



2A Stormwater Advisory Committee (SAC) Meeting Agenda

2-4 PM, November 18, 2021

Meeting Held Remotely

The meeting was officially called to order at 2:08 p.m. by Terry Schooler.

In attendance: Erin Powers, Christina Aragon, Richard Mulledy, Jeff Besse, Brenda Roy, Tim Biolchini, Jessica Clayton, Travis Easton, Mayor John Suthers, City Councilors Dave Donelson, and Tom Strand

Board Members in attendance: Matt Johnson, Christine Lowenberg, Gary Nesbit, Emily Magnuson, Terry Schooler

Absent: Shannon Anderson and David Havlick

Minutes were approved from the previous meeting after a motion by Emily Magnuson and a second from Gary Nesbit.

Brenda Roy and Richard Mulledy provided the quarter three financial overview.

Of the operating budget, Brenda reported that the Enterprise is on track with 18.3% of the year's budget remaining equating to \$1.1 million, and they have no concerns regarding budget. Brenda explained the increase in consulting services to keep up with development reviews. Approximately \$730K in expenses for outside consulting services have been incurred. Mayor asked for an explanation and Richard provided some background on development review and staffing issues resulting in the need to hire consultants. Mayor

asked how many current SWENT and General Fund staff we have working in Stormwater. Richard explained we currently have 32 directly under SWENT, with 2 vacancies. There are additional City staff contracted through the O&M Service Level Agreement. Discussed the plan for hiring staff, and if there is a need to add additional positions. As of right now, we will stick with hiring 2 FTE City employees, and contract additional staff to avoid over-hiring. The revenue collected in development review fees is \$696,000. Overview of the Drainage O&M Q3 Financials and Service Level Agreement was provided. Brenda explains the annual channel maintenance, pond maintenance, and pond inspection goals have been met. The channel inspections goal has not been met, but typically happens in the winter months. Pipe repair/ replacement as well as vacuum truck operations are ongoing, and goals will be met by end of year. The Stormwater Capital Improvements are expensed at \$4M, and approximately \$8M is either under contract or in the IGA plan to be completed. Overview of billing versus revenue reflects a 97.2% collection rate. Mayor asks if the amount of revenue is close to our projections. Richard answers our revenue is slightly under projections due to the number of single-family homes and the estimated acreage of non-residential – we were off about 1.5%. We have hired a firm to give us some updated data and we can adjust our projections based on their information going forward. Brenda says based on revenues overall we'll be on track this year for total revenues. Mayor asks are we getting people on the bills quickly. Richard says yes because we have hired a service to take aerial imagery of the City three times a year, and we have a GIS analyst review those images to collect all the parcels where land is disturbed and add those to our billing. Discussion about how quickly CSU adds SW fee to their residential fee. Richard explains we bill the developer for the SW fee as commercial as soon as the land is disturbed, then if it becomes residential, CSU will add the stormwater fee to their bill. This way the parcel is never not billed. Mayor confirms we have a good system of getting people on our billing system as soon as possible. Mayor asks if we have a low rate of referring people for collection. Brenda explains year over year billed vs. collected, where you can see the increase of about \$1.5M. Mayor asks if it's primarily residential, and Richard and Brenda say it's both commercial and residential. Brenda then explains billing and revenue

update between City and CSU - CSU bills approximately 92% of all parcels, and about 71% of revenue.

Terry asked if we are receiving push back from the developers because we are sending the stormwater fee as soon as land is disturbed. Richard says no we haven't received any push back. Terry asks how we calculate the land billed. Richard explained we bill based on the bulk acreage of the land disturbed. Mayor explained why we moved away from the "impervious" description because it was labor-intensive, and now we use acreage.

Brenda goes on to explain the 90-Day Past Due Accounts and shows a steady decline in the number of delinquent accounts the City bills through CLA. Mayor says the decline could also concur with the accounts moved from City to CSU, and Brenda and Richard agree. Decrease in accounts certified and sent to Treasurer and discussion of lien process.

Erin Powers provides presentation and update on the obligations and progress of the Consent Decree:

Richard provides background for sake of councilmembers in attendance. He explains we entered into a Federal Consent Decree this year (January), and we have been required to meet numerous tasks before the end of this first year.

Erin begins with describing the requirements set by the consent decree which was broken up to follow each section of our MS4 permit. First, the Construction Sites Program also known as the Grading Erosion Control Program – both the review side and inspection side. The City is required to implement the Stormwater Construction Manual (SCM) and amend City Code, review tracking requirements which involved setting up a new review software, GEC Plan Document Review and Approval standard operating procedures (SOP) which was developed, and final document was approved by EPA/State. Additionally, we created a GEC Inspection and Enforcement Program SOP which was approved by the EPA/State. We had GEC permit tracking requirements, which we have set up a GEC permit and associate GEC permit in

Accela to meet these requirements. The development industry can go online and pull a permit and pay the fee. This software will also track all inspections and enforcements. We also had a requirement that all staff members complete CETC150 course, which is a course to introduce all GEC concepts. This was completed by all field staff and office staff as of November 17, 2021. Lastly, a Construction Sites Training Plan that reviews the training requirements for both inspection staff and review staff that was approved by EPA/State.

