

IPSWICH STORMWATER ADVISORY COMMITTEE

Meeting Summary: Monday, November 2, 2009

The Stormwater Advisory Committee met in the Town Manager's conference room at 5 PM on Monday, November 2, 2009 with the following appointed members in attendance: Pat McNally (BoS Chair), Wayne Castonguay, Glenn Gibbs (Planning), Larry Graham, Bob Gravino (Public Works), Janice Skelton (FinCom), Jim Sperber (Code Enforcement), George Tougas, and David Standley, Chair (Conservation Commission). Ellie Baker of Horsley Witten Group, Consultants to DPW for storm water management, was also present.

The agenda for the meeting included

1. Approval of draft summary, meeting of 9/28/09
2. Recommendation to Board of Selectmen re designation and delegation of Permitting Authority
3. Affirmation of recommendation re Connection and Discharge Permit draft regulations
4. Review and revision of draft Stormwater Management Permit regulations
5. Recommendation re permit fee structure and regulations
6. Update on next round of EPA NPDES permit
7. Next meeting (What day of week/time of day may be the most appropriate, going forward?)
8. Adjourn

1. There were no additions, deletions or corrections to the draft summary of the meeting of September 28, 2009.
2. The Chair had circulated for discussion a draft recommendation to the Board of Selectmen on designation and delegation of Permitting Authority under the Stormwater Bylaw (see below).

"Stormwater Management

Delegation of Permitting Authority

The Stormwater Advisory Committee (SAC) advises and recommends that the Board of Selectmen favorably consider acting pursuant to Subsection C of Section 7 "Administration" of the Stormwater Bylaw. The Board is designated the Permitting Authority under that Bylaw "for all actions and procedures authorized by the Bylaw" (Section 3 "Definitions"). The SA recommends the Board designate the Director and the Department of Public Works as the Stormwater Bylaw Permitting Authority and delegate its permitting authority to that entity, insofar as the Bylaw allows; with the possible exceptions set forth below. (The Bylaw precludes delegation of the authority set forth in Subsection 7. I. "Stormwater Utility").

Possible exceptions are:

1. Adoption of regulations pursuant to Subsection 7 D. "Storm Water Regulations".
2. Allowing a Stormwater "By-Out" pursuant to Subsection 7 H.
3. Establishment of (and thereafter amending) Permit Application fees and Inspection fees pursuant to Subsection 7 B.

4. Granting of Waivers pursuant to Section 6. Exemptions and Waivers.
Inclusion of any of the above exceptions in a designation and delegation of Permitting Authority would rest that or those particular responsibility/ies with the Board of Selectmen.
Excepting any or all of the above-listed authorities and actions from a broad designation and delegation of Permitting Authority to the Director/Department of Public Works is a policy decision properly resting with the Board of Selectmen.

Accordingly, there are presented below two versions of the motion the Committee submits for consideration by the Board.

Alternative Motions for the Designation As and Delegation Of Permitting Authority under Chapter XIX of the General Bylaws, "Stormwater Management".

1. Unreserved and Unrestricted Delegation alternative

"I move that the Board of Selectmen acting pursuant to the authority set forth in Chapter XIX of the General Bylaws, "Stormwater Management" designate the Director of Public Works and the Department of Public Works as the Permitting Authority as defined therein with the authorities, duties and responsibilities as thereby established; this action to take effect herewith."

2. Reserved and Restricted Delegation alternative

"I move that the Board of Selectmen acting pursuant to the authority set forth in Chapter XIX of the General Bylaws, "Stormwater Management" designate the Director of Public Works and the Department of Public Works as the Permitting Authority as defined therein with the authorities, duties and responsibilities as thereby established; provided that the Board of Selectmen reserves to itself the authorities, duties and responsibilities set forth in (Subsection 7 D. "Stormwater Regulations") and/or (Subsection 6 C. "Waivers") (and/or) (Subsection 7 H. "Stormwater 'By-Out' ") (and/or) the authority, duty and responsibility to establish Permit Application fees and Inspection fees as set forth in Subsection 7 B. "Stormwater Management Permits and Connection and Discharge Permits".

After discussion, the Committee resolved to recommend to the Board a "reserved and restricted" delegation. Following extensive further discussion, the committee decided to recommend to the Board that the delegation include the authority to grant waivers pursuant to Subsections 6C of the Bylaw and the authority to determine whether and under what conditions to allow a Stormwater By-out pursuant to Subsection 7H of the Bylaw and Section 12 of the proposed Storm Water Management Permit Regulations. The Chair was instructed to prepare and submit to the Board of Selectmen a motion incorporating the recommendation of the Committee.

3. Ellie Baker reviewed the remaining unresolved issues in the draft Connection and Discharge Permit regulation. There was extensive discussion about the draft provision in Section 6 (Application Procedures) B.) Permit Required, Subsections 2) and 3). It was decided to retain the draft language. In all other sections, the language proposed by the consultant was confirmed. The Committee concluded to recommend the most recent draft Regulation to the Board of Selectmen for adoption.

4. Ellie Baker reviewed the remaining unresolved issues in the draft Stormwater Management Permit regulations. The identity of the Permitting Authority has set forth in the current draft must be revised wherever appearing to reflect the Committee's recommendation that the Director and Department of Public Works be designated as the Permitting Authority for implementation of these regulations. Rita Negri approved the

language describing the management of Consultant Fees collected to allow the DPW to hire a consultant to review major project applications. The only unresolved issue remaining in the current draft is obtaining the opinion of Town Counsel regarding Section 8 "Surety". Otherwise, the Committee concluded to recommend the most recent draft Regulation to the Board of Selectmen for adoption.

5. The consensus of the Committee arrived at on September 28 regarding permit fees was reviewed. The Committee confirmed its decision to recommend to the Board of Selectmen a flat fee of \$300 for each permit issued by the designated and delegated Permitting Authority pursuant to the Stormwater Bylaw for a Stormwater Management Permit for both major and minor projects. It also confirmed its recommendation that the designated and delegated Permitting Authority would be authorized to assess a Consultant Review Fee against an applicant for a major project. The Permitting Authority would be authorized to collect, deposit in a special account to be established by the Finance Department, disperse from that account for that purpose as necessary, and cause any unexpended balance to be returned to the applicant; in accordance with Massachusetts General Laws.

6. Gravino reported that the latest discussion of the next round of the EPA NPDES Phase II Permit indicated that there would be a new draft permit issued for comment in the spring of 2010. EPA is addressing comments submitted on the draft permit for New Hampshire and striving for congruency between the New Hampshire and Massachusetts permits. The permits are expected to include significant monitoring requirements for discharges to impaired waters for which TMDLs (Total Maximum Daily Loads) have been established. There is a draft Bacteria TMDL for the Ipswich River that may become final prior to the issuance of the NPDES Permit, and which may therefore have bearing on the NPDES Phase II requirements for Ipswich.

7. A possible change to the usual meeting day and time was discussed, to see if there was a different day/time that would facilitate greater participation by all members of the committee. It was decided, by consensus, to continue meeting on Mondays; to meet on those Mondays when the Board of Selectmen was not scheduled to meet; and to postpone the meeting start time to 6 PM.

The next meeting of the Committee is scheduled for Monday, December 14, 2009 at 6 PM in the Town Manager's conference room. (Please note the change in time from our usual 5 PM meeting time. As agreed, this is a permanent change.)

8. The meeting adjourned at 6:48 PM.

David Standley, Chair