CHARLOTTE

Charlotte City Council

Environment Committee

Meeting Summary for August 22, 2011

COMMITTEE AGENDA TOPICS

I. **Subject:** **Post Construction Controls Ordinance**
Action: None

II. **Subject:** **Consideration of Citizens Advisory Committee on the Environment**
Action: None

III. **Subject:** **Next Meeting**
Monday, September 26 at 3:45 p.m. in Room 280

COMMITTEE INFORMATION

Present: Edwin Peacock, Nancy Carter, Andy Dulin and David Howard
Absent: Jason Burgess
Time: 3:50 p.m. to 5:05 p.m.

ATTACHMENTS

1. Agenda Package
2. PowerPoint – Proposed Revisions to Post Construction Controls Ordinance

DISCUSSION HIGHLIGHTS

Committee Discussion:

Committee Chair Edwin Peacock welcomed everyone to the meeting and asked those around the table to introduce themselves. He said we will start off with a staff presentation and then we will follow that by bringing some individuals to the dais to begin some dialogue. He said that due to time constraints we may not get to agenda item #2.

I. **Post Construction Controls Ordinance (PCCO)**

Jeb Blackwell, City Engineer, read through and reviewed the "Proposed Revisions to Post Construction Controls Ordinance" presentation (copy attached).

Howard: What happens after a two-year trial period? (referencing slide 11)

Blackwell: I think that is what we need to re-evaluate. We need to look and see. There are a lot of things we need to know about that. We don't know how many folks will take advantage of this. We don't know how effective we'll be able to be in locating other facilities and getting those in place. We don't know what the new federal rules are going to say. I think PCCO is a really sweeping ordinance. It is one of the largest ordinances we've ever had and I think there will be changes in it as we look for what the right balance is to best serve the community.

Howard: When do you expect the EPA changes to happen?

Daryl Hammock: Their schedule is that in September they will produce a draft of the new rules. There will be a 60-day comment period and after that it will go through the federal process and rule making through Congress to become law and will take effect in 2012/2013.

Howard: From a time standpoint, if they pass something that affected us we would have to come back within those two years anyway, right?

Hammock: I think the notion is if they pass the new rules we may have to reconvene a stakeholders group or open the ordinance back up and revisit this anyway in 2013. We are waiting the outcome of that.

Blackwell: Our proposal here wouldn't be to do a two-year trial period with the idea that this is in effect until two years. We are proposing a two-year trial period and put a sunset on it and look at it at that time.

Howard: Just for the sake of information, what we have in place now is it would be $60,000 if it was over an acre and now it is $90,000?

Hammock: There is a $60,000 payment in lieu option for inside the transit station areas and distressed business districts. That is what it is now. What we are proposing is to add an option for a $90,000 per acre fee outside those areas.

Howard: Why more? What was the reason for $90,000?

Hammock: The reason it is more is because the requirements are more stringent outside those areas. There are more environment protection requirements outside those transit and distressed business districts so there will be more controls that will be needed and the City would have to spend more to fund those controls elsewhere.

Howard: Do we know that that is a $30,000 addition?

Hammock: We don't have it pinned down to exactly $30,000. It is approximate and it is based

on what we've seen our past projects cost.

Howard: Why not do graduated fees like was done with the Tree Ordinance?

Hammock: We recommend at this point that it be $90,000 an acre for those areas outside the transit station areas, but we can look at a graduated fee. I think it gets more complicated and it starts to become not very simple to implement and not very simple to understand, but we can come up with an idea that is an incremental approach or increasing fee as the site grows, for example.

Howard: My feelings are the same I felt with the Tree Ordinance. It can go from 1 acre to 1.1 acres and now it is $90,000. It doesn't do a lot to help us carry through development along some of these other distressed areas of town if they are not on transit, if they are not in a distressed corridor. I would venture to say South Boulevard is not a distressed corridor. I would bet that Monroe Road is not a distressed corridor. My point is I don't want to discourage smaller guys from developing because they get over an acre and they can't afford to do that because we have plopped $90,000 on to what they were going to do. I think we should have something that is fair to the small guys all the way up.

Blackwell: The challenge for us is that if the fee becomes too small, we may not be able to build the publically constructed project.

Howard: I'm not trying to take that away. We still have that recovered 100% and I'm okay with that part. I'm just saying at some point, they've got to pick a site that is a small site for redevelopment and that is $90,000 just off the bat.

Carter: We don't have statistics and I'd be very interested in statistics about the people who contact you all, and it probably will be simply contact about these projects because we don't know the relative position. If you look at the priorities of Council, we are addressing two priorities here, economic development and environmentally sensitive programming. If we are achieving our economic development goals, focusing on distressed areas, focusing on transit stations, then I think there is something to be weighed in this topic. I think that is extremely important. It is successful. We have targeted development in those two areas and it is working so why challenge it, particularly when in two years or less we could have new activity that will really tax our staff. I'm inclined to leave this as it is and look forward to the feds, and I would ask what the State Legislature is addressing, if there is anything in this area that we don't know about that would be coming forward that might impact our debate and studies on this. I would rather hold upon status quo, realizing that we are really achieving one of our goals and achieving this environmental protection, at least on that level. I am very much in favor of status quo.

Dulin: Jeb, you had mentioned that you have equal number of buyouts in areas other than transit?

Blackwell: The distressed business corridors and transit are the two areas qualifying for buyout today.

Dulin: How many would that be? We see everything, but I don't recall seeing any of them.

