

**Item 10 – Manager’s Follow-up Report on Recommendations of the
Stormwater Utility Development and Implementation Study Committee**

Stormwater Engineer Fred Royal reported that the staff report was a response to the final report of the Stormwater Utility Development and Implementation Committee submitted to the Council on November 26, 2001. He said on August 23, 1999, the Council authorized establishment of a Stormwater Utility Development and Implementation Committee to prepare a report regarding implementation and operation of a Stormwater Utility to serve Chapel Hill, and possibly surrounding areas. Mr. Royal said the original charge of the committee included examining the following:

- Organization and management control system
- Budget areas and services to be provided
- Staffing and equipment needs
- Rate structure for user fees
- Annual revenues and expenses

Mr. Royal said on February 12, 2001, the Committee requested the Council to expand the original charge to include an inter-jurisdictional approach to stormwater management with the goal of achieving regional consensus and cooperation. He said the final report offered several conclusions and recommendations for the Council’s considerations. Mr. Royal said the conclusions were:

- The Environmental Protection Agency (EPA) has a National Pollutant Discharge Elimination System (NPDES) Phase II requiring Chapel Hill and other municipalities to submit a permit by March 2003, which requires that the Town meet six minimum measures over a five-year implementation period.
- Chapel Hill community demands a higher level of service beyond that required by Phase II.
- Further inter-jurisdiction is possible and could be mutually beneficial.
- Some increases in providing all these services would be required. Implementing a Stormwater Utility to provide a stable revenue stream would best address any necessary cost increase.
- A detailed program analysis, with recommendations on how to proceed, is required to determine what level of service is preferred by Council.

The main recommendations of the Committee report:

- Initiate formal discussions with neighboring jurisdictions to implement five areas of cooperation listed on page 2, items a-e.
- Form a Stormwater Management Workgroup to carry out these discussions.
- Authorize the Manager to obtain services of an experienced consultant to develop the details of how to proceed in a stormwater utility.
- Establish a Stormwater Action Committee to work with the staff and the consultant to provide advice during the utility development process.

Mr. Royal said the Committee membership determined that they did not have the expertise to develop a detailed proposal for a Town Stormwater Utility and preparation of such a proposal would require:

- Evaluation of the Town's Geographic Information System (GIS)
- Directing a practical and equitable rate and billing system
- Considering ordinance policy and legal issues

Mr. Royal said the Manager's response to the proposals of the Committee:

- There are existing formal and informal inter-jurisdictional programs and staff groups that provide a foundation for expanded discussions of cooperative stormwater management programs, and there are eight such groups that could serve the function well, and a new work group would be unnecessary and redundant. Staff from other jurisdictions may propose more formal areas of cooperation.
- Chapel Hill has existing stormwater and floodplain management programs, regulations, policies and services. The Town's operating budget and staff limit the current level of service provided to its citizens.
- The Town's existing programs and service levels are inadequate to meet new regulatory requirements and to respond adequately to program area changes.

Mr. Royal said that the staff recommends that a two-step process should occur:

1. Develop a pro forma business plan for a proposed Stormwater Management Program funded by a local Stormwater Utility. The elements listed on page 5 of the memorandum.
2. Establishment of a specific Stormwater Management Program and Stormwater Utility based on the Council's response to the general proposals and recommendations presented in step one.

Mr. Royal continued and said if the Council wished to proceed, the staff believes it could:

- Solicit Statements of Qualification, select and hire a Consultant based on experience and qualifications.
- Complete a report based on step one by June 2002, which would included a work plan, schedule, and estimated costs for step two services, which would provide the Council with more information before making a decision.

Council Member Harrison said he received an e-mail from former Council Member Alan Rimer, and asked that it be put into the record.

Council Member Kleinschmidt asked if there were other jurisdictions doing this, and if so, why was Chapel Hill funding the consultant if this was to be an inter-jurisdictional cooperation. Mr. Horton said the Town had not been able to attract a partner.

