

**Lake Ballinger/McAleer Creek Watershed Forum
Edmonds Public Works Facility
Meeting Minutes
October 27, 2009**

Members Present

Jerry Smith, Chair (Mountlake Terrace Mayor), Don Fiene, Co-Chair (Lake Forest Park City Council), DJ Wilson (Edmonds City Council), Chris Eggen (Shoreline City Council), Jared Bond (Stormwater Program Manager and Alternate Forum Member, City of Lynnwood)

Staff Present

Jerry Shuster (Edmonds Stormwater Engineering Program Manager), Aaron Halverson (Lake Forest Park Stormwater Technician), Noel Miller (Edmonds Public Works Director), John Caulfield (Mountlake Terrace City Manager), Curt Brees (Mountlake Terrace Public Works Director), Mike Shaw (Mountlake Terrace Stormwater Program Manager), Brian Goodnight (Legislative Analyst Snohomish County), David Cline (Lake Forest Park City Administrator)

Others Present

Hugh Spitzer (Foster Pepper)

Document Attached

Organization/Governance Decision Agenda (Foster Pepper)

I. Welcome and Introductions

Chair Jerry Smith called the meeting to order at 2 p.m. at the City of Edmonds Public Works Conference Room. He welcomed attendees and introduced members of the forum and staff. The agenda for the meeting and minutes from the August meeting were approved. There were no September meeting minutes due to lack of a quorum.

II. Items from September Forum Meeting

1. Staff Committee Memo update on Administrative need/future actions: Mountlake Terrace City Manager John Caulfield offered an option for the City of Mountlake Terrace to provide administrative support and overhead to the forum. This would allow the City of Mountlake Terrace City Manager Department to be a liaison between forum members and staff. All administrative functions such as drafting the agenda, minutes, and facility coordination will be done by City of Mountlake Terrace staff through July 2010 when the Interlocal Agreement expires. Don Fiene supported this option and moved for approval. The motion was approved. Mayor Jerry Smith commented that \$5,000 to be allocated for this purpose is no longer needed, as Mountlake Terrace will provide administrative support free of charge.

2. Discussion of development of a capital improvement plan for the watershed by the Staff Committee: Mike Shaw recommended that the forum seek authorization to proceed with the action discussed at the August meeting (the Capital Improvement Program (CIP)). Staff has already made some progress on the six-year CIP and needs additional direction from the forum. Shoreline Council Member Chris Eggen would like to know the details of the CIP plan. Mr. Shaw explained that staff will go over the Strategic Action Plan list of recommendations, identify capital projects, place them in order by priority and category and attach dollar amounts so that the group can pursue funding for these projects.

DJ Wilson inquired about commitment to the CIP for the first 3 years of expenditures. Jerry Shuster stated that staff will prioritize projects, balance the funding, and bring a recommendation back to forum for approval. Council Member Wilson asked what the legal status of an approved CIP is. City Manager Caulfield stated that a lead agency needs to be identified under the current structure at both the staff and member's level. The plan, at this time, will not be legally binding. However, once the forum accepts the recommendations and individual agency's projects are identified, it will become legally binding when the individual projects are incorporated into each member's own CIP. The CIP plan will be an advisory

document to individual agencies and is intended to be adopted and incorporated. The draft will be presented at the January meeting.

A motion to approve the continuation of the CIP project plan was set and approved.

3. Presentation on governance options by Foster Pepper

Hugh Spitzer from Foster Pepper outlined the attached document on Organization and Governance options for the Greater Lake Ballinger/McAleer Creek Watershed Forum. These options are intended to be applied after the Interlocal Agreement expires in July 2010. The document outlines five key issues to be address and decided on.

- Form/structure of organization
- Governance
- Funding for Programs
- Staff
- Long-term Organization Choices

Council Member Wilson asked about the impact of I-1033 on the forum and individual agencies, if it passes. Mr. Spitzer explained that it will not impact the lead agency that incorporates grant or appropriation funds into their accounts because these funds would not be tax or fee revenue and would be an intergovernmental contribution. He recommended that funds should be kept out of the General Fund and be placed into a separate account such as the Stormwater Fund as a precaution.

Mr. Wilson requested that Mr. Spitzer recommend which options are best for the group. Mr. Spitzer recommended creating a non-profit organization because a non-incorporated joint board does not have a legal entity and provides no protection for the members from liability. The joint board cannot own property nor have assets. A non-profit corporation (NPC) provides liability protection for members and allows the forum to borrow money if it designates itself as a Watershed Management Partnership. This non-profit corporation has a legal identity and is subject to audit, but is still the instrumentality of the members and follows the rules decided by the members. Mr. Wilson asked how current and future assets liability would be affected by the different organization structures. Mr. Spitzer stated that the forum can outline what those liabilities are as an NPC, by clarifying ownership of those assets either by the corporation or individual members. A Watershed Management Partnership can only borrow money from its own members, and a non-profit entity can apply for a Public Works Trust Fund with restrictions such as a commitment of members to stay with the organization and pay a penalty if they decide to leave before the duration of the loan ends. Mr. Wilson stated that at this time, no decision can be made on this matter, but the CIP plan in January will help guide the forum on this decision. Mr. Caulfield asked if an NPC can apply for liability insurance from places like WCIA. Mr. Spitzer expects that the insurance authority would allow for an entity like this to join.

Mr. Spitzer stated that the current governance composite of the forum is a good model, because it has the advantage of having elected officials deciding and dictating and the staff implementing. This model requires attendance of these officials at meetings for it to be effective in decision-making. Mr. Fiene stated that the CIP plan will drive decisions on how commitment is outlined and provide incentive for participation. The current unanimous vote system is not effective, and Mr. Spitzer recommended a different structure that delineates different levels of majority voting on various subjects in agreement. An Amendment to the Interlocal needs to go back to individual councils for adoption. Different structures are available that can be decided by the group, which can define full and part members of the NPC.

Mr. Spitzer stated that financial involvement can be assessed by the group through various criteria such as percent of watershed as suggested by Jared Bond. Mr. Wilson suggested a hybrid approach through a contract, which allows contribution without participating in the voting for some members. Mr. Wilson asked how the transfer of money contributions will work. Mr. Spitzer suggested that the lead agency should run the books, but the NPC should keep its own books so it can provide an annual statement to be audited. Mr. Wilson asked if this entity falls under a Municipal Corporation or regular NPC laws. Mr. Spitzer stated that it will have to follow Municipal Corporation and be subject to public accounting, and should follow NPC law because it is still a NPC.

Under the NPC, staff can be employed under the entity or its members, but as a joint board, it has to come from the member. Mr. Spitzer stated that it will be easier to have member's own staff or contract support if there is only a small need. The issue should be addressed in the agreement.

Mr. Spitzer stated that these decisions will lead to the creation of a new Interlocal Agreement but can use the current one as a platform. All decisions in the Interlocal Agreement need to be approved by all members' councils. This will need to be done as an ordinance, not a resolution so it can be legally committed.

III. Next Steps for the Forum

The next step in the discussion will be done after the CIP plan is issued in January. No meetings will be scheduled until the January CIP meeting. A special meeting may be held only if needed.

Jared Bond moved and Chair Fiene seconded to authorize Councilmember D.J. Wilson to draft a letter to the state legislature asking for \$60,000 appropriation to keep the Lake Ballinger/McAleer Creek Forum process moving forward in 2010. It was approved unanimously.

Mr. Wilson moved and Jared Bond seconded to authorize Co-chair Fiene to represent the Lake Ballinger/McAleer Creek Forum at the Puget Sound Partnership Central Puget Sound Action Caucus. This Caucus pulls together cities, WRIA's, and other watershed forums to discuss watershed related issues. The motion passed unanimously.

Jared Bond stated that Lynnwood has hired a consultant to develop a watershed basin plan for stormwater development regulations, and a plan for redevelopment of highway 99. The southern part of the highway 99 plan is in the hall lake basin watershed. They are considering alternative stormwater development methods, moving away from onsite detention for water quality treatment. Lynnwood is looking at a regional detention and regional infiltration issue brought up in the Strategic Action Plan. A report will be available in January that may be helpful in meeting the goals in the Strategic Action Plan, if the group is heading toward a Watershed Management Partnership approach.

IV. Public Comments

Alvin Rutledge commented that the group needs to assess the Lake Ballinger Tax District contribution because Mountlake Terrace, which has property on the lake, is exempt. He also requested sandbags from Edmonds and Mountlake Terrace.

V. Wrap up and Adjournment

The meeting adjourned at 3:30 pm

Next meeting is tentatively scheduled for the fourth Tuesday in January or Tuesday January 26, 2010.