

MARION WATER QUALITY ADVISORY COMMITTEE

MEETING MINUTES

Thursday, April 22, 2021
5:30pm – 7:30pm

Public Works/WebEx
5155 Silverton Rd NE
Salem, OR 97305

PRESENT: **Members:** Richard Walker, Rick Massey, Rebecca McCoun, Brent Stevenson, Gary White, and Zach Diehl
Staff: Matt Knudsen, Elizabeth Parker, Alex Wade

ABSENT: Mark Grenz, Brenda Sanchez

ACTION – APPROVAL OF MINUTES

Zach Diehl opened the meeting at 5:34p.m. Rick Massey moved to approve the March 31, 2021 meeting minutes; Gary White seconded the motion. A voice vote was unanimous. Motion passes.

CONSTRUCTION EROSION - SEDIMENT CONTROL

Permit and Plan submittal

1. What threshold will trigger the requirement for an ESC Permit and Plan submittal given the minimum requirement is .25 acres (10890sf)?

Permit Requirement: if the project site results in 10890 sf or more of land disturbance, the EPSC permit and plan are required.

Current standard: In Marion County, if the project is within a high risk area OR the project is classified as a large development project, the erosion sediment plan and permit is required.

Salem Standard: projects are land-use based, not area-based.

Matt: Do we want to go above and beyond .25 acre?

Recommendation

Richard stated that the City of Keizer's requirement is any disturbance. County is trying to meet the minimum requirements. The County would have to have a good reason to increase. Internal staff discussion was to keep at .25 acre.

Rick doesn't see a reason to go higher.

Richard asked what do subdivisions in Marion County look like. Matt stated that recently, what we've been seeing is 3-5 flag lots. Matt said we do have some vacant lots are smaller than .25, but that is not common.

Matt stated that the current standards are set –there is a complete moratorium on water entering construction activities. No requirements or best practices – just sign acknowledgement saying that as property owner, I understand I can't cause construction erosion.

Zach – below threshold, people have to self-certify. Matt confirmed yes,

Zach – in Salem, there are some area-based thresholds at 1,000 sf for residential projects. Richard asked how the City of Salem manages. Do they struggle with that threshold? Zach stated that erosion plans are templates; one for slope, creek, or wetland. It is required to use as many in order to keep erosion on site. Matt said when someone signs the form; they have inspections for other aspects of their development. A highlight of the county's program is that it's not just pre, middle, and post inspections for erosion control. From start to finish, the same inspector goes through the process and is always doing erosion control inspection.

Rick asked if it's below the threshold and for example, they were replacing a sidewalk would the inspector also be there to see erosion. Matt verified that this is correct.

Over last year, Marion County has seen more concrete washout, but have had zero landscaping violations. Zach stated that when there's not an observed problem, then he isn't so motivated to go beyond requirements. Matt stated that the county is always looking for opportunities to eliminate risk when observed. There are good advantages to what we were doing before and now we've reduced from one acre to .25 acre. With more development, we could run into other issues.

Richard asked if we could put in the permit a requirement to maintain proper erosion control instead of requiring a separate permit for erosion control. Matt said he thinks we could probably do that. Richard agrees that there is no need to lower threshold, but there needs to be a streamlined process.

2. Should the county maintain the current high-risk area assumptions threshold?

Matt would like to have a conversation to determine if the high risk map makes sense anymore as, historically, when the county had one acre and above, there was a higher and greater risk of erosion entering streams and ditches. The county thought the high risk map was a good way of protecting streams. Matt stated that permits by use (up to .25 acre) have a significant increase in requirements, therefore, does the map make sense? Staff thinks it's a good idea remove map due to over complication of thresholds. The county is trying to remove complicated nature to ensure that everyone knows what to expect.

Rick is curious if the county has the data showing how many permits there are with are under .25 acre. Matt shared that approximately 25% are under the threshold of .25 acre.

Richard inquired if this update was county wide or just for storm water. Matt stated that the TMDL will be next step, but for the time being, it is only for the stormwater management area. Richard confirmed that flow control and water quality have only been referencing stormwater. Matt agreed and added the county will figure out how to intertwine them as nicely as possible and making them easy to follow. Richard stated that this adds another area of complexity to justify the discontinuation of the area map.

Zach stated he would be more concerned about erosion from 2k footprint next to creek on slope than about 20ksf footprint on a flat area. He can see reason for maintaining some high risk classification where there is a lower threshold. Matt understood the statement.

Rick inquired what kind of construction was used that permits were pulled historically. Matt answered that they were primarily for houses. Matt could not say how many would have qualified in Zach's example within the .25 acre limit. Matt said that it was only for a handful of times but that it wouldn't be covered over a five – ten year period. Rick suggested that if an owner wanted to put in garden shed and has to disturb part of his land to pour gravel or concrete, technically has violated the process. Believes the requirements can go too far.

Zach asked if there were any ground disturbance in risk areas that require permit. Matt stated that yes, there is a 'ten feet of creek bank' permit. Zach shared that he gets complaints from people's neighbors when the slope is above a certain degree, close to their property line, and causing erosion.

Matt said these instances of small disturbances would fall under two enforcement protocols. Construction erosion or illicit discharge; would follow up on illicit discharge. We wouldn't have specific erosion control inspections or plan from site. Rick feels the majority of construction is covered but that his concern is that there is too much encroachment on property owner. Matt said that is true of construction but not of gardening. Zach agreed and said that if a house was being built ten feet from creek, there should be a construction tent since on a slope. Matt said they would have to sign an acknowledgement form and would have the BMP's shown to them in the acknowledgement form. They would also have to sign that they understood. Other aspect is the new agreement with DEQ, the only situation this would occur is a single infill. Common plans would fall under permitting.

