

June 3, 2008
Erosion and Stormwater Code Council

RECORDED DISCUSSION COMMENTS

Identify Areas of Concern

Scott Godfrey – WCCA – Workload passed down to the counties. Concerns about staffing and expertise at their level.

John Czerepinski – Construction Industry – Costs. Different implications that potential changes could pose. Including fees.

Mary Jo Webster – Counties – Strapped for staff. Uniform codes work well in building industry, but not for environmental issues. Thinks there needs to be a flexible way to deal with site-specific conditions and needs. For example, LaCrosse County has steep slopes and needs to look at things differently. Sediment control doesn't work there.

Curt Witynski – This hasn't been a topic of discussion recently. Will bring ideas back in the future.

Tom Wilson – Towns – **NO UNFUNDED MANDATES** Some towns may not see the need for uniform or minimum codes. Minimum is their preference. More urbanized areas may be more open to rulemaking here. Rural areas say "we're fine." Westport has a higher standard than the county. Local elected officials are so tight when it comes to money. Money in one area means there won't be money for something else. Everything to do with state freezes and robbing from their own funds. Even if the rules include an ability to charge a fee, it's a problem for the towns.

Mary Anne Lowndes – DNR – Wants consistency between the two agencies' rules. And that what comes out of this is acceptable at the federal level. DNR needs to present the programs (DNR, Commerce, DOA and DOT) to EPA for sign off.

Gil Layton – NASECA (private consultant, too) – There are a lot of things we can do smarter to make it easier and less expensive for developers and builders. Has thoughts on this for later discussion. Developing a checklist for engineers and designers. Calcs, etc. included for ease of review. Quick and dirty review is possible.

Chris Luster – State Building Inspector – Workload issues. Difficult to get out to the sites before the construction process begins. Has a large area and can't be at every project when it starts. Doesn't have mileage or time to waste. There's no requirement for someone to call him to let him know he/she is starting disturbance. A lot of the inspector's work comes through the complaint process. This causes immediate response that makes it difficult to schedule work. Sometimes the disturbance isn't an acre. An inspector might be out on a site in the mud, and then need to be in a clean, new building for a final inspection.

Brian Ferris – Section Chief – Communication is important. Multiple agencies (state and federal) involved. Players in the field are ever expanding (state building inspectors, local UDC inspectors, inspection agencies, delegated munis, counties, LCD, etc.) They're all looking at the same or similar rules and expect to apply them uniformly. Good communication is a must.

Josh Harder – Dane County – LCD. His department says things must be natural resource-based. Concerned about the resource mindedness of the rules that come out of this process. If we look at the standards the evaluation should look at the resource and impact on that resource. Inspection and implementation – having a field presence and looking at the sites is HUGE. The program needs to look at that logistically. Chances of success are poor if inspectors aren't watching. Helps with uniform treatment of customers/public. LCD background is with farming and protection of the resource. They have a different point of view.

Stan Martenson – Three concerns:

- 1) Designers, contractors and inspectors need uniformity. Many local units of governments (200 plus in the Fox River Valley) and each has its own and different local rules, then it would be impossible.
- 2) Fees are an issue. The building industry hasn't minded funding Commerce, but they don't like supporting the general fund.
- 3) Timeliness is important – delay is unacceptable. The length of the construction season in Wisconsin is an issue for review times and completion of projects.

Lenny Kanter – Commerce ESC – Codes developed should be consistent with national and state codes/rules driving this code. Faced with the challenge of day-to-day enforcement and education of the industry with the diffuse set up we have (locals, state, etc). Education and outreach needs to be improved to the field and also the contractors.

René Gagner – Contractors - Water runs downhill and it takes earth with it. Simplify the process and establish consistencies. More people can get more done.

Tim Ryan – Commerce Stormwater – Streamline the process so Commerce gets the most work out of the staffing it has. Provide consistency and training to delegated munis, etc. to ensure consistency across the state.

