

STORMWATER UTILITIES IN GEORGIA

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Abstract. There are three stormwater utilities currently formed and operating in the state of Georgia. The City of Griffin formed the first stormwater utility in 1997. Since that time, the City of Decatur and Columbia County have formed stormwater utilities. The City of Atlanta formed a utility, which was later disbanded after being legally challenged.

INTRODUCTION

The City of Griffin formed the first stormwater utility in 1997. Since that time, the city of Decatur and Columbia County have formed stormwater utilities. All three utilities have utilized a slightly different rate structure - both in the data utilized to determine an individual's bill amount, and the identification of customers. The city of Atlanta attempted to form a stormwater utility - which was quickly challenged in court. They lost that challenge - having not done most of the preliminary efforts necessary to properly form a utility (like a program assessment; rate study; funding feasibility; public education; etc). Some preliminary studies into forming a stormwater user funded program have been undertaken by Fulton County and Rockdale County. The city of Gainesville is also in the early stages of developing a stormwater user fee funded program.

This paper presents a summary of the stormwater utilities covering their similarities and differences in rate structure, program development, billing, implementation timelines, formation approach, public information, public involvement, use of GIS, etc. Some of the lessons learned from the one 'unsuccessful' utility will be presented.

THE CITY OF GRIFFIN

The City of Griffin formed a stormwater utility in 1997. Griffin is located 45 minutes south of Atlanta and has a population of about 24,000. It was facing a growing list of stormwater-related problems and issues including: an aging and deteriorating drainage system,

several neighborhoods which flooded periodically, areas with no drainage systems, "unplanned" channels eroded from street runoff, and little funding. In addition Griffin faced suspected, but unknown, water quality problems and potential regulatory requirements.

The City went through a logical two-step action plan process in the development of the utility. Once it was determined that the planned stormwater program concept was agreeable to both citizens and the City decision makers, and that a stormwater utility was feasible and acceptable, final development and implementation of a stormwater utility began. The utility development effort followed along four parallel and interconnected "tracks" of work: program, finance, billing, and public education, in a building block fashion.

Griffin utilizes a rate structure based on impervious area. In Griffin's case the charge is \$2.95 per month per residence, or per every 2200 square feet of impervious area on non-residential properties. The service fee was initially projected to generate about \$1.2 million dollars per year, and that objective has been realized and slightly exceeded. Residential properties were 'tiered' into two categories - low (\$1.77 per month) and high (\$2.95 per month) based on their impervious coverage. The fee is shown as a separate line item on the water/sewer/electric bill (each a city-operated enterprise fund). The largest stormwater utility customer is the City of Griffin - as the City bills itself for the city-owned streets. The first bill was sent in July, 1998.

A stormwater service fee credit system was developed in Griffin. Two programs exist. Up to a fifty-percent credit is available for on-site detention that meets certain criteria and an education credit is available to the public school system for teaching the WaterWise program. The rationale for the latter credit is that the City's stormwater utility would otherwise have to conduct its own water quality education program. The public school's water quality education program was judged to be both more efficient and

more effective than a comparable effort would be if operated by the utility.

One interesting by-product of the utility is that it opened the door for other sources of funding through an enhanced ability to provide matching funding and through enhancing Griffin's reputation as a community that was committed to stormwater management. The Public Works Department secured significant grants and loans including:

- \$725,000 Georgia Emergency Management Agency grant to remedy severe flooding problems;
- \$1 Million in special local option sales tax funds for capital construction of stormwater projects;
- \$158,000 in a §319 non-point source pollution grant from the State to install a bio-retention pond; and
- \$2.6 Million in state revolving fund money loans (3 3/4% with 2% closing costs) for six stormwater projects.

Griffin also plans to issue a stormwater utility revenue bond in 2001, with debt service to be provided through the service fee revenues. This would not have been possible without the utility. The City has begun to implement the plan to increase its staff and to purchase and implement GIS and GPS capabilities to help meet critical remedial maintenance, water quality and capital construction needs. Griffin has also begun the process of planning and situating itself to be ready for NPDES Phase II by preparing an action plan, in many ways similar to the stormwater utility action plan that initiated the current program.

Griffin successfully implemented the first stormwater utility form of stormwater funding in the State of Georgia. Keys to its success included an initial action plan to assess needs and options, a strong technical and public relations approach, political backing, a diligent focus on flooding problems that need to be addressed, and a local staff champion willing to invest the time and effort to assure success.