Zach asked about homes being built a year or two apart. Matt said the developer is no longer attached to original 1220c, and that the new homeowner would be. DEQ has been working on this for a while as far as small lots as part of subdivisions. Richard said they've already implemented 1200 permit and Matt said they've passed to Marion County as 1200 CN. Matt said there might be a lot in South Salem that would fall under this situation. Matt added that this group is fully capable to make recommendations to staff and the Board of Commissioners.

Plan review of EPSC permits -

What threshold does Marion County want to set to trigger EPSC permits?

The permit requirements state that if sites that result in one acre or more results or land disturbance or part of common plan, review procedures must include consideration of construction activities and water quality impacts. Plan review is not required until an acre. Current code – submit a plan, it will be reviewed. Salem code is not explicitly stated. If a permit is submitted, a plan review is required. Does the county want to set an equal area threshold for triggering permit and plan review or follow the permit's one acre requirement? When a permit comes in for erosion and sediment control, we would push to plan review.

Matt stated that the county isn't sure why they put this requirement in, but the county thinks it's an odd thing for the county to require a permit and not have a plan review. Rick said he suggests doing it like Salem - two templates at permit counter. Makes sense for smaller sites. Larger sites would need a plan review. Rick wants to simplify the process - show requirements and how to get to that goal. Matt said this is a helpful comment.

DEQ is saying we don't do review until acre; the county wants to review at .25 acre. Zach said it should match threshold. Matt isn't sure why DEQ did this and agrees with Rick's comments. Rick's understanding is that they check a site plan to see if the slope was as presented...nothing more than checking a couple boxes. Zach said the templates are for residential projects. Sign form and take a copy. Salem doesn't review plans. Review threshold should be the same as permit threshold. Marion County says they need to submit plan, but doesn't review it. We don't want plans that we haven't reviewed. Rick likes the idea of template – it works well. Richard agrees a template would simplify for the threshold between .25 acre and one acre would be nice.

Sizing and Performance standards for EPSC BMPs

What sizing or performance standards should be required for EPSC BMPs? Current sizing for performance standards: erosion sediment control plan checklist and an acknowledgment form that refers to clean water services, etc.

Salem standard: uses their own erosion prevention and sediment control plan tech guidance handbook (2003)

Recommendation: update the code to reference a new erosion control chapter in stormwater standards.

Staff had two thoughts –continue to reference Clean Water Services for private projects, and also reference ODOT for publicly funded capital improvement projects. Concern – being out of compliance.

B&C concerns: If we reference CWS or put in ordinance or in location that's not easy to change, when a change was needed, it would be difficult to do. We'd have to go through process with BOC. B&C recommended making it easier to switch if needed. Rebecca stated that anything from CWS would be comprehensive.

Should standards include allowable BMPS and BMP hierarchy?

Matt said the idea here is two pronged. What are the best management practices and hierarchy?

Acknowledge that the county intends to use a form based off Clean Water Services' manual. No one in the group had any issues with this.

Matt said the group will come back to the detention question.

What changes can be made to existing standards to ensure usability and ease of implementation for single homeowners looking to further develop their property?

Current standard: use simplified methods - facility managing less than 10k square feet.

Internal staff wants to use Salem's handbook for homes and small projects. Is there something better to use or should Marion County develop their own?

Post Construction – if a property owner wants to put in a rain garden, we need to provide them with guidance and have something to reference. Salem came up with their version, and the county thought it was reasonable to reference. Richard thinks there are several references, such as Portland BES?

Richard wants to clarify that we've been talking about stormwater quality and treatment, what about stormwater management for less than .25 acre? He's run into issues such as a 6k sf lot and they want a daylight roof drain with no stormwater infrastructure available - this is a problem. Has the county looked at

anything like this? How do we ensure proper connection? How do we keep a homeowner from turning their roof drains to splash on another property? How do we keep this from impacting neighbors? Alex and Matt will talk to Land Development about this. Alex stated that according to drainage standards which apply to drainage facilities impacting a public right of ways or easement dedicated to Marion County, all stormwater runoff should be conveyed to public storm, sewer, or natural drainage channel. We might not have storm drainage but should have natural conveyance to said property. Matt hasn't run into this issue before, but will pose this circumstance to Land Development staff.

Matt stated that the next aspect of process is going to be draft ordinances and standards which will take place this summer. This group should expect to see these by the end of summer - August or September. Matt reiterated that they will review all comments from the last three meetings. He appreciates the group's willingness to go through this in interest. All of this will help Marion County create better standards and ordinances.

At the June meeting, we will go over the detention standards and the two separate ways of operating that the county is operating. Treatment system vs. Detention System. Matt will bring the LDEP group to review. Zach wants to talk about who should be responsible for long-term maintenance. Not between the two, but overall.

Zack thanked staff for facilitating the MWQAC meetings. Elizabeth shared her upcoming move to Spokane and that her last day will be June 11, 2021. She is looking forward to training her replacement and thanked the group for their kindness and cooperation over the past year.

With no further comments, Zach adjourned meeting at 6:47 p.m.

Next meeting: Thursday, June 4, 2021 @ 5:30 p.m. (established after doodle-poll results)