Hammock: Sixteen have used the fee in lieu that I know of.

Dulin: At the $60,000 price per acre?

Hammock: Yes.

Dulin: That is interesting, and in what time schedules?

Hammock: In the last 3 years.

Dulin: Do we know how many have come and discussed it with you and decided not to do their project? Are we keeping that number?

Hammock: It is a small number, maybe 5.

Dulin: Is Eastland Mall a distressed area?

Carter: Yes.

Dulin: We've got development going on down here at the corner of Metropolitan and Kings Drive. I've seen that going on now and I don't know who is doing it, I don't know what they are building in there. Somebody told me over the weekend that it was a Mexican restaurant, but they have to do on site mitigation at an additional cost of $150,000. That was just a number that was thrown out to me, so that is an interesting number underground.

Peacock: I think it would be very helpful to hear from some individuals for 3 or 4 minutes that have been very involved in this process, just to talk about what their viewpoint is. I also want to say at the beginning of the Tree Ordinance, we had known that this was going to be a part of the process for you all to bring back to us some recommendations that you thought there would be a little bit of an overlap, so that is where we got to where we are. What I don't want to let anyone in the room or anybody in the Committee think is that this Committee or the Council was trying to sneak something through or to try to get something by very quickly. That is not our intent at all and I don't think any Committee member has thought that. I think it was rather unintentional. We did not draw straws here, but I'm going to start left to right. We've got 30 minutes as Council begins their Dinner Meeting around 5:00.

Chris Buchanan, Chair of the Charlotte Tree Advisory Commission, said our job is to advise the Council on tree matters. As you've heard, after reviewing the proposed changes of the PCCO, the Charlotte Tree Advisory Commission voted unanimously and the Storm Water Advisory Commission also voted to advise you and City Council to not adopt the Tree Natural Area Requirements from the PCCO for the changes we discussed today. As you know, these are independent commissions that were appointed by the Mayor and City Council to advise them on these types of matters. Your ordinances have very different objectives. The Tree Ordinance preserves the tree canopy and the Post Construction Controls Ordinance improves the water

quality. Since trees can multitask, they are counted under both. They can be counted both for your PCCO requirements and your Tree Ordinance requirements as they benefit developers, which is something that was specifically written in both ordinances. The Tree Ordinance doesn't consider watersheds. The Tree Ordinance does not intend to solve our water quality issues. We would be short sighted to eliminate a significant portion of the PCCO that was agreed to by the stakeholder group claiming that another ordinance, with different goals, was going to sufficiently address that. CTAC has also recommended that Post Construction Controls Ordinance buyout not be expanded. The proposed changes testified with atypical examples without taking into account the variance process. The proposed changes would broadly change the rule, even on sites that could comply with the stakeholder group ordinance. Instead of instituting those changes, the variance process could be used so that unusual situations could be dealt with to find some environmental improvements, as was suggested. Currently, the PCCO has been in effect for 3 years and there have been 4 variance requests. Either all or most all of them have been granted. The system is working and it doesn't need to be changed. City Staff has claimed that there will not be an adverse effect on water quality, yet in contrast of all the cost benefit analysis that was done for PCCO and the Tree Ordinance, there have not been studies, there has not been an analysis with City Green or other methods, to evaluate the effect of these changes, nor have there been studies to look at the job creation claims by City staff. City staff, in a CTAC meeting, confirmed that the two ordinances together actually do more for tree protection than either ordinance alone. CTAC urges you to vote against the Natural Area Mitigation Changes as proposed by the PCCO.

Rick Roti, President of the Charlotte Public Tree Fund, said I worked for over two years on Post Construction Stakeholder Process and I've worked on every Tree Ordinance process since the mid '90's. I'm here to represent the 6th largest environmental organization in Charlotte-Mecklenburg, collective 7,000 members and I give you three messages. The first one is thank you very much for your service and for the opportunity to speak here today and participate in this process. The second one is I would encourage you to ask your engineers to begin working with us to see what our volunteers can do to lower the City's costs. We have been very effective in planting trees with County Stormwater, but we do nothing with City Stormwater and I think we could do a good job and help you lower the costs and engage the public. Third, we would strongly urge you to reject all parts of the PCCO recommendations 1 and 2, we don't care about the housekeeping items. Charlotte streams are in serious, serious trouble, not some trouble. Seventy-seven percent of Mecklenburg streams are unfit for human contact and they are impaired. Why are they impaired? Because our development has thousands of parcels, all of which contribute polluted stormwater, increased velocity and volumes of stormwater through stream networks. The only way and the central way the PCCO gives us hope, is through redevelopment. That is the key criteria. What the PCCO requires is that you redevelop all these thousands of parcels that are pollution sources and convert them into sources that are much more beneficial to your stream network. If you don't do that, you cannot clean up Charlotte streams. We must do that, so it is a very unwise recommendation that we actually allow developers out of the very heart of the Post Construction Ordinance. Also this greenfields versus redevelopment argument is complete smoke and mirrors. We are going to develop our greenfields. Developers are going to go where they want to develop projects and we are also going to redevelop them. So, we are not going to buy anything by encouraging redevelopment. I spent a lot of time, over two years, and we spent $360,000 to hire the best experts to advise our stakeholders. They developed

a model and they modeled 122 sub-watersheds, 33 of the main watersheds all over Mecklenburg County. They modeled these for us and then we would come with the rules for PCCO, give them to these experts and they would put our rules through the model and tell us what we are doing to our streams. It wasn't good so we would redo it. They would put it through the model and tell us it is not good and we would redo it again. We did this several times and we came up with a model Post Construction Ordinance that would help clean up our streams. Unfortunately, developers didn't like it so they complained. We spent $350,000 with LandDesign to do cost benefit analysis on the Post Construction Ordinance. That cost benefit analysis told us we absolutely had to implement this Post Construction Ordinance, otherwise our construction costs for stormwater management would sky rocket. Now a mere three years later we are suggesting weakening it. We've got the weakest Post Construction Ordinance in Mecklenburg County, save perhaps Mint Hill, already the most developer friendly, the most flexible. Will it work, I don't know. We are not going to find out if this works for decades, not three years. It is going to take decades for us to do this so we ask you to please not entertain these changes.

