



## STAFF REPORT

**DATE:** February 6, 2024  
**TO:** Stormwater/Wastewater Project Advisory Committee  
**FROM:** Leland Koester, Wastewater Services Manager/Project Manager  
**SUBJECT:** Stormwater Utility Analysis, Meeting No. 3

### Report in Brief:

This staff report follows information presented to the Stormwater/Wastewater Project Advisory Committee (“Committee”) at the December 5, 2023, meeting. The report first addresses questions raised by the Committee at the December meeting and then provides information and discussion of stormwater utility policy issues related to the rate structure, timing, and discounts to be discussed at the February 13, 2024, meeting.

### Follow-up to Questions/Concerns raised at the December 5, 2023, meeting

→ **Equivalent Residential Unit (ERU) impervious area seems too large compared to the League of Oregon Cities survey** (*League of Oregon Cities, Water, Wastewater and Stormwater Rate Survey, March 2015*), especially for the downtown area.

**Response:** Committee member Mark Davis brought our attention to parcels outside the city limits that had been erroneously included in the draft ERU analysis (see **Attachment 1**). Absent his efforts we would have been significantly further down the road before the error was apparent.

In short, because of a miscommunication between the city and Raftelis, our GIS consultant, some properties outside the city were included in both the residential sample used to define an ERU and in the count of nonresidential parcels used to estimate the total number of ERUs. In retrospect, a quality control check of parcel data and city limit boundaries prior to distribution of information to the Committee would have identified this error more quickly..

Beyond correction of the dataset to exclude outside city parcels, we also cross-checked the consultant’s digital estimates against manual measurements of impervious areas for a sample of residential and non-residential properties. This comparison found a 3%-5% difference in impervious areas that is likely the result of different measurement techniques and our more limited experience compared to Raftelis’

expertise.<sup>1</sup> The bottom line is we have confidence in the revised estimates Raftelis provided, for purposes of this analysis.

The exclusion of outside city parcels from the updated analysis did not change the median single family impervious area, which remains 3,500 square feet (rounded). However, the total number of ERUs that serve as a foundation of the utility rate structure did decrease by 14 percent, compared to the prior estimate provided to the Committee at the December meeting. Because there are now fewer ERUs over which to spread the cost of the utility, the monthly rates for all customers increased from our preliminary estimate of \$12.50/ERU to an updated estimate of \$14.50/ERU (prior to any additional policy adjustments). A comparison of the preliminary and updated ERU and rate estimates is shown in **Table 1**.

**Table 1: Comparison of Preliminary and Updated ERUs and Estimated Rates**

Data	Preliminary	Updated
Interim revenue requirement	\$4,000,000	\$4,000,000
Median SFR impervious area	3,512 sf	3,499 sf
Total ERUs	28,059	24,240
Total ERUs less 5% contingency	26,656	23,028
Rounded SFR rate/month	\$12.50	\$14.50
Policy choice, don't include city & MWL ERUs <sup>1</sup>	0	(1,336)
Billable ERUs	26,656	21,692
Rounded SFR rate/month	\$12.50	\$15.35
Policy choice, 35% discount for self-contained and permitted stormwater systems	0	361
Rounded SFR rate/month <sup>2</sup>	\$12.50	\$15.65

<sup>1</sup>Total ERUs (1,406) X 0.95 (since contingency already excludes 0.05 of these ERUs).  
<sup>2</sup>Single family residential = SFR

An additional policy question (discussed later) is whether city and MWL owned parcels should be billed a stormwater utility fee. As shown in **Table 1**, further reduction of the total billable ERUs to exclude these parcels results in an estimated monthly rate of \$15.35. **Table 1** also shows the estimated ERUs, and rates associated with a partial rate discount for permitted stormwater systems that do not discharge to the City's stormwater collection system (another policy issue discussed later).

→ **Coordinate billing with MWL to have billing system in place by August 1, 2024.**

**Response:** City staff have begun discussions with MWL to set up a billing system for stormwater user fees. MWL has had initial discussions with their software provider and the City has agreed to fund development costs in an amount not to exceed \$25,000. Much of this work hinges on establishing a user fee structure.

<sup>1</sup> Nonetheless, we have included a 5 percent ERU contingency in the calculations, as is typical in this type of analysis, as additional refinements are likely as stormwater bills are rolled out to customers.

As things unfold with the Committee’s recommendations and the Council’s direction, we will be able to set a schedule for this work.

→ **How will the city manage the initial revenue shortfall?**

The utility will be self-funded to the greatest extent practical. Expenses will be managed consistent with incoming revenue stream, e.g. capital projects, operation, and maintenance services will gradually increase as the utility builds revenue. During the transition Wastewater and Street Funds will continue to fill in the gap to meet essential needs.

→ **Prepare a listing of short-term capital projects (replacements/repairs)**

Short term, first two-year expenses, will be focused on emergency repairs of failed pipelines, catch basins, manholes, culverts, and an update of the 2009 Stormwater Master Plan. Substantial capital improvement projects will not be funded in the short term. Repairs will address localized flooding and failed sections of storm sewers. Both large capital projects and high priority repairs are shown in **Table 2**.

**Table 2, High priority capital improvements and repairs**

High priority capital projects	Description
	Address 48” failing storm sewer/emergency sanitary sewer overflow adjacent to the existing wetlands north of Joe Dancer Park
	Address aging and undercapacity storm system elements tributary to and downstream of 13 <sup>th</sup> and Galloway causing localized flooding and on-going emergency response
	Replacement of failed storm sewers in downtown along 3 <sup>rd</sup> Street
High priority system repairs	Description
	Replace a section of failed storm drain between NW 11 <sup>th</sup> and Elm. Broken joints and substantial root intrusion compromise the storm drain’s capacity and has resulted in localized flooding.
	Replace 60’ of storm drain tributary to the north branch of Cozine Creek. Heavy root intrusion and offset joints compromise the storm drain’s capacity.
	Replace catch basin at NE 14 <sup>th</sup> and McDonald. Broken joints have caused a sink hole.
	Replace catch basin at NE 14 <sup>th</sup> and Johnson. Broken joints have caused a sink hole.
	Replace/repair catch basin at NW 12 <sup>th</sup> and Irvine. Defects and failure of the catch basin walls has caused a sink hole.

We don’t have information to provide cost estimates for the large capital projects as the scope of work is uncertain and design flows for full development in the Urban Growth Boundary (UGB) will be developed as part of the Stormwater Master Plan Update. A planning level estimate for high priority repairs and others system wide needs is roughly \$100,000 to \$250,000. If rates are phased in, the pace of repairs and capital improvements will be limited until sufficient fund reserves are available.