Next, Erin reviewed the established requirements for the New Development and Redevelopment Program (as known as Commercial and Residential Management Program or Permanent Control Measures). First, we have a Municipally Owned Structures SOP, which is for inlets, storm sewers, open channels, all the conveyance infrastructure within the City. We worked with the Operations and Maintenance staff to create this SOP which was then submitted and approved. We created a Private Permanent Control Measure Inspection Tracking and Enforcement SOP and a Public Permanent Control Measure Inspection Tracking and Enforcement SOP, both of which are for sand filters, extended detention basins, bio-retention. Erin says, we worked closely with Operations & Maintenance staff, specifically Corey Rivera who provided a large portion of information for the Municipally Owned SOP and Public PCM SOP documents which were then submitted and approved by EPA/ State.

Additionally, we have a checklist for screening Permanent Control Measure functionality which relates to evaluating how existing permanent control measures function and ensuring they are functioning appropriately. This checklist was submitted and approved with conditions. We have not resubmitted the checklist for final approval yet because we are currently developing an SOP for this part of the program. Lastly, we created a Commercial and Residential Training Plan which we submitted to the EPA. The EPA has reached out with some preliminary comments, so we will need to meet with them to review their comments and address them at which time we will then submit for final approval.

Mayor Suthers asks if there were any concerns in the EPA meeting that would make Erin nervous about meeting compliance. Erin stated the comments by seem fairly minor and she sees no problems with being able to meet the compliance requirements.

Terry asks if it makes sense for the internal training to be made available to the development community. Erin explains the consent decree does state requirements for public information sharing, so we are working with review and inspection staff to find out if there are consistent areas where some public information could help streamline some processes. Terry says he thinks it would be a good thing to provide external training and it would be a “show of good faith” to help guide the development community, and Erin agrees.

Mayor asks if all our scrutiny is from the EPA, in terms of compliance, not from the State Health Department. Richard explains both EPA and State are reviewing and approving our compliance with the consent decree. After many meetings with Pueblo, the Lower Ark, and the State, it seems we are all in agreement with the conditions that need to be met by the City to comply with the consent decree.

Erin continues with her presentation, describing the next part of our progress with the Consent Decree – Audits. To prepare for audits, we were required to submit the following documents: Supervisory Construction Audit SOP (Internal Supervisory Construction audits for GEC), 3rd Party Auditor Selection Certification (selected 2 different 3rd party auditors), 3rd Party Audit Work Plan (Plan explains exactly what the auditors will be reviewing). Erin says our audits can be very “gray”, so we worked very hard to make all our documents “black and white”. All auditing documents were submitted and approved by EPA/ State.

Next, Erin discusses the Water Quality Credit Program and Mitigation Projects (so far), which is where we had 71 acres of water quality debt, as a volume, that we need to make up by verifying existing facilities or building new facilities to provide water quality treatment. We had the Mitigation Study Administrator Selection, which is the study administrator who will be preparing the initial mitigation study plan, the final mitigation study plan, and the mitigation study report. The Mitigation Study

Report will tell us areas of the City that need Stormwater attention and we can focus the 10.5 million dollars designated to channel improvements in those areas recommended by these studies. We have selected Matrix as the Mitigation Study Administrator, which was submitted and approved by EPA/ State. Matrix along with City staff prepared the Initial Mitigation Study Plan which was submitted and approved with conditions. We have resubmitted a comment response because we have a Final Mitigation Study Plan that all comments will be wrapped into that is required later in the Consent Decree. As part of the Water Quality Credit Program, we created and submitted a Rolling 4-yr Plan, which describes the City's plan of how we are going to move towards these different milestones listed in the Consent Decree. This plan was submitted in advance of the Annual Meeting (as required), however there's no formal approval in the Consent Decree. Reviewed the plan at the Annual Meeting, as well as a summary of progress so far on meeting the requirements of the decree. This meeting was held August 24, 2021 and the EPA, CDPHE, Lower Ark, and Pueblo County were all in attendance. During the meeting, we also discussed some of the comments made on the Initial Mitigation Study so we could understand those further, then talked a lot about the Rolling 4-yr Plan.

