MINUTES
Sustainable Storm Water Funding Task Force
September 20, 2011
City Hall, Room 209, 12:00 PM – 2:00 PM

1. Introductions of Task Force members and meeting attendees.

All members were present except for Ron Miller, Peter Gellerson, David E. Robinson, and John Cannell. Tom Brigham came instead of Bill Bennett. Cathy Ramsdell came instead of Joe Payne. Staff present included: Katherine Early, Mike Bobinsky, Doug Roncarati. Zach Henderson, Rich Niles, and Andy Reese, Robin Sanders, and one person from the Cumberland County Soil and Water Conservation District also in attendance.

2. Review and approval of the SSWFTF minutes from August 16, 2011.

Vernoneau made a motion to accept the minutes and Dillon seconded that motion. Acceptance of the minutes passed unanimously.

3. Review of roadmap.

The group reviewed the roadmap (work plan) of what was discussed during the August meeting and what would be discussed during this meeting. There were no comments on the road map. Andy Reese of AMEC Environment & Infrastructure reiterated the preliminary policy recommendations that were developed during the August meeting.

4. Review of Rate Methodology: How should the stormwater user fee be measured?

   a. Charge on the basis of impervious area only.
   b. Charge on the basis of impervious area plus total gross area.
   c. Charge on the basis of intensity of development.

As a preliminary recommendation the Task Force believes Portland should use an impervious area rate methodology as the basis for its charge.

5. Review of Rate Structure: How should Portland charge single family residential properties?

   a. Flat rate for all residential properties.
   b. Several tiers (2-3) or more.
   c. Individually measured charges.

As a preliminary recommendation the Task Force believes Portland should use a simplified charge for single family residential charges consisting of two or three tiers of charges if an updated housing stock analysis warrants more than two tiers.

6. Review of Exemptions:

   a. Should Portland charge for roads?

As a preliminary recommendation the Task Force believes Portland should not charge itself for its roads or, if further study warrants it, charge a greatly reduced fee for roadway surfaces.

b. Should Portland charge for public property?

The group began with the discussion of policy considerations for charging Public Buildings that was not addressed at the August meeting. Reese provided some brief statistics for Portland's public buildings to facilitate the discussion of whether to charge for public buildings and the associated revenue impacts. The City's buildings comprise 7.2% of the total impervious area, which accounts for $288,000 of the total revenue under a stormwater utility. Reese explained that most cities do charge for public buildings and those that do not charge must account for the revenue across the rate base, thereby increasing the fee. Reese noted that if the City did not charge for buildings, it may be difficult to justify charging for state and federally-owned buildings, resulting in additional lost revenue of the same rough order of magnitude and possibly legal challenges from other building land use-types.

During discussion it was noted that the City already pays for stormwater per building or property through their water/sewer bill and it makes sense to charge a stormwater fee for buildings and pay for the fee through tax revenue. It was also noted that the stormwater costs are increasing significantly and it is difficult to raise additional revenue through taxes. One member noted that not charging for public buildings would be more consistent with the preliminary policy that was developed to not charge for roads. Another noted that if you charged for public buildings then they could potentially reduce their fee through credits. It was noted that the rate payers would pay roughly 14% more if the City decided not to charge for public buildings (City, state, federal combined) and they were in favor of charging for public buildings. A task force member noted that roads and buildings are different: everyone benefits from roads so it makes sense to share that cost across the rate payers; not every benefits the same from public buildings. A task force member noted that if buildings were not charged, then there was less incentive to reduce their stormwater impact.

Votes were tallied as:
Option 1 (Charge) – 11 votes
Option 2 (Reduced Property Charge) – 0 votes
Option 3 (No Property Charge) – 0 votes
Option 4 (No Vote) – 0 votes

Preliminary Policy Recommendation: Portland should charge a stormwater fee for public buildings and property.

7. Presentation and Discussion of Credits

a. What private actions and investments should qualify for a credit?

Reese presented an overview of stormwater credits and explained how they are a legal "requirement" for a user-fee system in the sense that they help to legally distinguish a tax from a fee. Reese also noted that credits are earned and they are not an exemption or incentive; rather they are a reduction in fee due to an ongoing private investment for a public good (i.e., reduced stormwater impact or reduced stormwater management cost to the City). Reese presented the downsides of credits and noted that they typically do not have a significant impact on revenue (~5%). Reese also emphasized the value of developing credits that are simple to understand and easy to administer.

Reese explained that credits to reduce the impact from impervious areas are most often tied to design criteria that can be reviewed and approved in the normal process of development. Examples of credit-worthy activities might include: green roofs, on-site detention for peak flows and volume, LID practices and BMPs to attenuate pollutants. Although the City has six stormwater design standards any of which may be applied to an individual property, those eligible for credits could be simplified to three major categories: basic and general, advanced and flood control. These each reflect significant investment related to development impacts and state and local design standards.

Reese asked the group what types of credits they thought made sense and should be considered to recognize better stormwater management at individual properties. A member asked about whether it made sense to have enhanced credits for CSO areas since it helps address a larger problem. Others noted that it may be challenging to differentiate between the benefit of better stormwater management in CSO areas; additionally, the CSO objectives are driven by a different program. A member asked whether a credit should be considered for non-CSO areas and Reese replied that it would be more appropriate to address this in the fee structure since it is strictly associated with location and not a private investment or action.