→ **How will the city bill parcels that don't have water, wastewater, or power accounts?**

Staff and MWL have started working together to incorporate the stormwater utility bill with current billings for water, sanitary sewer, and power services. A billing approach for stormwater customers will be part of this process. We anticipate there are relatively few properties unserved by other utilities. These properties will be billed as “stormwater only” accounts. Staff from MWL and the city are exploring how best to coordinate billing data.

→ **Can billing include land use, i.e. bill commercial differently?**

Impervious area is the most common measure for billing stormwater service .<sup>2</sup> One of the advantages of a utility approach to funding stormwater management is that costs may be distributed to customers in proportion to their system impacts. By using land use type alone (without an impervious area factor), properties with different system impacts would be charged the same amount. This approach – applied broadly across all nonresidential customers -- would fail to capture the diversity of impacts given the wide range of nonresidential developed parcel sizes. Rates could be developed for land use and impervious areas, but this would result in a more complex billing system, and without data from the forthcoming stormwater system master plan, defensible land use cost factors would be difficult to determine. .

→ **What is the city's liability if stormwater services aren't funded to meet regulatory mandates?**

EPA has delegated Clean Water Act enforcement and permitting authority to the Oregon Department of Environmental Quality (DEQ). This authority includes permitting and enforcing regulatory mandates for stormwater management. Requirements are incorporated in the city's current Total Maximum Daily Load (TMDL) for mercury (in place) and in a Municipal Storm Sewer System (MS4) permit (anticipated in the near future). The city has a duty to comply with environmental mandates. Enforcement includes progressive civil fines up to a maximum of \$25,000/day/violation (ORS 468.020 & 468.130, OAR!340-012-0160) if the city fails to meaningfully engage in management of our stormwater network.

In addition to regulatory enforcement actions, continued deferral of repairs, replacement and maintenance of the stormwater network will lead to localized flooding, property damage and potentially collapsed roadways and risk of injury.

→ **How much money from wastewater and street funds is used for the stormwater system currently?**

Cost attributable to operation, maintenance and engineering support of the stormwater system are not tracked separately. Estimates of stormwater related expenses by city fund are shown in **Table 3**. The primary revenue sources for the Wastewater and Street funds are sewer rates and gas taxes, respectively. Expenses in the Wastewater and Street funds include direct services and payment to the General Fund for engineering and other support services.

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<sup>2</sup> Impervious surfaces prevent infiltration of stormwater into the ground and increase runoff from the property that the city needs to manage.

**Table 3, Current funding sources for stormwater expenses**

Fund	Activity	Stormwater Expenses
Wastewater Fund	O&M, repairs, emergency response	\$60,000
Street Fund	Street sweeping, leaf program, demand repairs and emergency response	\$440,000
General Fund <sup>1</sup>	Engineering support, regulatory compliance	\$120,000
<b>TOTAL</b>		<b>\$620,000</b>

<sup>1</sup>Supported by transfers from the Wastewater and Street funds.

## Policy Considerations

Policy issues outlined below are divided into two groups:

- 1) Short term issues to be addressed as the utility is formed, and
- 2) Future policy considerations once the utility is in place, a stormwater master plan update is completed and a preliminary funding structure and financial reserve is in place.,

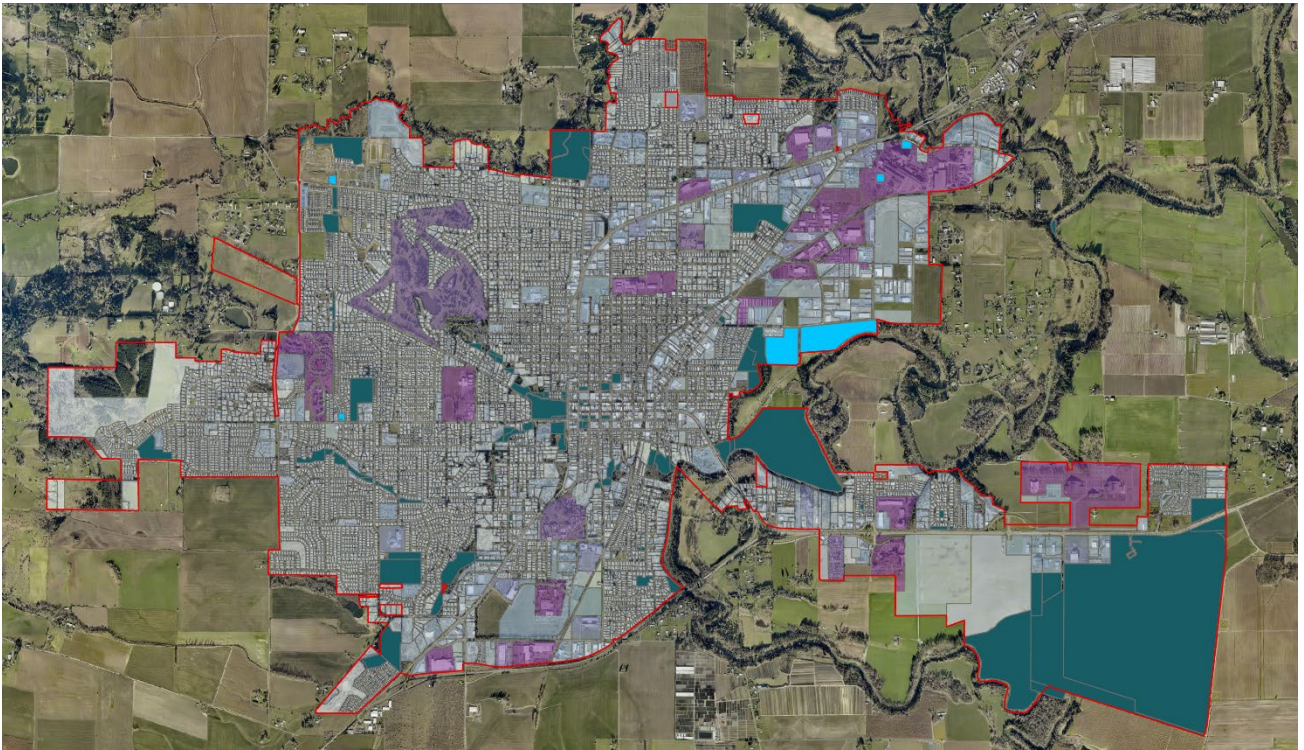
Initial policy proposals are provided as one perspective for the Committee’s consideration. These proposals attempt to balance objectives of fairness, equity, and affordability with consideration of administrative feasibility, costs, and implementation requirements. Given that the city requires implementation of a dedicated funding source to fund current operation and maintenance costs, conduct essential system planning, and begin addressing emerging regulatory requirements, administrative efficiency and simplicity are key considerations initially. The preliminary proposals outlined below are intended only as a starting point for Committee discussions.

