AGENDA

Meeting Type:	WORKSHOP
Date:	04/05/1999

City of Charlotte, City Clerk's Office

CITY COUNCIL WORKSHOP

Monday, April 5, 1999

Dinner	**Room 267**
5:00 p.m.	**Economic Development: Proposed Surface Water Improvement and Management (SWIM) Policy**
5:30 p.m.	**Economic Development: Workforce Development Board Report**
6:15 p.m.	**Economic Development: Planning for our Community's Future**
6:45 p.m.	**Economic Development: Water Quality Update**
7:00 p.m.	**Economic Development: Recommended Loan Program for Water Pressure Reduction Valves**
7:15 p.m.	**Adjourn**
7:30 p.m.	**Citizens' Forum** **Council Chamber**

<u>Request for Council Action</u>
Recommend adoption: 1) Resolution authorizing the establishment of a financial assistance program to fund water pressure reduction valves; and 2) budget ordinance appropriating funds to support the financial assistance program

SWIM Stream Buffer Plan
Consensus Document
January 21, 1999

Consensus has been reached on all bold and italicized text below.

Purpose:

The purpose of the proposed stream buffer network in Mecklenburg County is to ensure that the stream and adjacent lands will fulfill their natural functions. Stream systems are comprised of the stream and their drainage basins. Streams have the primary natural functions of conveying storm and ground water, storing floodwater and supporting aquatic and other life. Vegetated lands adjacent to the stream channel in the drainage basin serve as a "buffer" to protect the stream system's ability to fulfill its natural functions. Primary natural functions of the buffer include:

- ***protect water quality by filtering pollutants;***
- ***provide storage for floodwaters;***
- ***allow channels to meander naturally; and***
- ***provide suitable habitats for wildlife.***

Managed uses of the stream system are permitted but should be located outside of the Stream Side Zone where practical (see Appendix A). Under certain circumstances, sanitary and storm sewers will need to be located within the buffer and sometimes within the Stream Side Zone. These circumstances should be minimized whenever practical and will require specific restoration as specified below under "Mitigation." Charlotte Mecklenburg Utilities (CMU) will determine the appropriate location for all sanitary sewer facilities. Buffer disturbances for managed uses should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities in the Stream Side Zone, then if greenway trails are built they should follow these cleared areas instead of additional clearing. Examples of managed uses include:

- ***construction of greenway trails;***
- ***installation of utilities;***
- ***installation of storm water best management practices; and***
- ***near perpendicular crossings by roads, driveways and utilities.***

Scope:

Protection will be provided for stream sections draining between 0 and 100 acres by a variety of options currently being considered by the Storm Water Advisory Committee (SWAC) as described in Appendix B. Development of these options will be coordinated with the SWIM Panel. Stream buffer requirements will begin at the point on a stream segment where the upstream drainage basin is equal to or greater than 100 acres. The buffer at this point will consist of a 20 foot stream side zone and a 15 foot upland zone on each side of the stream measured from the top of the stream bank. The total buffer width will be 35 feet. At 300 acres or greater the three-zone urban stream buffer system will be required (see Appendix A).

Total buffer widths will equal 50 feet on each side of the stream measured from the top of the stream bank. At 640 acres or greater the three zone buffer increases to a total width of 100 feet measured from the top of the stream bank or the 100 year floodplain whichever is greater The County will map all lands requiring buffers using Geographic Information System (GIS) technology to make it clear to the public the lands that are subject to buffer requirements The map can be adjusted based on better information

Buffer Widths:

Buffer widths vary based on the size of the drainage basin as described above. The varying widths are deemed necessary in order to fulfill all the primary natural functions of a stream system as specified in the above "Purpose." Buffer widths are measured in three (3) zones as described in the table below. The outside boundary of the buffer zone must be clearly identified in the field. Separate buffer zones should be identified at stream crossings where possible. The buffer location and all buffer requirements must be specified on the record plat.

Area Designation	*Stream Side Zone*	*Managed Use Zone*	*Upland Zone*	*Total Width of Buffer*
*0 to 100 acres**				
≥ 100 acres	*20 feet with approved vegetative cover*	*None*	*15 feet*	*35 feet*
≥ 300 acres	*20 feet*	*20 feet*	*10 feet*	*50 feet*
≥ 640 acres	*30 feet*	*45 feet*	*25 feet* or 100 yr floodplain whichever is greater	*100 feet* or 100 yr floodplain whichever is greater

** This is currently under consideration by SWAC. See Appendix B.*

Pollutant Removal Targets:

The following pollutant removal targets are recommended for the three-zone buffer system. These targets represent optimum buffer performance which can be achieved depending on numerous site specific factors.

- ***Sediment*** ***75%***
- ***Total Nitrogen*** ***40%***
- ***Total Phosphorus*** ***50%***
- ***Trace Metals*** ***60%***
- ***Hydrocarbons*** ***75%***

Description Of Each Zone:

Characteristics	*Stream Side Zone*	*Managed Use Zone*	*Upland Zone*
Function	*Protect the physical integrity of the ecosystems*	*Provide distance between upland development and the stream side zone*	*Prevent encroachment and filter runoff*
Vegetation	*Undisturbed mature forest, reforest if grass or disturbed*	*Managed forest, some clearing allowed*	*Forest encouraged but usually grass*
Uses	*Very restricted - Permitted uses limited to: flood control and bank stabilization. Land disturbances prohibited except for specified managed uses when no practical alternative exists*	*Restricted - Permitted uses limited to: some recreational activities, storm water best management practices (BMPs), greenway trails, bike paths, and all managed uses*	*Restricted - Permitted uses limited to: lawns, gardens, BMPs, minimal impervious cover including paved trails, storage buildings (no commercial bldgs. or occupied structures allowed)*

Mitigation:

I. Purpose

The purpose of this section is to set forth the basis on which mitigation is required for unavoidable or requested buffer impacts resulting from unpermitted uses within any of the buffer zones (see above "Description of Each Zone") Mitigation is an effort to maintain or improve the level of natural resource conservation and water quality protection while permitting temporary or permanent loss of stream buffer. This mitigation basis shall allow the property owner or other entity (CMU, public utilities, etc.) the opportunity to impact a buffer, provided that steps are taken to offset the buffer loss. To the extent approval is required, any person or entity seeking approval of a buffer impact shall submit the requisite site and mitigation information for approval to appropriate agencies prior to any buffer disturbance.