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Council Member Kleinschmidt asked how it was going to be if the Town is not confident that any product produced by the consultant will be used by an inter-jurisdictional. Mr. Horton said that the Town of Chapel Hill might have to proceed without partners, but there was the possibility that others would want to join in and they would have to pay to help cover the cost of establishing the utility.

Council Member Harrison asked if the Town was the only jurisdiction under Phase II. Mr. Royal said Carrboro and the University were also under Phase II, noting the threshold was 10,000. Mr. Horton said if the Council decided on the full development of a stormwater utility and if it wished to appoint a committee to advise the consultant on the pro forma it would not get a report probably until December.

Council Member Strom said he disagreed with the staff that the Town did not need a Stormwater Work Group. He said he attended several of the meetings of the work group, and the group could keep the focus on the idea that this was a severe problem for the community. Council Member Strom asked if the task had been defined clearly enough to pass this on to a consultant, especially individual streams. Mr. Royal said these were not specifically mentioned but were covered under Phase II, and a consultant would bring together everything that the past three stormwater committees have been recommending in a cohesive manner. Mr. Horton said the consultant would have all of the information that was presented to the Council and the task could be done.

Mayor pro tem Evans asked if it would be possible to meet the March 2003 deadline, if the Council did not get a report until December. Mr. Horton said the deadline could be reached if the Council would allow the consultant to work independently and the staff could get a report to the Council in June.

MAYOR PRO TEM EVANS MOVED, SECONDED BY COUNCIL MEMBER WARD, TO ADOPT RESOLUTION 11.

COUNCIL MEMBER STROM OFFERED A FRIENDLY AMENDMENT THAT A SECOND "NOW, THEREFORE, BE IT RESOLVED THAT THE MANAGER BRING AN IMPLEMENTATION PLAN TO THE COUNCIL FOR CONSIDERATION TO ESTABLISH AN INTER-JURISDICTIONAL STORMWATER MANAGEMENT WORK GROUP INCLUDING, BUT NOT LIMITED TO, REPRESENTATIVES OF CHAPEL HILL, CARRBORO, UNC, ORANGE COUNTY AND ORANGE WATER AND SEWER AUTHORITY (OWASA)."

Council Member Evans asked if people did not buy into this were they going to be included in the work group. Council Member Strom said there would be a work group that met regularly, and a potential utility that was Chapel Hill alone. Mr. Horton said he could understand the distinction. Mr. Small said there were two separate groups being suggested, one that Council Member Strom was suggesting, and the second was a focus group working with the consultant to set up a utility.

Council Member Kleinschmidt said he had concerns that this work group in the friendly amendment would create two paths toward some goal that may be divergent, and might create conflict. Council Member Strom said the advisory work group that he was proposing was not a policy-making board or a funded board, and the two groups would have a chance to work harmoniously and effectively together. Mr. Horton pointed out the limited amount of staff resources the Town has to focus on the work. He said one possibility was for the Council to see the results of the pro forma and then decide to continue to have two separate groups or then have the advisory group after that.

The Amendment was not accepted by the seconder.

THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION AUTHORIZING THE MANAGER TO SOLICIT STATEMENTS OF QUALIFICATION AND TO SELECT A CONSULTANT TO PREPARE FOR THE COUNCIL'S CONSIDERATION A PRO FORMA BUSINESS PLAN REPORT ON THE DEVELOPMENT AND IMPLEMENTATION OF A UTILITY-BASED STORMWATER MANAGEMENT PROGRAM TO SERVE CHAPEL HILL (2002-02-11/R-11)

WHEREAS, the Town of Chapel Hill must submit an application for a National Pollutant Discharge Elimination System (NPDES) Phase II permit no later than March, 2003; and

WHEREAS, the Chapel Hill Town Council desires to consider establishing a utility-based Stormwater Management Program to provide stormwater and floodplain management, drainage system maintenance, stormwater facility construction, water quality enhancements; and related stormwater management improvements; and

