Orange County
Commission for the Environment

Meeting Summary

April 13, 2015
Orange County Solid Waste Administration Building, Chapel Hill

---

PRESENT: Jan Sassaman (Chair), May Becker, Peter Cada, Tom Eisenhart, Lynne Gronback, Loren Hintz, David Neal, Bill Newby, Jeanette O'Connor, Rebecca Ray, Gary Saunders, Sheila Thomas, Lydia Wegman and David Welch

ABSENT: Donna Lee Jones

STAFF: Tom Davis, Rich Shaw, Brennan Bouma

GUESTS: John Richardson, Jesse Freedman, Michael Harvey, Craig Benedict

---

I. **Call to Order** – Sassaman called the meeting to order at 7:34 pm.

II. **Additions or Changes to Agenda** – None.

III. **Minutes** – Sassaman asked for comments on the March 9 meeting summary. Saunders motioned to approve as written; seconded by Welch. Approved unanimously.

IV. **Welcome New Member** – Sassaman introduced Lynn Gronback, noting that the board of county commissioners had appointed her to the CFE in March.

V. **Chapel Hill's Green Building Incentives** – John Richardson (Planning Manager for Sustainability) and Jesse Freedman (Energy Management Specialist) presented an overview of the Town of Chapel Hill's pilot program of providing financial incentives for sustainable (or "green building") design. Richardson noted that this pilot program applies only for development within the Ephesus Church / Fordham Renewal District.

Freedman said the Town's objective is to incentivize developers to build high-performance buildings with better energy and water conservation performance than the 75th percentile of similar buildings. He noted that prior to this program the incentive was to build the worst energy and water efficient buildings allowed by law.

Freedman described the Town's process of choosing a green building standard for energy use from among many options, including LEED certification, Energy Star, 2030 Challenge, and others. The Town chose the Energy Star program, which the staff considers a neutral standard. The Town chose the State water performance standard. Freedman said the intent was to create standard that are rigorous and achievable.

Freedman said in this pilot phase the financial incentive for builders is up to a 35% reduction in their development permit fees. He reviewed the benefits of green building versus conventional building in terms of energy use and water consumption. He noted the tendencies for higher rental rates (+ 2% – 17%), greater resale value (+ 5.8% - 35%), higher market value (+ 13.5%), and lower operating expenses (- 30%) for green buildings on average.

Richardson said the rebate could result in a potential total maximum reduction in revenue from permit fees of about $600,000; however that level of activity is highly unlikely. He said there have been only two applicants to date. Richardson said Town staff will try to verify performance measures, likely through periodic field inspections.

Freedman and Richardson responded to questions from CFE members:

- O'Connor asked if there were incentives for sustainable design of the outside portions of the buildings, such as green roofs, xeriscaping, onsite water retention. Richardson said yes, there are standards for the outside as well.
- Neal asked if Chapel Hill had looked at examples of like programs in other jurisdictions, such as Catawba County. Richardson said they consulted NC State's DESIRE database for suitable examples and found that Charlotte's program was most effective. The others reported low levels of effectiveness.
- Sassaman asked if the Town used other incentives in addition to the permit fee rebate. Richardson said the State has authorized the rebate incentive. For buildings and development outside of the Ephesus Church / Fordham district the Town uses other standards and requirements for approving special use permits.
- Sassaman asked if the Town applies these standards to its public buildings. Richardson said the Town has, by ordinance, a LEED Silver minimum for all buildings. For example, the Chapel Hill Library was built to LEED Silver standard.
- Neal asked if these standards applied to single-family residential development, and might the Town consider expanding the incentives to other parts of the town. Richardson said it is only intended for commercial and multifamily residential, and said the council has not discussed imposing these standards elsewhere.
- Hintz asked how much less the cost of utilities might be for buildings in the Ephesus Church / Fordham district than in other parts of the town. Richardson said it would depend on the building type; the staff has run some calculations.

Richardson said the Town of Chapel Hill will reassess the pilot program at the end of the first year and the staff will work with the town council on making adjustments if needed.

Neal noted the CFE has recommended to the BOCC and the Planning Board that Orange County consider adopting similar incentives for sustainable development, but thus far nothing has resulted from those discussions.

The CFE thanked Richardson and Freedman for their presentation.

VI. **Proposed Amendment to Impervious Surface Rules** – Michael Harvey (Current Planning Supervisor, Orange County Planning & Inspections Dept.) provided an overview of proposed amendments to Orange County's rules that limit the amount of impervious surfaces for new development. Harvey said he was directed to initiate a process to amend the ordinance to include additional opportunities for residents to modify established impervious surface limits.

Harvey said under the current rules there are two processes for allowing changes to impervious surface thresholds: 1) approval of a variance request (only one approved in the past 10 years), or 2) transferring the allowable impervious surface area from an adjacent property by way of a conservation easement.