Erin goes on to describe the next part of the program, Audits Summary. We have 4 different types of audits in the Consent Decree. A Supervisory Grading Erosion Control Audit, which started September 8, 2021, and requires quarterly reports. This will continue for 4 years, then we can request partial termination under the decree and go through the process to get this program removed. Erin estimates 4.5 years to complete. The Supervisory Permanent Control Measure Audit, which won't start January 2024. This will last for a year minimum before we can request partial termination, so Erin estimates 1.5 years to complete.

Richard interjects to explain the auditing process required by the Consent Decree. He says the EPA states the supervisors of the Grading Erosion Control (GEC) inspectors have to perform a self-audit of those inspectors. For example, the GEC inspector will evaluate a site, then the GEC inspector supervisor has to go out and evaluate that same site. A summary report then must be submitted to the EPA. So these are internal checks (audits) of us maintaining the municipally owned facilities. These first two audits Erin has reviewed are internal audits.

Next, Erin continues with two 3rd Party audits. One is the 3rd Party Document Review Audits, which will last 3 years, assuming we pass each year. If we don't pass, it would extend out until we hit three year milestones. Once we pass all three years, the audits end. Audits will be starting January 1, 2022, and they will audit all approved documents from 2021. Additionally, they will submit annual reporting prepared by 3rd party. We also have 3rd party Permanent Control Measures (PCM) Audits, which is more focus on maintenance and tracking. These will last for 3 years (2021-2024) with annual reporting prepared by 3rd party. Once these 3rd Party PCM Audits end, the Supervisory PCM Audits begin. Once both 3rd party and internal audits are complete, we will be finished with all these types of audits.

Erin continues to the next portion, explaining the Mitigation Projects (upcoming) requirement. Currently, we have an Initial Mitigation Study Plan (as previously mentioned) approved with conditions. Our next step is to submit a Final Mitigation Study Plan to be prepared by Matrix Design, which is due February 2022. Next, we will submit a Mitigation Study Report, which states our plan after evaluating the areas of the City that need improvements, and here are our recommendations for City areas that need mitigation projects. Next, the City, internally, will prepare a Mitigation Projects Work Plan, which City staff will review the report generated by Matrix, and determine which project sites that we will move forward with. This Plan is due by August 2024. Then, we have Mitigation Development and Construction Planning Documents which is just construction drawings and associated documents that would go with each project for project delivery. This must be submitted 30 days prior to construction for sign off by the EPA.

Erin then goes on to explain the next steps for the program. She says currently, we are writing the Standard Operating Procedures (SOP) for the Water Quality Credit Program. This reviews all the details for both evaluating existing control measures and building new control measures to meet some associated incomplete milestones. These are volume milestones of water quality storage volume that we need to provide as far as the adjunctive relief for this section of the permit. Additionally, we will have "boots on the ground" and start evaluating

existing control measures with a verification of functionality checklist that will be in use. We will go through each control measure, do a survey, and verify everything lines up with the criteria at the time. If it does, then we can count that treated volume towards the volume that we have to accommodate. We will also be developing Potential water quality storage volume projects, which will be new control measures that will be built to make up the rest of the volume. The first deadline for this is in year 4 (January 2025), and we must have approximately 20-acre feet total counted by then, and 4.7-acre feet of new control measures that must be built, at a minimum. At this time, we are also working on the Final Mitigation Study Plan, which is being prepared by Matrix. Also, we have a Compliance Report that is due April 1, 2022. We have annual compliance reports, which will report about our progress, as well as other things like the types of variances approved for the year, some inspections numbers, staffing and budget information. These will be due April 1st every year for the next 15 years.

Mayor asks if the Compliance Reports for MOU also due in April. Richard answers, yes, the IGA and the MS4 Permit reports are due around the same time as well. Mayor then asks Richard and Erin if there are any concerns with meeting IGA and Consent Decree compliance. Richard says he has no concerns and explains that each bullet point in Erin's presentation had a penalty tied to the due date. This means we would be fined if we did not meet the due dates set by the EPA/State. He goes on to explain the first year was "really heavy", describing the amount of time and work put into creating the documents mentioned in Erin's presentation, stating that none of those documents were just one page, they are highly complex documents. He says getting the first year behind us is a huge step and feels like we are on the road to success. Continues to say, at the same time, with the IGA, we are 5 years in and we've met the first 5 years of expenditures and we've met the 5 year minimum total, we're ahead in projects and delivery. Richard says the only thing he worries about is revenue, and we are doing really well currently. He says as far as the Consent Decree and the IGA, he believes we are in great shape.

