

AGENDA FEBRUARY 20, 2019 | 5:00PM TO 7:30 PM

ADVISORY COMMITTEE (AC) #8

LAKE WHATCOM STORMWATER UTILITY

Bloedel Donovan Park Beach Pavilion, 2214 Electric Ave., Bellingham, WA

Item #	Estimated Time	Agenda Item	Lead	Materials
1	5:00	Call to Order/Roll Call	Nat	-
2		Approve Agenda	Nat	Agenda
3		Approve meeting notes from November 14 and January 8	Nat	Meeting Notes
4	5:05	Staff Report/Response to Comments Received	Gary	New written comments received; Updated comment/question table with response; PowerPoint
5	5:15	Funding Study Remaining Steps	Gary	PowerPoint
6	5:30	Proposed Rate Design	John	PowerPoint
7	6:50	Next Steps / Future Meetings	Gary	-
8	7:10	Public Comment Period	Nat	-
9	7:25	Meeting Summary: a. Decisions Made b. Action Items c. Agenda for Next Meeting	Tage	-
10	7:30	Adjourn	Nat	-

Advisory Committee Meeting #7

Lake Whatcom Stormwater Utility

November 14, 2018 | 3:00 PM TO 5:25 PM

Geneva Fire Station, 4518 Cable Street, Bellingham, WA 98229

Decisions

- November 14 Agenda – Approved
- September 19 Meeting Notes – Approved
- Move Public Comment Period from agenda item #10 to agenda item #4 – Approved
- Additional committee meetings if needed: Jan 30, Feb 20, March 20. All at 5 PM – Approved
- Impervious Surface Charge Component: FCS GROUP and Tetra Tech to pursue analysis based on diagram drawn on whiteboard at meeting and summarized below – Approved
 - The committee-recommended impervious rate component is a combination of Options 1 & 3, resulting in a Single Family Residential (SFR) small/medium/large rate structure.
 - The impervious tier thresholds will be informed by measuring a sample of SFR parcels.
 - To avoid the administrative cost burden of measuring all SFR parcels, the average impervious area from the sample will be used to calculate the rate; initial placement determined by gross parcel area (lot size):
 - SFR Large: Residential rural/large lots which are greater than or equal to 2 acres;
 - SFR Medium: All other SFR parcels; in other words, parcels less than 2 acres in size; and
 - SFR Small: No parcels initially placed in this tier.
 - Any parcel could “move down” a tier by providing documentation of impervious area. For example: Large → Medium; Medium → Small; or even Large → Small.
- Non-Single Family parcels would be assessed via the Equivalent Service Unit (ESU) methodology which takes total measured impervious area by parcel, and divides that by the average impervious area based on a sample of SFR parcels.
 - For example, a Non-SFR parcel with 12,000 impervious square feet would equate to 4 ESUs if, based on the SFR sample, it is determined that 1 ESU = 3,000 impervious square feet.
 - The committee requested that staff look into how SFR’s with especially large impervious footprints could be charged a higher rate in the future.

Homework / Action Items

Committee

- None noted.

FCS GROUP / Consultants

- Calculate preliminary Impervious Surface Charge Component based on measuring results.
 - Measure all non-single family residential properties in service area / watershed.
 - Measure a sample of large (previously rural) single family residential parcels.
 - Measure a sample of medium (previously urban) single family residential parcels.
- Develop preliminary Parcel Charge Component options (e.g., flat versus gross parcel size).

County Staff

- Request written opinion from County attorney regarding evaluation of proposed rate structure.
- Set up a meeting with committee and County attorney to discuss rate structure.

Agenda Topics Covered

- Call to Order/Roll Call
- Approve Agenda for November 14
- Approve meeting notes from September 19
- Public Comment Period (moved up by committee motion)
- Staff Report/Response to Comments Received
- Legal Opinion on Proposed Rate Structure
- Update on GIS Pilot Project
- Rate Structure Direction
- Capital Facilities Charge (CFC) Direction (**postponed**)
- Discuss Schedule / Future Meetings
- Meeting Summary: Decisions Made; Action Items; Agenda for Next Meeting (**postponed**)
- Adjourn

Meeting Notes

Special Advisory Committee Meeting – Legal Review of Proposed Rate Structure

Lake Whatcom Stormwater Utility

January 8, 2019 | 3:00 PM TO 4:00 PM

Garden Level Conference Rm., Whatcom County Civic Center, 322 N. Commercial St.,
Bellingham, WA 98225

