

ENGINEERING DEPARTMENT AND CONSULTANT STAFF REPORT
ON ISSUES RAISED AT THE APRIL 26, 2004 COUNCIL MEETING
REGARDING A PROPOSED STORMWATER MANAGEMENT UTILITY

Question: *Has the Town examined exemptions from the fee for owners of affordable housing (i.e. Land Trust properties) or low income residents?*

Response: Exemptions for specific classes of property owners (low income, tax exempt, etc) are not provided for under the authority granted to the Town to establish the utility. North Carolina law (N.C.G.S. Sec. 160A-314(a1)(2) provides that stormwater utility fees may vary according to the use of the property, size, area of impervious surface, quantity and quality of runoff, characteristics of the watershed and other factors that affect the stormwater drainage system.

A basic premise supporting assessment of a stormwater management fee is that services are provided and that the fee is payment for those services. As with all public utility charges (water, sewer, gas and electric), the “ability to pay” cannot be considered as part of the rate structure. Therefore, in order to maintain the legal integrity of the utility, stormwater fees are established without regard to ability to pay as a rate criteria.

No matter what the amount of the fee that is funding the stormwater management program, there will be some citizens who will find the fee to be a financial burden. The issue is whether there is a way to provide financial assistance to those truly in need by establishing a relief program, such as those used by some other utilities. Coordination with local relief agencies and donations from other rate-payers are two methods used other utilities to assist those in need. (For example, the “Round your Bill Up” program used by OWASA to fund a relief program associated with water and sewer bills.)

Although establishment of a relief program is an admirable endeavor, the administrative costs of such a program should be carefully examined to ensure that costs incurred do not outweigh the benefits provided. This is particularly a concern in the case of the stormwater management fee which is expected to be relatively low for most residential property owners.

Therefore, it is recommended that the following approach be used in addressing the issue of financial hardship:

- Attempt to keep the Stormwater Management Fee at a reasonable level that most can afford to pay it.
- Work with individuals who have difficulty paying the fee on a case-by-case basis to arrange for payment over a time period agreed to by the Town and the rate-payer.
- Provide information about any financial-aid mechanisms that are available.
- Consider establishing some type of a relief program based on voluntary contributions.

Other examples of financial aid or relief programs are:

1) Piedmont Natural Gas Company – Share the Warmth program

The Share the Warmth program assists low-income families and individuals in paying their heating bills through an energy-assistance program. Customers are provided with a list of agencies that administer the Share the Warmth program. These agencies use established

criteria to determine a person's eligibility for assistance and they also handle the distribution of funds. Individuals wishing to participate make a check or money order payable to their selected agency and enclose that check or money order in the Piedmont Natural Gas return envelope along with their separate natural gas payment check. Piedmont Natural Gas then matches your contribution as indicated and forwards all funds to the appropriate agency. The agency then assists the individuals in paying their power bills. Duke Power also participates in the Share the Warmth program.

2) Horry County, SC Stormwater Utility. Although Horry County does not have specific programs for assisting low-income individuals and/or families with the payment of fees, the County recognizes the need for working with such individuals and/or families. Some examples are:

Horry County Stormwater Management Fee – Delayed Due Date

With the issuance of the initial stormwater management fees in October 2000, a number of individuals called to express a concern about the amount of the fee and that, since they lived on a fixed income, simply could not afford to pay it. The fees were issued in October on the same notice as the property taxes. The property taxes became delinquent in early January and the stormwater fees became delinquent in mid-March..

Since the Stormwater Fee is billed on the property tax notice as a matter of convenience, and is not considered to be a lien against the property, owners can pay property taxes separately from stormwater management fees. From an accounting standpoint Horry County prefers that both be paid at the same time, ideally as an escrow item. However, a property owner with financial problems could pay property taxes in January and wait until March to pay the stormwater management fee without incurring a penalty. To assist property owners who express financial hardship, the County stormwater management program staff let them know that the payment of the stormwater management fee can be delayed until March without penalty. Many were appreciative of this opportunity to make separate payments.

Horry County Legal Department – Payment Arrangements

When property owners have trouble paying a Horry County fee or tax, the Horry County Legal Department normally gets involved in an attempt to collect the outstanding debt. In order to be able to collect on such debts, the Legal Department is willing to work out payment arrangements that are acceptable to both the County and to the property owner.

By allowing property owners to delay payment of stormwater management fees, and/or to work out payment arrangements with the Legal Department if fees become delinquent, Horry County currently provides reasonable alternatives to address the financial hardship issue.

Question: *As part of the development of a credit system, can consideration be given to differing runoff characteristics associated with different types of land cover and different permeability rates of soils found within the utility service area?*

Response: Land cover, land use, soil types and topography are typically taken into consideration on a macro scale as part of watershed analyses and data projections. However, the complexity of discriminating this information and quantifying the effects on a property parcel basis, in order to

use it as part of a rate adjustment or credit, is impractical. The cost of technological and staff resources necessary to accurately and consistently identify and analyze these characteristics on a property parcel basis over the entire utility service area would be very high. We do not believe that credit benefits to the property owners would offset the costs incurred by the utility to identify such credits. Additionally, we think that the actual credit amount, for all but the very largest property parcels, would be small. We will plan to take these characteristics into consideration as part of our discussions with the University, that is the owner of large parcels of land that include areas of relatively undisturbed land cover. (e. g. the Botanical Garden)

Question: ***How does this fee differ from a tax?***

Response: There are several key ways in which a stormwater fee differs from a tax. The fee is authorized by State statute, empowering local jurisdictions in North Carolina to fund stormwater programs through enterprise accounting and imposition of user fees. Costs are allocated to all properties that place a demand for service on the storm drainage system, as determined by the local jurisdiction. The fee is not based on property value, as is the case with property taxes. The fee is not tax-deductible and it is calculated on a uniform basis for all property owners within the service area, regardless of owners' property value and/or income. As a fee rather than a tax, the rate base includes tax-exempt properties. The use of fee revenues collected is restricted to funding stormwater services only and cannot be diverted for other unrelated purposes, thus providing a stable, long-term funding source for a stormwater management program.

Question: ***How are streets accounted for in the rate? Are public and private streets exempted?***

Response: In Chapel Hill, public streets are not included in the rate calculation. This includes both State and Local streets. Owners of private streets, driveways, and alleys would be assessed fees based on the impervious surface area involved.

Question: ***How are multi-family properties billed?***

Response: There are several ways that multi-family properties are handled in the rate base. In the case of apartments, the property is handled as all other property in Chapel Hill. The total impervious area for the entire property parcel is calculated, the number of billing units are determined and multiplied by the rate, and a total stormwater fee is billed to the property owner. In the case of apartments, the cost is typically distributed incrementally to each apartment unit as part of the rent.

In the case of attached homes, such as townhouses or condominiums where common area property exists, the total impervious area for all residential units and common areas within the development is measured and the resultant fee is calculated for the entire development and then divided by the number of units on the property. The costs are typically distributed equally across the number of residential units in the development

Question: ***Once an agreement with UNC-Chapel Hill is reached, can billing be retroactive?***

Response: There is no language within the authorizing legislation or local ordinance that would preclude the retroactive billing of stormwater management utility fees. Retroactive billing has taken place as part of stormwater management utilities in other communities in North Carolina.

