



Group Memory

Clean Water Program Task Force

Facilitated Meeting #4 April 17, 2012

Requirements for Municipal Post Construction Standards

11:30 am to 1:30 pm

At the Lower Platte South Natural Resources District Meeting Room

This is Group Memory of a facilitated meeting held Tuesday, 4-17-2012, 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, 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 presented at the facilitated meeting and it is not meant as a transcript of the meeting. This draft is subject to correction by contacting The Mediation Center at info@themediationcenter.org by 5-14-2012.

Task Force Members present:

Bob Caldwell Wilbur Dasenbrock Pam Dingman Jeff Emanuel Carl Eskridge Tom Franti Paul Johnson Danay Kalkowski Peter W. Katt Don Linscott Milo Mumgaard Rick Onnen Brock Peters Reba Schafer Tim Texel Jim Wathen

Members of the Public present:

Vicki Twerdochlib Michael Bash

Support Staff and Resources present:
Devin Biesecker, John Chess, Nicole Fleck-Tooze, Jocelyn Golden, Ben Higgins, Wynn Hjerstad, Ed Kouma, Rock Krzycki, Roger Tiedeman, Ellen Wright, J.J. Yost, Paul Zillig
Facilitators:
Lorrie Benson, Dave Hubbard, Sandy Wolfe

AGENDA

IMPLEMENTING A PROGRAM

1. Welcome & Overview 40 min
 - Welcome and overview of previous meeting
 - Review of Previous Meetings
 - Federal, State, and Local Requirements
 - Existing Standards
 - Proposed Development Standards
 - Proposed Program
 - Process/Development Review
 - Program Implementation
 - Technical Memo #5 – Water Quality Standards

2. Large Group Discussion & Polling of Draft Recommendations and Policies 70 min
 - Draft Recommendations
 - Criteria
 - Applicability to sites
 - Exceptions/Waivers
 - Application date
 - Inspections
 - Draft Programs
 - Education Program
 - Training Program
 - Cost Share

3. Wrap Up, Closure 10 min

Next Clean Water Program Task Force Meeting
Tuesday, May 15, 2012 11:30 a.m. to 1:30 p.m.
Bus Tour

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

Review of Previous Meetings

- See Review Presentation on Task Force website
- Presentation by City on past presentations
 - Task Force charge statement
 - “Have an ordinance or other regulatory mechanism requiring the implementation of post construction runoff controls”
 - Public Works memorandum re Post construction Best Management Practices (on Task Force website – see EPA Stormwater Runoff Regulation for Post Construction)
 - Federal, State, and Local Requirements
 - NDEQ/EPA stormwater requirements “Have an enforceable ordinance requiring the implementation of post construction standards”
 - January 17th Meeting
 - Lincoln has a state and federal required stormwater permit
 - Current trends are to implement BMP strategies in a more natural and sustainable manner by limiting runoff and treating stormwater where it falls or as soon as possible
 - Listing of other benefits to post construction water quality standards
 - Listing of surrounding cities having post construction water quality standards
 - Key element of upcoming EPA proposed rule is the establishment of performance standards based on a Water Quality Control Volume
 - A current common practice is to base Water Quality Control Volume on a specific percentile storm event
 - February 21st meeting
 - Handed out technical memorandums #1 and #2 (on Task Force website) regarding the Rainfall Frequency Curve and Ordinance Comparison, respectively
 - Discussed major issues covered by proposed post construction water quality standards
 - Went over existing voluntary water quality standards from the Stevens Creek Master Plan
 - Stevens Creek Master plan approved in 2005
 - Presented two alternate approaches for water quality; regional based BMPs and Site Specific BMPs
 - Citizens Advisory Committee and subsequently the Master Plan recommended Site Specific BMPs
 - Master Plan recommended design of BMPs to be based on the 90% storm event
 - Citizens Advisory Committee and subsequently the Master Plan recommended that each private development should bear the cost of offsetting impacts to water quality and stream stability (similar to the current practice for offsetting flooding impacts caused by developments)
 - Also came up with a cost share program by the City and Lower Platte South Natural Resources District
 - Presentation by Olsson Associates
 - Current BMPs in Lincoln
 - Federal requirements
 - Other benefits (increased land values and sale-ability of land)
 - Costs are less when considered with initial design as compared to retrofit projects
 - March 20th Meeting

- Handed out technical memorandums #3 and #4 (on Task Force website) regarding Volume & Land Use Comparisons and Costs, respectively
- Discussed post construction processes (submittal/review of plans, maintenance/inspection, compliance, current Lower Platte South Natural Resources District cost share program)
- During group discussion talked about the major post construction standard issues
 - Water quality standards applicable to:
 - Exceptions
 - Criteria
 - Maintenance/inspections
 - Compliance
- Discussed presentation by City of Omaha on their post construction water quality standards
 - Omaha recommended that Lincoln adopt a rate and volume criteria (i.e. specific percentile of rainfall events)
- Technical memorandum #5 (on Task Force website)
 - Memorandum on water quality
 - List of impaired water bodies in Lincoln
 - Antelope Creek Watershed Basin Plan
 - Pollutants and pollution sources
- April 17th Meeting
 - Discussion of draft ordinance issues (see separate handout of issues with comments from this meeting)

Comments, Thoughts and Questions from Large Group Discussion on Draft Recommendations for Post Construction Standards

- Process not fair because inadequate time to prepare options
- This is the beginning of a longer process
- All of costs of program shouldn't be shifted to private/new development with exceptions for redevelopment.
- Many costs born by public/community in developed areas.
- Concern that people in new developments will pay for their development as well as public benefits.
- Fundamental question is fairness