II. Permitted Impacts

Certain buffer impacts will not be required to provide mitigation but are required to provide stabilization of disturbed areas. Guidelines will be established and implemented as appropriate to minimize negative water quality impacts from disturbances of the buffer Except as otherwise noted herein, buffer impacts described under this section do not require specific plan approval. These impacts include:

1 Near perpendicular (75 ° or greater) road crossings for connectivity or transportation links where site plan approval has been granted by the Charlotte

Mecklenburg Planning Commission, or applicable governing authority

2. *Near perpendicular (75 ° or greater) utility crossings.*
3. *Parallel utility installation where evidence is provided to demonstrate a logical and appropriate basis for the proposed impact, and where disturbance of the Stream Side Zone is minimized to the maximum extent practicable. CMU shall develop and enforce guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation as part of their collection system. CMU guidelines will also apply for disturbances caused by private utility installations.*
4. *Public paths and trails, parallel to the creek outside the streamside zone and near perpendicular stream crossings; however, pathways shall use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.*
5. *Incidental drainage improvements/repairs for maintenance.*
6. *Individual pedestrian paths connecting homeowners to the creek or stream in the form of narrow, pervious footpaths with minimal tree disturbance as per relevant guidelines.*
7. *New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Creek crossing should be constructed and maintained to minimize impacts to the streamside zone with fencing perpendicular and through the buffer to direct animal movement.*
8. *Newly created ponds or lakes. (New ponds shall have the same buffers as the original creek, except that tree planting will not be required. Buffer requirements will not apply to dams.)*
9. *Mitigation approved by a State or Federal agency acting under Sections 401 or 404 of the Clean Water Act.*

III. *Impacts Requiring Plan Approval*

Other impacts to stream buffers not specifically enumerated in Section II, proposed to allow development or other land use, shall be required to mitigate or offset the proposed impact in accordance with this section. In all cases, the landowner or other entity proposing the impact shall prepare and submit for approval a site specific plan, showing the extent of the proposed impacts and proposed mitigation, for review and approval by the appropriate agency.

A. *Impacts Requiring Mitigation*

All impacts not covered under Section II require mitigation and plan approval. The following types of impacts, unless covered under Section II, are representative of the types of buffer impacts which require mitigation plan approval:

- *Angled street and utility crossings (<75 °)*
- *Filling, or piping of stream or creeks*
- *Clear cutting of stream banks (streamside zone)*
- *Paths proposed within the streamside zone*

- *Creek relocations*
- *Fences and walls requiring tree removal in the streamside or managed use zones*

CMU will develop and implement mitigation policies and guidelines for water and sewer crossings within its system.

B. *Pre-Approved Mitigation Techniques*

The following techniques are available to landowners for mitigation of buffer impacts, upon review and approval of a specific site plan by the appropriate agency:

1. *Installation of Structural BMPs - The installation of an on-site structural BMP designed to achieve the pollutant removal rates specified on page 2 under "Pollutant Removal Targets" will allow for all requested stream buffer impacts on the specific site. The BMP should remain outside the streamside zone if practical. A detailed BMP design plan must be submitted to the appropriate City/County agency for approval. The BMP must comply with all applicable City/County specifications.*
2. *Stream Restoration - The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements, and streamside and managed use zone replanting, in accordance with established guidelines.*
3. *Stream Preservation - The Owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey the land to the City/County or other conservation organization.*
4. *Wetlands Restoration - On a 2.1 acreage basis for impacted stream and buffer area (2 acres of wetland for each acre of disturbed area), the Owner may provide a combination of the preservation and/or restoration of wetlands with protective easement and the implementation of stormwater management to achieve the established Pollutant Removal Targets within the impacted area.*
5. *Bottomland Hardwood Preservation - On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the Owner may provide a combination of the preservation of existing bottomland hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of stormwater management to achieve the established Pollutant Removal Targets within the impacted area.*
6. *Controlled Impervious Cover - The Owner may commit to, and provide, a specific site development plan that limits overall site impervious cover*

to equal or less than 24% Development on this basis shall allow for stream buffer impacts on the specific site. Preservation of the stream side zone is encouraged.

7. *Open Space Development - The submission of a specific site development plan which preserves 50% of the total land area as undisturbed open space will allow for all requested stream buffer impacts on the specific site.*
8. *Mitigation Credits - The purchase of mitigation credits through the stream restoration program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the appropriate City/County agency. Mitigation credits purchased under any other program (i.e., U.S. Army Corp Of Engineers (USACOE)) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate City/County agency.*

C. *Other Mitigation Techniques*

No provision of this ordinance shall prevent the creative development of alternative mitigation plans. The Owner shall submit such plan with proposed buffer impacts and detailed mitigation information for approval. The criteria used to judge the acceptability of any alternative plan shall be the degree to which the plan addresses the preservation of the four primary natural functions of stream buffers. Such plans may be submitted in conjunction with a mitigation plan submission to the USACOE and N.C. Department of Environment and Natural Resources for proposed stream or wetland impacts. The City/County Approval Agency, when considering proposed mitigation alternatives, shall give equal weight to proposals which utilize the preservation of unique or endangered habitat or natural areas against proposed buffer impacts.

Development Incentives:

The following incentives are recommended to offset potential negative impacts of buffer requirements on development:

1. *Promote and encourage establishment of buffers through Conservation Easements and establish a local effort/program for receiving such easements (see Appendix C).*
   a. *Facilitate the donation of Conservation Easements on lands that protect water quality in perpetuity.*
   b. *Purchase easements for buffer lands where mutually agreeable to the City/County and property owners.*
2. *Purchase or accept fee simple donations of buffer lands.*
3. *Relax lot setback requirements to accommodate the encroachment of the buffer into the developable area of a lot. The buffer can be included in the setback requirements (i.e. rear and/or front yards) The more restrictive requirements would apply*
4. *Allow the reduction of lot sizes on tracts that have buffers. For example, a one-for-one credit in lot size reduction for each square foot of buffer. This reduction could*

translate into allowing a variety of housing types (i.e. cluster, zero lot line, and neo-traditional).

5. *Buffer area can be used in satisfying the open space requirements if in common open space. Also, allow the development of some of this area for passive park use.*
6. *So long as total buffer width is maintained, allow the buffer to vary in width on either side of the stream based on individual stream side topography. For example, if the floodplain is less than 100 feet wide and drainage is away from the stream, the buffer width extends only to the floodplain boundary and the buffer on the other side is expanded, if necessary, to a combined width of not less than 200 feet.*
7. *Detention and water quality BMPs required elsewhere on a site can be located inside an additional stream buffer above what is required without mitigation. Buffers are recognized as water quality BMPs.*
8. *A density bonus over the density normally allowed in the underlying zoning district may be approved for those projects that designate the stream buffer as common open space or provide stream buffers greater than the minimum requirement.*

It is further recommended that there be a careful investigation into the development of an incentive for the off-site transfer of development rights (TDR) within certain carefully established parameters and subject to interlocal agreements across jurisdictions.