WHEREAS, the Council is aware of increasing stormwater management related mandates and obligations for which the Town is or will be responsible; and

WHEREAS, the Town presently has very limited resources available for dealing with stormwater management related problems and responsibilities; and

WHEREAS, State legislation has made it possible for local governments to establish Stormwater Utilities to help provide funding to meet stormwater management needs and responsibilities; and

WHEREAS, the Council has considered the recommendations a Committee established by the Council to study the implementation of a Chapel Hill Stormwater Utility; and

WHEREAS, the Council is interested in receiving more information about the implementation of a utility-based Stormwater Management Program

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Manager to solicit Statements of Qualification and to select a consultant to prepare for the Council's consideration a pro forma business plan report on the development and implementation of a utility-based Stormwater Management Program to serve Chapel Hill.

BE IT FURTHER RESOLVED that the Council directs that the fee for such Consultant services shall not exceed \$15,000.

This the 11th day of February, 2002.

COUNCIL MEMBER STROM MOVED, SECONDED BY COUNCIL MEMBER VERKERK, TO ASK THE MANAGER TO BRING AN IMPLEMENTATION PLAN TO THE COUNCIL FOR CONSIDERATION TO ESTABLISH AN INTER-JURISDICTIONAL STORMWATER MANAGEMENT WORK GROUP, INCLUDING, BUT NOT LIMITED TO, REPRESENTATIVES OF CHAPEL HILL, CARRBORO, UNC, ORANGE COUNTY, AND OWASA WITH THE PURPOSE OF FOLLOWING THROUGH ON THE RECOMMENDATIONS OF THE IMPLEMENTATION COMMITTEE ON STORM WATER.

Mayor pro tem Evans said she supported the advice for the Council to wait until the consultant's report.

Council Member Kleinschmidt added that he thought it was redundant.

Council Member Verkerk said it could be laying the groundwork for future cooperation.

Council Member Strom said that it would be a long time with public hearings to discuss creating a utility and there will be no body in place to orchestrate the inter-governmental component, and the work group needed to be established. He said he felt it would be amazing to have the utility in place twelve months after June.

Mayor pro tem Evans responded that there were many other groups doing that work.

Council Member Kleinschmidt asked how the Town was failing to do that work presently. Council Member Strom said there was no coordination between the jurisdictions.

Council Member Ward said the Town could not force the other jurisdictions to cooperate. He felt it might happen in due time.

Council Member Strom said the other jurisdictions clearly did not want to form the utility, but they were partners in the group that made the recommendation to establish a work group.

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Council Member Harrison said that Chapel Hill was getting to the size that it should have the utility, and it would be useful to have a standing committee to deal with it, and some long tenure of people thinking about the issues would be helpful.

Council Member Wiggins asked if it would be better to find out if the other jurisdictions were interested before asking the staff to set up an implementation plan to bring it about. Mr. Royal said the committee made the decision to recommend a work group without thinking about its composition. He said there was potential for more formalized cooperation

Council Member Wiggins said it did seem to have value to have a group to discuss what areas they could cooperate in.

Council Member Ward asked if Council Member Strom wished to resurrect the original group, which was an effective group, adding that water was an issue that should be dealt with inter-jurisdictionally.

Council Member Bateman said she thought there was real merit to continue with the work already done. Mr. Horton said it could be handled, but it would put a great more pressure on Mr. Royal who had his daily operational duties to attend to also.

THE MOTION WAS ADOPTED BY A VOTE OF 8-1, WITH MAYOR FOY, COUNCIL MEMBERS BATEMAN, HARRISON, KLEINSCHMIDT, STROM, VERKERK, WARD, AND WIGGINS VOTING AYE, AND MAYOR PRO TEM EVANS VOTING NAY.

MAYOR PRO TEM EVANS MOVED TO ADOPT ORDINANCE 3, COUNCIL MEMBER WARD SECONDED. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).