

**Cold Spring City Council
Special Meeting
July 28, 2009**

The special meeting of the Cold Spring City Council, as advertised, was called to order by Mayor Mark Stoeber. Members present were Lou Gerding, Brenda Helton, Rob Moore, Stuart Oehrle, Janis Reiman and Sandy Ross. Also present were City Receptionist Teresa Knauer, Administrative Officer Michael Vank and Attorney Brandon Voelker.

The purpose of this special meeting is to hold continuing discussions regarding research conducted by Mayor Mark Stoeber and City Administrative Officer Michael Vank with regard to the Sanitation District #1 Storm Water Interlocal Agreement. Mayor Stoeber reviewed the discussions regarding the draft of permit regulations for the second five-year cycle for Phase II cities. With the research done, council talked about moving forward with discussions on the withdrawal from the Interlocal Agreement with the Sanitation District; however, even the discussion documents were not out yet. Mayor Stoeber stated that they waited for those and more importantly waited to find out the essential differences between the second permit cycle and the first permit cycle. Research was concluded and he feels comfortable with the requirements on the first permit cycle.

In this research, the City Administrative Officer and Mayor had discussions with a local expert on the topic, and determined that the main addition in the second cycle is a monitoring requirement of the third part of the six requirements within the EPA. It is illicit discharge and basically mapping the streams in the discharging areas. That is where the first five-year permit cycle stopped. Cold Spring is considered Phase II permittees because of our size. There was a Phase I group of permittees which is for basically larger cities. Phase I permittees had monitoring built in to their first 5-year cycle. Our Phase II permit cycle has added this monitoring. General discussion was if this in fact was something the City can do effectively, whether through in-house or technical compliance through out-sourcing. The general feeling is that when we generate our own overall Stormwater Plan to comply with all EPA requirements, we would have the monitoring plan within that plan to comply with the second permit. Then we can find a proper technical expert, an environmental firm, to apply and do this necessary testing.

Mayor Stoeber added that this has nothing to do with sanitary sewers or with plain drinking water, this is totally storm water. Mayor Stoeber and Mr. Vank are comfortable that the City can find this type of expertise which is readily available. The cost ramifications of collections vs. expenses were reviewed. It is estimated that the collection, monitoring, and sampling (you have to do both wet and dry sampling) can be completely done within the budgets we're looking at and still very importantly put aside monies for things will know we have to do on a future as issues arise, on a go-forward basis.

Discussion followed.

Rob Moore verified with Mayor Stoeber that the Sanitation District has already done some water samples and that they have mapped and did some pinpointing of discharge sites and have found no issues. Michael Vank explained that samples have to be taken four times per year with samples of water that go into our system and as they go out. Mayor Stoeber stated that we could find someone directly to do this for the city.

Sandy Ross questioned if our public works department could perform this testing under the guidance of someone skilled in this area. Mayor Stoeber stated that they probably would not be able to do this because this would be actual collection of a sample and taking it to a lab. Stuart Oehrle stated you have to be certified and make sure of the chain of custody to ensure that it is in fact the sample that was taken. Janis Reiman stated that it would be best that it would not be one of our employees.

Stuart Oehrle questioned how much money has been collected from of our city for storm water, and how much was spent in our city for storm water. Mayor Stoeber stated \$1.78 million has been collected since October 2003, and he can't speak for how much SD1 has spent in the city, however, they do have maps because they did ask us to approve maps which they provided, with Woolpert being the engineering firm, and they had done some sampling.

Mick Vank stated that Attorney Brandon Voelker did an open records request from SD1 and approximately \$80,000 was expended out of the \$1.78 million. Brandon Voelker stated that infrastructure work was performed around the Madonna storm water project. Stuart Oehrle verified that any kind of physical labor for repairs or maintenance falls upon the city anyway.

Mayor Stoeber related an instance that occurred where a pipe was clogged late at night. Our public works crew were unable to clear it and had the Sanitation District come in with their equipment to open it up, and then they sent the city a bill for the job. When they were questioned about the bill, they stated that they did not take over our storm water system.

Stuart Oehrle clarified that, as it is now or if we enter into the agreement, we will still be responsible for physical repairs and maintenance, in addition to all of the surface water, and the citizens will be taxed even more in the future, but the city will be using our tax dollars to provide the manpower to support this work. So in a way a citizen pays double tax, through SD1 and city

taxes because if it becomes a burden to the city we can't draw from the \$1.78 million pool of money to cover our expenses. We have to either draw from our city funds or increase the tax rate onto the citizens to cover that.

Brandon Voelker added that this city maintains streets in some of our condo complexes, and that pipe in the condo area would not be covered. We would still have to spend money.

Stuart Oehrle verified that the rate people paid for the storm water in 2003 was \$11.76 per quarter, and is now over \$13 per quarter. The agreement on rates is silent and they can pass whatever raise they want. It is part of the three executive judge oversight. Brenda Helton stated that once we agreed to this in 2003 we had no say, and the residents are taxed and fees raised.

Sandy Ross verified that in the inter-local agreement signed in 2003, we basically said they would be the ones handling all of the pipes in certain areas and all of these cities would join in and be funded. Now they have changed it and said they are not taking over all of the drainage, just certain pipes.