Brad Johnson – Section Chief – Three areas of concern:

- 1) Consistent standards between the agencies at state level. Makes coordination easier. Driven at the federal level. Makes sense for us to have a consistent package. It helps the regulated community.
- 2) Duplicate a paragraph that would require the stormwater plans to be available at required inspections.
- 3) Many programs involved in this program. Make sure that Commerce is well-coordinated and is sending out a consistent message to all building sites.

Ed Hammer – Counties – Four points:

- 1) Support consistency of standards between agencies (DNR and Commerce). The local level needs to know what the standards look like and what level of enforcement the

agencies are talking about. For example, DNR wrote Ag standards but they aren't enforced consistently. How to apply BMPs, etc. The environment affects the application of the BMPs to the site for effective resource protection.

- 2) A true partnership is a good idea, but sometimes partnerships mean a "junior partner." This won't work.
- 3) Will all of the communities have the expertise to implement a program? Some have engineers and some don't. Marathon County doesn't have an engineer in Ed's Dept.
- 4) UNDERFUNDED MANDATES will not be accepted by the counties. For example, 17% reimbursement won't cut it (e.g., the gypsy moth project).

Bob DuPont – Commerce BD – Implement federal laws and state laws. State law requires plan review and inspection of construction site soil erosion. Wisconsin has different requirements than some other states.

Henry Kosarzycki – After working with municipalities, has three issues to consider:

- 1) Recognize that we're working with the built environment issue. Tie the environmental issues back with the built environment. We've got building versus environment.
- 2) The flavor of the day is sustainable, green building, and it grabs everything from site waste, construction, reuse, energy use. He isn't giving up, but we need to understand we're at a significant cross road.
- 3) Define the roles of people on the site. Who's taking the leadership role? Does the architect have responsibility for erosion control? Is it the regulator? Is it the contractor? Owner? Local municipality? All of these things and then I have to inspect and chase after the storm and erosion issues in addition to my other duties. Life safety versus environment.

Greg Jones – Commerce – This is a challenging issue for both DNR and Commerce. It's such a new twist in roles and interaction. How does the building work within the environment? Our code typically works within the building.

Jim Bouilen – Just observing. Consistency and where's the money!

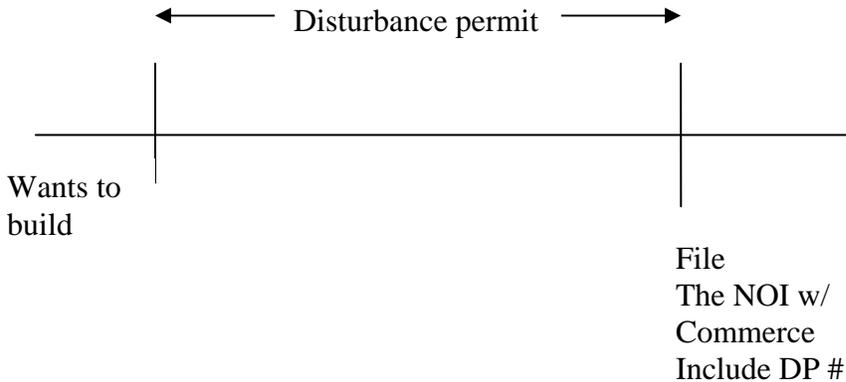
Pat Stevens – Feels it's been well defined.

Gil Layton – Comments on funding and unfunded mandates. Commerce is reacting to the federal mandate. Commerce is required to comply with the EPA.

Ed Hammer – The legislature hasn't funded this.

Bob DuPont – Looking for the right amount of regulation to achieve the goal. What's the cost of NOT doing this (erosion and sediment control and post-construction stormwater management)? The preventative cost.

Discussion of council members' questions, concerns and ideas



Tim Ryan – Building in mechanisms for notifying the inspector. Separating another permit from the NOI – more thought needed.

René Gagner – 1) Must be part of the building permit requirement. Move the building permit (if required), so the disturbance permit and NOI are required before the building permit. 2) If a project runs long, can add on to the disturbance permit. Then there should be a reward for early completion/seeding/stabilization/NOT.