Discussion Points

- Gary provided an overview of the committee's proposed rate structure and questions and discussion to date regarding the legal defensibility of the proposed rate structure.
- Proposed rate structure is two parts: (1) based on impervious area and (2) a per parcel charge (either flat rate or based on parcel size); confirmed FCS is drafting preliminary rates for both options. Confirmed money collected from per parcel charge can be used to fund all stormwater utility components.
- Gary provided an update on the funding study process. It is unlikely that preliminary rates will be ready for review by the scheduled January 30 meeting date.
- Chris explained that to be legally defensible, properties charged a stormwater utility fee must meet the following criteria: (a) create a burden/contribute to the runoff problem, or (b) receive a specific service from the fees collected. An increase in property value is not considered a specific service. In addition, the rate structure must include a fair method to distribute the fees between properties to make the charge as proportional as possible.
- Chris explained that both a per parcel flat fee charge and per parcel charge based on parcel size are legally defensible; however, he is more comfortable with a parcel charge based on parcel size because of the connection between size of parcel and amount of runoff contributing to the problem.
- Discussion occurred between committee members regarding justification/rationale to charge land in a forested condition.
- Confirmed Whatcom County Council has the legal authority to establish exemptions to the stormwater utility fee.

Outcomes

- The committee's proposed rate structure options are legally defensible.

Homework / Action Items

Whatcom County Staff

- Confirm no additional legal review needed for proposed capital facilities charge
- Confirm definition of forested condition in the Lake Whatcom TMDL

Agenda Topics Covered

- Call to Order / Roll Call
- Approve Agenda
- Meeting Purpose
- Additional Question/Answer Period
- Summarize Meeting Outcomes and Identify Action Items
- Funding Study Status Update
- Adjourn

From: Eric Thomas <ethomas2566@yahoo.com>
Sent: Tuesday, November 13, 2018 6:15 PM
To: LWStormwaterUtility
Cc: ethomas2566@yahoo.com
Subject: Stormwater rates/credits

Hi Ingrid. Thanks for your help yesterday. Here's my public comments for the Lake Whatcom Stormwater Utility records. Thanks, eric thomas. 360-671-7354. ethomas2566@yahoo.com.

Two comments/concerns related to the need for a comprehensive, fair process for determining the rates that will be charged to stormwater utility members.

1: There should be some sort of credit system in place. Since the purpose of the stormwater utility district is to improve the water quality of Lake Whatcom and reduce stormwater runoff from entering the lake, there should be some mechanism to evaluate the extent to which each parcel is contributing to the problem and assess fees accordingly. A property where pervious cement has been installed (at considerable expense) to prevent runoff and all downspouts are directed into gravel drains buried in the ground to filter out pollutants, for instance, should not be charged the same rate as a property where water is pouring off the driveway onto a roadway and into stormdrains that channel water into the lake and downspouts are sending water onto sidewalks, patios, lawns and other above ground surfaces. Fairness and common sense suggest that fees should be proportional to the amount of pollution/runoff a property is generating. A system that credits significant, effective measures that have been taken to prevent and mitigate runoff would also motivate owners of properties where those steps have not been taken to spend time, money and energy to do so. The lack of such a credit system eliminates an effective economic incentive for owners of problem lots to address the stormwater problems their properties are generating.

2: There should be some mechanism to ensure that the measurements of impervious surfaces on properties, and the subsequent rates charged, are accurate.

I'm told that the contractor for the county has begun the process of calculating the amount of impervious surface on every watershed lot. Apparently that process will not involve physical inspections of lots, but rather use aerial mapping to estimate the amount of impervious surface on properties, which include houses, outbuildings, driveways, etc. That's fine. But aerial mapping cannot distinguish the difference between a driveway built with pervious cement and one with impervious cement. As such, all driveways will be considered impervious and thus included in the total amount of impervious surface on the lot, with a fee calculated accordingly. For lot owners with pervious cement driveways, that will mean inaccurate and blatantly unfair calculations of the overall impervious surface areas of their lots, resulting in them paying more money than they should in perpetuity. There needs to be some way for property owners to be able to bring to the utility district's attention the fact that they have pervious cement driveways and have the impervious surface calculation for their lot revised to ensure it is accurate. One possible option would be to allow lot owners to pay a reasonable, one-time fee to the stormwater district to have an employee come out to verify a pervious driveway exists and document its exact dimensions so it can be subtracted from the inaccurately calculated total impervious surface area of the lot.