Issue #1: New Development Standard Criteria

Recommendation: 1.25” of rainfall or less, equivalent to the 90% rainfall event for Lincoln (detained over a 40 hour period)

- 90% chosen because EPA is leaning toward 90% - also based on other cities
- What will >90% cities do?
- Next permit will require higher %
- TSS?
- Using WQCV means easier concept – don't have to measure specific solids

- See EPA green sheet regarding WQ
- 90% mainly addresses WQ
- Runoff is not equal to rainfall
 - ½” runoff is not equivalent to 90% for residential area – more for commercial area
- 40 hours refers to how long it takes for water to infiltrate or flow out
- 90% of storms are 1.25” or less
- Studies regarding pollutant concentrations related to storm quantity?
- Higher % number is better for water quality – have “first flush” regardless of rain amount
- Are studies regarding first ½” of flush contaminants?
- How do costs increase as go from 60% to 70% to 80% to 90%?

Issue #2: Redevelopment Standard Criteria

Recommendation: 0.83” or less, equivalent to the 80% rainfall event for Lincoln (detained over a 40 hour period)

- Redevelopment harder – percentage lower because there is not always much you can do.
- Empirical data regarding built environment issue? Very diffuse: oils, greases, heavy metals, ecoli
- Redevelopment defined?
- Examples of current redevelopment: LPS site, 48th & O site
- What is the status of redevelopment now?
- Are we going to require built onsite vs off site? Is there a way for waiver, cash/fee, etc.?
- What options are available if redevelopment encompasses whole block surrounded by concrete? How would it effect standards?
 - ANSWER: Good example of options is 13th & Q Block 38 has Green Roof that captures that runoff.
- Concern that no one in private sector would do Green Roof because of the cost. Block 38 had TIFF and government funding available.
- Examples of private developers picking up cost: Village Gardens & Fallbrook.
- Lost in all this conversation is that options are very expensive.

Issue #3: Standards Applicable to New Development and Redevelopment for Areas Equal to or Greater Than:

Recommendation: 43,560 sq ft (one acre) or more (for redevelopments this is the area disturbed: e.g., demolition, grading, new impervious area, etc.)

- Reason for 1 acre recommendation: it is the same as for erosion and sediment control. One acre is a commonality.
- How does this apply in new development? If residential development and each lot is an acre does each owner capture/store on site or is it a subdivision quality?
 - ANSWER: Either/or or a mixture of both. All efforts apply – will be specific to a development.
- Cost hugely dependent on details of what we are talking about. The complexity for developers is enormous.
- How are costs allocated? Can developer transfer maintenance responsibility?

- Factor maintenance issues into original planning. Complex but there are options available.
- Could address who has long-term responsibility for projects – would be part of plan with City.
- Fairness issue – let’s treat all properties in town the same. Pay impact fee if can’t comply.
- Concern that this is on track to affect only new development in Lincoln.

Issue #4: Exceptions

Recommendation: single family dwellings not part of a new subdivision

- Why exception for single family dwelling?
- Bring BMPs into play for any improvement
- If one acre is standard, why do you need exception?
- If capture at source is important why not single family dwelling?
- If come in for any kind of permit should have to bring water quality into compliance.
- If permitting city is already looking at BMPs.
- Ideas all coming from Federally mandated requirements – these are minimum requirements. Target goal is to aim for Federal requirements – not impose a higher standard.

Issue #5: Waivers

Recommendation: Allow for waivers

- Is it possible to ‘bank’ credit if do more than required on a project? Apply credit to a more challenging site in the future?
- Wichita has “in lieu of fee” – based on a waiver policy –Director’s discretion
- Sometimes ‘Director discretion’ hard to interpret. Can there be criteria or formula established that are more predictable?
- Issue of clients – some more interested in green efforts than others, some have more ability to pay than others – so banking would be helpful.
- Wondering about projects that are difficult to do making project financially unfeasible – should be waiver for cost reasonableness – cost/benefit standard.

Issue #6: Effective Date of Ordinance

Recommendation: Effective date of this ordinance is immediate, except for those projects currently in the planning process and that obtain Planning Commission approval within 90 days of ordinance adoption

- What is the benefit of date prior to EPA passing?
- Voluntary program until EPA makes us
- Benefit is that EPA will let you go with what you’ve adopted when becomes law – otherwise may have to do it their way.
- One year is more reasonable – 6 months minimum
- Cycle of planning/development is long
- 12 months would allow most developers time to react
- What if development is already through Planning, has streets in place but no lots sold?

- Details important
- Plotted single family lots – possible solution

Issue #7: Requirements for Owner Inspection of BMPs

Recommendation: Owner inspection and inspection report required annually

- Recommendation based on what peer cities have done – also requirement will help keep owners aware of need to maintain, etc.
- What criteria will be used for inspections?
- City staff will have a form/check sheet. Engineer inspection not required.
- Training will be done to assist homeowners to inspect themselves
- Are we expecting HOAs to do inspections themselves?
- Could have list on website of trained inspectors.
- Probably no certification process for inspectors.
- Benefit of annual inspection is to catch problems earlier when easier and cheaper to fix.
- Inspection e.g. – volunteer trees, plugged drains, etc.
- Could do inspection checklist for different kinds of BMPSs

Executive Summary

- What about issues not raised
- Public or private improvements?
- Assuming private sector pays and maintains – public benefit
- Policy could be different
- Seems like fundamentally unfair policy

Wrap Up

- Rock offered to put a list together for a self-guided tour of clean water systems already in place.

Parking Lot:

No new items

Next Task Force Meeting is Bus Tour
May 15th, 2012 11:30 a.m. - 1:30 p.m.

Thank You,

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