



OFFICE OF COUNTY MAYOR

Department of Engineering & Public Works • 205 West Baxter Avenue, Knoxville, TN 37917

October 5, 2007

As Knox County's Stormwater Management Coordinator, I feel compelled to write in response to the stormwater lawsuit announced by Mayor Bill Haslam.

The process for developing a Stormwater Ordinance for Knox County began in 2002 with community input and continued to include working groups with City engineering staff who participated in the development of the technical details, legal language and design guidelines of the ordinance. The County's ordinance is based on "Low Impact Development" (LID) or "Green Infrastructure" for smart site planning and the best protection from impacts of flooding on water quality.

City and County Mayors agreed to interpret the 2001 urban growth agreement by comparing the current City ordinance with the newly adopted County ordinance. However, once the County presented its new ordinance to the Knox County Commission for approval, the City Engineering Department suddenly came up with a list of 23 items that detailed differences between their 2001 ordinance and the County's current ordinance. The 2001 ordinance is no longer used by the City of Knoxville.

In good faith and under the joint recommendation of the Mayors, both parties went through a long and costly process comparing the ordinances and none of the 23 issues were mentioned. The consultant (TetraTech under subcontract from Arcadis) clearly concluded the two ordinances are a different means to the same end. Therefore, there is no reasonable explanation for the list provided by the City.

The only matter remaining is that of pipe materials to be required by developers. The Knox County Stormwater Management program proposed an ordinance that required use of concrete pipe in three instances in County Right of Ways. The Knox County Commission amended the proposed ordinance and approved it on second reading in September to allow various types of pipe material. It's important to note that pipe material is not part of EPA's regulatory policy for water quality.

The assertion that development in Knox County is causing flooding in the City and threatening the City's compliance with EPA regulations is unsupported by the facts. For example, in the First Creek watershed Knox County has partnered with the City of Knoxville to hire the consultant Arcadis to evaluate flood risks. The results of this study clearly show that the stormwater runoff from the unincorporated areas is not, in fact, the cause of the flooding. The flooding is primarily due to extensive encroachment in the floodplain which continues within the City limits.

The Powell airport site along Beaver Creek near I-75, is an example of an area which in 2000 was protected by Knox County's "No Fill Line" floodplain regulations. The County's regulations excluded much larger areas from development than the City of Knoxville regulations at the time. An annexation of the property was negotiated and the construction which followed

allowed a much larger area of the floodplain (including wetlands) to be filled as part of the development.

Also inaccurate is the assertion that local governments under NPDES Phase I and Phase II permits and TMDLs are responsible for the input of pollutants of concern coming from areas outside their jurisdictions. Simply put, the City of Knoxville is not responsible or held legally liable for pollutants that originate outside their corporate limits.


EPA regulations for the City of Knoxville and for Knox County are different. Extensive undeveloped areas in Knox County provide opportunities to use better site design and consider land use planning to avoid creation of drainage problems that are costly to mitigate. Compared to the more dense and urban environment within the City where in-fill and redevelopment are the primary construction activities, it is clear that different tools should be considered to reach the same end (cleaner water & reduced flood risks). Differences are inherent, but performance has been judged to be equivalent.

Last week, Knox County co-hosted a visit from some of the key EPA policy makers from Washington DC and EPA Region IV (Atlanta - the region with jurisdiction over TN). The EPA visitors were impressed with Knox County's approach, vision and leadership in taking a "watershed approach" and engaging partners. They also indicated that the Low Impact Development approach is what they want to see in permits as local governments address pollution prevention.

One of the EPA staff members commented that Knox County was one of only a half dozen or so communities across the country that has actually incorporated LID in developing a stormwater program under the EPA's Phase II regulations.

Both the City and County need to continue the important partnerships that have been in place. These initiatives include: Beaver Creek Watershed, Stock Creek Watershed, First Creek Watershed Master Plan, and the lengthy list of Water Quality Forum (www.waterqualityforum.org) initiatives and projects. Both the County and the City have provided valuable education and action through these initiatives, showing a clear commitment to water quality in our community.

Sincerely,



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cc: Mayor Ragsdale
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Media