Lenny Kanter – NOI not filed until inspector name and disturbance permit number is included? Yes.

Stan Martenson – Concerned with discussion of local permits tied to the state permit. Some require all state permits in hand before looking at the project for zoning. Catch 22 for the building permit and disturbance permit.

Josh Harder – 1) Fee refund on early completion. Village of Deforest has a system for escrow fund. Bill early, the rest of the fund is returned to the owner/contractor. Positive incentive. Not negative. 2) Implementation of inspection. Curious what the requirement is for Commerce for inspection frequency. His county code states the frequency of the county staff inspections. This is part of the fee for the permit. Post-construction stormwater management can deviate from the plan tremendously if someone isn't keeping an eye on the system. Repair after some BMPs installed is costly.

Brian Ferris – 1) Escrow account. Some UDC inspectors use it. Additional fees for sites that extend beyond their time period. At the end of the project it might be difficult to get the money from the site owner. 2) Field presence is important. All government levels are getting better at collecting fees without providing the service. This shouldn't happen. We need to be "out there". The idea of reduced permit fees for sites that are closed up quickly might encourage people to

enter a shorter period on their application and still keep the site open a long time. You need the presence to insure the timeline is met.

Chris Luster – Reinforce that the inspector’s attitude is “I’m here for life safety, why should I worry about the environment?” Many issues at the sites. The UDC inspectors are all out there. Maybe they could be a part of this. Could we tie to them?

Gil Layton – 1) In existing code where we talk about plan requirements, builders and developers complain that the plans are inadequate and they don’t specify the type or quantity of the BMPs to be installed. A builder bidding on erosion control can’t spec the needed supplies for the job. This should be included as a requirement for plans. 2) Minnesota has an online inspection report system. DOT has a project management system. Where is the project? Does the project have an NOI, have they started disturbance? Has there been an inspection? Both agencies could work the reporting system together. 3) Post-construction plans should include the quantities required. This should be a required part of the specs.

Josh Harder – Cost of post construction is included in required information. Bank has money set aside so the county can complete the plan.

Mary Anne Lowndes – 1) The disturbance permit, pre-construction conference should include the inspector, designer, contractor and government representative. So everyone understands the plan. It would allow for the designer to be the inspector to allow for adjustment to the plan during construction. 2) DNR is revising its code to 5 tons per acre per year, and would like to see that for all sites. 3) Requirement for erosion and sediment control time periods for repair will be 24 hours instead of 48 hours as in the current NR 216.

Tom Wilson – 1) Keep it simple. 2) The concept is the good. The process for getting a building approved might be different and the flexibility should be included for the different processes. 3) Online applications and any information that can be on the web is good. Even the plans. 4) NO UNFUNDED MANDATES.

Curt Witynski – Comments similar to Tom’s. Cities and villages support the goal. Simplify the process and coordinate the process. Question: It seems pretty intense to have the rule ready by this fall.

Mary Jo Webster – Trained people are necessary to make it work. Erosion control is only as good as the enforcement and inspection process. “As built” on stormwater should be completed.

Scott Godfrey – Amalgamation of others’ ideas. One size fits all won’t work. Local requirements vary so much. The public bear the burden. Should the government act as the contractor for the public? A public service to provide the service for coordination? Helping owners with the process. Like: commercial building projects could be coordinated by a state inspector with the locals to make sure the permits have been obtained before the NOI is submitted.

Jim Bouilen – Would like a better definition of the disturbance permit. What is it? What’s the “onsite meeting?” Every site over an acre? Who gets the money for the permit? How does it work? How does it differ from the NOI? Suggested a cascading system for permitting, etc.

Pat Stevens – Should it be a disturbance permit? Maybe it’s a “meet and discuss” the erosion control and post construction stormwater management plan?

Brad Johnson – Current rules are weak on stormwater plans – management and maintenance, too.