Joe Padilla, Executive Director of REBIC, said I appreciate the opportunity to speak here today. I think this is an important issue, not just for our industry, but for everybody in the region and certainly anybody who has no water quality. As Rick said, redevelopment is key and the best way to address water quality is to go back and look at these sites that are currently sitting vacant and find a way to incentivize their redevelopment as opposed to allowing that greenfield development on the urban outskirts. We are all in agreement that that is the best way to protect creeks, streams and watersheds. We think the best way of doing that is to take your staff's recommendation, which is actually to approach it as a regional pond approach as opposed to having all these individual ponds on each site. Council member Dulin brought up a property earlier that is right down the street at Charlottetown and Queens and it is a retail site. They are looking at $220,000 in stormwater fees from underground pond into that site. They are in a great location. They've got two national tenants which is Chipotle and Mattress Firm on the end, and that works. The economics of it works at that location, but if you go into East Charlotte or if you go into other areas where the economics may not work or the rents may not be as high, especially in today's economy, it is not going to work. It is going to require a developer to walk away from the site whereas he could come in, for example on that site over here and they would pay the $90,000 option and they would be saving $30,000, $40,000, or $50,000. Is that a lot of money? For a site like that it wouldn't make or break them, but for a site in an area where the rents are not as vibrant, it probably would. I think as staff mentioned, they've seen 5 projects walk away because of the inability to mitigate under that. If each of those are even as small a project as what we have on Queens Road, we are talking about 30 to 40 jobs per project. You are closing in on 100 plus jobs that are gone. We are not advocating, by any means, that these sites get out of addressing stormwater. That is not what your staff is advocating in any way. What is being advocated is that instead of putting a pond onsite, a pond that eventually may fail or eventually be unmaintained if that property goes into foreclosure down the road, or if that developer or that landlord is not effective in maintaining it, that that money goes to the City and then the City can take it and aggregate it with other funds coming in from surrounding projects and build one centralized pond that can serve a mile radius of some sort, be more effectively maintained, be more effectively managed and know that it is going to be there long-term instead of as I saw on your agenda today. There is a water quality enhancement project for a pond in the Raintree area that is going to be $220,000 in taxpayer money to retrofit a pond that was developed in private

hands. In some cases that works and that is just the reality of what happens with stormwater because ponds are going to go back to the City. When you are dotting the landscape with every acre and a half, every two-acre site with a new retention pond, some of which are going to have to go underground because of parking requirements, you are creating more opportunities for those failures to happen. We would certainly advocate that you take staff's recommendation and extend that mitigation beyond the two-year trial period.

Dan Latta, Chair of the Storm Water Advisory Committee, representing both the City and County. At our meeting this past Thursday night we heard the presentation from City staff requesting recommendation for approval of their recommendations to bring to the City Council. I will speak to basically our process, which was after the presentation and public comment from Mr. Roti, Mr. Gupton from the Sierra Club, and others that had some fairly vigorous discussion at the meeting. The Storm Water Advisory Committee voted 5 to 2 in favor of not recommending the changes to the tree cover, natural area cover of the ordinance. Various reasons given were certain members did not want to trade pollution credits for money. They thought the ordinance had not been in place long enough to have a good track record to determine how well the PCCO is performing at this time due to the economic slowdown and the lack of development since the initiation of the ordinance. The Committee did not make a recommendation on the aspect of the recommendations regarding expansion of the mitigation fee. The reason being, the rules of the Storm Water Advisory Committee require at least five votes in favor of any action, either pro or against, before we can make a recommendation. It was a split vote and we did not achieve a majority of five votes on that. We did recommend both housekeeping measures. That is the recommendation from SWAC as it was presented at the meeting.

Peacock: You were a voting member?

Latta: Yes.

Dulin: An observation I had after visiting with some friends the other day and looking at their old pictures, is we are talking about something that grows back. Our community is growing trees and they are growing and we value them. Council is spending $710,000 per year to plant trees. We've got crews out right now planting trees. We've made a commitment to the trees and we've also made a commitment to growing this community and making it ready to accept new people who move here. We have 2,500 new kids going to CMS starting Thursday. Those kids belong to families that have come to this community so we've got to be prepared to have somewhere for them to buy gas and buy groceries and buy blue jeans and shirts.

Carter: I've got four points. I would really like to know the difference between the project area and the land area. That discussion was very important to me and I don't understand the difference or the usual percentage there. I think those statistics would be very interesting and I will not be bored with them.

Blackwell: I don't think it is a statistical area. Each site has one or the other.

