



TITLE: Discuss an Overview of the Current Storm Water Regulations and Potential Amendments (Council member Don Day and Council member Randy P. Pogue)

MEETING DATE: June 17, 2013

DEPARTMENT: Development Services/Engineering

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RECOMMENDED CITY COUNCIL ACTION:

- Discuss the history of the current Storm Water Management (SWM) Ordinance and provide direction regarding potential amendments.

ITEM SUMMARY:

- The City of McKinney's SWM Ordinance serves to mitigate the impacts of development on the City's drainage system. This drainage system includes storm drains, bridges, creeks and lakes.
- Concern has been expressed about the impact of the ordinance on property development, specifically the requirement to provide creek improvements where the creek is shown to be erosive in addition to an erosion hazard setback from the creek.
- The current regulations are based on input from multiple sources to protect property rights for both downstream and upstream property owners and address several items learned from past experience including:
 - Loss of land/property
 - Loss of trees
 - Threatened or failing structures or infrastructure including foundations, decks, pools, fences, out buildings and public infrastructure,
 - Increased sediment loading in Lake Lavon and lakes/ponds within City limits.
- The City has the Healthy Creeks and Lakes (HCL) Program in place to address many of the areas that have faced significant erosion or sediment deposition. While there is no legal responsibility for the City to complete these projects, they are generally undertaken due to guidelines set through City Council. The program is very popular with many stakeholders. It is funded through bond funds as well as monthly drainage fees paid by businesses and residents.
- Staff has learned through the HCL program that many times the City's cost of creek improvements is far in excess of revenues derived from the properties adjacent to the creeks.

- Some of the projects, such as improvements to Herndon Branch north of Eldorado Parkway, were completed through Council requests even though the plat indicated the channel was the responsibility of the homeowners. The plat language was termed as “buyer beware” and was not deemed to be acceptable.

BACKGROUND INFORMATION:

- The current SWM ordinance was originally passed in 1999 and was amended in 2003, 2006, 2007 and 2009.
 - The 2009 amendment was strictly a revision based on a Texas Water Development Board request to clarify floodplain definitions and to adopt the revised FEMA flood insurance rate maps. This had no impact on streambank stabilization or other development-related requirements.
- The provision regarding the erosion hazard setback was added in 1999 in an effort to address the concerns of buildings, fences and property being threatened by creek erosion.
- Additional provisions were considered 6 years later since the ordinance did not address the goals and concerns of residents. In addition, some City infrastructure, including headwalls and sewer lines, were at risk due to creek erosion.
- A consultant was hired to review the City’s ordinance and make recommendations on ordinance improvements.
- As part of the consultant’s process, a focus group of residents, developers and engineers was formed in 2005 to provide input on the vision for McKinney’s lakes and streams. There was generally consensus within the focus group that the presence of a healthy lake or stream can enhance surrounding property values and conversely can be a “liability” if they are not “healthy”. While multiple recommendations were provided, the focus group’s priority recommendations were:
 - maintain the function of the streams (control flooding)
 - develop site-specific solutions to individual stream reaches
 - address pollution control and erosion on streams
 - maintain streams in a naturalistic state
 - recognize the visibility, recreation, safety and value of the streams.
- This input was used by the consultant to develop a list of drainage priorities for the City and to recommend SWM ordinance revisions.
- The recommended changes were provided to approximately 70 developers, engineers, landowners and consultants in June 2006. Input was requested regarding the changes.
- Based on the consultant’s recommendations, focus group input, and input from the development community, City Council approved the changes to the ordinance in September 2006. One of the changes was to stabilize creeks where it was determined that there were erosive concerns under fully developed conditions. The effective date of the ordinance was January 1, 2007.
- The first proposed development to be impacted by the changes was the Wynn Tract on Ridge Road north of Virginia Parkway. The costs of full stabilization of

the creek would be significant, and many trees would have needed to be removed.

- Based on the concerns expressed by the proposed developer, City Council requested that Staff review potential changes to the ordinance, reducing the full stabilization requirement.
- Several changes were proposed to City Council including:
 - the reduction in the requirement for full stabilization as long as critical points were addressed,
 - a minimum 50 foot (or the erosion hazard setback, whichever is larger) buffer around the creek was dedicated as common area, and
 - the developer hold the City harmless with respect to the channel.
- These changes were acceptable to the developer of the property. The above items were passed as revisions to the ordinance in November 2007.
- No significant changes have been made to the SWM Ordinance since 2007. Revisions since then have been due to Texas Water Development Board (TWDB) requests or “clean-ups” of minor items.
- Some additional amendments have been requested by the TWDB, and these items will be presented to City Council at an upcoming meeting.
- The Storm Water Manual, separate from the SWM Ordinance, was updated in 2010 to provide clarification on site design items.
 - No substantive changes were made, and the ordinance was not amended in 2010.

FINANCIAL SUMMARY:

- None

BOARD OR COMMISSION RECOMMENDATION:

- N/A