



Group Memory

Clean Water Program Task Force

Facilitated Meeting #6 June 19, 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 a Group Memory of a facilitated meeting held Tuesday, 6-19-2012, in Lincoln, Nebraska. Note that this is 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.

Task Force Members present:

Bob Caldwell
Wilbur Dasenbrock
Jeff Emanuel
Carl Eskridge
Tom Franti
Paul Johnson
DaNay Kalkowski
Peter W. Katt
Don Linscott
Milo Mumgaard
Rick Onnen
Brock Peters
David Potter
Reba Schafer
Dennis Scheer
Jim Wathen

Members of the Public present:

Vicki Twerdochlib

Support Staff and Resources present:
Devin Biesecker, John Chess, J.B. Dixon, Nicole Fleck-Tooze, Jocelyn Golden, Ben Higgins, Rock Krzycki, J.J. Yost, Paul Zillig
Facilitators:
Lorrie Benson, Dave Hubbard, Sandy Wolfe

AGENDA

- | | |
|--|--------|
| 1. Welcome, Reminders & Mentions | 10 min |
| <ul style="list-style-type: none"> - Consensus – yet Majority Vote - Ground Rules - Legal Memo - Mayor’s Charge to Task Force - Quick Review of Previous Meetings - Apologize for Time Frame – July Meeting can you make it & Vote if needed - Overview of Today – Opportunity for Fresh Poll, then discussion - Questions | |
| 2. Climate and Check-In Poll | 15 min |
| <ul style="list-style-type: none"> - Review of compilation of April’s post-it-note polling and new options - Review of Questions and Ben’s Answers - Fresh Climate Poll explained | |
| 3. Voting (with opportunity to comment on new) Agree or Not | 10 min |
| 4. Review of Votes – areas of majority removed from discussion | 5 min |
| 5. Discussion regarding New Areas Lacking Clear Majority
Or Areas of Concern | 50 min |
| 6. Final Vote | 20 min |
| 7. Wrap Up, Closure | 10 min |

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

Welcome, Reminders & Mentions

- Consensus – yet Majority Vote

- Ground Rules
- Legal Memo
- Mayor's Charge to Task Force
- Quick Review of Previous Meetings
- Apologize for Time Frame – July Meeting can you make it & Vote if needed
- Overview of Today – Opportunity for Fresh Poll, then discussion

First Fresh Look Straw Poll:

Issue #1: New Development Standard Criteria – 90% (0.125’)

Agree – 8

Comments: None

Disagree – 8

Comments:

- Want to look at lower standard/80%
- 80%
- Revised criteria at .83’ (80%) is OK
- More detail needed on how required criteria is calculated for residential vs. commercial and industrial development
- The 90% would work for residential but not for commercial uses
- Should be at 80%
- Bank credits for extra

Issue #2: Redevelopment Standard Criteria – 80% (0.83’)

Agree – 12

Comments: None

Disagree – 4

Comments:

- Should be 1.25’ (90%)
- Waivers or credits should be available to offset difficult or expensive situations

Issue #3: Standards Applicable to Areas Equal to or Greater than 1 Acre

Agree – 15

Comments: None

Disagree – 1

Comments:

- Should be all areas
- Transfer maintenance to owner

Issue #4: Exceptions – Single family dwellings not part of a subdivision

Agree – 16
Comments: None

Disagree – 0
Comments: None

Issue #5: Allow for Waivers

Agree – 16
Comments:
- Allow for waivers and cost share

Disagree – 0
Comments: None

Issue #6: Effective Date of Ordinance – Ordinance not applicable to new developments and redevelopments that obtain planning commission approval within:

3 months of ordinance adoption

Agree – 2
Comments:
- Need option to defer some approved developments with plans submitted

Disagree – 14
Comments:
- 1 year effective date
- 1 year
- 12 month effective date
- Should be 12 months
- Should be 6 – 12 months
- One year
- 12 month for implementation
- Held at least 1 year plus exempt current plans unless significantly revised

12 months of ordinance adoption

Agree – 14
Comments: None

Disagree – 2
Comments: None

Issue #7: Requirements for Owner Inspection of BMPs – owner inspection and inspection report required annually.

Agree – 9

Comments:

- Should be every 2 years and inspection by certified individuals

Disagree – 7

Comments:

- Public responsibility cost/expense!!!!
- Incentive
- One year to implement
- More formal system
- Need to establish if this is being required to mitigate effects of development of generally improve water quality

General Discussion Fresh Straw Poll, Areas of Majority & Areas Lacking Clear Majority

Rainfall Event %

- Whatever the standard is fairness is a concern: 80-90%
- Old and new should be treated the same
- Trade-offs with costs
- Question: What sub-basin needs to be approved?
- To comply with EPA regulations need to be by sub-watershed?
- Net result by Lincoln or watershed
- Maybe we need an ordinance by watershed?
- 80% instead of 90% could have impacts such as more monitoring
- Going from 90% to 80% reduces by 33% the water to be filtered
- Keep simple with fewest loopholes, etc.

Inspection/Maintenance

- This is a public benefit so the public should pay
- This would be a burden
- Surface Water Quality Development Project at Antelope Valley is a public benefit. Public should pay
- JPA tax levy could be reallocated
- Unfair if not public responsibility
- Sidewalks are an example
- Question: Favor implementing storm water utility to care for BMPs?
- Have developers care for initially and then transfer responsibility to city.
- If have a program like the sidewalk program maintenance and repair won't happen when there is no funding
- To what degree are we going to remind homeowners they have a liability to maintain?
- Reminders depend on what kind of BMPs. Rain garden needs much more maintenance than a pond.
- It is impractical to get Home Owners' Associations to buy into this. HOA's are not that active
- The most maintenance and work is in the beginning when being established and then there is less work and maintenance as BMP matures
- HOA's can have difficulty with maintenance over long-term
- Don't know how this will develop – may have contractors similar to yard maintenance

- Inspection not as much of a concern as maintenance and replacement over time
- Many HOAs will use more or larger detention ponds
- In Omaha the city cares for ponds but this is rare, usually cities don't
- In Lincoln ponds are inspected by city but maintained by owner
- 2 discussions: who inspects and who maintains
- It is more complicated than just who inspects and who maintains
- Would have to have standards and guidance regarding what needs to be done for inspection and maintenance
- A requirement to inspect gets people involved
- But . . . will people get involved?
- If City/NRD maintains it won't get citizen buy-in
- HOAs would need capital improvement fund for future maintenance/replacement, etc.
- The question is where does funding come from for capital fund?

Incentives/Credit Banking

- Banking incentives
 - every project is different
 - get credit for exceeding the standard on one development that can be used on another
- Question: Could you sell credits?
- Credits would inspire people to do more
- Credits would deal with reality of tough projects
- Credits could off-set the waivers
- New projects vs. old
- Math in administration – looking at calculations – who maintains credit bank?
- This is a young program and credits may complicate it.
- Need to keep it simple and up front
- Positive incentives
- Want to establish incentive structure to aid and encourage developers to do more
- Part of recommendation to Mayor: Develop banking/incentive structure to encourage developers to do more. Implement this as part of ordinance or with ordinance rather than in the future.
- Cost Share may already be used
- Incentives and banking are 2 different things
- Overwhelming support for incentives
- Concern: will run out of money
- Banking avoids problem of exhausting funds
- If in same watershed the City would benefit
- Would credits have to be used within same basin?
- Different areas flow to different watersheds
- Watershed happens in physical boundary not political boundary
- Should we adopt a different ordinance for each watershed area?
- Should we customize the ordinance by watershed?
- That would not be practical
- Question: Who's responsible if owners don't comply? – The City because it holds the NPDES permit?

Final Vote

Issue #1: New Development Standard Criteria – 90%

Agree – 9

Comments:

- Only with incentive bank

Disagree – 6

Comments: None

Issue #2: Redevelopment Standard Criteria – 80%

Agree – 12

Comments: None

Disagree – 2

Comments: None

Issue #3: Standards Applicable to Areas Equal to or Greater than 1 Acre

Agree – 12

Comments: None

Disagree – 2

Comments: None

Issue #4: Exceptions – Single family dwellings not part of a subdivision

Agree – 14

Comments: None

Disagree – 1

Comments: None

Issue #5: Allow for Waivers

Agree – 13

Comments: None

Disagree – 2

Comments: None

Issue #6: Effective Date of Ordinance – Ordinance not applicable to new developments and redevelopments that obtain planning commission approval within:

12 months of ordinance adoption

Agree – 12
Comments: None

Disagree – 0
Comments: None

Issue #7A: Requirements for Annual Inspection

Public – 6
Comments: None

Private Owner – 8
Comments: None

Issue #7B: Requirements for Maintenance

Public – 6
Comments: None

Private Owner – 9
Comments: None

Issue #7C: Requirements for Replacement

Public – 12
Comments: None

Private Owner – 3
Comments: None

Continued Discussion of Incentive Program

- Question: Does the science work for banking/credits?

Hand Vote by CWP Task Force, June 19, 2012, at 1:15 p.m. for Incentive Program

Overwhelming majority of Task Force support Incentive/Credit/Banking Program.

“Banking/Credit” System: If possible to make it work scientifically/administratively the CWP Task Force Recommends

Agree – 12
Comments:
- On watershed basis

- Agree only if it is possible to make this work from an engineering/”scientific” perspective. Don’t diminish the standard.

Disagree – 0

Comments: None

Next Steps

Public Works will draft an ordinance based on the Clean Water Program Task Forces’ final recommendations as determined by majority vote and email the draft to Task Force members.

Concern: Nobody should interpret the majority vote outcomes on the Task Force recommendations as an overwhelming consensus from Task Force, because on several of the Task Force recommendations the majority vote was very close.

Thank You,

Lorrie Benson, David Hubbard, & Sandy Wolfe

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