Carter: But there is probably a range with which they move. I would like to make a point again

that there is no guarantee of a link between the dollars that we get for mitigation and where they are spent, even though I have rampaged on that issue, and I know you all try your best, but there is no guarantee about that. We have scattered sites versus mega sites and I know that is an interesting debate on whether we can maintain, whether we can enforce the maintenance, whether it is efficient, if it is large, is it the potential for a large failure or a large efficiency. We had a large failure out on Albemarle Road recently so I have seen the impact of that failure and I know what it can do downstream without the immediate action of our stormwater folks, who did an impeccable job out there, and the public/private partnership was even better and our public safety was incredible. I know there is expense there that we had to endure. We had it on the list to be reinforced and to be reworked, I know that, but I need to look at that objectively. My impression is that we have a success on our hands and I don't want to mess with it until we have more data. I think that is one of the most telling arguments that we need to protect trees as we have stated and given the larger percentage of protection, I do need to understand that protection as we move between the two ordinances.

Howard: I think the part that concerns me about this whole conversation is it always comes down to us against them and that really bothers me. It is not us against them and I think we need both. What we are trying to do is find a balance in all of this. I want to go back and talk about how the flow of getting this ordinance in place. I heard this somewhere else and if I'm wrong correct me. I heard from somebody that because Post Construction was in front of the Tree Ordinance this whole idea of building trees in Post Construction was because the Tree Ordinance was not completed, and there was some talk when the Tree Ordinance is complete we will go back and revisit this and see how it affects the Post Construction. Did I hear that wrong from somebody else?

Hammock: I was there during the development of the Post Construction Ordinance and I can't remember it being portrayed exactly that way to me. I remember a desire to have tree protection in the Post Construction Controls Ordinance as a cushion, as a redundancy perhaps, or as an extra level or protection.

Howard: What would have happened to Post Construction if the Tree Ordinance had been done in time? If the Tree Ordinance had not been done the way we finished it, then would there have been a need to talk about trees in the Post Construction?

Hammock: No, we did not have any intent to put tree protection in the Post Construction Ordinance other than creek buffers.

Roti: We got the same question at the SWAC Committee and I remember it very well. The Tree Ordinance was developed in 2002, which was the first time we had a concept of tree save. It didn't address commercial property so you didn't have those kinds or protections. Then the Post Construction process started and quite a few of us wanted to see tree protection in the Post Construction Ordinance for a couple of reasons. One, it gets to the commercial property and two, mature trees are extremely valuable for water quality because our main source of pollution is runoff, so you have sedimentation and everything else so mature tree canopy captures that and really does a wonderful job of that.

Howard: I don't want to get into who is right or who is wrong. What I really want to know is if the Tree Ordinance had been completed the way we did it, would you even needed to touch trees as a part of Post Construction? Would you even have talked about trees because they would have been taken care of?

Roti: Had the Tree Ordinance process been completed and had there been sufficient protection under commercial property, I would say yes, you wouldn't have had to address it.

Howard: I'm really asking staff because what I'm getting at is because the couple times I've been involved with policy is that we will do one thing to deal with something and then it just becomes law. However, to go back to what the intent was from the beginning is like pulling teeth. If the intent was to get some protection while we were going through a process, because the Tree Ordinance took five years, if that had been done in time, you wouldn't have touched it. Now what we are doing is trying to take it out of something where it's probably not appropriate to begin with, but we were trying to put some protection in until we got the Tree Ordinance done. I'm really not talking about advocacy. I'm really talking about the process.

Hammock: When I was involved in the Post Construction Ordinance there were 3 core things that were in that process; stream buffers, detention and removal of pollutants through stormwater filters. Those were the 3 core things that were initially started out as to protect water quality.

Howard: Which is what PCCO is about?

Hammock: That's correct.

Howard: Not tree protection. I'm not saying they can't play a role, but that was not what it was for.

Hammock: We were not sent out to regulate trees with that ordinance.

Howard: The Tree Ordinance was put in place to deal with trees. I think what I heard staff say is that we want to make sure that the trees are dealt with in the Tree Ordinance and not in the PCCO. Isn't it just that simple? We shouldn't try to put it over in another policy because we missed it in another a different one. The Tree Ordinance should deal with trees and Post Construction should deal with the 3 things you just talked about. That is where I am with this. It is really just that simple and if trees need to do something else, then we need to talk about the Tree Ordinance, not the Post Construction. For that reason alone I'm going to support this one. When it comes to redevelopment I actually agree with you. We've done a really good job of pushing development where we want it. You know I'm an advocate for that, but at the same time, I don't want to say that while we are pushing development in those areas, from an environmental standpoint, the best thing for any development is to redevelop where we have development at now. If a business owner sees the validity of going to one of these corridors then great, but if they want to stay in the little neighborhood that they are in, I want to redevelop there too because that helps us. That is better than seeing it go dark and just sitting there or having a big parking lot and us just not dealing with it. At the same time I think redevelopment in the realm of the environment is good, period. So, I don't want to do something to disincentivize

redevelopment and I think that is what I'm dealing with and there is no sliding scale to accommodate these smaller sites, the 2 and 3 acre sites. That concerns me. I don't want to slow this down because I know going back and trying to deal with that may do that, but the payment in lieu thing really concerns me because we have some neighborhoods in these wedges that need some attention. If these guys want to do something to improve their area that is better than them going to a field down the street and putting something in because it was too expensive to do it where they were. Some kind of small sliding scale should be looked at.