Grandfathering:

1. *Existing development, as defined for the purposes of this section, includes projects for which a certificate of compliance or building permit has been issued, projects for which a preliminary plat has been approved, property or lots which have been subdivided by a recorded instrument (either a plat or metes and bounds description), or a project or property which has established a vested property right under state law or a local ordinance, as of the effective date of this ordinance.*
2. *Existing development is not subject to the buffer requirements of this plan.*
3. Redevelopment of existing development is subject to the buffer requirements of this plan only if such redevelopment involves a change in use (such as from single family to multifamily) or if redevelopment results in an increase in total impervious cover Efforts to improve water quality should be implemented where practical
4. Expansion of a structure that is existing development is not subject to the buffer requirements of this plan

Enforcement:

For efficiency and effectiveness, the administration of the buffer corridors established to protect rivers, creeks, ponds, etc. should be embodied within one office of county government, Environmental Protection. Certain functions, currently administered by such departments/agencies as Stormwater Management, Park and Recreation, Utilities, Engineering,
and Planning, should be coordinated with that office. In general, the responsibilities of the

office would include:

1. *Education of landowners, developers, and the public in general as to the objectives, benefits, and requirements of the program including encouragement of donations of buffer land (fee-simple and easement) and permissible activities within regulated areas.*
2. *Monitoring of water quality and participation in water quantity management.*
3. *Participation in the review of plans for proposed land-disturbing activities within the buffers, including greenways, stormwater facilities, utilities, roads, etc., as well as residential/commercial development.*
4. *Enforcement of buffer standards in cooperation with Zoning/Building Standards on private and public land within the regulated corridors. Zoning/Building Standards inspectors should focus on newly-developing areas. Some areas of special ecological sensitivity ("natural heritage areas") should be managed in consultation with the Environmental Conservation Division of the Park and /Recreation Department.*
5. *Provide staff support for the SWIMR Commission described below.*

In order to provide public oversight and input to the program, a body of interested citizens referred to as the Surface Water Improvement and Management Review (SWIMR) Commission will be selected from (or designated by) the following entities (Individuals should be present or past members, providing a demonstrable knowledge base.):

1. *Board of County Commissioners (preferably, a past Board member)*
2. *Charlotte City Council*
3. *Northern Town Councils (Huntersville, Cornelius and Davidson)*
4. *Southern Town Councils (Pineville, Matthews and Mint Hill)*
5. *Planning Commission*
6. *Environmental Protection Commission*
7. *Parks and Recreation Commission*
8. *Storm Water Advisory Committee*
9. *Building Development Commission*
10. *CMUD Advisory Committee*
11. *Member of one of the Lake Marine Commissions*

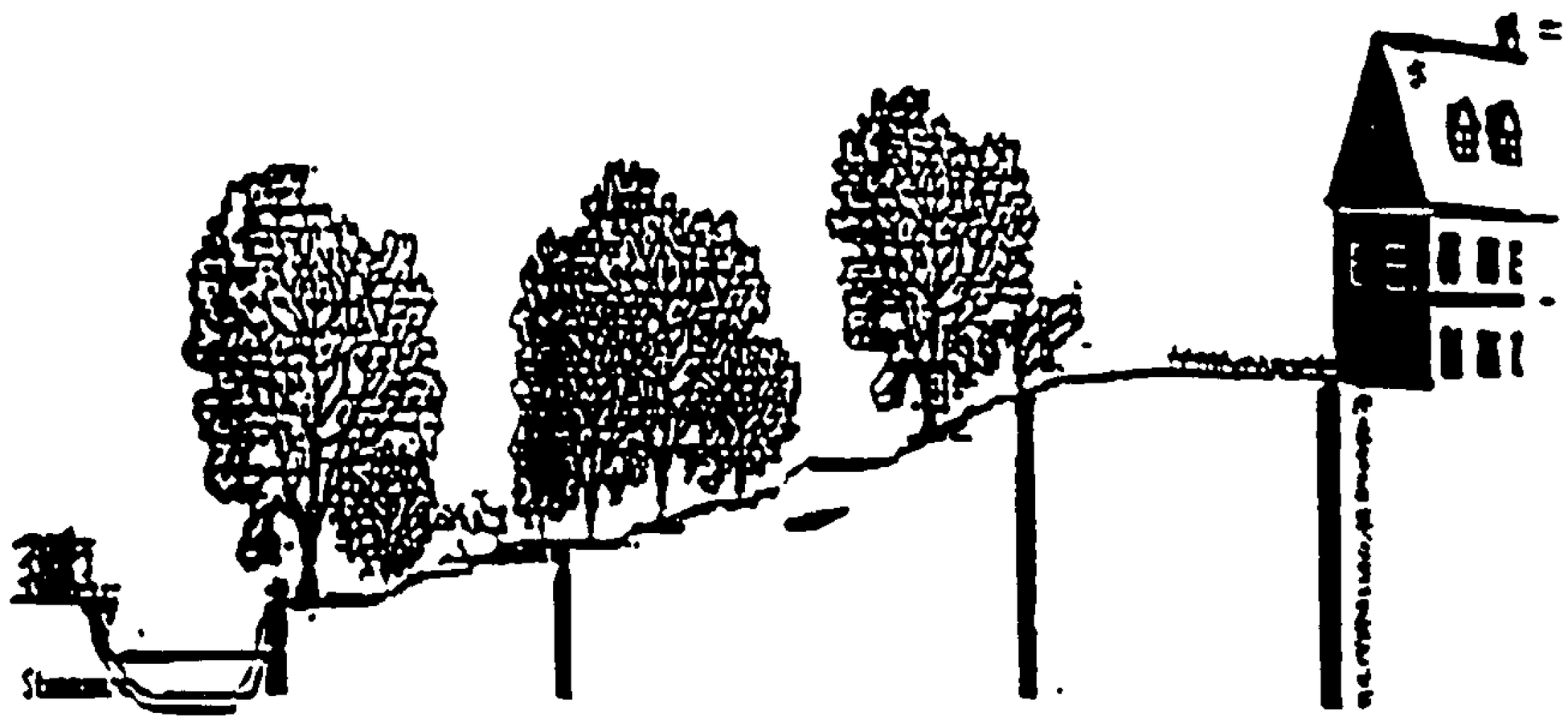
The SWIMR Commission would solicit two (2) additional voting members, one from an environmental organization and one from a development organization of its choosing. The Chair of SWIMR will be designated by the Board of County Commissioners. Sufficient staff should be employed and a detailed administrative plan should be developed to ensure the adequate enforcement of the buffer requirements. Buffer enforcement should be tied into the building/occupancy permit process for new development and redevelopment, with Building Standards Department assisting in the enforcement process. Buffers and buffer requirements will be recorded on subdivision plats. An effective educational program should be undertaken to properly inform the public of all buffer requirements. Enforcement of the regulations should be preceded by the adoption of compliance incentives. Fines for violations of buffer requirements should be sufficiently high to deter noncompliance.

