

DATE: November 18, 2020
TO: Government Operations Committee
FROM: Blaine Williams, Manager *BMW*
RE: **Proposed Stormwater Process Recommendation**

PURPOSE:

To propose a Stormwater Citizen Advisory Committee-driven process to work with staff to revisit Level of Service priority areas, potential Stormwater Credits, develop order of magnitude costs, potential funding sources, and make recommendations to the Mayor and Commission regarding the same.

HISTORY:

1. On April 1, 2003, the Mayor and Commission approved the creation of a Citizen/Staff Stormwater Advisory Committee to assist the Manager and staff with the recommendations for implementation of the NPDES Stormwater Phase II permit requirements. (Commissioner Herod served on this committee).
2. On December 7, 2004, the M&C adopted the ordinance establishing the Stormwater Utility, proposed rate structure, fees, service areas, credit policy, etc.
3. On March 14, 2017, Transportation and Public Works (T&PW) staff presented an overview of the stormwater program at a scheduled M&C work session. T&PW staff recommended proceeding with a consultant to conduct an assessment of the stormwater utility's equity and effectiveness to make recommendations on adjustments to the rate and credit structure.
4. On December 5, 2017, the M&C awarded a contract for Stormwater Funding Review to Stantec Consulting Services to study the Stormwater Program's Level Of Service (LOS), costs of service, funding strategy, rate structure, and credit structure.
5. On February 6, 2018, the M&C adopted the prioritized Live Stream Pipe Replacement Program, and approved 26 corresponding project concepts, authorizing staff to develop preliminary construction plans for these worst-rated Stormwater pipes carrying live streams under public roadways.
6. On December 4, 2018, the M&C accepted a Stormwater Management Program technical memorandum and funding strategy recommended by staff, which included:
 - Continuing to provide LOS A1 (maintenance of public infrastructure) and LOS A2 (compliance with regulatory requirements);

- Extending maintenance responsibility to include the public zone of influence as measured by the Georgia Stormwater Management Manual, which includes stabilization of public discharge points that may lie slightly outside the right of way;
- Adding a dedicated crew for televising and inspecting stormwater pipes;
- Adding two additional full time employees to replace inmate labor to enhance operations of the vacuum trucks and to perform additional stormwater inspections; and
- Funding the necessary capital replacement of existing stormwater infrastructure, Areawide Stormwater system improvements, and the Watershed Management Program through a combination of Stormwater Utility funds and future SPLOST revenues.

7. On August 7, 2018, the M&C directed the Manager to have staff present all SPLOST 2020 submissions proposed by staff.
8. On September 24, 2018, the M&C directed the Manager to have staff present sixteen of the SPLOST 2020 submissions proposed by staff, and directed all others to be submitted without further review. The LSRP was one of the submissions the M&C did not request to hear.
9. On October 16, 2018, the M&C approved the sixteen projects to move forward with the SPLOST 2020 application process.
10. On January 31, 2019, Transportation and Public Works submitted a SPLOST 2020 application in the amount of \$22,259,000 for the Live Stream Replacement Program.
11. On February 26, 2019, T&PW submitted an alternate SPLOST 2020 application at the request of the Citizens Advisory Committee in the amount of \$11,129,000, or 50% of the original application. The application contemplated the other 50% of LSRP costs coming from Stormwater Enterprise funding.
12. On April 16, 2019, the Citizens Advisory Committee held its final vote to recommend projects to the M&C, and the LSRP was not recommended for funding.
13. On July 2, 2019, M&C accepted a technical memorandum for Fee Rates and Credit Review, which included:
 - Maintaining the current three-component fee structure;
 - Recommendations on cost allocations, impervious surface calculations, stormwater billing, and stormwater credits; and
 - Next steps were to include drafting a manual with guidelines for administering credits, as well as completion of an impervious surface audit that would inform decisions on future rate increases.
14. On August 19, 2019, the M&C approved the SPLOST 2020 referendum wording to be voted on by the citizens of Athens-Clarke County, which included \$500,000 in funding for the repair, upgrades, and/or replacement of failed or failing stormwater pipes within the stormwater systems of ACCGov.
15. On November 5, 2019, the citizens of Athens-Clarke County approved the SPLOST 2020 referendum as presented.