Stuart Oehrle said we are trying to make this more advantageous so that our residents do not get taxed twice. We want to ensure that the city can provide this service in a more uniform and advantageous manner. Mayor Stoeber stated that it is incumbent on this city to look at this, be focused and form a plan that is designed to deliver better local services. When we look at this benefit and cost reward and functionality we can provide an excellent service in compliance with the EPA regulations at a cost effective manner and deal with the issues locally. The major issue of SD1 is that the majority of Cold Spring storm water issue is surface water, and they will not deal with surface water in the city for fifteen years.

Sandy Ross understands when the first agreement was signed as a new initiative, everyone joined together for the good of all, which is very positive. In reading this now, our residents are contributing money and we have no access or control on where it is spent. SD1 will have all of this money and make the decision with their board of directors, and it is the older cities' pipes that need to be cleaned out and fixed up. We have no recourse unless something is set aside for certain localities. Brandon Voelker stated that the agreement doesn't give a baseline funding amount for any city. There is no mechanism in place that we are guaranteed any amount of money.

Rob Moore stated ~~in~~ that in 2003 SD1 made us promises for our citizens and questioned what SD1 has done. Brandon Voelker stated that they have applied for the permit for us, outlining the six goals of the regulations and they also did the mapping. They have done some projects, which were usually on a 50/50 cost share with the city. They still have a large amount of money. We cannot determine how much Sanitation District has spent in our city.

Rob Moore verified that all of the research maps, which our citizens have already paid for, should come to us. He also questioned if the permit had an expiration date. If it expired in five years, why are they still collecting the fees. Mayor Stoeber stated that during the time period from the agreement of 2003, the EPA and the State have been developing what the second agreement will look like. The 2003 agreement was obviously extended and lives on. The original contact with the city was that a second agreement would need to be signed. Then the decision was made by SD1 that the first agreement is still in existence.

Mayor Stoeber stated that this is the end of our research and we have heard that the second permitting cycle may have some nuance differences from the first permitting cycle. The reason for tonight's meeting is to get to the point of understanding that second cycle, and to make sure that our council is comfortable with this process. He will notify SD1 that the city intends this process to be of a defined and orderly transition.

Rob Moore stated that we will need people in place and questioned how we go about doing this. Mayor Stoeber stated that we have a logistical plan in place to contact the Kentucky Department of Water advising them of our intentions. We expect a full cooperative relationship with SD1 in order to make this transition seamless because they have an extreme interest in protecting the environment as we do. We will put out proper requests for proposals to find the experts that we need. We have a staffing concept in place to begin hiring processes as needed. We will first contact the Sanitation District to begin discussion of relationship change, and then we will know how quickly we need to execute all of the other steps that we have in place to go from there. General guidelines are in place.

Brenda Helton verified with Mayor Stoeber that the permitting process goes through EPA administered by the Department of Kentucky Flue Discharge Elimination so we would report to them just like the Sanitation District does, and we will be able to meet those same requirements.

Sandy Ross confirmed that we are beginning the process of withdrawal because, with the research and knowledge we have gather, we feel that we can handle everything and have some accountability to show for our residents. Ms. Ross questioned

if there was a possibility down the road that we would be mandated to create or build something to meet requirements. Mayor Stoeber stated that there is nothing without risk but the likelihood is very small. In prior discussions the EPA had some guidelines as to what they could impose, and he doesn't think they would come in with a very extensive building project such as a sewer plant. They could come in and say they expect us to pipe an area or require retention basins. That is in the realm of possibility.

Brandon Voelker stated that the major focus of storm water is different than sanitary. Storm water should be contained at the source where the purification should be. Mr. Voelker stated that if you building a parking lot you have to be able to control the water to prevent flooding. By using construction measures we can use green space surrounding parking lots to absorb the water, or use absorbing concrete. We can use green areas and use swales.

Brenda Helton questioned what percentage of storm water the Sanitation District would handle if we were to stay with them. Mr. Vank stated that the majority of our storm water is surface water, possibly only 10% is piped. Brenda Helton verified that they only propose to take over the piped areas.

Sandy Ross questioned if there were any ramifications from SD1 should be we continue down the path to withdraw and how that would effect our residents. Mayor Stoeber stated that there should be no effect.

Stuart Oehrle submitted an e-mail he received from Mr. Eger about frequently asked questions about the storm water infrastructure and cited examples of the consequences of not complying. A large portion follows on the maintenance falling upon the city.

Sandy Ross stated that, as we are leaning towards withdrawing, we should reassure our residents that we are good stewards and responsible for spending their money wisely. Based on what she has learned tonight we can do this.

Mayor Stoeber stated that we spend our residents dollars providing safe, secure street maintenance and we cannot take a step back. We owe our residents a lot. This is a responsible issue and it is incumbent upon us to make sure that we can look at our residents and say we research this big decision and do it.

Jan Reiman stated that in the past five years, our money was not spent wisely. We put in a lot of money in this and we should get something out of this. There is only one thing worse, and that is staying in this for five years and one day. She questioned why more residents aren't calling us if it is such a great matter of concern to them. She hopes to give our residents encouragement.

Mayor Stoeber complimented all of council for their hard work and energy, and their willingness to dig in and get things done.

Stuart Oehrle made a motion to adjourn the special council meeting. Sandy Ross seconded the motion. All were in favor. Motion carried.

Approved:

City Clerk:

Mayor: