



KANE COUNTY

Rudd, Hawk, Feltman, Podraza, Wallers, Slowinski, Bardol, Wills, Olsem,
Anderson, Lobbes, Huddleston- Ag Chair

Non-Voting: Wilford, Finke, Custic, Polzin



STORMWATER MANAGEMENT TECHNICAL ADVISORY COMMITTEE

JANUARY 23, 2019

Auditorium

Agenda

12:00 PM

Kane County Government Center, 719 S. Batavia Ave., Bldg. A, Geneva, IL 60134

1. **Call to Order**
2. **Approval of Minutes:** October 24, 2018
3. **Public Comments**
4. **Topics**
 - A. **ERA Presentation**
 - 75% Review Comments
 - B. **Ordinance Schedule**
5. **New Business**
6. **Next Meeting**
 - February 27, 2019
7. **Adjournment**

January 23, 2019

TAC Comment Discussion

I. Overview:

ERA will have reviewed the comments provided by the TAC. The comments have been arranged by section number and subsection. A response has been provided to each of the comments.

The comments have been categorized as:

- *Green – The County and ERA agree with the comment and a revision has been made OR the language cannot be changed, and no discussion of decision from the TAC is necessary.*
- *Yellow – The comment has been considered, internal discussion has occurred, the language has been changed accordingly and the response is sufficient to explain the acceptance, denial or clarification of the comment TAC discussion isn't necessary.*
- *Red - These are repeat comments; a major modification has been made and discussion with the TAC is needed to clarify; or further discussion and a decision regarding the topic will be needed.*

II. Objectives:

To discuss and obtain a consensus from TAC on the direction for the following:

III. Topics

Section #9-	Subsection	Comment	Response
58		Change "Sedimentation" to "Sediment"	This is the same as the comment in the Table of Contents. ERA will provide a brief discussion regarding change for consideration.
81	B.5.a	Does this apply to both developments with existing stormwater facilities and those without existing facilities? Also, confirm that Section 81B.1 would still apply to these projects.	This section has been revised. A copy of the revised section has been provided. We will discuss the example from the PowerPoint previously presented. (ST CHARLES REDEVELOPMENT)
81	B.5.a	Table appears to require stormwater detention for any site which has Hydrologic Disturbance Area greater than 3 Acres. Based on the definition of Hydrologic Disturbance Area, and explanation in Section 83. B. 5. A. it is clear that this would eliminate the "Net New Impervious" exclusion for Redevelopment sites which exceed 3 Acres. Is this the intent of the Kane County SMO revision team? We do not remember that size limit conversation at the TAC, and do not believe that Redevelopment constraints should be applied to larger sites. There are a number of Fox River communities that could benefit from redevelopment of their urban core, and this stormwater requirement will provide a barrier, with limited benefit to actually changing runoff/flood conditions.	Same comment as above. This will be discussed with the TAC.
81	B.6.a	There may be some cases for fee-in-lieu projects where it would be allowable to increase the peak discharge (adjacent to Fox River or where there is a reliable outfall with capacity). We recommend removing the prohibition on increased peak discharges and adding a clause similar to the Runoff volume clauses in subsections (1) and (2).	This section was reworded. The revised wording is in the TAC packet. This comment will be discussed with the TAC. An example will be provided to aid in this discussion (ST CHARLES PUBLIC WORKS EXAMPLE).

83 B.1	<p>If our projects are required to improve downstream drainage, the ordinance has added significant costs, engineering especially, and calendar time to the progression of the work. Many/most of our projects have federal funding. We are required to obtain biological, cultural, and environmental clearances on ALL property our project may touch. Even if nothing is found, that process can take six months to a year. When scoping a project and entering into a contract with a designer, we do not know the extent of the downstream drainage system as discussed here. Once that is determined, we then have to process a supplement for the clearances and assigned design effort, since that was not known at the project inception? Supplements, in these projects, have to be approved by IDOT, and those can take a year to process.</p>	<p>TAC Discussion required. Repeat comment. The requirements are currently in the ordinance for this. The intent with the section was to clarify those requirements. This will be discussed with the TAC. See slide for existing language and Illinois drainage case law. Front funding work is allowed, which would be potentially part of easement negotiation.</p>
83 B.3	<p>We should not be requiring the developer to pay for the drainage improvements required to convey or treat the pollutants from a farm. It makes sense to offer to build these improvements for the farmer, at his expense. And if the sedimentation ba</p>	<p>This will be discussed with the TAC. Legal fully supports the section. One suggestion he had was, as I recall, we did not specify that the farm owner couldn't just be causing excessive soil erosion issues to downstream property. Addressing some of the concerns by adding that the farmer should be using best management practices was recommended. Hopefully this addition will help separate a natural soil and debris movement from excessive requirements on the developer. Consider adding "Upland tributary (HEL) highly erodible agricultural farmland shall maintain best management practices in accordance with NRCS conservation guidelines and standards."</p>
83 B.3.e	<p>Shifts burden from polluter to downstream property.</p>	<p>This will be discussed with the TAC per previous comment above.</p>
83 B.3.e	<p>Why is it the responsibility of the downstream property owner to provide sediment and debris control from the upstream agricultural property? That burden should be met by the property that generates the problem, if there is one.</p>	<p>This will be discussed with the TAC per previous comment above.</p>

84	A	(Flowchart) "Will the high-water level elevation be modified to meet Section 84?" -Is it required to be modified? When would it need to be modified?	This section has been reworked, but we will discuss it further with the TAC during the 2' Freeboard discussion.
84	A	(Flowchart) "Modify the restrictor such that the volume in the stormwater management measure will be utilized and in accordance with Section 84. Verify the flow for the 1% design storm is less than the existing flow using the modified restrictor." - Appears this could result in more frequent overtopping. 0.15cfs/acre old standard versus 0.1cfs/acre now.	This section has been reworked, but we will discuss it further with the TAC to clarify intent.
84	A	(Flowchart) The requirements we have in the table for projects built before the original ordinance go beyond what was imposed on them at the adoption of the 2002 ordinance. You can combine 0.1 ac-ft and 2% of volume into a single decision point on the table I	This section has been reworked, but we will discuss it further with the TAC. The 2002 ordinance did not provide direction in regard to redevelopment on sites with old basin. The intent is to provide this direction.
84	G	The Detention Storage Facility shall have an Emergency Overflow set at an elevation such that a minimum Freeboard of two (2) feet shall be provided above the design high water elevation for the 1% Design Storm through the Emergency Overflow weir. Wording is off, the HWL should be set so it allows for the level of safety with 2' freeboard from the Design Storm elevation for surrounding structures.	This section will be discussed with the TAC.
84	G	Suggest adding detail/cross section in TM to clarify. Does this mean 'top of berm' is 2ft above design HWL? Or 2ft above spillway which could be set higher than design HWL?	See comment above.
84	G	A blanket requirement for 2 feet of freeboard for basin emergency overflows seems to high. There will be cases with topographic limitations, or small basins, or basins with no off-site bypass flow, where less than 2 feet would be acceptable.	See comment above.
84	G	Providing a 2' freeboard above the emergency overflow elevation may be problematic on some sites. On small sites, a 1' freeboard above the emergency overflow should be sufficient.	See comment above.

142	A	Compensatory storage should be required for public road improvements at a 1:1 ratio and the requirement to match cut and fill within the 0-10 and 10-100 year flood levels should be waived when the hydraulic equivalency requirements cannot be met within the existing right-of way.	This comment will be discussed with the TAC. See CRS slide regarding impacts to points.
142	A.2	This creates a reduction in CRS Scoring. Consideration should be given to eliminate it since it weakens the ordinance.	This comment will be discussed with the TAC. See CRS slide regarding impacts to points.
142	A.3	It is counterproductive to the goals of stream restoration to impose incremental floodplain storage on stream restoration projects. Many of the worthwhile objectives (reconnection to floodplain, reduce incisement) may be precluded.	This will be discussed further with the TAC. Typically, the 10-100 is the one that's difficult for these projects.
142	F.d	As discussed extensively in the Tech committee, the floodplain is often not mapped with any artificial storage accounted for in the flow rate. This is evidenced by the regulatory flow being the same upstream and downstream of a crossing. So it can be taken as a given in that case that removing the artificial storage does not introduce new flood damages, and should be so recognized in the ordinance. I think it is legitimate to review the potential for erosion in that case, but if downstream landowners are unwilling/uncooperative, not sure the public is served by further analysis.	This will be discussed further with the TAC.
142	F.d	Loss of artificially created storage due to a reduction in upstream head loss.... IDNR-OWR requires restrictive crossings to be addressed when permitted. We do not have the option to maintain a restrictive structure to replicate the artificially created upstream storage. Therefore, since IDNR-OWR requires that change, it is immaterial what sections (1) through (4) require. We can't not do it.	See comment above.
142	F.d.(3)	If there are damages incurred, mitigation should be required or it should not be eligible for waiver of Compensatory Storage.	See comment above.

170	B.3	Comment suggests more discussion need on this item. We suggest that if the total wetland impact for a project is less than 0.1 acre, that mitigation not be required, and removal of items B.3 and B.4	This will be discussed further with the TAC.
170	B.3	So, a partial impact is not permitted if the wetlands are greater than 0.10 acres?	See comment above.
203	C	The Administrator may approve periodic reductions in the amount of the security based upon the progress of construction. At no time, however, shall more than ninety percent (90%) of the security be released prior to approval of Record Drawings and final inspection. A minimum of ten percent (10%) of the original amount of the security shall be retained for a period of one year after completion of all required stormwater facilities. (Ord. 01-338, 10-9-2001) Reduction to 90% of the estimate or 90% of the 110% amount?	This will be discussed with the TAC to determine how much other communities hold. Kane County keeps 10%.
233		Is this saying that every permit has to supply an annual report?	This was briefly discussed at the general requirements TAC meeting and no final decisions was made as to how this should be done. Therefore, this will be discussed further with the TAC. It's always been a hot topic on how to track and enforce basins etc. that aren't being maintained.
374	B	File the qualifications and statement with the Department and pay a fee... aren't the fees for qualified review specialist being removed from the code? Under Section D. General Provisions, Administration and Enforcement of the May 23, 2018 minutes it states the County will review the Qualified Engineer Review Specialists and return recommendation to committee. There does not appear to be a follow up to this.	A final decision was not made regarding the Qualified review engineer/specialist list. Therefore this section will be discussed further with the TAC. Keeping the fee, but changing to be those that are under contract w/ certified community.
374	B	Why is there a fee for local governments? Will KDOT have to transfer \$25 for my determination of being eligible for the qualified engineers list? What is gained by certifying firms? Must the individual engineers be certified also?	The fees pay for training. Each firm will provide a list of those that are included.
374		With the proposed language change, engineering firms will now be certified instead of individual engineers (unless they are not associated with a	Same as above.

		firm). The Form in Appendix B should be revised to reflect this change as it is still set up for an individual.	
374		Why is there a “company” fee for engineer review but not wetlands? What does the company fee cover?	Same as above.
374		How will the contract be verified? This is information that is not necessarily permissible to release to the County. Additionally, what happens when that contract is over? How does the engineer get removed from the list? How is this reported? Couldn't it be considered blacklisting engineers that were once on the list and then removed? Truly, what is the issue with having a list of anyone who wants to be on it? More money and less work for Kane County.	Same as above.
402		See letter comments for questions on intent of this list? Comment 1- Suggestions and questions on the technical review of the ordinance is provided as a red line PDF as an attachment.	TAC discussion required to discuss list and process.
402		Committee members can remove developments from a Certified Community's proposed exempt list for further consideration. We request clarification as to why the requirements for exemption under this further consideration are different than the requirements for a community to include a development on their exempt list?	Same comment as above.
402		Is this a whole new exempt development list effort, as if it is 2002 again or what is the intent here?	Same comment as above.
Appendix E	Development	Exclusions for Maintenance should include maintenance of stormwater facilities to restore function and condition that was originally designed or constructed.	This definition will be discussed further with the TAC.
Appendix E	Development	Definition including “Dredging” could prevent basic maintenance of existing stormwater facilities. This should be qualified or described in more detail to remove this barrier to required maintenance.	Same as above.

Appendix E	Development	What about demolition that leads to a “redevelopment”? Should consider establishing a 6-month allowance for a site to be demolished and remain vacant until a redevelopment plan is approved.	Same as above.
Appendix E	Development	See below.C268:C275	Same as above.
Appendix E	Development	The prohibition against an outfall connecting to an agricultural subsurface drainage system should be moved from the definition of “development” to an appropriate location within Article IV.	Same as above.
Appendix E	Development	The definition of development excludes resurfacing of roads of not more than 2” since the effective date of the ordinance. County highways certainly can receive a resurfacing in excess of 2” for maintenance/structural purposes without affecting the runoff rate at all. Most township roads are constructed by incremental, repeated resurfacings. As writing, it seems the ordinance would require a Stormwater permit, including detention, bmps, etc. when a township places that fifth 1” lift on a rural road. That would be impractical and would impact/stop many township activities.	Same as above.
Appendix E	Impervious Area	Graveled surfaces may be counted as 60% impervious provided the aggregate gradation has a high porosity (such as CA-6). Why is this considered 60% impervious? Once compacted by being wet or driven over it acts more like 75%-100% impervious.	This definition will be discussed further with the TAC .
Appendix E	Impervious Area	Compaction of gravel can reduce porosity over time. Either this needs to be stricken, or a requirement for materials testing be included to determine porosity of existing graveled areas.	Same as above.