Buchanan: To answer your question about the commercial portion of the Tree Ordinance being done prior to the PCCO and would we have needed to do any tree save, yes, because the Tree Ordinance does not deal with the watershed or water quality. You may be able to use most of the Tree Ordinance, but you still would have had to talk about trees because we tweaked the Tree Ordinance when someone made changes. Trees multitask and that is part of the reason they are trying to put canopy under the Tree Ordinance, but they do something completely different in the PCCO and then they get portions of the water quality control, but not all of it. If the amount of trees go up or down on your site, you may have other onsite mitigating factors from the PCCO.

Howard: If you had no trees in that open area that is required under the PCCO, you would just deal with the required open space. What I'm saying is if trees were not in that area, you still would have taken care of the water quality issues.

Buchanan: If they had to add trees because of the Tree Ordinance they may also want to count those trees at hand to benefit the PCCO.

Howard: I'm just saying put it in one place or the other. It is just complicated and I think the intent from the beginning was not to be in both.

Buchanan: I respectfully disagree because the Tree Ordinance doesn't deal with it being in the same watershed. You would have to write in the Tree Ordinance when you mitigate and you need to pay attention to what watershed you are taking trees out of in onsite mitigation and that has not been done in the Tree Ordinance.

Latta: I'm going to mostly agree with Mr. Roti in that when we did the PCCO my understanding of the intent of the ordinance was to provide natural space that provides buffering and filtering of stormwater for water quality enhancement. Protection of trees in and of itself was not the goal of the original PCCO discussions, it was a benefit of having trees in the natural areas and the buffer areas that we had. There has been a lot of discussion about whether it was open space and we intentionally set the PCCO to say natural area, it does not say open space. We got into a big battle with Zoning about what open space was versus natural area in the PCCO and it was determined that we would plant trees in the natural areas to help enhance their abilities to filter, but it was not as a tree preservation ordinance per se. I think a lot of people want to see the trees protected as do I, but I think, as I agree with you Mr. Howard, it seems like it is in too many places and it gets too confusing. If we can fix it in one place and not say it doesn't exist in the other one, but recognize that natural areas and buffers need to be treed, but it is not for the sole benefit of tree preservation, it is for the enhancement of water quality with respect to the PCCO. That is what SWAC is speaking of, is the storm water quality.

Carter: Mr. Hammock made some really good points on our tour. He was pointing out the temperature of the water and that has been mitigated by the trees that have been planted in that area. That is an important area that we are not talking about, to have a light producing stream you have to have shade over that stream and the roots of the trees also provide stability if they are planted appropriately. Those are the two important issues that are addressed by the PCCO, not by the Tree Ordinance.

Hammock: We are not proposing changing that. That stream buffer protection remains in the ordinance and that does not change. Those trees along creeks will remain and we are only talking about the natural area requirements. We are still protecting trees and still protecting shade and stream stability.

Howard: You are saying that the tree save and the required open space can act as the same thing, and not be two different things?

Hammock: That is correct.

Howard: That is what I'm trying to figure out because if the open space is helping the water quality, if it did have trees we would still require it, but now we are going to say if the tree save can be an open space that gives you what you are talking about. We are not using the tree save as some additional environmental filter. It is two different things. One is to preserve tree canopy and one is to treat water. If we can put them together great, but it's almost like we are doing two different things to deal with water quality.

Peacock: I am assuming by our discussion today, which has been a very productive one, that Monday, September 26 will be a continuation of this discussion and staff what you were looking for were directions on whether we take action on Item #1 and #2, and/or modifications between that and anything you've heard today you are welcome to bring back to us, maybe some suggestions.

Howard: They can't go back to look at a sliding scale if we don't ask them to.

Peacock: You want to see a sliding scale on #1.

Howard: I know you guys have had some conversation about it and I would like to see what that was.

Peacock: Okay, get some clarity on that. Also, on #2, are you all going to have another meeting because the mitigation was the vote you all had the 4-3?

Latta: Correct, we made no recommendation on the mitigation fee. We recommended against the proposal as was presented at our meeting. We do not know if the Council would act before our next meeting, which I believe is September 15.

Peacock: So you are 15 days before our next meeting, which is September 26, so if you all can

bring us back up in your Committee and share with them our discussion here today that will be helpful. With no objection from the Committee I'm going to put this on for September 26. Thank you all and thanks everyone in the audience for coming.

II. Next Meeting

Monday, September 26, 2011 at 3:45 p.m. in Room 280.

Meeting Adjourned at 5:05 p.m.

Environment Committee

Monday, August 22, 2011 at 3:45 p.m.
Charlotte-Mecklenburg Government Center
Room 280

Committee Members:	Edwin Peacock, Chair Nancy Carter, Vice Chair Jason Burgess Andy Dulin David Howard
Staff Resources:	Julie Burch

AGENDA

I. <u>Post Construction Controls Ordinance</u>

Staff Resources: Jeb Blackwell, Daryl Hammock, David Weekly, Engineering & Property Management

After the July 25 public hearing, the City Council referred two of the proposed revisions of the Post Construction Controls Ordinance to the Environment Committee for review and recommendations. Staff will brief the Committee on the two proposals: expansion of the mitigation fee option for redevelopment and removal of natural area (tree) requirements.

II. <u>Consideration of Citizens Advisory Committee on the Environment</u>

Staff Resources: Julie Burch and Rob Phocas

Staff will provide information to follow-up to Committee inquiries at the last meeting and seek additional guidance.

III. <u>Next Meeting</u>

Monday, September 26 at 3:45 p.m. in Room 280

Distribution:	Mayor/City Council Mac McCarley	Curt Walton, City Manager Stephanie Kelly	Leadership Team Environmental Cabinet

CHARLOTTE.