Ownership:

The buffer program may incorporate a variety of ownership structures, within the requirements of this buffer program. Buffers may be:

1. ***Owned, managed and controlled by the public;***
2. ***Owned, managed and controlled by a property owners' or homeowners' association, or a non-profit conservation organization;***
3. ***Owned by a private property owner, but subject to a conservation easement;***
4. ***Owned by a private property owner, but only subject to the requirements of this buffer program; or***
5. ***Other ownership or control mechanisms as may be devised and approved by SWIMR.***

Appendix A
The Three-Zone Urban Stream Buffer System



Appendix B
0 to 100 Acres
Storm Water Advisory Committee

The Storm Water Advisory Committee (SWAC) is currently considering that project designers demonstrate that a proposed development will not alter stable conditions within stream channels which drain between 0 and 100 acres If stable conditions can not be adequately demonstrated, then one of the three (3) options described below must be utilized to protect the stream channel from erosion due to development activities Channel erosion impacts water quality conditions in a stream by increasing sediment loads but the primary purpose of these options is not water quality but channel stabilization Therefore, SWAC has taken the lead in the development of these options coordinating with SWIM Water quality related buffer requirements begin at streams draining 100 acres and greater as specified in the attached report

Three Options

1 Channel remains completely undisturbed during construction and a 20 foot wide minimum stream corridor (PSDE) measured from the center of the stream channel is established for drainage areas up to 45 acres and a 30 foot wide minimum PSDE is established between 45 and 100 acres These stream corridors must convey the runoff from the 10-year storm within their boundaries or the PSDE widths must be increased The PSDE may not be altered in any way with the exceptions of uses as identified in the "Description of Each Zone" described in the attached report There will however be no requirement to establish vegetation if there is none existing

2 Channel is altered during development and subsequently stabilized using "natural" channel design techniques such as soil bioengineering

3 Channel is altered during development and subsequently stabilized using traditional channel design techniques such as rip rap lined trapezoid shape

Appendix C
Conservation Easements

While much of the land in the buffer network will remain totally in private hands, hopefully, there will be a sizeable increase in donations of land or of easements-for the SWIM program, whether explicitly for stream buffers, greenways, stormwater management, or utility lines, or for the "green infrastructure" in general Obviously, the more of the critical buffer land obtained through donation, the less will have to be acquired Conservation Easements are an effective tool for securing these lands

A Conservation Easement is a written agreement between a landowner and a qualified conservation organization or public agency to preserve the conservation values of land in perpetuity, without extensive disturbance Conservation Easements offer the following benefits for the landowner

1 State and Federal tax incentives (credits) are available to the donator of the property A North Carolina tax credit of up to $250,000 for an individual and $500,000 for a corporation is available through the donation of property interest on any project Any unused portion of the credit can be carried forward for up to five (5) consecutive years All donated property interest value, in excess of the N C credit taken, can be deducted on the N C return as a charitable contribution with no limitation A Federal tax deduction is available for the donated property interest with no limitation

2 County property tax reductions are likely for donated properties The amount of the property tax reduction is determined by the (presumed) reduction in the appraised value of the property after the easement is in place

3 Conservation Easements allow the citizen to retain ownership of the property

4 Conservation Easements provide an assurance as to activities which can occur on the property for perpetuity

5 Placing a conservation easement on the properties acquired in fee simple, as well as those that were donated outright, would ensure that these elements of the "green infrastructure" were never converted to non-buffer uses These easements might be written so as to selectively allow future usage of the buffers for such purposes as stormwater BMPs, greenway expansions, etc

Initially, it is proposed that the Mecklenburg County Parks and Recreation Department be the holder of these easements since they have considerable experience with easements for greenway purposes As the number of easements increases, it may become desirable to create a public land trust The public land trust would need to

1 Periodically monitor properties held in trust to ensure that the terms of the easement are upheld

2 Enforce the terms of the easement in court, if necessary, should the administering agency fail to protect the conservation values

COUNCIL WORKSHOP AGENDA ITEM SUMMARY

TOPIC: Proposed Surface Water Improvement and Management (SWIM) Policy

COUNCIL FOCUS AREA: Economic Development

STAFF RESOURCE: Jeb Blackwell

KEY POINTS:

- In 1996, Mecklenburg Board of County Commissioners adopted a goal for all Mecklenburg County waters to be suitable for human contact and supportive of aquatic life The Commissioners created the SWIM Advisory Board and charged them with this goal in February 1997
- The proposed SWIM Buffer Policy would protect natural buffers along creeks draining over 100 acres This would benefit stream water quality, complement flood control and preserve open space
- The proposed SWIM Buffer Policy is a consensus document endorsed by a diverse panel (see attachment) The SWIM panel had over 50 meetings and several public hearings to reach consensus The policy has been unanimously approved by the Storm Water Advisory Committee (SWAC)
- The City of Charlotte jurisdiction covers the largest area affected by the proposed policy
- Mecklenburg County and the six towns are also evaluating this proposed policy
- Adoption of the SWIM Buffer Policy at a future City Council meeting will guide staff in developing revisions to appropriate land use ordinances for future City Council review and approval

COUNCIL DECISION OR DIRECTION REQUESTED: Council will be briefed on the proposed policy Council may wish to refer the proposal to a Council Committee prior to taking action on the policy at a later date

ATTACHMENTS: SWIM Advisory Board Membership, Summary of SWIM Accomplishments and SWIM Phase I

SWIM Advisory Board Membership

SWIM Citizen Advisory Board

- Mahlon Adams - Planning Commission
- Roy Alexander - Parks and Recreation Commission
- Doug Boone/Steve Schreiner - Charlotte Chamber of Commerce
- Ron Bryant - Lake Wylie Marine Commission
- Mark Cramer - Real Estate and Building Development Coalition
- Mark Helms - Sierra Club
- Mark Houle - Building Development Commission
- George Hutchinson - Environmental Protection Commission
- Gary Long/Dale Stewart - Charlotte/Mecklenburg Utility Department Advisory Board
- Ron Morgan - Queen City Congress
- Henry Pharr/Shay Baird - Storm Water Advisory Committee
- Dr Carlton Watkins - Human Services Council
- Kerry Watts - Home Builders Association

SWIM Staff

- Barry Gullett - Charlotte Mecklenburg Utilities
- Tom Hunter - Charlotte Mecklenburg Utilities
- Linda Beverly - Planning Commission
- Nancy Brunnemer - Parks and Recreation
- Dave Canaan - Mecklenburg Co Engineering and Building Standards
- Kia Whittlesey - Mecklenburg Co Engineering and Building Standards
- Julie Stahl - Charlotte Storm Water Services
- Neil Luther - Greenway Planner
- Don Willard - Mecklenburg Co Environmental Protection
- Rusty Rozzelle - Mecklenburg Co Environmental Protection

Summary of SWIM Accomplishments

Many of the over 3000 miles of streams in Mecklenburg County have become polluted and are being underutilized as a community resource. On October 15, 1996, the Mecklenburg County Board of County Commissioners (Board) took a stand in support of clean, useable creeks in our community through the adoption of our first "Creek Use Policy" calling for all Mecklenburg County surface waters to be suitable for human contact and supportive of aquatic life. Currently only about 15% of Mecklenburg County's creeks meet this policy statement. Much work is needed to protect our cleaner streams and those streams with poorer water quality must be restored. This effort in Mecklenburg County is being referred to as Surface Water Improvement and Management or SWIM. A panel of stakeholders (SWIM Citizen Advisory Panel) has been working diligently with SWIM Staff toward the fulfillment of the Board's policy statement since February 1997

The SWIM Panel has achieved two major accomplishments over the past two (2) years

1 In April 1998, the Panel ***reached consensus*** on a nine (9) part stream restoration plan which was funded by the Board beginning in FY1998-1999 The overall objective of this plan is to initiate the basic steps necessary to move Mecklenburg County toward meeting the Board's Creek Use Policy

