



Group Memory

Clean Water Program Task Force

Requirements for Municipal Post Construction Standards

Follow Up Meeting # 1 May 28, 2013

This is a Group Memory of a facilitated meeting held Tuesday, 5-28-2013, in Lincoln, Nebraska. Note that this is the first draft of the Group Memory and is based on notes taken at the meeting, flip chart pages, verbal comments made, and information shared with the group by presenters as part of the following agenda. The intent of creating a collective group memory is to capture the essence of the information shared, comments made, and questions raised during the meeting and it is not meant as minutes or a transcript of the meeting.

Task Force Members present:

Wilbur Dasenbrock Pam Dingman Carl Eskridge Tom Franti DaNay Kalkowski Peter Katt Don Linscott Milo Mumgaard Rick Onnen Dave Potter Reba Schafer Tim Texel Jim Wathen
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Members of the Public signed in:

Kevin Kruse Vicki Twerdochlib
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Support Staff and Resources present:
John Chess, Jocelyn Golden, Sara Hartzell, Ben Higgins, Ed Kouma, Rock Krzycki, Jared Nelson, Ellen Wright, J.J.Yost, Paul Zillig
Facilitators:
Lorrie Benson, Dave Hubbard, Sandy Wolfe

AGENDA

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| 1. Welcome and Introductions | 10 min |
| 2. Refresher and Requirements | 10 min |
| 3. Draft Ordinances | 20 min |
| 4. Next Process Steps | 10 min |
| 5. Small Group Discussion and Report Out to Large Group Debrief | 20 min |
| Q: What are the Strengths of the Draft Ordinance | |
| Q: What Concerns do you have regarding the Draft Ordinance | |
| Q: How should Outreach look regarding Draft Ordinance | |
| 6. Large Group Debrief | 40 min |
| 7. Introduction of Draft Drainage Criteria Manual | 5 min |
| 8. Next Steps, Wrap Up, Closure | 5 min |

Please note the next Mayor’s Clean Water Program Task Force follow up meeting on Tuesday, June 11th, 2013 at the LPS-NRD 11:30 – 1:30

*Reminder: this and other Task Force materials are available at
Lincoln.ne.gov, keyword ‘clean water program’*

*or you can cut and paste into your browser the link below
<http://www.lincoln.ne.gov/city/pworks/watrshed/cwp/>*

Draft Ordinances

Jocelyn Golden (City Attorney) presented on the draft ordinances. The following are some of the concerns discussed during and after the presentation.

Q: How does the Maryland EPA case regarding Federal authority to enforce city stormwater regulations and Federal agency standards apply? Are Federal regulations really something we have to follow?

Q: Who reached the conclusion that the city must act regarding current permit and renewal process before new Federal rules are in place?

A: If we don't propose a program it is more likely something will be imposed on us. This information was presented during one of the initial task force meetings by the Nebraska Department of Environmental Quality (January 17, 2012).

Q: How do we determine who a "qualified" individual is for maintenance and inspections?

Q: Who makes the determination as to what makes someone "qualified"?

A: Typically determined by the property owner. If the Best Management Practices are not up to standards when city inspects, the property owner will be sent a letter with corrections that need to be made.

Q: What if the property owner refuse to correct deficiencies on the grounds that they are satisfied with 'their' inspector's report?

A: If the Best Management Practice is non-compliant, then the next steps could include taking legal action per the proposed ordinance.

Q: Waivers? Don't think 'waiver' is the same as an 'exemption'.

A: The language in the proposed ordinance was written in a similar format to other ordinances, especially ordinance 28.03 – Regulations for Construction Site Discharges. (The Clean Water Program will work with Law Department in regards to proper terminology)

Next Process Steps

Q: How do we improve the ordinances as Drafted?

Comments:

- It is not practical and not workable
- Unfair
- Clarity could be added
- Concerns regarding constitutionality
- Concern the biggest hole is the cost factor

- Ordinance is ineffective
- More detail/specifics are needed
- Drainage Criteria Manual is online at CWP-TF website
- Technical review meetings with engineers will be happening
- Public hearings will be held
- Workshops will be provided

Large Group Debrief of Small Group Discussions

1. What are the strengths of the Draft Ordinance?

- City steps up to make changes and replacements
- Existing development exceptions
- Allows community to solve water problems
- In general, is true to overall discussion of Task Force

2. What concerns do you have regarding the Draft Ordinance?

- Concern that focus on developments reduces focus on “big picture” watershed overall and what the community could be doing.
- The burden placed on Homeowners’ Associations and how effective maintenance can be.
- Will BMP’s be effective? How effective over the long term?
- How much should HOA’s be advised to set aside for maintenance and long-term/future replacement
- New HOA’s will vary in size and resources.
- Ordinance presumes HOA’s are competent and organized and funded.
- Some HOA’s work better than others.
- HOA’s vary greatly and how do you advise them for success?
- Fatal flaw to assume HOA’s can accept responsibility.
- Probable that a majority of HOA’s can assume this responsibility?
- What’s the alternative – socialize the costs?
 - Why is that appropriate if HOA benefits?
 - It is a community benefit and community pays for similar benefits.
 - Socializing cost gets it done and done right (re: HOAs)
 - These are new requirements, but there have always been requirements.
 - Is it fair to shift costs from HOA’s to city?
 - What if this is the only way to have maintained?
- If there is no city inspection fee take that section out so that a fee can’t just be added later.
- HOA’s will have to pay for private inspection – shouldn’t have to pay twice.
- No reference to credit system in ordinance. There was considerable discussion in Task Force meetings regarding credit system. Could be referred to in ordinance even though details are in DCM.
- It’s easy to revise DCM administratively, outside of political process, so it is important to include credit system in ordinance.
- It would be good to have an independent Board for appealing Director’s decision.
 - Concern over influence of personalities/relationships/fairness, need impartial body to decide.

- No need for appeal to Director
- Maybe a design review board
- Would save costs of court
- Who would be on this board?
- Appeal board would improve appearance of fairness
- Qualifications of inspectors?
- Annual inspection idea good but what BMPs are we actually inspecting, what are the protocols, how are we determining short-term success? That's not clear and nobody really knows.
- Will take time to know.

3. Suggestions for Post-Construction Program outreach?

- Need to determine goals, audiences
- HOA's important
- Possible tours like one we did last year
- TV, radio
- City staff will need to get out to groups: LIBA, HBAL, etc.
- Lots more to public like the rain barrel class
- Mass mailers to public with water bills
- Cost share for individual lots if site appropriate
- Include landscapers and other outdoor designers, installers
- Go broad and deep – don't miss anyone
- BMPs on Channel 5 – like tour
- Nice that it's a simple concept that people can understand

Introduction of Draft Drainage Criteria Manual

Jared Nelson presented on the draft Drainage Criteria Manual. The following concern was discussed during the presentation.

- Concern credit system could become a loophole

Note: City will work on responding to the above concerns and drafting revised ordinance text as appropriate (e.g. city inspection fees, credit system).

Next Steps

An editable copy of both the draft ordinance and Drainage Criteria Manual will be sent to any Task Force members making the request

Q: Because there will not be time to take a draft to constituents between now and next meeting, how can we get our concerns about the Clean Water Program to the city later?

A: Proposed ordinance will not go to City Council before late summer (this means a final draft is due to initiate City Council action around August 1, 2013). You can send in independent comments and concerns to the city at:

watershed@lincoln.ne.gov

**Please note the next
Mayor's Clean Water Program Task Force
Follow-Up Meeting
will be held on
Tuesday, June 11, 2013
at the LPS-NRD
from 11:30 a.m. – 1:30 p.m.**