorporated in the Ferguson program structural definition cost model by establishing difference levels of service and costs.
- c. Initially Non-Residential – non-residential properties (including farms) have a larger potential to provide a return on investment with greater recharge potential, water quality, and flood management benefit to the program. The SAC acknowledged concurrence with this concept.
- d. MS4 – MS4 permit holders parsed out from MS4 portions of the program should be granted 100% relief from the MS4 related portion of the program costs. The SAC acknowledged concurrence with this concept.
- e. Incentivize groundwater recharge through a credit program. The SAC acknowledged concurrence with this concept.
  - i. The SAC would like to see the Township would provide design guidance for homeowners.
- f. BMPS - Exceeding design standards to qualify for a credit. The SAC acknowledged concurrence with this concept.
  - o Non-Residential, New development, and eligible for retrofits
  - o Concern that if the ordinance is strengthened this may not be as applicable. Discussed the benefits of this approach.
  - o The SAC wants to ensure that the Board fully understands the current stormwater ordinances
  - o The SAC discussed the status of the PRP/MS4 Permit reduction requirements.
- 2. Self-Certification – The SAC acknowledged concurrence with this concept of recipients of credits completing an annual self-certification that the facility/program is operating as required. Note that depending on the complexity of the system, a professional may need to perform the 'self-certification'.
- 3. 3-5 Year Renewal - The SAC concurred that 5 years was an appropriate renewal period.
  - a. 5 years is consistent with frequency of random inspections and DEP permitting cycle.
  - b. This renewal is intended to be a check in period, not suggesting that the facility would 'suddenly' become ineligible.

#### General Comments on Credits:

- 4. A credit program sounds like a 'staggering amount of administration'. The consultants shared experience of other communities indicating that initially the application and granting process burden will depend on the number of property owners who choose to submit a request for a credit.
- 5. There isn't a credit for a vacant or zero impervious property; developed property is the trigger to receive a fee as this is the tie between impervious area and the *need* for a public system. If there is no impervious area – vacant property, there is no charge to that property. The example that was discussed is a neighborhood that has a road and infrastructure but undeveloped properties, and as such, each parcel would not receive a fee. Not charging vacant property was a policy decision made in Phase I of the study; it is not to say that it is either correct or not.
- 6. It was noted that there is the need for the program to address climate change and groundwater resource sustainability. These are greater issues than at the individual property owner level. This is a situation unique to Ferguson Township and on the mind of the Supervisors and Residents. (i.e. Source Water Protection Ordinance)
- 7. Shared/Orphaned Facilities. It was asked if there is a credit if one of these entities is brought up to the previously neglected O&M? Typically, when there is a shared responsibility, the portion of the

responsibility that is public is not eligible for a credit but that the "net" (upgrade and operation, etc.) of that private investment is the eligible portion of the credit. This will be addressed explicitly once the policy fleshed out and documented.

### Role of Private Facilities for Public Purposes

1. Each of the scenarios discussed in previous SAC meetings was reviewed:
  - a. Scenario #1 – no discussion.
  - b. Scenario #2 - Proportional flow analysis - to what degree is the public system impacting the private system? Overall recommendation is to evaluate and create an agreement on a case by case basis recognizing that the Township has some responsibility to that system.
  - c. Scenario #3 - Flows from a variety of sources, no HOA or private responsibility. Overall recommendation is to complete a legal review of responsibilities and develop the appropriate partnership similar to evaluation in Scenario #2.
  - d. Scenario #4 – like Scenario #3 but with a single BMP owner. The recommendation is to evaluate various levels of responsibility and develop an appropriate partnership. Document agreement in writing on responsibilities to maintain.
  - e. Scenario #5 - HOA ownership, flows from a variety of sources. The recommendation is to, evaluate various levels of responsibility by the system components and develop an appropriate partnership. Document agreements in writing.
2. These are typically focused around a structural BMP or Physical System. These are not evaluated for natural systems (Rob's Example, i.e. a stream). The intent of these conversations was to account for physical systems as a result of a land development plan. It should be evaluated for 'stream restoration' or the land management of natural systems. This will be further discussed for the policy statements.

### Review of Levels of Service

1. A review of the variability of impervious area and infrastructure throughout the Township was provided.
2. Different LOS are provided to different properties across the Township and this supports a way to review the allocation of cost for the stormwater program.
3. Infrastructure Complexity
  - a. Discussed Service Areas (SA) 1 & 2 Concept & Definition
  - b. SA 1 has a higher frequency of maintenance and level of service due to the amount of infrastructure that has to be managed in those areas is greater than SA 2
  - c. Reviewed SA Map – Ron pointed out that there are properties within the Service Level area that would be classified as Service Area 2 by the definitions but create a perceived inequity. He pointed out areas where two homes in the same development, across the street from one another are in two different service areas. Further discussion of the issue of services areas is needed. Staff will discuss with Township leadership and refine the two areas, if needed.
  - d. There is almost equal amount of impervious area between the two SA's.
  - e. SA 1 - about 4300 parcels, SA 2 - about 2,000 parcels
  - f. Some areas in SA 2 are as dense or have a higher development (parcel) density than SA 1 but fronted on a State Road and therefore a SA 2 property.
  - g. Typically, there is more open space in SA 2.
  - h. This variability does increase the equitability of the program.

## Program and Rate Structure

### Cost Alignment in Service Areas

4. SA 1 carries about 80% of the stormwater program costs as currently projected. The burden of the program cost is the SA that receives that level of service.
5. Recall that roads are not included in the impervious calculations. This maintenance and use is shared across all property owners, and road surface maintenance is covered by the Transportation Impact Fund (TIF). Capital Improvement Project (CIP) programs for the road program that may include a drainage improvement is funded by this TIF and not the stormwater fee.
6. Staff indicated that the 80/20 allocation of cost is based on Public Works 'wisdom' and needs to be further refined with more refined and detailed cost evaluations based on the maintenance and capital expenditures. Staff will undertake that analysis before a final cost of service, rate and policy on cost assignment is made.
7. Staff reviewed a specific case on N. Atherton Street. Parcels with frontage on N Atherton will be in SA 2 because they front a PennDOT road. Staff asked the SAC their thoughts on whether this assignment of cost allocation is "equitable." The example discussed the parcel that is not much different in use or density to the other neighboring properties in SA 1 in this area. Is this approach equitable? Note that everyone pays for PennDOT roads via taxes, but the Township doesn't maintain the infrastructure in front of their lot. Is infrastructure service the only factor that should be considered in assigning costs?
8. East Park Hills was noted, and it has no stormwater infrastructure or curbs, therefore is assigned to SA 2.
9. Staff provided an example of SA 1 in the 'area' that is mostly SA 2.
10. N. Atherton & PennDOT Cross Pipes discussion has occurred in the past, where PennDOT positioned to require the Township, University, or other public agency to take operational responsibility of drainage from their roadways. It is not yet resolved.
11. Is it worth evaluating where the PennDOT stormwater system goes? PennDOT has taken a position that once the runoff leaves the roadway boundary, it is no longer their responsibility. They stand firm on this position (it was noted that this is common practice by other state DOTs).
12. Is it worth evaluating the area of the region you're mostly within? For example, the properties along N. Atherton that are SA 2 (face a state road) but are surrounded by SA 1 properties? It may well be appropriate, and staff will review the details of the impacts this approach has on various properties to refine the alignment of costs.
13. Does this definition create a loophole that a developer would choose to not put in curbs in order to be in SA 2? Developers typically do not pay stormwater fees; the end user (owner) does. The Consultant Team noted that this has not come up in other areas where fees are charged.

### Program Elements

1. A review was provided of how various program elements are assigned to each SA.
2. The cost burden of SA 1 is much greater than SA 2 using the definitions for each service area.
3. The Consultant Team and the Township Staff are re-evaluating financing for the various program elements to refine the allocation over time, the priorities for change in services, and the alignment of costs to properties.
4. Credits are incorporated as a 'total value' to the cost model, not an individual parcel evaluation. The credit program draft will be refined and discussed with staff. An analysis of the potential cost impact is undertaken to create a cost to the overall program for credit.

### Next Steps

1. The meeting slides from this meeting and last meeting will be provided by email as soon as the meeting is over.
2. There are additional steps that need to be accounted for prior to policy refinement. The SAC input on recommendations has been documented in each meeting.
3. The SAC would like to see what the tax increases would be required to meet the same funding requirements, as well as a comparison to other communities (understanding that other rates are for *other programs*). The Consultant Team can provide a summary table of user fee rates within PA and other communities in the Chesapeake Bay watershed.
4. Program timeline will need to be adjusted throughout the program lifecycle based on policy and the review by staff. Once that is completed, a cost of service and rate model, accounting for cash demand will be complete.
5. The SAC discussed the possibility of an additional two meetings to discuss final findings. Staff indicated that this will be discussed, and a decision made. Additional meetings would likely occur after the first of the year to allow for the refinement of costs and the program priorities.
6. While today was generally a recap, it was crucial to confirm the findings from the various meetings held with the SAC over the summer. Input today is important in prioritization of the program and for refinement of financial factors.
7. There is a parallel effort to understand stakeholders - groups, such as chamber of commerce, commercial properties, HOA residents, Agriculture, general public, etc. The staff will coordinate with Township leadership on when to engage specific stakeholders.

#### Future Meeting Logistics

- TBD – expect to see communication from staff on a schedule.