2 In January 1999, the Panel ***reached consensus*** on a plan to establish buffers along our creeks which will filter pollutants, store floodwater and provide much needed green space in our rapidly growing community The stream buffer plan calls for a three zoned buffer system with increased use restrictions closer to the stream bank The width of these buffers increases as you move downstream based on the size of the drainage basin The smallest buffer measures 35 feet from the top of the bank on each side of the stream The largest buffer measures 100 feet plus one half the area of the floodfringe on each side of the creek This stream buffer plan will be presented to the Board for consideration on April 20, 1999

SWIM Phase I

PART 1 ENHANCE ENFORCEMENT OF EROSION & SEDIMENTATION CONTROL ORDINANCES. Consistently enforce erosion and sedimentation control ordinances Increase inspection/enforcement activities for both the City and County

PART 2. ENHANCE ENFORCEMENT OF CURRENT BUFFERS REQUIRED IN REGULATED WATER SUPPLY WATERSHEDS. Consistently enforce buffer requirements within the regulated water supply watersheds Increase inspection/enforcement activities for both the City and County

PART 3. ESTABLISH AND MAINTAIN VEGETATIVE STREAM BUFFERS. Plan where and how to effectively use vegetative buffers along streams beginning with but not limited to perennial streams

PART 4. ADDRESS ELEVATED LEVELS OF FECAL COLIFORM BACTERIA. SWIM Staff should work closely with CMUD and other agencies to identify elevated levels of fecal coliform

PART 5. IMPLEMENT COUNTYWIDE WATER QUALITY MODELING. Establish a 'state-of-the-art" countywide computerized water quality modeling effort

PART 6. ENHANCE WATER QUALITY MONITORING. Enhance current water quality monitoring efforts to support the water quality model and to better identify sources of pollution, particularly fecal coliform bacteria and sediment

PART 7. IMPROVE COORDINATION. Improve coordination and cooperation between the Engineering, Environmental Protection Storm Water Services, Park and Recreation, CMUD and Planning Commission departments to address water quality issues

PART 8. CONDUCT STREAM INVENTORY AND ASSESSMENT. Complete an inventory and assessment of Mecklenburg County's stream systems to map aquatic habitats and identify the potential location for community scale BMP's (as opposed to BMP's that are small scale and specific to individual properties) Identify environmentally sensitive areas that need protection

PART 9. INCREASE PUBLIC EDUCATION AND AWARENESS. Create a new staff position, with appropriate resources dedicated to increasing public awareness concerning water quality issues Create stakeholder partnerships to correct water quality problems

COUNCIL WORKSHOP
AGENDA ITEM SUMMARY

TOPIC: Workforce Development Board Report

COUNCIL FOCUS AREA: City Within A City & Economic Development

STAFF RESOURCE: Stanley Watkins

KEY POINTS (Issues, Cost, Change in Policy):

- In 1985, the City of Charlotte and Mecklenburg County entered into an agreement allowing the City to act as administrative and fiscal agent for the Job Training Partnership Act

- On August 7, 1998, the Workforce Investment Act (WIA) replaced the Job Training Partnership Act Also in 1998, the City received Welfare-to-Work Grant funds These funds are designed to provide the hard-to-employ welfare recipient with skills necessary to secure and maintain employment eliminating their dependency on public assistance

- At the City Council Workshop, Chris Rolfe, Charlotte-Mecklenburg Workforce Development Board Chairman, will brief Council on recent changes to workforce development as a result of the Workforce Investment Act of 1998 With this Act, Workforce Development Boards and local elected officials have the flexibility to create a One-Stop Career Center System as the service delivery mechanism for employment and training activities In North Carolina, this One-Stop system is referred to as the JobLink Career Center System

- Chris Rolfe's presentation is in preparation for an amendment to update the Charlotte-Mecklenburg Workforce Investment Consortium Agreement between the City of Charlotte and Mecklenburg County Council will be asked to approve the amendment on April 12, 1999

- The purpose of the amended Charlotte-Mecklenburg Workforce Investment Consortium Agreement is to establish a single service delivery area for the City of Charlotte and Mecklenburg County for the purpose of delivering employment and job training activities under the Workforce Investment Act of 1998

- The Mecklenburg County Board of Commissioners will also review the amendment to update the Charlotte-Mecklenburg Workforce Investment Consortium Agreement at their April 6, 1999 meeting

OPTIONS: N/A

COUNCIL DECISION OR DIRECTION REQUESTED: This presentation is to brief Council about changes in workforce development as a result of the Workforce Investment Act of 1998 The amendment to update the Charlotte-Mecklenburg Workforce Investment Consortium Agreement will be on the April 12, 1999 City Council agenda

ATTACHMENTS: None

COUNCIL WORKSHOP
AGENDA ITEM SUMMARY

TOPIC: Planning For Our Future

Assessment of the 2015 plan implementation recommendations and other planning initiatives

COUNCIL FOCUS AREA: Economic Development

STAFF RESOURCE: Martin Cramton

KEY POINTS (Issues, Cost, Change in Policy):

- Charlotte has experienced considerable change over the past 20 years and this will continue over the next 25 years By 2025, Charlotte could reach a total population of 760,000 people Correspondingly, many changes will occur in housing, jobs, demographic composition and other features of the City

- Charlotte City Council has been a leader in addressing change through its many successful planning and policy initiatives Examples of include the following Focus Area Plans, 2015 Plan, 2025 Transit Land Use Plan, Center City 2010 Plan, School Facilities Master Plan, Westside and Eastside Strategy Plans, Airport Master Plan, Neighborhood and Corridor Plans, Housing Strategy, and, a host of others

- The challenge before us, however, is to stay current with evolving growth and development issues Also, we can pursue opportunities to work together across jurisdictional lines It is important to recognize our success, while at the same time sharpening our focus on plan or policy gaps and opportunities for collaboration

- Last year, based upon the recommendation of Planning Liaison Committee, City Council and the Mecklenburg Board of Commissioners endorsed the idea of proceeding with an inventory of plans and policies This initiative was to identify policy gaps or conflicts and opportunities to sharpen our future planning focus Other work priorities prevented this effort from getting underway Now, we are prepared to proceed

- The Mecklenburg County Board of Commissioners has approved $25,000 for the initial Inventory stage of this project These funds will be used for contract services to assist in the inventory work The Planning Liaison Committee as well as City Council and the County Commission previously endorsed this effort Other priorities have prevented carrying out this effort

- The entire project approved by the County includes an assessment phase This involves setting up a stakeholders group to review and evaluate the inventory work

- The stakeholders group will be charged with highlighting significant outstanding planning issues, policy gaps and action steps Emphasis is to be placed on matters involving coordination or collaboration among organizations

- The stakeholders group is proposed to be established much like the Housing Strategy Group Most members would be designated from interest groups with several appointed by the City Council/Mayor and County Commission Planning Liaison Committee can work out the details

- Public communications activities will be included in the project, however, involvement is principally provided through the stakeholders group Individual recommendations of the stakeholders would be subject to additional involvement activities

- It is intended this effort be completed by the end of 1999 This sets a planning and policy agenda for the post 2000 period It also stresses opportunities of regional collaboration and coordination A wide variety of local and regional initiatives will require City Council to determine how they fit together and impact existing policies This effort will assist in that evaluation

- Total project cost is estimated at $50,000 of which the County has appropriated one half These funds will support the inventory phase of the study

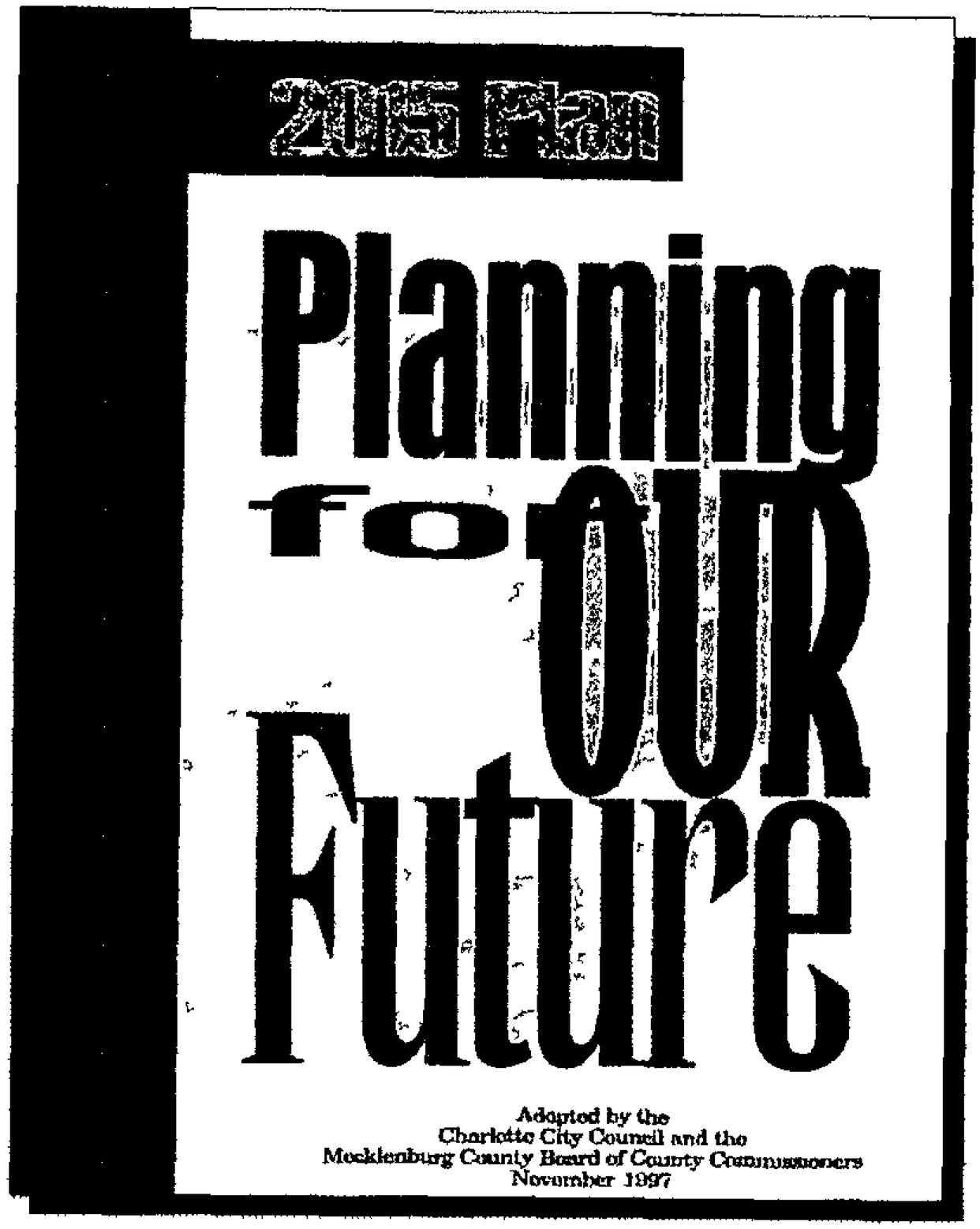
- The remaining $25,000 is requested from the City of Charlotte This can be authorized now or as part of FY 2000 Budget. These funds will support the assessment phase and final report production

OPTIONS: N/A

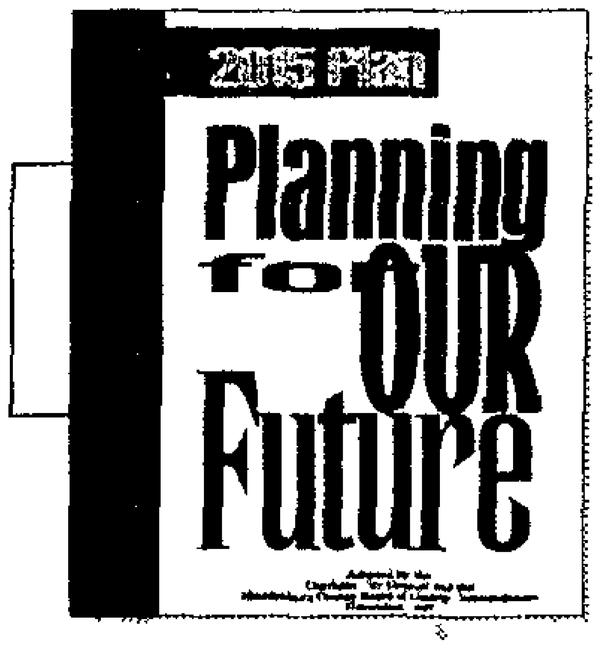
COUNCIL DECISION OR DIRECTION REQUESTED: Council will be asked to approve $25,000 as the City's share for the project as part of the FY 2000 budget

ATTACHMENTS: Planning for Our Future Process

Not whether, but how shall we grow in the 21 St. Century



Sharpening the planning focus begins with existing plans and policies



What are we doing, and What else needs to be done?

1998 approval

Inventory Phase

Growth and development features, plans and policies

Organize

25 Member

Citizens

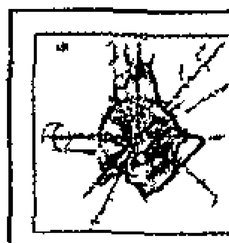
Roundtable

Assessment Phase

Inventory key issues and policy gaps as well as opportunities

Roundtable

Membership	*Examples*
Neighborhoods	4
Business	3
Environment	3
Development	3
Civic	3
Culture	2
Social Services	1
Professional	2
Minority Organizations	2
Other	2
	25



Report

- *Existing Conditions*
- *Actions*
- *Next Steps*

Stakeholder Roundtable Meetings

Stakeholder *Orientation*

Process & Inventory

Joint meeting report to Elected Bodies

Planning Liaison Committee - Monitoring

Kick-off Public Event

Wrap-up Public Event

Public Information Initiatives

Jan *April* *5* *6* *7* *8* *9* *October*

COUNCIL WORKSHOP
AGENDA ITEM SUMMARY

TOPIC: Charlotte-Mecklenburg Utilities' 1998 Water Quality Report

COUNCIL FOCUS AREA: Economic Development/Public Safety

STAFF RESOURCE: Doug Bean

KEY POINTS (Issues, Cost, Change in Policy):

- The purpose of this item is to brief Council on the Utilities' 1998 Water Quality Report
- The report is federally mandated as part of 1996 Safe Drinking Water Act Amendments It is designed to provide product safety information to the consumers of Utilities' drinking water
- The City's drinking water is clean and safe
- The report will be mailed April 12, 1999, to all addresses in Mecklenburg County

OPTIONS: N/A

COUNCIL DECISION OR DIRECTION REQUESTED: This item is for Council information only No action is being requested

ATTACHMENTS: Charlotte-Mecklenburg Utilities' 1999 Water Quality Report is included in the Council packet

CITY OF CHARLOTTE
CITY ATTORNEY'S OFFICE

MEMORANDUM

DATE April 5, 1999

TO Mayor and Council

FROM H Michael Boyd
Senior Deputy City Attorney

RE Financial assistance to water customers affected by the change in water pressure zone boundaries

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Charlotte-Mecklenburg Utilities is increasing the water pressure in a portion of the City water distribution system which has experienced low water pressure during periods of high demand This increase will be accomplished by incorporating the low water pressure area into an adjacent water pressure zone with higher water pressure This Office has been asked if City utility revenues can pay for the expenses incurred by City water customers who install pressure reducing valves in their private plumbing systems to protect their plumbing systems and appliances from the effects of the higher water pressure

Generally speaking, courts require an expenditure of public funds be for a public use or purpose " [F]or a use to be public its benefits must be in common and not for particular persons, interests, or estates, the ultimate net gain or advantage must be the public's as contradistinguished from that of an individual or private entity " *Mitchell v Financing Authority*, 273 NC 137, 144 (1968) Where there are both public and private benefits arising from a public expenditure, a court will weigh the private benefit against the public benefit If the court finds that the private benefit predominates, the expenditure of public funds will be declared unlawful Lawrence, *Local Government Finance in North Carolina*, 2nd Ed p 8 Courts will often find the existence of a public purpose where a statute authorizes a particular expenditure Here, there is no clear statutory authority

Based upon this analysis, it is my opinion that the City does not have the authority to pay for the installation of pressure reducing valves by City water customers in their private plumbing systems from utility revenues. (Both the City and County administer financial assistance programs for low and moderate income home owners which will pay for the installation of pressure reducing valves to qualified applicants)

However, the City may offer a no-interest loan to affected customers and property owners to cover the reasonable costs of installing a pressure reducing valve Admittedly, the legal authority to make such loans is not clear There are several factors weighing in favor of the City providing this limited assistance Those factors include the short period of time when customers must install pressure reducing valves, the customer's need for a pressure reducing valve arises from changes in City operations and the fact that the loan will be repaid within a relatively short period of time Under such special circumstances it is my opinion that a reasonable loan program can be offered

c Pam Syfert
Mac McCarley
Doug Bean

COUNCIL WORKSHOP
AGENDA ITEM SUMMARY

TOPIC: Recommended Loan Program For Water Pressure Reduction Valves

COUNCIL FOCUS AREA: Economic Development

STAFF RESOURCE: Doug Bean

KEY POINTS (Issues, Cost, Change in Policy):

- At Council's March 22, 1999, dinner meeting, Doug Bean, Utilities Key Business Executive made a presentation concerning the change in water pressure zone boundaries in the East Independence Boulevard and Matthews area The change will be made to improve water pressure to this area After March 22 presentation, Council requested that this item be brought back for additional discussion

- A financial assistance program is recommended to provide loans for the installation of pressure reducing valves (PRV) that are necessary because of change in the pressure zone boundaries of Charlotte Mecklenburg Utilities water distribution system These loans will be made available to customers that exceed the income levels of grant programs available through either Mecklenburg County Development or the City's Neighborhood Development Key Business

OPTIONS: Approve a loan or assume no financial responsibility

COUNCIL DECISION OR DIRECTION REQUESTED: Recommend adoption of 1) a resolution establishing a financial assistance program which would provide loans to customers requiring a pressure reducing valve and 2) an ordinance appropriating $1 5 million to fund the program Council will be asked to take action on this item immediately following Monday's Citizens' Forum

ATTACHMENTS: Request for Council Action

Request for Council Action

Financial Assistance To Charlotte-Mecklenburg Utilities' Customers For The Installation Of Pressure Reducing Valves (PRV) Related To Pressure Zone Boundary Changes.

Action:

A Approve a resolution that establishes a financial assistance program for customers installing pressure reducing valves (PRV) as a result of pressure zone boundary changes initiated by Charlotte-Mecklenburg Utilities (Utilities)

B Approve an ordinance appropriating $1,500,000 from Utilities Fund Balance to a Pressure Reducing Valve Loan Program

Committee Chair: None

Staff Resource: Doug Bean

Focus Area None

Policy: None

Explanation of Request:

Utilities' customers with property in areas affected by changes made to pressure zone boundaries may be at risk of incurring damage to plumbing and appliances connected to plumbing To eliminate or reduce this risk, a pressure reducing valve (PRV) may need to be installed by a licensed plumber The cost for this installation varies depending on the meter size and location Most residential customers with a 3/4 inch connection will incur a cost of $200 to $300 The assistance program will provide no-interest loans not to exceed $300 for the 3/4 inch connections and not to exceed $600 for the 1 to 2 inch connections

The installation on larger size connections is more complex and can vary greatly For this reason, a standard cost per size cannot be established The program provides for loans on pressure reducing valves larger than 2 inches to be the actual cost up to a maximum loan amount of $5,000 The Utilities Director is authorized to review and adjust this amount when proof of unusual circumstances

exists

The following are the maximum loan amounts

Pressure Reducing Valve Size	Actual Up To
Up to 3/4 inch (typical residence)	$300
1 inch to 2 inch	$600
Above 2 inch	$5,000

The loans are to be repaid within one year in 12 equal monthly payments For future pressure zone changes, the Utility Director will have the authority to adjust maximum loan amounts to more accurately reflect actual costs

The budget ordinance is necessary to fund an estimate of the total cost of the assistance program

MWBD: None

Committee Discussion: None

Community Input: None

Summary of Bids: None

Funding: Utilities fund balance will fund the appropriation Unused funds and loan repayment will be returned to Utilities fund balance

Attachment _
None

Responsible KBU Charlotte-Mecklenburg Utilities

Agenda Date April 5, 1999

Consequences if Agenda Date is Delayed or Action is Deferred: None

Contact person for questions from the City Manager's Office Kathy Freeze - 391-5104

Does this action require a Budget Ordinance? Yes

Does this action require an Ordinance amending the City Code? No

Is a resolution necessary? No

A RESOLUTION PROVIDING FINANCIAL ASSISTANCE FOR THE INSTALLATION OF PRESSURE REDUCING VALVES FOR CERTAIN WATER CUSTOMERS/PROPERTY OWNERS OF THE CHARLOTTE-MECKLENBURG UTILITY DEPARTMENT AFFECTED BY A CHANGE IN THE BOUNDARIES OF A WATER PRESSURE ZONE