Eric Thomas, watershed property owner

From: Enoch J Ledet <enoch.ledet@gmail.com>
Sent: Wednesday, November 14, 2018 8:42 AM
To: Satpal Sidhu; Barbara Brenner; todd.citron@lwwsd.org; Council; LWStormwaterUtility
Subject: Questions for Stormwater District

Respective Whatcom Council Members and LWSSD members,

I have a few questions related to the TMDL P solution to address Low DO in Lake Whatcom which I would like to ask because taxpayers are required to pay for this solution.

1. Managing P via TMDL P will cost taxpayers \$100 million over the next 50 years. This solution only addresses P transported into the lake via storm water runoff. 3,140 lbs P removal will cost taxpayers \$38,100/lb/yr x50 years.

Are there more cost effective alternatives

To manage control P ?(i.e., Alum treatment cost \$10/lb P vs Soil entrapment filters which cost \$1000s/lb P removal - Dr Alex Horne UC Berkley and Dr Marc Beutel UC Merced)

2.How much additional taxpayer money will it cost to manage/control sediment (internal) P which is recycled annually

Which also causes algal growth/blooms?

3. What about other DO demand causes such as

BOD, COD, NOD, SOD? Managing P alone will not address these causes nor supply enough DO in the hypolimnion to remove the EPA 303d impaired body of water designation for Low DO.

4. What will it cost taxpayers to supplement atmospheric O2 exchange to assure there is a sufficient concentration of O2/DO in the hypolimnion to prevent anaerobic chemistries (NH3, H2S, MethylHg, Fe,Mn, P) and remove the EPA 303d impaired lake designation?

5. If WE don't address these in the next 50 years with the current TMDL P solution, WE will pass these problems onto our children and grandchildren to solve, at what inflated costs?

WE have the technology and solutions today to improve our lake and drinking water quality but it will require taxpayer monies to do it. Will we get what we are paying for utilizing the current TMDL P solution or pass it on and let the next generation of taxpayers to pay for other solutions?

Respectfully,
EJ Ledet

<https://www.dropbox.com/s/mwtnr8aoap9b76k/Data%20Team%20Presentation%20May%2010%202018%205918.ppt?dl=0>

Sent from my iPhone

Lake Whatcom Stormwater Utility Funding Study
Public Questions and Comments Received November 5, 2018 – February 11, 2019

Date Received	Date Received	Question/Comment	Response
11/13/2018	Written	Comments received from Eric Thomas regarding the new stormwater utility rate: (1) there should be a credit system in place for parcels with stormwater management facilities that prevent or mitigate runoff (e.g., pervious cement); (2) there should be a mechanism in place to ensure measurements of impervious surfaces are accurate.	Forwarded to the Advisory Committee for consideration.
11/14/2018	Written	Questions received from EJ Ledet regarding solutions to address low dissolved oxygen in Lake Whatcom, the TMDL, and costs to taxpayers.	Forwarded to the Advisory Committee for consideration. Also forwarded to the Washington State Department of Ecology and the Lake Whatcom data team for review. Lake Whatcom Management Program partners are looking into the feasibility of some of the suggested technological fixes to excess phosphorus and low dissolved oxygen as part of the lake model review currently underway.
11/14/2018	Verbal	Comments received from Eric Thomas (see written comments submitted) regarding: (1) properties with no stormwater management improvements (i.e., all the water runs off into the lake) and properties like his with pervious pavement driveways that infiltrate stormwater runoff should not pay the same; (2) pervious pavement should not be included in the total impervious calculation for a lot; there should be a mechanism in the fee structure to remove pervious pavement from the impervious area measurement.	Heard by the Advisory Committee.

Date Received	Date Received	Question/Comment	Response
11/14/2018	Verbal	Comments received from Rick Kiene regarding: (1) It is not fair or reasonable to penalize owners of properties built to older code requirements that where not required to install pervious pavement (i.e., manage their own stormwater on-site or limit impervious area) at the time of construction; (2) recommends using building footprint data to base the fee on.	Heard by the Advisory Committee.