

Storm Drain Oversight Committee
April 25, 2007 Meeting Summary

Attendees:

SDC Members Present		City Staff	
John Melton, Chair	John Tarlton, Vice-Chair	Matt Brunnings	Dale Wong
Stepheny McGraw	Richard Whaley	Matt Raschke	
Rod McNall, Chair-elect		Joe Teresi	

Agenda Item I – Roll Call

The meeting opened with roll call at 9:02am. All members were present except John Tarlton who arrived at 9:05.

Agenda Item II – Oral Communications

Three members of the public were present, so John Melton asked for introductions. Trish Mulvey introduced herself and said that she had some comments relating to the last agenda item. She told the Committee about a recent presentation by Andy Lipkis of TreePeople that was hosted at USGS in Menlo Park. She said that a video of the presentation is available at <http://www.sanfranciscuito.org> and encouraged the Committee to watch it.

Susan Rosenberg then introduced herself as the Chair of Canopy, a Palo Alto-based advocate for the urban forest. Canopy was one of the sponsors of the presentation that Trish described. Staff then followed with introductions. Kristina Peterson of the *Palo Alto Daily News* was also present. John Melton thanked everyone for coming and said that he looks forward to watching the Andy Lipkis video.

Agenda Item III – Old Business

1. Richard Whaley moved to approve the Committee meeting minutes from March 7, 2007, and Stepheny McGraw seconded the motion. The minutes were approved unanimously (5-0).
2. Rod McNall asked if electing a new Chair and Vice-Chair should wait until next year because two members of the Committee have terms expiring on December 31, 2007. John Melton explained that most City committees and commissions conduct annual elections. Joe Teresi clarified that Stepheny McGraw and John Melton have terms that expire at the end of this year, while the terms of Rod McNall, Dick Whaley, and John Tarlton run through December 31, 2009. Joe also explained that the assignment of terms was a random choice when the Committee was first formed and that the intent was to establish staggered terms in order to preserve some continuity in the make-up of the Committee. Stepheny McGraw nominated John Melton for the Chair position and was seconded by John Tarlton. John Melton declined the nomination. John Melton nominated John Tarlton, however he also respectfully declined the nomination. John Tarlton nominated Rod McNall for the Chair position and was seconded by Richard Whaley. Rod was elected Chair unanimously. Rod then nominated John Tarlton for Vice-Chair. John Melton seconded the motion, and it passed unanimously. John Melton then turned the meeting over to Rod.
3. As new Chair, Rod asked Joe Teresi to present the proposed budget. Joe explained that the format of the budget presentation is the same as last year. He said the draft budget is scheduled to be presented to the Finance Committee on May 17, 2007. John Melton clarified that the budget

represents a combination of old and new fee dollars. Rod McNall asked about the Storm Drainage Fund reserve balance, which appeared to be presented differently on two separate pages of the official FY 2007-08 budget document. Specifically, it was not clear why the projected beginning reserve balance was \$2.437 million when the contribution to reserves during the past two fiscal years (as presented on a different page of the budget document) totaled \$4.584 million. Dale Wong and John Melton speculated that annual Storm Drainage Fund reappropriations and commitments may be part of the higher figure, whereas the lower figure only includes the rate stabilization component of the reserves. Dale agreed to follow up with a definite answer.

Rod McNall asked about Note 7 on the budget resource level changes. Dale Wong explained that it described an adjustment being made to correct the fact that a portion of the Innovative Projects CIP was inadvertently not carried forward as part of the FY 2005-06 year-end closeout. Joe Teresi continued, and Rod asked about the 1.6 FTE employees attributed to the Storm Drainage Fee increase. John Melton explained that 1 FTE is Matt Brunnings. Joe said the other portion is the funding of 0.6 FTE in the Environmental Compliance Division related to the \$100,000 ballot item to pay for existing services related to storm water quality protection that were previously funded through the Wastewater Treatment Fund.

The Committee next discussed the issue of using budget originally allocated to the Clara Drive Storm Drain Improvements for the San Francisquito Creek Storm Water Pump Station. Joe Teresi said he planned to execute a budget amendment ordinance (BAO) to transfer funds as needed after bids were received. John Melton questioned if this was the best way to proceed. Richard Whaley recommended transferring all of the Clara Drive CIP funds now, because whatever was left would probably not be enough to get anything meaningful done on Clara Drive. After a brief discussion, the Committee recommended that the elimination of the Clara Drive project be part of the current budget process, with all of the money previously allocated to Clara Drive going toward the San Francisquito Creek Storm Water Pump Station project.

Rod McNall described a letter he wrote to the City Attorney that asked whether the City was legally obligated to complete all of the capital projects as listed on the ballot materials. Joe Teresi explained that the City Attorney will not provide legal advice in response to a private citizen request. Dick Whaley explained that the City Attorney works for City Council, and that the Storm Drain Committee would have to ask Council to ask the question. Joe indicated that the Deputy City Attorney did discuss the issue with him after he agreed to submit the question to the City Attorney's Office on behalf of the Committee. Joe said that the Deputy City Attorney told him that at this point the issue is only theoretical, and that there is very little case law relating to the question. She noted that she believes that the City would be in a strong position to defend a legal challenge on this issue since the City is spending the funds for the purposes named in the ballot measure and since escalating construction costs are a factor out of the City's control. Rod explained that the reason he raised the issue was to see if there was a legal requirement for the General Fund to provide supplemental money for the projects. John Melton said that Council has choices on how it spends General Fund money. He added that he believes that it is a policy matter rather than a legal issue and pointed out that some Council members appear to be in favor of providing supplemental funding. Rod asked if there was a moral obligation to complete all the projects. John Tarlton said that the obligation was to use the money in the best way possible to get as much done in light of the increased construction costs. Richard Whaley added that because it is still theoretical there isn't any cause for anyone to go to court on the issue.

Rod McNall also questioned the matrix that summarizes the use of the Storm Drain Fee increase for FY 2007-08, which lists an expense of \$203,159 for "other storm drain expenses previously

covered by the General Fund subsidy”. Rod then described the other letter that he sent to the City Attorney asking to “please advise if the City has the legal responsibility to use the fee increases only for the actions/uses as given in Exhibit B [from Council Resolution 8483]”. John Melton said that discussions of the Storm Drain Blue Ribbon Task Force (BRTF) always included the point that the General Fund subsidy would cease if the fee increase were approved. The BRTF wanted the Storm Drain Enterprise Fund to be autonomous. Rod McNall noted that the ballot measure didn’t mention anything about that. John Tarlton agreed that the wording was not included and said that it was similar to a lease document that neglected to mention something that the parties had only verbally agreed upon. John Tarlton also said that he agreed that it was the intent of the BRTF to eliminate the General Fund subsidy. Stepheny McGraw said that she always understood the fee increase money would go into the same fund as the existing fee. She thought that it was implied that the subsidy would go away, and she agreed with John Melton. Stepheny also said that she agreed with John Tarlton’s statement that there is never an iron-clad document. Richard Whaley mentioned that staff time that may have previously been covered by the subsidy could now be covered by the fee increase money. He indicated that this would meet the intent of the ballot inasmuch that this staff time is now used to work on the capital projects listed in the ballot measure. Rod McNall then made a motion to forward his legal question to the City Attorney. No one seconded the motion.

4. The Committee then discussed their FY 2007-08 budget findings memo to City Council. John Melton recommended including with the memo 1) the matrix describing the proposed use of the Storm Drainage Fee for FY 2007-08, and 2) the side-by-side comparison of the ballot measure elements and the proposed budget. Rod recommended adding a statement to the memo that \$203,158 is budgeted for other storm drain expenses [that were not directly listed on the ballot measure]. The recommendation received no support. John Melton moved that the two attachments be included along with wording recommending that funds from Clara Drive project being transferred to the San Francisquito Creek Pump Station project as part of the budget approval. John Tarlton seconded the motion. It passed with only Rod McNall opposed.
5. Joe Teresi gave a brief update on the San Francisquito Creek Storm Water Pump Station project and said that a construction contract is expected in early July 2007. The Committee then took public comments on the proposed Innovative Storm Drain Improvements grant program. Trish Mulvey had some suggestions for improvement. She recommended streamlining the application and ensuring the application layout matches the criteria for selection. She also suggested a random selection process for applications of equal quality. Richard Whaley recommended simplifying the application. He said that people might not bother with an application if the process is too complicated. Trish then suggested setting the first and second years of accumulated grant funding aside for the Southgate neighborhood since funding for storm drain improvements in this neighborhood will likely not be available. Susan Rosenberg pointed out that the innovative projects are sustainable storm water management techniques.

Stepheny McGraw suggested incorporating the application and grant program information onto the web site with information on approved innovative project types. Rod McNall asked how the program will be advertised. Matt Brunnings mentioned methods such as a utility bill insert and advertisements in the local newspapers.

John Melton and John Tarlton suggested reimbursing applicants based on a fixed table of values for the various types of innovative projects, such as a dollar amount per square foot of pervious pavement surface or per gallon of storm water cistern. John Tarlton also suggested advertising the program at local neighborhood association meetings. Joe thanked the Committee and the

members of the public in attendance for their useful input and agreed to take their ideas into consideration.

Agenda Item IV – Adjournment

At 11:03 am the meeting was adjourned.

Matt Raschke
April 30, 2007