M E M O R A N D U M
FROM THE
OFFICE OF THE CITY CLERK

DATE: August 18, 2011
TO: Environment Committee Members
FROM: Stephanie C. Kelly, CMC, City Clerk
SUBJECT: **Charlotte Mecklenburg Utilities Advisory Committee Annual Report**

The attached report of the Charlotte Mecklenburg Utilities Advisory Committee is being sent to you pursuant to the Resolution related to Boards and Commissions adopted by City Council at the November 23, 2009 meeting. This resolution requires annual reports from City Council Boards and Commissions to be distributed by the City Clerk to both City Council and to the appropriate Committee for review.

This report is also being sent to the Economic Development Committee as directed in the above referenced resolution.

If you have questions or comments for the board, please convey those to staff support for a response and/or follow-up.

Section 6. **REPORTS OF BOARDS, COMMITTEES, AND COMMISSIONS**

The City Council finds it appropriate to periodically review each standing board, committee, and commission to which they make appointments for the purpose of assessing whether said board, committee, or commission should be renewed, dismantled, expanded or its charge redefined. To this end, each board, committee, and commission that is part of the City, or that was established by the City Council, whether acting alone or in conjunction with one or more other local governments, is required to submit annual written reports that must contain in depth reviews of the body's activities, including goals, objectives, successes, problems, and/or the need for City Council assistance. These reports shall be submitted to the City Clerk and will be staggered through the year according to a schedule established by the City Clerk. The City Clerk shall then provide the Mayor and City Council with copies of the reports and refer the reports to the appropriate Council Committee for the Committee's information.

Boards, committees, and commissions that are not part of the City shall submit reports in accordance with the reporting requirements set forth in their contract, if any, with the City.

In addition to required written reports, the City Council may request on a case-by-case basis that an oral report be made to the Council.

Utilities Advisory Committee
Annual Report for FY2011

Introduction & Purpose
The seven-member Charlotte-Mecklenburg Utilities Advisory Committee operates under a City/County agreement that requires three members appointed by the Mecklenburg County Board of Commissioners, three appointed by Charlotte City Council and one by the Mayor of Charlotte. With the exception of a towns representative, the members of the committee must be actively involved in one of the following categories: real estate developer, neighborhood leader, water and/or sewer contractor, civil engineer specializing in water/sewer construction, and a financial expert. This composition of member representation and skill sets was suggested by a 13-member citizen committee that reviewed Utilities policies from April to November 1990. At that time, the citizen committee recommended the five-member *Community Facilities Committee* be transitioned to a seven-member *Utilities Advisory Committee* with these characteristics and qualifications. The change took effect in June 1991.

Current Members
Members are appointed to 3-year terms, and may be appointed for up to two full terms (plus filling an unexpired term).

Member Name	Appointed By	Representative Role	Term Expires
David A. Jarrett, Chair	City	Towns	6/30/12
George Beckwith, Vice Chair	City	Financial	6/30/12
Ron Charbonneau	County	Neighborhood Leader	6/30/13
James Merrifield	County	Developer	6/30/12
Erica Carter	County	Engineer	6/30/11
James Duke	Charlotte Mayor	Neighborhood Leader	6/30/13
Marco Varela	City	Water-Sewer Contractor	6/30/14

Duties & Responsibilities
- Review and make recommendations to Charlotte City Council regarding:
  - Annual water & sewer capital improvement programs
  - Proposed changes in water and sewer rate and fee methodologies; and
  - Proposed changes in the policy for water and sewer extensions.

- Review and make recommendations to Charlotte City Council through the City Manager regarding:
  - Requests for one or more specific extensions of the water and sewer system that have not been approved within a reasonable time by the Director; and
  - Proposed changes to the specifications for installing water and sewer facilities that have not been approved by the Director.

- Sit with City Council in public hearings on any matter required.

- Present an annual report on the operations of Charlotte-Mecklenburg Utilities and on the activities of the Advisory Committee to City Council and the Mecklenburg County Board of Commissioners.

- Review and report on any matter related to water and sewer service as requested by the Director, City Council or the Mecklenburg County Board of Commissioners.

The Utilities Advisory Committee typically meets the third Thursday afternoon each month at 4222 Westmont Drive in Charlotte. The group's annual meeting schedule is posted at *www.cmutilities.com*.

Utilities System Activities for FY11

Our community's water and sewer system includes two drinking water intakes from impounded lakes on the Catawba River (Lake Norman and Mountain Island Lake), three water treatment plants, five wastewater treatment plants, 74 sewage lift stations and a combined total of 8,111 miles of water distribution and wastewater collection pipe. A staff of 715 clean water professionals operates the system and provides customer service to roughly 250,000 water account holders (776,000 customers). During the fiscal year ending June 30, 2011, Utilities safely treated and delivered more than 39 billion gallons of drinking water to customers throughout the county. Staff also collected, treated and discharged more than 30 billion gallons of wastewater effluent back into our local waterways.

Utilities Advisory Committee Activities during FY11

The Utilities Advisory Committee met 13 times during FY11. Its activities are listed below.