### Short-Term Policy Considerations for Utility Adoption

→ **Should the city charge a stormwater utility fee for city owned and McMinnville Water and Light parcels?**

Estimated rates reviewed with the Committee at the December 5, 2023, meeting included city owned and MWL parcels as billable accounts. The city does not bill city owned properties for sewer service and MWL doesn’t bill these parcels for water service. A map of the city and MWL parcels is shown below as **Map 1**. Note that parcel boundaries are shown and that measured impervious areas are nominal for most open spaces, wastewater pump stations, and water facilities.





**Map 1, City and MWL parcels**

In total, city owned and MWL parcels account for 1,406 ERUs, approximately 6% of the 24,240 total ERUs in the updated database. As shown in **Table 1**, removing city and MWL ERUs reduces the billable ERUs to 21,692 ERUs and results in a preliminary rate of \$15.35/ERU/month.

**Pros:** Including city owned parcels results in a lower rate for all other customer classes, by approximately \$0.85/ERU/month (\$15.35 vs. \$14.50 as shown in **Table 1**). This change would be revenue neutral other than administrative costs for interfund transfers that would be required to recover the stormwater costs from user fees and other sources.

**Cons:** If city owned parcels are billed for stormwater service it would be a departure from the city's current approach (and the approaches of many other jurisdictions) of not billing these properties for water and sewer services. Although stormwater rates would be lower for all customers by including city owned properties, Wastewater, Street, Airport and General Funds would pay a stormwater fee, resulting in increased user fees or reduced budgets for their targeted services. While an argument can be made that other city parcels should be charged for stormwater services, the increased administrative costs and somewhat circular transfer of resources within the overall city budget are drawbacks to consider.

**Proposal:** Staff proposes not charging city owned and MWL properties for stormwater service. This is consistent with other utility policies. Charging city parcels a stormwater fee would provide nominal benefit in terms of equity and result in increased administrative costs for billing and accounting and potential increases in other utility charges (e.g., sewer and water) paid by the same customers.

→ **How will the city account for self-contained and permitted, non-single family stormwater systems that drain to waterways not maintained by the city?**

Staff are aware of one industrial property that has an entirely private, self-contained, stormwater conveyance and treatment system. The system discharges to a privately owned ditch that drains to the South Yamhill River. The system is operated under a discharge permit from DEQ. This is a unique circumstance in that discharge from the site does not drain to a public stormwater system the city maintains.

Although this property doesn't discharge to a public stormwater system, it does receive stormwater services. For example, the City's stormwater program improves and maintains upstream stormwater facilities, establishes stormwater design criteria and regulates development, all of which help protect properties during storm events. Furthermore, the City's streets (which are used by all customers) are an integral part of the stormwater system and can only function if stormwater pipes, catch basins and culverts are properly maintained within the right-of-way. Finally, the City is required (on behalf of its citizens) to comply with the stormwater provisions of the National Pollutant Discharge Elimination System (Clean Water Act) which is a cost that should be shared among all stormwater customers, regardless of where individual property runoff is directed.

While determining the precise share of stormwater management costs that relate exclusively to discharges from private properties versus the broader stormwater management services provided to all customers is complicated by a variety of factors (particularly in the early stages of utility development), a rate discount in the range of 10-50 percent is consistent with other utilities in the region. For purposes of illustration in **Table 1**, a deduction of 35% is assumed for properties with self-contained stormwater networks that discharge directly to permitted outfalls. As the city progresses in planning and operation of the stormwater utility, refinements to the discount percentage and structure can be further evaluated.

**Pros:** Providing a discount for properties that discharge wholly to a permitted stormwater system is consistent with utility rate-setting principles, given the somewhat lower level of service provided to these customers, compared to properties that discharge to a publicly maintained stormwater network. Further, given the limited number of customers that would qualify for this discount, and that customers are responsible for maintaining their systems in accordance with their discharge permit requirements, the administrative costs to the city of implementing discounts would be limited.

**Cons:** Providing a discount to non-residential properties with self-contained drainage facilities will reduce the number of ERUs over which the costs are spread, thus increasing the monthly rates for other customers, as shown in **Table 1**. While the city does not currently have an inventory of non-residential properties that would qualify for a discounted rate, the current estimate is that these customers represent less than 5 percent of the total system ERUs, as there are very few unique self-contained stormwater conveyance and treatment systems separately permitted by DEQ.

Providing a 35% discount on the estimated qualifying ERUs results in the preliminary rate increasing from \$15.35 ERU/month \$15.65/ERU/month.

**Proposal:** Staff propose properties with fully self-contained, separately permitted stormwater systems be discounted up to a 35% of the user fee in recognition of their somewhat lower level of service. This percentage reduction is within the range of discounts provided by other utilities in the region and recognizes the broad scope of services provided to all stormwater customers.

→ **Should billing be phased in?**

For the purpose of considering potential utility phasing options, **Attachment 2** summarizes the estimated stormwater revenue requirements under three different levels of service: 1) “current”, 2) “minimum” (current, plus essential regulatory, repair, and system planning needs), and 3) “interim” (that includes additional staffing, equipment, maintenance and capital needs as presented at the December Committee meeting). The Committee could recommend rates be phased in to ease transition to a new utility charge, assuming the utility provides the minimum funding needed.

**Pros:** Industrial, commercial, and institutional properties with large impervious areas will have substantial stormwater utility fees. Phasing in rates will allow customers, especially large non-residential customers, an opportunity to budget for a new utility bill over the phase in period. One approach to scheduling the phase in fee would be to begin the first year with funding the minimum level of service (estimated to be 60% of the interim funded ERU service fee of \$15.65 based on policy assumptions proposed in this staff report), followed by the “interim” service level shown in **Attachment 2**. The interim rates would be in effect through completion of the stormwater master plan update, at which time a longer-term funding plan will be established to meet the capital and operating needs recommended in the plan.

An example of how rates might be phased in is shown in **Table 4**. The assumed rate per EDU is based on recommended changes shown in this report (\$15.65/month/ERU). This preliminary estimate is provided as a frame of reference only and may change as the Committee finalizes rate modifiers and staff gathers more information.

**Table 4, Preliminary estimate of phased in rates for different customer classes.**

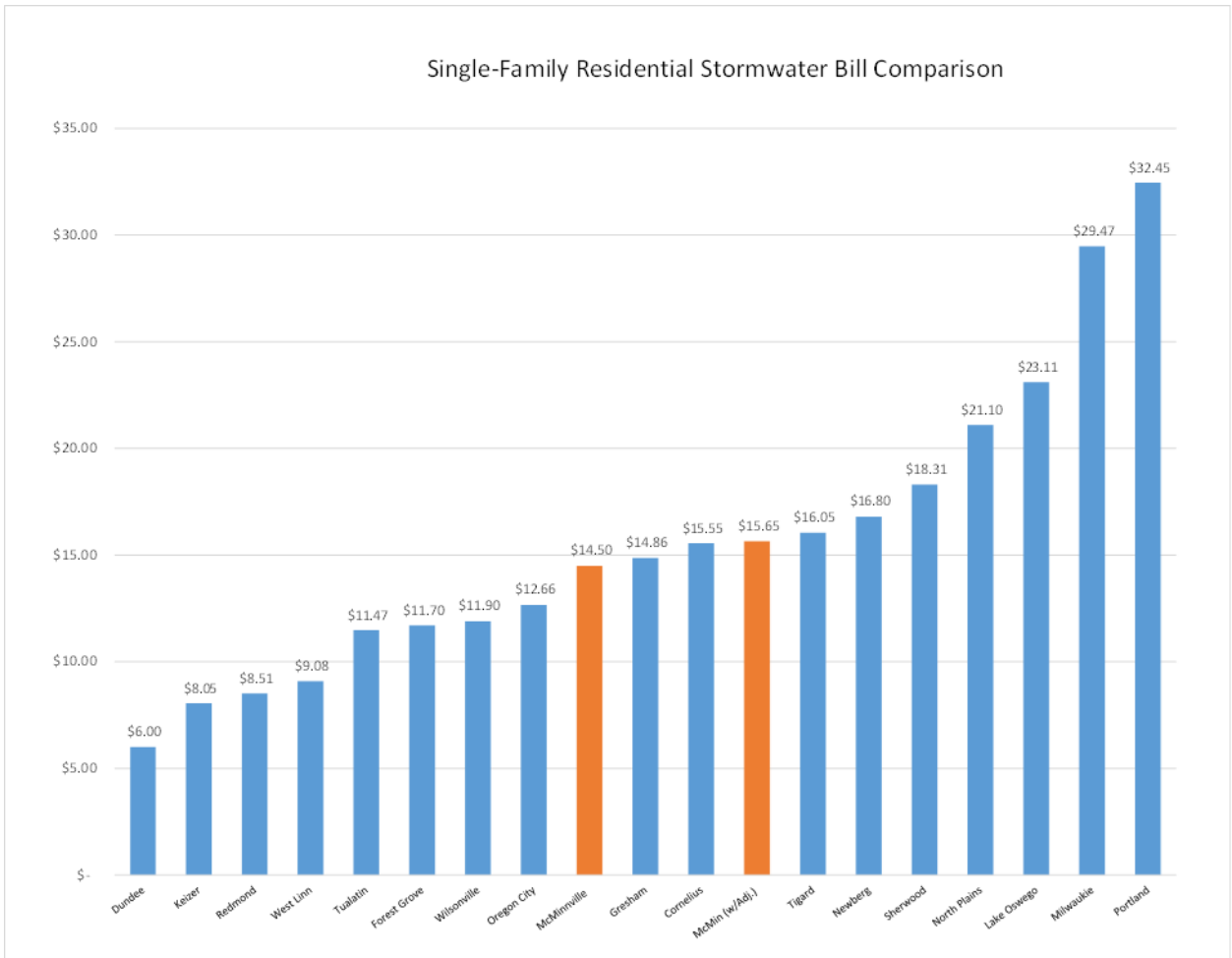
<b>Monthly cost/ERU</b>					
Minimum Level of Service		<b>\$14.50</b>			
Interim Level of Service		<b>\$15.65</b>			
Fully funded Level of Service		<b>TBD</b>			
<b>Customer class</b>	<b>Impervious area (SQ FT)</b>	<b>ERUs (Rounded)</b>	<b>Minimum Level of Service (2024)</b>	<b>Interim Level of Service (2025)</b>	<b>Fully Funded Level of Service (2026)</b>
Single Unit Residential	3,500	1.0	\$14.50	\$15.65	TBD
Single Unit Attached (per Unit)	2,450	0.7	\$10.15	\$10.96	TBD
Multi-Unit (Apartment Complex)	94,500	27.0	\$391.50	\$422.55	TBD
Commercial (small)	28,000	8.0	\$116.00	\$125.20	TBD
Commercial (large)	395,500	113.0	\$1,638.50	\$1,768.45	TBD
Industrial (small)	45,000	13.0	\$188.50	\$203.45	TBD
Industrial (large)	961,812	275.0	\$3,987.50	\$4,303.75	TBD
Institutional	255,500	73.0	\$1,058.50	\$1,142.45	TBD



**Cons:** Phasing implementation of the stormwater utility fee will decrease the implementation of the interim level of service. This will require continued reliance on Wastewater, Street and General funds until the phase in period is completed. Under the 3-year phasing approach shown above, first year revenue would meet minimum service level requirements, approximately \$2.4 M. As mentioned previously, **Attachment 2** illustrates the level of service assumptions and specific elements that would be reduced during the first year of the utility under a phased approach.

**Proposal:** Although phasing in a rate structure is advantageous from a customer affordability perspective, the delayed revenue and deferred capital projects will postpone high priority capital improvements, repairs, and system planning. This is a key policy recommendation for the Committee.

Prior committee staff reports included a rate comparison of Oregon stormwater utilities residential rates. This rate comparison has been updated to reflect the preliminary rate of \$15.65. The rate comparison is shown as **Figure 1**. (Current, Minimum and transition Interim levels of service rates have been added to the rate comparison.



**Figure 1, Oregon Stormwater Utility rate comparison for single family residential customers**

→ **Can the city defer collection of franchise fees for three years to allow the stormwater utility to build reserves?**

The city currently charges a franchise fee for private (telephone, gas, garbage collection) and public (wastewater) utility funds. The rationale for charging a franchise fee is to reimburse the city for use of public rights of way. Stormwater facilities are also in the public right of way and a similar franchise policy has been assumed for the stormwater system.

The franchise fee for the wastewater fund is 6% of annual gross user fee revenue. The projected annual revenue for the stormwater utility under the “interim” rates is \$4,000,000, resulting in an annual franchise fee of \$240,000.

**Pros:** The Stormwater Fund will be in its infancy at the onset of adoption of the utility. Delaying franchise fees for a three-year period will coincide with completion of rate phasing (if adopted) and allow the utility to build a modest reserve and reimburse the Wastewater Fund for stormwater utility development expenses.

**Cons:** Franchise fees are unrestricted General Fund revenue. By deferring collection of franchise fees for the stormwater utility, the General Fund will forego \$570,000 to \$720,000 depending on the Committee’s phasing recommendation.

**Proposal:** Although attractive from the standpoint of building an initial fund reserve, staff proposes franchise fees are not deferred, to be consistent with charging practices for other public and private utilities.

→ **Should the stormwater utility have an administrative appeal provision?**

With the stormwater utility in the early implementation stages, there are customer data and billing practices that will continue to be refined. An administrative appeal process provides efficient and timely resolutions of customer billing issues. It consistent with utility formation best practices to include an administrative appeal provision in the utility implementing ordinance.

**Pros:** Establishes an administrative appeal process for stormwater user fees based on new or corrected information. Establishing an appeal process will help customers with a timely response and serve as a guide for staff considering an appeal.

**Cons:** Staff doesn’t anticipate a downside to an administrative appeal process.

**Proposal:** Staff proposes an appeal process be included in the implementing ordinance forming the stormwater utility. As with other implementation details, the framework for the appeal process will be further developed and will include policies for refunds/additional charges if billing assumptions are modified.

→ **Will the utility help with low-income households?**

The city participates in a program to assist low-income households offset sewer user fees. MWL also participates in this program for water and power charges. The low-income household assistance program

is managed by St. Vincent De Paul with no administrative costs to the city. The Wastewater Fund contributes \$20,000 to this program annually. McMinnville sewer service charge annual revenue is approximately \$10M. Once interim rates are in place, the Stormwater Fund will generate approximately \$4M. If the city were to follow policies used for the Wastewater Fund, an annual contribution of approximately \$8,000 is in proportion to the total revenue the utility is projected to generate.

**Pros:** The approach of assisting low-income households with resources to offset their stormwater fees is consistent with current practice for wastewater rates. The approach provides limited assistance that may be especially helpful as we transition to a new utility.

**Cons:** The cost of allocating \$8,000 to assist low-income households will have a nominal effect on stormwater services, given current rounding assumptions and contingencies built into the calculations.

**Proposal:** Staff propose the stormwater utility contribute \$8,000 toward low-income household assistance similar to the current policy for water, power and sewer services.

→ **Should billing for mobile homes be less than SFR rate?**

Our GIS consultant distinguished properties with PCA code '207' (which includes both mobile homes and manufactured homes) by whether they were on individually owned lots (single family residential) or grouped together on a single lot, non-single family residential. Manufactured and mobile homes on individual lots have similar impervious areas and would be billed as single-family residential properties (1 ERU). Mobile homes located on a shared parcel, e.g. mobile home parks, would be billed as a non-single family residential property and a single bill for the parcel would be based on measured impervious area. The property owner would be responsible for allocating costs to manufactured and mobile homes on the parcel.

**Pros:** The proposed billing approach is consistent with billing single family dwellings 1 ERU and billing multifamily units on a single parcel based on measured impervious area. Mobile and manufactured homes on a single parcel have approximately the same median impervious areas as other single-family dwellings while multiple mobile homes on a single parcel generally have less impervious area and would see a lower cost per unit.

**Cons:** Individual mobile and manufactured homes on a single parcel would be billed similar to individually metered properties billed for water and wastewater. If mobile or manufactured homes are not served by individual water meters (e.g. master metered for the parcel), the property owner of the billed parcel will need to allocate stormwater billings, with wastewater, water and power billings to mobile homes and manufactured homes located on a single parcel.

**Proposal:** Staff propose the billing approach recommended by our consultant be used, that mobile and manufactured homes on a single parcel be billed 1 ERU and multiple mobile or manufactured homes on a single parcel be billed based on measured impervious area consistent with the approach used for multifamily properties.

→ **What should the minimum billable impervious area be and how should ERUs be rounded?**

Some of the measured non-residential parcels have impervious areas less than 1 ERU. This raises the billing question concerning the smallest impervious area charged. A second, related billing policy is rounding ERUs for non-single family residential properties.

Stormwater utilities vary in their approach to minimum areas billed for non-single family residential impervious areas and how ERUs are rounded. In general, two approaches are commonly used for a minimum impervious area: setting a minimum impervious area for billing at 200 sf or charging properties with impervious areas greater than 10% of the median ERU (350 sf for McMinnville). Billable impervious areas are generally rounded up to the nearest whole ERU.

**Pros:** A minimum billing impervious area of 350 sf is consistent with our consultant's recommendation and should avoid billing parcels with sliver overlaps on tax lots. Rounding up to the nearest whole ERUs for non-single-family properties is less complex to administer and more straight forward for billing purposes.

**Cons:** Rounding to the nearest ERU is less equitable for parcels with nominal differences in impervious areas.

**Proposal:** Staff propose rounding non-single family residential properties to the nearest whole ERU. Single family attached properties would be charged based on the average ERU value of 0.7 based on the sample of properties analyzed by Raftelis (described in the December Committee meeting packet).

**Future Policy Considerations (following completion of the Stormwater Master Plan Update)**

→ **Will customers be eligible for a stormwater rate reduction ("discount") for onsite detention or other improvements that lessen their impact on the stormwater system?**

Absent detention, peak flows from development result in greater capacity requirements for downstream stormwater facilities. New developments are generally required to install detention facilities to attenuate peak runoff from paving, building and other impervious improvements. Oregon has adopted the civil law doctrine of drainage. Under this doctrine, adjoining landowners are entitled to have the normal course of natural drainage maintained. The lower owner must accept water that naturally comes from land from above but is entitled to not have the normal drainage changed or substantially increased.

An important future policy consideration will be the design of a broader stormwater rate discount program (beyond the limited application of discounts for customers that drain to self-contained and separately permitted discharges discussed previously). Some form of program is generally considered standard practice for stormwater utilities, though specific program design and timing of implementation are a matter of local policy and circumstances. Discount programs include administrative requirements (program application process and fees, documentation of onsite technologies, engineering estimates of reduced flow impacts, and ongoing monitoring activities), eligibility criteria (customer and property class and facility design standards and performance criteria), and identification of the discount amounts associated with specific on-site structural controls and measures.

A broad credit program may be administratively complex, reduce revenue and/or increase rates for ineligible customers, and increase program administrative costs. It is common practice for utilities to limit discount program eligibility, particularly in the early stages of the stormwater utility implementation. This is generally accomplished by restricting discounts to non-single family residential properties because the requirements involved in reviewing, tracking, and enforcement of private infrastructure performance over time would be cost prohibitive at the single-family development level.

For non-single-family developments, discounts are often limited to approved, on-site, structural stormwater controls that provide detention, reduce runoff peak flows and exceed the minimum requirements for the development. The case for limiting discount eligibility to those customers *exceeding* design requirements is that by going beyond minimum requirements, the property has effectively reduced capacity design of the city's downstream system. Conversely, on-site controls that simply meet the city's minimum requirements do not result in reduced impact or cost avoidance for the city, given that the system has already been sized based on the assumption that customers will take actions as required for their development. Accordingly, simply meeting design requirements does not generally constitute a basis for service charge reduction.<sup>3</sup>

**Pros:** Although stormwater detention is a legal obligation and development requirement, providing discounts may encourage more robust maintenance and care of the basins post development.

**Cons:** The actual benefit of onsite detention is location specific and difficult to quantify. Providing a discount for routine maintenance of these private facilities will shift overall costs or rates to other customer classes.

**Proposal:** Staff propose a stormwater credit program (beyond a limited credit for discharge to private/permitted systems) be developed after the initial billing system is in place, the stormwater master plan update is underway and system design standards have been updated.

→ **Should residential rates be tiered or structured to allocate costs to single-family residential properties in proportion to their impervious area?**

Some stormwater utilities, typically larger communities, have adopted a tiered rate structure for single family residential customers. The structure sets user fees within tiers (defined by impervious area square footage) so that properties with smaller impervious areas pay a lower user fee and those with larger impervious areas pay more than an average household.

→ **Pros:** A tiered rate structure is generally considered more equitable because it recovers costs in proportion to stormwater system impacts, as estimated by impervious area. However, the distribution of impervious area size across the range of single-family residential customers is much narrower, compared

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<sup>3</sup> See for example, City of Newberg Stormwater Management Fee Credit Manual (for Developed Properties Except Single Family Homes) that states that "a property owner who has provided an acceptable stormwater management (SWM) improvement on-site that exceeds the City of Newberg design standards for development other than single family homes...may apply for a credit on the stormwater service charge applied to the same property." Also, per the City of Albany's stormwater rate resolution, on-site structural controls installed to meet development or other regulatory requirements are not eligible for rate credits.



to other development types. Therefore, the equity gains of a tiered structure are less significant and need to be weighed against administrative requirements and compliance inspections.

→ **Cons:** Development of a tiered rate structure is complex and costly because it requires development of impervious area estimates for each residential customer to accurately place customers in specific tiers for rate development and billing purposes. Policies and procedures would also need to be developed to ensure monitoring of existing accounts and accurate placement of new customers in appropriate tiers. The city does not have the account-level data to set up a tiered rate structure at this time. Additional consulting services, expenses and time will be required if this is a direction the Committee recommends.

→ **Proposal:** Staff propose a tiered residential rate structure is not enacted immediately given the additional consulting fees and implementation requirements. There is a solid rationale for a tiered residential rate structure, but the added cost, time, and complexity to develop a tiered approach and incorporate it into a billing system will add to program costs and delay implementation of the stormwater utility.

Staff has set an aggressive schedule to implement the utility in recognition of the need for a dedicated funding source to facilitate essential maintenance, planning, and capital repairs. Delaying implementation will result in reduced revenue in the 2024/2025 fiscal year which would be potentially compounded by other policy decisions related to phasing, discounts, etc. At a minimum service level, lost revenues are estimated to be about \$200,000 to \$300,000 for each month billing is delayed. The modest equity gains of implementing a tiered approach immediately need to be considered in the broader context of the utility implementation objectives. One option would be to include a provision in the implementing ordinance forming the utility that staff will bring council a suggested tiered rate structure for stormwater user fees within two years of adopting the stormwater master plan update. At the onset of the utility, it's important to focus on simplicity and recognize refinements will be made over time.

→ **Should stormwater bills be discounted for privately constructed and maintained stormwater systems?**

Over the years, residential and commercial developments have had the option to construct streets and storm drains to public standards or as private facilities, typically maintained by a homeowner's association. Streets and storm drains constructed to city standards are dedicated to the city, utility easements are transferred to ensure ease of access for maintenance and repairs.

Privately constructed streets and storm drains are not public systems. Video inspection, cleaning, repairs, access protection and replacement of these storm drains continue as the development's responsibility. This can be onerous for a homeowners associations (HOA) and commercial property owners as these private systems age and are often not well maintained. Although these developments have their own onsite stormwater systems, all eventually discharge to public stormwater facilities, either storm drains or outfalls to open channels.

Committee member Peter Enticknap has proposed stormwater utility bills be discounted for properties with privately maintained stormwater systems. Committee member Enticknap has invested significant time and effort in working with the HOA, city, managing a private engineering study of the stormwater

system serving the HOA (Michaelbook 4<sup>th</sup>). Mr. Enticknap's memorandum to the Committee is included at **Attachment 3**. The engineering analysis (HBH.Final.Summary) is included as a separate file with this staff report and agenda for February's meeting. Mr. Enticknap can best frame his concerns. Our understanding of Mr. Enticknap's memorandum to the Committee is that privately owned stormwater systems are maintained, inspected, repaired and benefit to a lesser degree than properties directly served by public stormwater systems and, therefore, should receive a discounted stormwater utility fee. Some of the issues Mr. Enticknap raises are site specific and outside of the Committee's role in recommending community-wide policies to the City Council. The essential policy question is if a discount should be given to customers discharging to a privately constructed and maintained stormwater system. These customers have an ongoing responsibility to fund operation and maintenance of a private system in addition to sharing in operation and maintenance of the public stormwater network.

**Pros:** Property owners with private stormwater systems have maintenance and repair responsibilities that are solely funded by a homeowners association. These costs are not publicly funded. A discount will provide reduced utility fees to these customers in recognition of these added costs.

**Cons:** The decision not to construct facilities meeting city standards is made at the time of development and in recognition that they will be privately maintained. These properties require services from upstream and downstream stormwater infrastructure, as well as the broader city-wide stormwater services discussed previously (community regulatory compliance, emergency response, stormwater management in public rights of way, etc.). Providing a discount to properties served by these systems shifts costs from developers to other customers through higher rates.

**Proposal:** Staff propose the city does not discount user fees for customers served by private stormwater systems. Typically, these systems haven't been constructed to city standards, access for maintenance and repair is often compromised, storm drain systems not inspected and well maintained.

→ **Should a portion of gas tax revenue be retained as a funding source?**

Approximately \$440,000 from the Street Fund is used for street sweeping, leaf pick up and emergency responses to localized flooding. The Street Fund's primary source of revenue is state gas tax revenues. This funding is primarily dedicated to operating the transportation system as well as to help support pavement and other asset preservation efforts in the system. A portion of this funding, coupled with ODOT Fund exchange monies, is the City's only revenue source for pavement preventative maintenance and preservation projects such as slurry seals, crack seals, overlays, and reconstruction.

Committee member Mark Davis has asked the Committee consider recommending that a portion of Street Fund revenue be retained to fund stormwater expenses as he explains in his Memorandum to the Committee (**Attachment 1**).

This is a policy question that centers around what parts of the City's infrastructure are considered transportation versus stormwater assets and what is the most equitable way of funding operation and maintenance for both asset groups. The approach used in development of stormwater revenue requirements considers curbs, gutters and catch basins as integral to the stormwater system. Street sweeping reduces solids that would otherwise discharge to waterways and potentially result in

enforcement of state and federal water quality standards. Most stormwater utilities rely entirely on user fees as opposed to a combination of user fees and taxes for stormwater revenue. The majority (66%) of stormwater utilities fund street sweeping, catch basin cleaning and storm drain maintenance through user fees based on impervious areas.<sup>4</sup>

**Pros:** Retaining a portion of Street Fund revenue would offset costs that would otherwise be met through the Stormwater Utility and thereby reduce user fees for all customer classes.

**Cons:** Street funding is primarily dedicated to pavement asset management, specifically slurry seals, overlays, striping and street repairs. The estimated need for a fully funded pavement management program is \$2.2M per year. Current funding for this work is approximately \$750,000 per year, about a third of what is needed. Retaining gas tax revenue to fund stormwater demands will not allow for a higher level of preventive maintenance and repairs of local and arterial streets. Over time gas tax revenue is expected to decline as more electric vehicles take a larger role in the transportation system.

**Proposal:** Staff propose the stormwater utility fund street sweeping and emergency response to localized flooding, consistent with industry practices, and that gas tax revenue be retained in the Street Fund for pavement management.

#### **Next Steps:**

There are several complex and interrelated policies for the Committee's consideration. Staff are scheduled to present a status report for development of the stormwater utility to a City Council work session on Wednesday, April 17, 2024. If the Committee needs additional time to discuss policy issues or need more information, a placeholder meeting is scheduled for March 13, 2024 from 12:00 pm to 3:00 pm at the Water Reclamation Facility. Staff will look for the Committee's direction at the conclusion of February's meeting to decide if additional time is needed before bringing recommendations to the April 2024 City Council work session.

The presentation to the City Council will include discussions and recommendations from the Committee. We are hoping several members will volunteer to attend the work session and represent the Committee. There will be no City Council action at the work session. This is an opportunity to provide an update of the process, Committee recommendations and for the City Council to ask questions.

#### **Attachments**

- 1 Memorandum to Committee from member Mark Davis
- 2 Summary of projected minimum and interim funded revenue requirements
- 3 Memorandum to Committee from member Peter Enticknap

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<sup>4</sup> 2021 Stormwater Utility Survey Report, Black & Veatch Management Consulting, indicates that 66% of utilities surveyed include street sweeping in stormwater budgeting requirements.

## Attachment 1 – Memorandum from Committee member Mark Davis

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To: Stormwater Project Advisory Committee

From: Mark Davis

Date: January 22, 2024

Subject: Stormwater Charge Methodology

At our last meeting I expressed some reservations about the fairness of the allocation of the stormwater charge based on the sample of 400 properties used by the consultant. Based on the map in our packet it did not appear that properties sampled included a representation of older properties in the downtown area where I live. I was also concerned that having a single charge to all property owners unfairly required the property owners with smaller impervious areas (generally with lower incomes) to subsidize those with larger impervious areas (generally with higher incomes).

After the meeting Chip sent around a more detailed map and a spreadsheet listing the 399 residential properties used by the consultant to establish the statistical representation of the ERU (Equivalent Residential Unit). After looking at the map and the listing of properties I agree that the sample appears to represent properties in all parts of the City.

I went a step further, however, and cross-referenced the spreadsheet the consultant provided with the list of over 11,000 properties developed last year as part of the process to expand the City's Urban Growth Boundary (UGB). I was especially interested in why there were so many single family houses with impervious areas over 7000 square feet, twice the median size from the sample.

With the use of the UGB spreadsheet, Google Maps and Yamhill County Assessor property tax records I was able to determine that 13 properties in the sample spreadsheet were not even in the City limits (i.e., they were rural properties often with barns and sheds that increased the impervious square footage). There were another two rural properties just inside the City limits with outbuildings whose drainage went into local waterways, not the storm system.

On the attached spreadsheet that the consultant provided I have added a column with my notes identifying these properties. At the bottom I have shown the calculations from the original spreadsheet and what they would be if the rural properties were excluded from the sample. The median drops from 3512 sq ft to 3497 sq ft and the means declines from 3838 to 3686 sq ft. I have also included a calculation for Mobile Home lots (often owned by low-income residents) to show that they are smaller than the proposed standard ERU and should be granted a discount in the same manner as is proposed for Single Family Attached (SFA). There are many more mobile home lots in the city than SFA lots, so that only seems fair.

Another concern I have from looking at the maps is the number of waterways coursing through the City. Many of the residential properties located along these streams, especially in the older part of town, send their storm water into the creek without ever touching the storm drain system. In my neighborhood, for example, the only way for a resident to get stormwater into the City's drainage system would be to pump it uphill, which obviously no one is doing.

While the new sections of town send most of their rainfall into the storm drain system, that was not typical when the housing was developed in the downtown core. Downspouts there often go

into the ground on the lot, not the streets. In heavy rain perhaps some of that rain does percolate into the storm drain system, but it hardly seems fair that we are assuming all rain that falls on the roofs and driveways in these areas should be charged as if they were draining like the newer sections of town.

The final concern I have about the methodology proposed is that it assumes that all requirements of the stormwater utility are generated due to the impervious surfaces of the homes and businesses, so all the funding is supposed to come from them. In fact, about a third of the impervious surfaces in the city are the roads themselves; further, looking at the reasons for creating a stormwater utility, several relate to the pollution generated by vehicular traffic. This is most fairly captured through use of the gas tax, so I would favor keeping a portion of the gas tax similar to what is currently budgeted in the Street Fund to support stormwater activities. I don't see justification for using wastewater funding for stormwater activities, with the exception of any remaining capital projects to separate combined storm and wastewater pipes. In summary, the statistical support for the plan to charge everyone \$12.50 per month is weak. There are so many exceptions and special circumstances that it is going to be very challenging to devise a plan that is simple to administer and fair to all citizens, especially those who contribute less stormwater to the system. I prefer some sort of plan that continues to use gas tax revenue for part of the funding and reduces the monthly charge overall with further reasonable reductions for those with a limited overall impact on the stormwater system