16. On August 4, 2020, M&C adopted a Budget Ordinance Amendment, reallocating a total of \$6,349,000 from the Excess SPLOST 2011 proceeds, and approved project concepts for the reallocated revenues, including \$2,000,000 for the Live Stream Pipe Replacement Program.
17. On September 1, 2020, M&C adopted updated Live Stream Pipe Replacement Program priorities, and approved 55 project concepts as part of the program, authorizing staff to develop preliminary construction plans on these 55 pipe replacement projects. Projects were to utilize a combination of Stormwater Utility Enterprise funds, SPLOST 2011 funds, and SPLOST 2020 funds.
18. On September 1, 2020, Mayor Girtz assigned to the Government Operations Committee the task of reviewing the processes and standards for Stormwater Management Public and Private Agreements, also known as Drainage Improvement Agreements.

FACTS AND ISSUES:

1. I am recommending this process for reasons including, but not limited to:
 - the M&C completed Phase I of the review (Level of Service) and then roughly half of the Commission membership changed;
 - the M&C adopted the prioritized Live Stream Pipe Replacement Program, but a long term funding source has not yet been identified;
 - there has been a number of Commissioner/citizen inquiries regarding Drainage Improvement Agreements, which were not discussed in detail during the previous Level of Service (LOS) review and could have an impact on future LOS if the policy is substantially changed ; and
 - creating a Stormwater Citizen's Advisory Committee after seventeen years to review Level of Service and credits recommendations with a fresh and balanced perspective should be well-served.
2. The current Drainage Improvement Agreement (DIA) process is detailed in ACCGov Policy PW-002 and was last approved by Mayor and Commission in 1992. Much has changed since then, including the creation of a Stormwater Utility (how Stormwater improvements are funded), the average age of ACCGov stormwater infrastructure, as well as a legal focus on maintenance responsibility and liability. These changes raise questions that are not limited just to DIA policy, but to the greater issue of appropriate Level of Service for ACCGov's Stormwater systems.
3. Since 2005, and based on direction from past T&PW administration, DIAs have been offered to single family residences that are owner-occupied and in circumstances consistent with the following:
 - Massive erosion to drainage ways with a major threat to a permitted structure
 - Stormwater runoff which is flooding permitted structures due to lack of (or failure of) drainage infrastructure
 - Major infrastructure failures to privately owned stormwater systems that are outside the homeowner's ability to maintain and/or replace (driveway pipes and drainage ditches have not qualified for DIAs as they are the homeowner's responsibility to maintain).
4. DIAs were not offered when work was determined to have an impact within
 - the 100-year flood plain,

- Waters of the State, or
- State Water buffers as delineated by EPD.

Exceptions have been rare and would be given when a DIA's project limits were within the outfall of an existing stormwater drainage pipe.

5. The Manager's Office is proposing the creation of a Citizen Stormwater Advisory Committee, whose first immediate charge would be, but not limited to:
 - a) Identifying potential Level of Service priority areas that could be addressed through the Stormwater Utility;
 - b) Reviewing potential Stormwater Credits for actions that can be taken by customers to reduce their stormwater charges;
 - c) Working with staff to develop order of magnitude costs to each of the areas and potential impacts on rate structures; and
 - d) Providing M&C with these recommendations, as well as potential funding sources for these services.
6. The identification of potential LOS priorities will necessarily include discussion on multiple points that will also guide future changes to the DIA process, including:
 - Zone of Influence Policy (*Should LOS be increased so that ACCGov can maintain stream/creek segments that lie on private property but are directly downstream of a public drainage culvert or other manmade public stormwater management conveyance system?*)
 - Private Stormwater system maintenance (*Should LOS be increased so that ACCGov can maintain stormwater pipe systems on private property?*)
 - Rock Program vs. DIA Program (*Should the existing DIA program be converted into a Rock Program similar to peer communities in Georgia?*)The answers to these first two questions may limit the need for a DIA program, as many issues that historically would have been solved through DIAs could now instead be fully under the responsibility of ACCGov. The third question would help determine the type of resources that ACCGov would supply in future private stormwater agreements: materials, labor, design efforts, etc.
7. The Stormwater Citizen's Advisory Committee could also be tasked with providing future stormwater recommendations on issues including Stormwater Plans Review for residential construction, Stormwater education and messaging, Stormwater billing methods, and others.
8. If approved, a potential timeline for the Committee could look as follows:
 - January 2021: [1 month] - Committee Selection and Appointments
 - February 2021: [3 months] - Committee Orientation and Discussion of Issues, Alternative LOS, Public Forum #1
 - May 2021: [2 months] - Funding estimates developed for preferred LOS alternatives, potential funding sources, Public Forum #2
 - July 2021: Mayor and Commission work session
 - August 2021: Mayor and Commission voting meeting
 - September 2021: Revision to stormwater fee assessments, other sources, if any

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