Harvey said under certain circumstances the State of North Carolina allows a larger area of impervious surfaces on a property through the installation and continued maintenance of on-site stormwater retention measures, such as permeable pavement. Such a device would be designed to capture runoff and allow it to infiltrate the soil. Harvey said permeable pavement is not counted as totally impervious, which translates to an allowance for installing additional "impervious surface area."

Harvey said the board of county commissioners has directed Planning staff to evaluate how the County might incorporate language similar to what the State uses for the treatment of permeable pavement in its impervious surface calculations. He said the County considers gravel, asphalt, and concrete, along with more impenetrable building surfaces (roofs, etc.), within its current definition of impervious surfaces.

Harvey said the proposed amendment to County rules would allow permeable concrete and some other permeable surfaces to be counted as 50 percent toward the impervious surface area. The County would require an engineer to certify there would be no net increase in the stormwater runoff leaving the property. The County would also require an operations agreement be signed and recorded at the Orange County Registry. The County would also require there be annual inspections and reporting of maintenance. Finally, Harvey said the County would obtain a permanent access easement to the property in order for staff to monitor and enforce the UDO standards.

Harvey said it is his impression that a property with 8% impervious cover that includes certain best management practices would result in less stormwater runoff than a property with 6% impervious cover.

Craig Benedict (Orange County Planning Director) noted that the current watershed overlay districts were established in 1994 and in many areas of the county the standards are more stringent that the State guidelines for watershed protection areas. He agreed with Harvey that the intent of the rule change was for there to be no net increase in stormwater runoff from any permitted site.

Harvey and Benedict responded to questions from CFE members:

- Hintz noted that such devices always fail at some point. Harvey said the County would require a binding operations and maintenance agreement, and possibly also a letter of credit with no expiration date.
- Davis asked what would happen if a device failed after 10 years. Harvey said the County would issue a notice of violation. If the landowner did not take corrective action the County would remediate the site at the owners' expense.
- Welch asked what difference do 6% and 12% impervious limits have on water quality. Harvey said he feels the proposed allowance of increased impervious surfaces in the form of permeable concrete would not harm water quality. Benedict added that Orange County is the most restrictive in the state in terms of watershed protection.
- Becker asked what is motivating the County to change the rules. Benedict said many residents had complained that the rules are too stringent in some watersheds, notably the University Lake, Little River, and Cane Creek districts. He explained how quickly 6% of a property could be covered with impervious surfaces—especially if roads and driveways are included. Benedict said he did not expect a lot of extra staff time would be required to implement the proposed rule change.

- Neal asked if the rule applies to commercial developments, such as shopping centers. Harvey said such developments are allowed up to 70% impervious surfaces as long as there are stormwater BMPs installed to hold the runoff.

Benedict noted that his staff is also considering developing some variation of a transfer of development rights program—or in this case a transfer of impervious surfaces.

- Sassaman said he is aware of a product ("Ecoraster") used for construction of roads and driveways that requires little maintenance over 20 years. He showed a small prototype model of the product. Harvey said he is familiar with "GeoWeb" and other products that could be used if they were certified by an engineer.
- Gronback asked what incentive would landowners and developers have to use pervious concrete or similar products. Harvey said they would be permitted to develop more parts of their property than would otherwise be allowed. He said this rule change would provide landowners with more options. Harvey said the intent is not to provide incentives to do the right thing for protecting water quality.

Harvey said Planning staff would be making similar presentations to OWASA and the towns of Carrboro and Chapel Hill. They plan to take the draft rule change to the May 26 quarterly public hearing, then back to the Planning Board in June or July, and finally back to the board of county commissioners for consideration and potential approval.

Harvey said he and the Planning staff would welcome comments from the CFE. Sassaman asked staff to prepare a summary of this presentation and discussion for CFE consideration and development of potential comments at the May meeting.

The CFE thanked Harvey and Benedict for their presentation.

VII. **Public Outreach** – CFE members reviewed plans to share information from State of Environment report with the general public. Shaw reported that he had sent the initial article about hydrilla in the Eno River to the *Chapel Hill News* and to *The News of Orange County*. Shaw noted that the calendar (Attachment 10) was incorrect because CFE had decided to change the subject of the May article from solar energy projects to the County's new electric vehicle fast charger stations. Sassaman asked staff to update the calendar. Bouma said he will provide a draft of the article for review and approval.

VIII. **Updates and Information Items** – Information on the following subjects was provided in the meeting package; selected items were highlighted for discussion: a) BOCC response to CFE annual report and work plan, b) Earth Evening (April 24, Hillsborough), c) hydrilla in the Eno River public meeting (April), d) The Nature of Orange photo contest, e) solid waste recycling program fee options, f) Governor McCrory's budget request for NCDENR, and g) new research on nutrient pollution damage to streams.

IX. **Adjournment** – Sassaman adjourned at approximately 9:20 pm.

Summary by Rich Shaw, DEAPR Staff