## Attachment 2 – Summary of projected revenue requirements

Operating costs	Current	Minimum Service Level	Interim Service Level
<b>Stormwater collections</b>			
Estimated current stormwater collection system maintenance <sup>1</sup>	\$ 62,315	\$ 62,315	\$ -
2 new FTEs (\$127K/FTE including benefits)	\$ -		\$ 254,000
+ Cleaning/hydro excavation truck <sup>2</sup>	\$ -		\$ 60,000
Supervision (\$173K including benefits)	\$ -	\$ 43,250	\$ 173,000
+ Utility truck <sup>3</sup>	\$ -	\$ -	\$ 8,000
+ Allowance for annual equipment maintenance	\$ -	\$ -	\$ 20,000
<b>Sub-total, Stormwater Collections</b>	<b>\$ 62,315</b>	<b>\$ 105,565</b>	<b>\$ 515,000</b>
<b>PW-Operations</b>			
Leaf program (\$70K/FTE +OEB@ 50%)	\$ 50,000	\$ 50,000	\$ 75,000
Reactive repairs and maintenance costs	\$ 5,000	\$ 5,000	\$ 50,000
Roadside swale maintenance	\$ 70,000	\$ 70,000	\$ 120,000
Detention pond maintenance	\$ 5,000	\$ 5,000	\$ 30,000
Storm/High Water Response	\$ 10,000	\$ 10,000	\$ 20,000
Annual street cleaning contractual service <sup>4</sup>	\$ 300,000	\$ 300,000	\$ 400,000
<b>Sub-total, Operations</b>	<b>\$ 440,000</b>	<b>\$ 440,000</b>	<b>\$ 695,000</b>
<b>Engineering</b>			
Current personal services, 0.5 FTE (\$90K/FTE +OEB @ 50% OEB)	\$ 68,000	\$ 68,000	\$ 70,000
+1.5 FTE (\$90K/FTE +OEB @ 50%) <sup>5</sup>	\$ -	\$ -	\$ 200,000
Repayment to Sewer Fund for seed money <sup>6</sup>	\$ -	\$ 50,000	\$ 50,000
+ PSA (25% of Capital)	\$ 50,000	\$ 1,000,000	\$ 375,000
<b>Sub-total, Engineering</b>	<b>\$ 118,000</b>	<b>\$ 1,118,000</b>	<b>\$ 695,000</b>
<b>Administrative</b>			
MWL billing cost		\$ 150,000	\$ 150,000
Internal transfer for support services <sup>7</sup>		\$ 50,000	\$ 170,000
Franchise fee @ 6% (based on annual revenue)		\$ -	\$ 240,000
<b>Sub-total, Administrative</b>	<b>\$ -</b>	<b>\$ 200,000</b>	<b>\$ 560,000</b>
<b>Total Operating</b>	<b>\$ 620,315</b>	<b>\$ 1,863,565</b>	<b>\$ 2,465,000</b>
<b>Capital costs</b>			
Estimated capital <sup>8</sup>	\$ -	\$ 500,000	\$ 1,500,000
<b>Total Capital</b>	<b>\$ -</b>	<b>\$ 500,000</b>	<b>\$ 1,500,000</b>
<b>TOTAL ESTIMATED ANNUAL EXPENSES</b>	<b>\$ 620,315</b>	<b>\$ 2,363,565</b>	<b>\$ 3,965,000</b>
<b>ROUNDED, TOTAL ESTIMATED ANNUAL EXPENSES</b>	<b>\$ 600,000</b>	<b>\$ 2,400,000</b>	<b>\$ 4,000,000</b>

<sup>1</sup>Current costs based on 10% of \$623,153.00/year for collections crew

<sup>2</sup>Capital cost \$600,000 (new Vac Con truck) spread over 10-year life

<sup>3</sup>Capital cost \$80,000 spread over 10-year life

<sup>4</sup>Based on FY 2023/24 contractual services for street sweeping

<sup>5</sup>Based on + expenses for TMDL/MS4/Engineering Admin.

<sup>6</sup>Assume \$150,000 seed money repaid to Sewer Fund over 3-years

<sup>7</sup>Transfer/Fee estimates are based on 7.3 FTEs

<sup>8</sup>Estimated capital requirement based on Method 2, 2009, Stormwater Master Plan in 5-years

### Abbreviations:

FTE = Full Time Employee  
OEB = Other Employee Benefits  
PSA = Professional Services Agreement  
MWL = McMinnville Water and Light

### **Attachment 3 – Memorandum from Committee member Peter Enticknap**

(received January 26, 2024, converted email to Word, formatting has changed for file compatibility)

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#### **MB4 HOA Private Stormwater System**

Chip Ullstad, Project Coordinator  
City of McMinnville Stormwater Project Advisory Committee

Dear Mr. Ullstad,

The purpose of this correspondence is to define Michelbook Fourth Addition HOA's (MB4) private stormwater system in order to obtain credit toward the proposed City Stormwater Service Area.

MB4 is a development of Michelbook Estates, Inc., dba Michelbook Country Club (MCC). MB4 consists of 84 SFR lots, 2 are vacant, 77 are single story residences and 5 are attached residential units. The vast majority of our residents are elderly.

MB4 is required to maintain a private stormwater system and all roads in the subdivision as a condition of the Michelbook Estates subdivision plat approved on January 31, 1983 (Plat Note 2) and designated as 'Michelbook's Fourth Addition'.

The MB4 private stormwater system consists of 22 catch basins, 11 manholes and approximately 4,200 LF of drain pipe located throughout approximately one mile [138,500 SF] of privately maintained roads.

In 2021, HBH Consulting Engineers (HBH) of Newberg inspected and analyzed MB4's private stormwater system using HydroCAD modeling software. HBH identified significant deficiencies in an 85 page report, a summary of which is attached. All MB4 stormwater exits into drain pipes and ditches on MCC property and ultimately flows directly into North Cozine Creek. MB4 has recently spent approximately \$30,000 on engineering, inspections including CCTV, maintenance and repairs of the stormwater system.

Two critical basins generate significant stormwater originating from the City of McMinnville and MCC flowing through MB4 property and stormwater pipes. City stormwater from 37.88 acre Basin 1 (attached), is approximately 80% of all stormwater passing through MB4 pipes from NW Baker Creek Rd. and beyond to the outflow down stream of G-5-D into an open ditch south of MCC's Fourth Green. City stormwater from 46.66 acre Basin 2 (attached), is approximately 45% of all storm water passing through MB4 pipes from NW St. Andrews, NW Pinehurst Dr. and NW 21 St. to the outflow west of NW Doral St. (G-5-H) into an open ditch west of MCC's Fourth Tee.

The HBH report further shows that multiple pipes in these two critical lines do not meet the City 10-Year Storm event criteria. Some pipes do not meet 2-Year or 25-Year Storm criteria. This has resulted in local flooding and property damage. The main line draining Basin 2 (G-5-H) crossing NW Doral St. is less than two-times the required capacity (18" vs 27") according to HBH's Hydro analysis. About than 90% of the stormwater in this 18" pipe originates from the City and MCC.

The outflows into open ditches on MCC property downstream of G-5-D and G-5-H serving Basins 1 & 2 are below grade. The HBH HydroCAD model assumes downstream open ditches are free of obstruction. According to HBH, when downstream ditches are not maintained, sediment and gravel tend to build up at the outfall and inside the bottom of the pipe further limiting capacity and thereby causing stormwater to back up inside the pipe. These conditions are noted in the 2021 HBH report and have not been corrected.

How does the City propose to calculate discounts for our privately maintained drainage system?

Thank you for the opportunity to consider this request.

Please contact me if you have any questions.

Yours,

**Peter Enticknap,  
2019 NW Doral St.  
McMinnville, OR 97128**

**971.901.2614**

Mailto:[lindaypeter@gmail.com](mailto:lindaypeter@gmail.com)

(Attached report "HBH.Final.Summary.2021-04-27", sent as a separate PDF file)