Mayor then asks if we are getting along well with the Pueblo County engineers. Richard says yes, our relationship with Pueblo has greatly improved. Then the Mayor asks who Pueblo's engineering firm is, and Tim and Richard say Wright Water. Richard explains we are currently negotiating a new MS4 permit with the State, and it is out for public comment right now. Negotiating the MS4 permit, historically, has been very difficult and combative experience. We spent approximately 7-9 months negotiating our permit, and it was great. The relationship between City and State has gotten dramatically better. Mayor asks if we still have the same woman with the State, and Richard says we do, Meg Parrish. Mayor asks if that's going well, and Richard says it is. Richard goes on to explain he believes our relationship with Pueblo and with the State has greatly improved because we were required to do a list of things, and we followed through on them. Now we have established credibility, which we've never had before. Mayor says he is crediting Erin, and that she is the one who has brought on this new era of tranquility. Richard 100% agrees, and thanks Erin for the presentation.

Tim Biolchini says to the Mayor regarding his question about when the annual report is due in conflict with Pueblo, that we just started working on the IGA report today. This is so in April, when it's due, we can just update the current financial numbers and send it, but it's really done by end of December.

Richard asks the group if there are any questions regarding Erin's presentation on the progress the City has made in the first year in the Consent Decree. Erin mentions we've sent out a "Tables of Contents" for each document listed in the presentation, and if anyone would like more information to please reach out to herself or Richard.

Terry suggests reviewing this presentation or something similar with Land Use/ HBA, or development community so they are aware of the effort made by the City and the reason for the fees and permitting processes they have to go through. Terry says he thinks it is important to make the community aware of what the City has had to do to meet the

requirements of the State/ Consent Decree. Mayor agrees, and thanks Erin for her presentation.

Richard introduces the next item on the agenda, the Green Infrastructure Manual. Richard opens this topic for discussion to see if anyone in the group has any comments or questions. He says we had received some comments from the community. One of the comments from the HBA/ Industry was a request to prepare additional example sites of how these policies would impact sites. We had 4 example sites to start, and now we have 6 more sites. Richard will be setting up a meeting with HBA to review the examples and metrics, once accepted, Muller will draft a final document within 3 weeks which would then go through a series of public meetings to see if the community wants to adopt these metrics. This is not required by the Consent Decree, but would give us a “carrot”. If approved, this would be estimated to go into effect by May 2022.

Richard introduces Tim Biolchini to present the next item, Stormwater Capital Projects Update. Firstly, Tim shows where we are with the Pueblo IGA as of the end of Q3 this year. We are just getting to the end of year 6 of the IGA, and we are approximately 7 years in on completed projects, so we are ahead on projects right now.

Mayor asks what the total number of projects is, and Tim says 71 (total projects agreed upon in IGA). Tim explains we’ve touched all but 25 projects so far in various phases; completed, construction, design, planning. Group discusses North Douglas Project on Johnson & Johnson land. We have grant money for project, and finally have offered to buy land (\$195K). Tim says City agrees to buy land and is estimating to have project started by Fall 2022.

Tim says to group an updated IGA project list was sent out, which has been updated to show the status of all the ongoing projects. Tim explains we meet annually for re-negotiations on the priority of projects. Updated IGA list also shows the amount of spend versus the amount projected.

Next, Tim describes new innovative ways of solving issues on projects. The first project Tim explains is the Farnsworth CMP, which is a metal stormwater pipeline with approximately 1,000 feet failing causing a sinkhole in a residence's driveway. The typical full pipe replacement would be an estimated million dollars with 3-4 months street closure. The alternative was to jack the pipe back up into place and apply a geopolymer to fill voids and strengthen pipe. This option was much more cost effective and longer lasting. The cost for this repair was \$297,870 and there was no street closure needed. This option also added about 50 years to the life of the pipeline.

The next project Tim discussed was the Rampart Channel, which was a failing concrete channel. It has large chunks of concrete missing exposing metal rods and was quite an eyesore for the community. Instead of simply patching/ replacing the concrete, we installed artificial turf in channel with a concrete base. This option was more cost effective and last longer than concrete, plus more aesthetically pleasing.

Lastly, Tim discusses the National Flood Insurance Program Community Rating System (CRS) News. This is a discussion about flood insurance with the community to explain the differences between required, recommended, versus not required. By installing Garden of the Gods drainage basin, this has rezoned the flood plain for nearby residents.

Councilman Tom Strand asks what the coordination is between the City and Regional on Floodplain. Tim answers that Keith with El Paso County managed floodplain in City and County until recently when it was decided each municipality is on their own with FEMA to determine floodplain. Any adjustments between municipalities are submitted to FEMA then distributed to both County and City. The City now notifies the residences if the floodplain has changed for a property. Public Outreach projects for the coming year were discussed with the group and a consensus on what projects to pursue was reached.

After Tim completed his presentation, Richard asks if there are any questions from the group. No further questions or discussion.

Meeting was adjourned by Terry Schooler at 3:31 p.m.