Late Summer/Fall 2010

- Discussed and supported the launch of a **Water & Sewer Rate Study** conducted by Utilities staff and Red Oak Consulting. The process included 10 public input/feedback sessions and four community Stakeholders Advisory Committee meetings that began in September 2010. George Beckwith was appointed as Utilities Advisory Committee representative on the rate study Stakeholders Advisory Committee.
- Discussed ongoing customer service improvements and supported staff's October 2010 presentation to City Council on the **Utilities Customer Service Evaluation**. Findings from this project included 40 specific recommendations to enhance service under three general categories: pre-billing, post-billing and other.
- Received a staff update on the Utilities Competition Plan presented to the City's Privatization & Competition Advisory Committee (PCAC). Utilities Advisory Committee supported staff's recommended transition from a Competition Plan to a Continuous Improvement Plan.
- Received frequent utility revenue updates, and staff overviews of water and wastewater improvement projects in the Utilities FY11-15 Capital Improvements Program.

Winter 2010-2011

- Continued active discussion and involvement in the rate study, including participation in presentations to the City Council's Restructuring Government Committee and the full City Council including a **joint Advisory/Council public hearing on the rate methodology recommendation** on 2/14/11. New methodology approved by City Council on 2/28/11.
- Received updates on continuing customer service improvements including the creation of an Escalation Team (E-Team) to handle complex utility billing inquiries at CharMeck 311 and customer service fairs held in the River Run and Giverny neighborhoods in November & December 2010.
- Received continuing revenue updates and a presentation by Utilities Field Operations, the team that maintains water and sewer lines throughout the countywide service area.
- Reviewed the Utilities proposed FY12-16 Capital Improvements Plan.

Spring 2011

- Reviewed and supported **FY2012 budget/rate recommendation** to City Manager and Charlotte City Council. Budget approved 6/13/11, which restores funding for 37 positions, including the hiring of additional crews to improve leak repair time and enhance preventative maintenance.
- Received updates on implementation of the new Utilities water and sewer rate structure. Most changes to occur during the first phase effective 7/1/11; a second phase including a change in the residential sewer usage charge methodology and new financial incentives to install Smart Irrigation technology, will occur during phase 2 (7/1/12).
- Received information about the Utilities 2010 Water Quality Report mailed countywide in early June 2011, and continued customer service improvements including the upgrading of meter reading equipment and new meter equipment pilot project under way in Hidden Valley and River Run neighborhoods.
- Received updates on the upcoming debt refinancing scheduled for 8/3/11. Conference calls scheduled with the three bond rating agencies in June. Anticipated cash savings on the refinancing expected to exceed $22 million over 15 years.

CHARLOTTE
ENGINEERING & PROPERTY MANAGEMENT

Proposed Revisions to Post Construction Controls Ordinance

Environment Committee

August 22, 2011

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CITY OF CHARLOTTE

Discussion Outline

I. Ordinance Timeline

II. Introduce Proposed Revisions

III. Address each proposed revision separately

- A. Define the proposed revision
- B. Offer staff rationale for recommended revision
- C. Describe issues for consideration
- D. Offer optional paths forward
- E. Respond to Committee questions/direction

Staff Seeks Committee Direction

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Timeline

Post Construction Controls Ordinance (PCCO)

April 2004 – November 2007	Stakeholder process
November 2007	Council approval
July 2008	Ordinance effective date

Tree Ordinance Revisions

December 2005 – April 2010	Stakeholder process
October 2010	Council approval
January 2011	Revised ordinance effective date

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Timeline

PCCO Revision Proposal

June 2011	Staff briefs Council
	Stakeholder Sounding Board Meeting
July 2011	Charlotte Tree Advisory Committee
	-CTAC does not support revisions
	Storm Water Advisory Committee
	-SWAC will vote in August
July 25, 2011	Public Hearing
	Council refers two issues to Environment Committee

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Proposed PCCO Revisions

Two proposed revisions referred to Committee

1. Expansion of mitigation fee option for redevelopment (2-year pilot)
2. Removal of overlapping requirements related to natural area (tree) requirements

Additional proposed revisions (housekeeping revisions only – not part of Committee referral)

- Comply with State buffer rules
- Remove language for County watersheds

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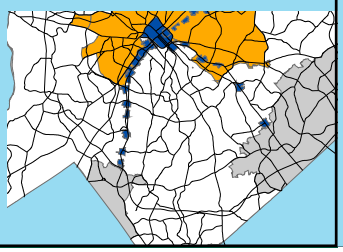
Proposed Revision #1: Expand mitigation fee option

Definition

Current ordinance allow mitigation fee option:

- in lieu of installing ne storm water treatmer on-site
- only when existing impervious site is redeveloped.
- *only in distressed business district and transit station areas*
- City uses funds to ins treatment in same watershed



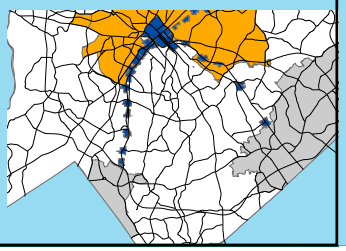
CITY OF CHARLOTTE

Proposed Revision #1: Expand mitigation fee option

Definition

Proposed revision allow mitigation fee option:

- in lieu of installing ne storm water treatme on-site
- only when existing impervious site is redeveloped.
- *anywhere in the City*
- City uses funds to install treatment in same watershed



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Proposed Revision #1: Expand mitigation fee option

Why does PCCO address redevelopment . . . .