The group began discussing the applicability of Chapter 500 and projects that already meet this criteria and whether they should get a credit for what they already meet or only for some measure beyond this criteria. Members noted that the City should message the value of credits with respect to actual stormwater impact and if sites were meeting Chapter 500, they should get some credit since they have less impact than others. A member asked about how detailed the credits should be and how to address older (legacy) properties. Reese noted that older properties could be addressed using a sliding scale of credits (e.g., %) tied to design standards. A member asked about the cost for managing the credit system, noting that cost would increase with the complexity and number of options for credits. Members that were familiar with the Long Creek project noted that the credits for non-structural BMPs were initially cumbersome to establish but were relatively streamlined thereafter to maintain the system. As a follow-up to this thought, a member noted that the Long Creek program is a subwatershed scale and a much greater effort would be required for the City.

A member asked about the impact to credits as design standards change. Reese noted that the credits can be grandfathered or adjusted over time. A member emphasized that the credits should be simplified and City staff noted that the administrative costs need to be considered, as well as an audit policy to address the burden for continued compliance (i.e., inspection). Some members noted that it would be difficult to administer a credit program for rain barrels (for example) at residential properties and the credit would likely be relatively small.

The following policy recommendation was developed and supported by the majority of the group: The group did not identify another kind of impact reduction credit. Portland should match credits (associated with impervious area impact reduction) to local design criteria and Chapter 500 and develop a program for administration of the credit system that is simple for property owners and the City. Staff would come back with a credit proposal at the next meeting.

Reese providing examples of credits that reduce the City's cost for stormwater management such as: education on water quality; maintenance of larger areas and NPDES permit compliance. The City would recognize a credit for private investment in such activities that directly mitigate costs that the City would normally bear. Reese noted that a credit for stormwater education made the most sense since it was the easiest to recognize and build upon existing programs in schools, for example. Reese explained that the maintenance of larger areas could entail cleaning of public parking lots or catch basins that are adjacent to a private facility. Reese also noted that credits for non-structural practices are not very common.

A member agreed that a credit for stormwater education was a good idea. A member asked about the actual number of properties that would potentially be eligible for a credit for "maintenance of larger areas." The airport and USM properties were discussed as the most likely properties for such a credit and it made sense to consider credits for these properties. NPDES permitted facilities were discussed and one member noted that these facilities already have to meet stricter stormwater requirements to reduce pollution. However, one could argue that these facilities have a greater actual or potential pollutant exposure and such controls are necessary to normalize the impact. A member was concerned about the ability of the City to verify compliance with NPDES requirements and another member noted that a credit for these facilities may encourage better compliance.

It was noted by staff that they already worked through local non-profits and governmental agencies to provide education in many schools and that the program seemed to work well – though a shift could be made to more school involvement.

Credits for residential activities were discussed and City staff provided the example of the residential pilot program in the Capisic Brook watershed for "green" lawn care. Residents get trash bags for participation in the program. Members noted that the credit(s) for residential activities needs to be simple and it may be necessary to poll residents to gauge the types of activities that they are most interested in participating to receive a credit. Most members felt that a one-time activity should be recognized as an incentive and it was too difficult to administer a credit for residential activities on an ongoing basis.

Portland might consider offering credits for stormwater education if it makes sense from the perspective of the current education program and it was generally agreed that Portland should offer minimal or no credit to flat-rated residential properties but rather focus on one-time incentives for activities that support the City's stormwater program objectives.

b. How much of the stormwater program should be available for crediting?

Reese asked the group to consider how generous credits should be or how much of the stormwater fee should properties be able to reduce. Although you want to encourage good behavior and private investment in better stormwater management, most communities cap the amount of credit a property can receive for the following reasons:

- Some costs are fixed (e.g. billing) and would not be reduced no matter the level of credit-worthy structures;
- Some costs are unrelated to impacts of new development (e.g. education) and would not be reduced no matter the level of credit-worthy structures;
- Everybody shares the benefit of roads and if someone gets 100% credit their share of the benefit is spread to others; and
- No matter the level of treatment no property can make itself totally impact-free and thus some cost accrues to developed property.

The group took a quick poll was taken. Most members spoke that the credits should not be too generous, limiting the amount of a credit between 0% and 25%. However, as the discussion continued and members considered what would be a more effective credit program. One member noted that the impact to CSOs is directly tied to impervious area and the credit should be very generous (60-70%) since it accomplishes two program objectives. However, other members cautioned that the generosity of credits should be considered based on an evaluation of properties that would be eligible for credits and the allocation of CSO costs to stormwater costs under a user-fee system. This would help the group

better understand the nexus between costs to the CSO program and stormwater fee reduction, thereby allowing properties to evaluate their return on investment. A member noted that they have property in the Long Creek watershed and they evaluated the credit that was offered for reduction of stormwater impacts and it was much cheaper to simply pay the fee than to invest in BMP retrofits.
Overall, many members felt that the credit would have to be greater than 25% to get attention and incentivize property owners to participate. The group was not able to fine tune the % cap without further consideration of revenue impacts; however, voting was tallied:

- 0-25% Cap – 2 votes
- 25-50% Cap – 10 votes
- No Vote – 2 votes

Preliminary Recommendation: Based on balancing consideration of equity, impact of credits, and actual ability to reduce impacts Portland should cap credits somewhere between 25% and 50%, the final value to be determined during detailed rate study.

8. Discussion of public outreach plan.

This item was not discussed.

9. Confirm Date for Next Meeting: The next meeting is currently scheduled for October 18, 2011

10. Adjourn