BE IT RESOLVED by the City of Charlotte, North Carolina

Section 1 Eligible water customers or property owners may apply for and the City of Charlotte, acting through the Charlotte-Mecklenburg Utility Department, may provide the financial assistance set forth herein when the City proposes to change the boundaries of one or more of its water pressure zones and the Director of the Charlotte-Mecklenburg Utility Department ("Director") determines in his opinion that the following conditions will result

A A substantial increase will occur in the water pressure within the City's water distribution system in one or more water pressure zone(s) ("Affected Water Pressure Zone"),

B Water customers in the Affected Water Pressure Zone should take reasonable steps to evaluate the need for one or more pressure reducing valves ("PRV") to protect their private plumbing systems and property from the effects of the increase in water pressure,

Section 2 Before the change in the boundaries of the Affected Water Pressure Zone is implemented, the Director shall endeavor to cause notice of the change in the Affected Water Pressure Zone to be given to each City water customer whose water service connection is located in the Affected Water Pressure Zone by such means and at such time as the Director shall determine Such notice shall include the date of such notice ("Notice Date") and the date (or dates, if the change is implemented in phases) after which the boundaries of the Affected Water Pressure Zone will be changed ("Boundary Change Date") The Director may delay the Boundary Change Date in his sole discretion without notice

Section 3 A person or entity who is eligible for financial assistance in accordance with the terms of this Resolution is herein referenced as an "Eligible Customer" or "Eligible Owner " An Eligible Customer is the City water customer of record for a water service connection at the time that Eligible Work is performed directly related to that service connection An Eligible Owner is the owner of the plumbing system on which the Eligible Work is performed at the time such Work is performed but is not a City water customer of record at the time such Work is performed An Eligible Customer or Owner may not apply for financial assistance authorized by this Resolution and any other financial assistance program offered by the City, Mecklenburg County, any other governmental or private entity, unless the financial assistance provided hereunder is insufficient to pay the reasonable costs of the Eligible Work

Section 4 For purposes of this Resolution, Eligible Work is

A The installation of one or more PRV's (the number of PRV's installed being limited to no more than reasonably necessary) in a plumbing system serving an Eligible Customer or owned by an Eligible Owner,

B The installation of a PRV in a plumbing system that is served directly by a City water service connection located in the Affected Water Pressure Zone, and

C Performed after the Notice Date and on or before the thirtieth day after the Boundary Change Date by a licensed plumber in accordance with all applicable building and plumbing codes

Section 5 Subject to execution of a loan agreement/promissory note approved by the Director and the City Attorney which is consistent with the provisions of this Resolution and subject to the availability of appropriated funds, the City will loan the reasonable costs incurred by an Eligible Customer or Eligible Owner for Eligible Work subject to the following maximum amounts based upon the size of the PRV that is installed as part of the Eligible Work

PRV Size	Maximum Loan Amount/PRV
3/4 inch and smaller	$ 300
Larger than 3/4 inch and up to 2 inches	$ 600
Larger than 2 inches	$5,000

Section 6 The loan agreement/promissory note shall include the following terms and may include such additional terms and conditions as the Director and City Attorney may approve

A An invoice for the Eligible Work must be presented for approval by the City The invoice and any supplemental information provided by the Eligible Customer or Owner should permit a determination that the Eligible Work was performed and that the price charged for the Eligible Work is reasonable and does not include any charges for any material or service that is not part of the Eligible Work

B The loan amount will be based upon the approved invoice and will be paid jointly to the plumber performing the Eligible Work and the Eligible Customer or Owner, unless the invoice has already been paid, in which case, the loan amount will be paid to the Eligible Customer or Owner

C Re-payment in 12, substantially equal monthly installments, with the first payment due within 60 days of the execution of the promissory note

D No interest for the timely re-payment of the loan

E Water service to the premises may be terminated for failure to make timely

payments on the loan or for any material misrepresentation about the status of the Eligible Work, the Eligible Customer or Eligible Owner

F The entire, unpaid loan amount may be declared to be due and payable immediately upon failure to make any monthly payment in a timely manner or for any material misrepresentation about the status of the Eligible Work, the Eligible Customer or Eligible Owner,

G The recovery of reasonable collection expenses, including attorney fees and court costs, if all loan payments are not made in a timely manner

Section 7 The Director is authorized in his discretion to construe and apply the provisions of this Resolution in accordance with the intent and purpose of this Resolution, approve future, reasonable adjustments in the maximum loan amounts set forth in Section 6, authorize higher loan limits on a case by case basis where Eligible Customers or Owners face unusual circumstances or costs, allow hardship extensions to the loan term on a case by case basis, require submission of additional information concerning the installation of the pressure reducing valve on a case by case basis, including without limitation the need to install more than one PRV per water service connection and a copy of the inspection report of the PRV installation from the Mecklenburg County Building Standards Department, and establish a final date by which loan agreements/promissory notes must be signed for each change in the boundaries of an Affected Water Pressure Zone

Section 8 Neither the adoption nor the implementation of this Resolution is intended to, and shall not be construed to, create any enforceable duty by the City to provide notice of any increase in water pressure to any City water customer or other person or entity under any circumstances or any right in any City water customer or other person or entity to receive such notice Neither shall the adoption or implementation of this Resolution be construed to create any liability of the City to any City water customer or other person or entity for failure to provide any notice of any increase in water pressure The sole purpose of this Resolution is to adopt a policy authorizing financial assistance to certain persons and entities under the limited circumstances set forth herein This Resolution shall not be construed to become a part of any contract between the City and its current or future water customers and may be modified or rescinded by the City at any time

Section 9 The effective date of this Resolution is February 1, 1999

Adopted this _____ day of _____, 1999

Approved as to form

_____

City Attorney

ORDINANCE NO _____

AN ORDINANCE TO AMEND ORDINANCE NO. 1059-X, THE 1998-99 BUDGET ORDINANCE, TO PROVIDE APPROPRIATIONS FOR A UTILITIES PRESSURE REDUCING VALVE LOAN PROGRAM.

BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina,

Section 1 That the sum of $1,500,000 is hereby available from the Water and Sewer Fund (7101) fund balance

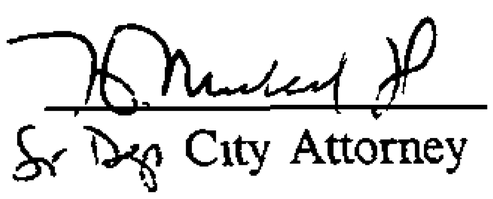
Section 2 That the sum of $1,500,000 is hereby appropriated for transfer to the Water and Sewer Capital Project Fund (2071) for the Pressure Reducing Valve Loan Program

Section 3 That the terms of repayment of the approved loans will be based on the Program's criteria

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed

Section 5. It is the intent of this ordinance to be effective upon adoption

Approved as to form



Sr Dep City Attorney