- Existing development has created water quality and quantity problems
- Best opportunity to address existing water quality and quantity problems is when site is redeveloped

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Example

- 100% impervious site just outside Arrowood Transit Station Area
- Site owner proposes new building
- Ordinance requires stormwater management facilities on-site; no mitigation fee option
- Only place on-site to install underground stormwater management facilities is within the truck delivery court, which requires critical 24-7 operation

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Proposed Revision #1: Expand mitigation fee option

Staff Rationale for Recommended Revision

- Redevelopment sites often present substantial challenges to placing water quality and quantity measures on the site
- Economic conditions have changed making development/redevelopment more difficult and risky
- Redevelopment is occurring more frequently in areas with mitigation fee options
- Expansion of the mitigation fee option will help redevelopment to occur in more areas
- Adjust section 18-161 temporarily (2 years) to encourage redevelopment

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Proposed Revision #1: Expand mitigation fee option

Factors for Consideration

- Water quality improvements and their proximity to the site
  - Water quality is improved only if the site redevelops
  - Downstream flooding must be addressed on-site
  - City will mitigate in same watershed at lower cost
- Urban growth framework goals and the environment
  - Redevelopment of already impervious sites is preferred to greenfield development and sprawl
- "Effective ordinance, simple process"
- Timing and Policy Climate
  - Ordinance Stakeholder processes have been lengthy and difficult
  - Sweeping federal policy changes expected from EPA starting in September will require staff's full attention

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Proposed Revision #1: Expand mitigation fee option

Optional Paths Forward

1. Committee recommends temporary expansion of mitigation fee option (2-year trial period to evaluate outcomes)
2. Staff continues to handle hardships on a case-by-case basis through the variance process as necessary. This adds time, cost and uncertainty to the development process.

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Proposed Revision #2: Remove overlapping requirements

Definition

- **PCCO:** generally requires that 25% of any low-density project area (any site <24% impervious), 17.5% of any moderate-density project area, and 10% of any high-density project area be preserved as natural area, which may consist of trees or shrubs or other natural vegetation
- **Revised Tree Ordinance:** generally requires that 15% of the land area of a newly developed commercial parcel and 10% of the land area of a new residential subdivision be preserved or planted as tree save
- **Proposed PCCO Revision:** removes natural area requirement from PCCO

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Proposed Revision #2: Remove overlapping requirements

Staff Rationale for Recommended Revision

- Tree requirements are appropriately included in the Tree Ordinance
- Tree ordinance requirements more clearly protect adequately treed areas
- PCCO protects natural area in other ways such as stream buffer requirements, in locations where the water quality benefits of natural area are optimized
- During the tree ordinance stakeholder process, staff indicated that the overlapping requirements would be addressed at a later date

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Proposed Revision #2: Remove overlapping requirements

Issues for Consideration

- Tree preservation considerations
  - Tree ordinance aims expressly to preserve trees
  - PCCO preserves any natural area; only limited cases providing tree protection beyond tree ordinance requirement
  - PCCO preserves stream buffers and any trees located there
- Water quality considerations
  - Natural area/tree protection not an effective treatment of runoff
- "Effective ordinance, simple process"
  - Tree ordinance has strongest tree preservation language
  - Overlap in ordinances can be cumbersome for developers and staff
  - ***flexibility***
- Timing and Policy Climate
  - Ordinance Stakeholder processes have been lengthy and difficult
  - Tree Ordinance and "50% in 2050" canopy goal

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Proposed Revision #2: Remove overlapping requirements

Optional Paths Forward

1. Committee recommends removal of natural area requirement from PCCO
2. Staff continues to enforce both ordinances, handling on a case-by-case basis through variance process. This potentially requires appealing to two Boards.

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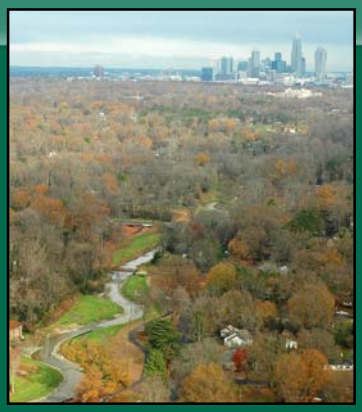
Discussion



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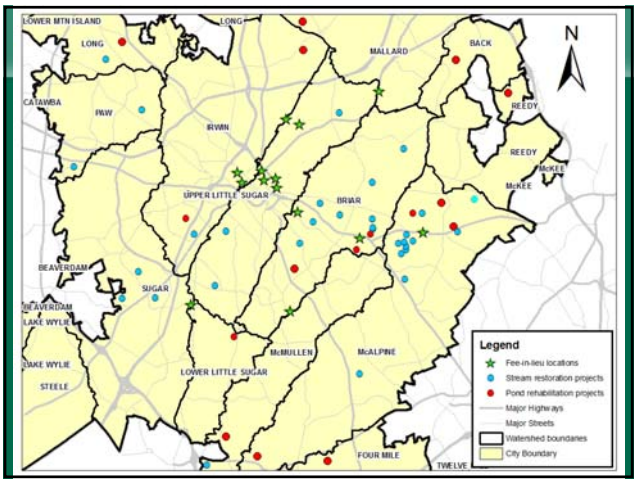

CITY OF CHARLOTTE

Proposed Redevelopment Options

Current Ordinance option, to remain:

For Transit Station Areas & Distressed Business Districts, Pick one

- pollutant removal on site
- provide volume/peak control measures on site
- pay a mitigation fee ($60,000 per acre fee)

Proposed ordinance revision, add an option:

For redeveloping areas outside Transit/Distressed Districts, Pick two

- pollutant removal on site
- provide volume/peak control measures on site
- pay a mitigation fee($60k/ac for 1, $90k/ac for 2, when allowed)

**You MUST pick volume/peak control measures on-site as one of the two, if flooding problems exist*

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