THE CITY OF DECATUR

In 1998, the City of Decatur decided to study and evaluate the feasibility of a stormwater utility to address long-standing storm drainage problems and issues in Decatur. The Decatur City Commission appointed a Storm Water Task Force (SWTF) composed of residents and stakeholders, including representatives of local businesses, institutions,

DeKalb County, etc., to determine whether a consensus could be built in support of a utility approach to solving Decatur's stormwater problems. The driving force behind the formation was deciding how to improve the level of maintenance activities and to develop funding for a capital improvement program which was estimated to exceed 10 million dollars.

The SWTF followed a logical process of considering current stormwater management program problems, needs, and current organizational capacity and then discussed developing program priorities, policies, and planning for a revised stormwater program. It looked at funding issues such as how the program should be financed, the amount of the bill, the frequency of sending the bill, and who should pay for the stormwater program. Public education strategies that the City might use to gain support for the program also were reviewed.

Following the recommendations of the SWIFT, the City quickly moved to develop the information needed to create a rate structure and master account file. A similar approach utilized by the City of Griffin was taken. The rate structure is based on impervious area. In Decatur's case, the charge is \$5.00 per month per single family residence, or per every 2900 square feet of impervious area on non-residential properties. The service fee was projected to generate about \$770,000 dollars per year. Residential properties were not tiered, like what Griffin undertook. The fee is shown as a separate line item on the semi-annual tax bill. This methodology matched what the City had previously done when changing their sanitation fee to a usage-based fee schedule. So there was precedence for using the tax bill for non-property tax based fees. The largest stormwater utility customer is the City of Decatur – as the City bills itself for the city-owned streets. The first bill was sent out in April, 2000.

A stormwater service fee credit system was developed in Decatur. Up to a fifty-percent credit is available to customers that have on-site detention facilities that meet certain criteria.

COLUMBIA COUNTY

Columbia County was facing a large and growing backlog of stormwater drainage, erosion, water quality, and related problems. Rapid and continuing urbanization of the County, especially in the Martinez and Evans areas, has permanently altered the natural hydrology of the area. Compounding the situation, the State of Georgia required that the County obtain and comply with a National Pollutant Discharge

Elimination System (NPDES) permit as part of a planned expansion of the wastewater treatment plant expansion. There was insufficient stable and dedicated funds to pay for these programs and needed stream bank restoration, master planning, stormwater infrastructure construction, and maintenance operations.

In 1998, the County Staff undertook a program to develop a stormwater user fee to complement the overall stormwater management program. This decision was based on several years of considering how other communities have improved their stormwater management programs.

Stormwater management is applicable and needed throughout the unincorporated areas of Columbia County. However, the needs are different for varying (specifically – urban, suburban, and rural) areas of the County. Since the needs are different, it was decided to provide different levels of service in the urban areas and suburban areas in contrast to the rural areas. While Columbia County manages, operates, and improves certain stormwater management systems and facilities in the rural as well as urban and suburban areas, the need for improved stormwater management services, systems, and facilities is greatest in the urban and suburban area. A threshold level of service was established countywide, but a higher level of service was established in the urban and suburban areas. They created a focus area in which stormwater service and user charges would encompass only those urban area and suburban area portions of the unincorporated area wherein the needs were the greatest.

The rate structure is based on impervious area. In Columbia County's case, the charge is \$0.0875 per every 100 square feet of impervious area on a property. The service fee was projected to generate about \$1.2 million dollars per year. Residential properties were not assigned a 'flat-rate', like what Griffin and Decatur undertook. The fee is shown as a separate line item on the monthly utility bill. Stormwater-only accounts are billed on a different schedule, based on the amount of the bill. The first bill was sent out in October, 2000.

A stormwater service fee credit system was developed. Up to a fifty-percent credit is available to customers that have on-site detention facilities that meet certain criteria. For customers that have a 'non-engineering' pond, a twenty-percent credit is available. Customers who hold an NDPEs permit are granted a 25 credit for maintaining a stormwater program as a part of the permit requirements.

The approach taken by the City of Atlanta was quite different, as was the result. Atlanta began with a study almost 10 years ago that analyzed the feasibility of forming a stormwater utility. During the ensuing time period, there were occasional discussions with City Staff about implementing the study. Then in January 1998 a newspaper article appeared when the Mayor had shown the use of stormwater utility fees in his annual budget submission. In the spring and summer of 1998, there were a series of staff meetings that formed the basis of developing an interim stormwater utility. An initial rate methodology was developed and an ordinance establishing a stormwater utility was enacted (March 1, 1998). Recognizing that there is no 'cookbook' rate methodology, the City developed an initial rate methodology based on gross property size and an intensity of development (land use) factor. This rate methodology was similar to well-established rate structures in Bellevue, WA and Cincinnati, OH. The rate methodology was based on a 10,000 square foot increment in the gross property size and varying factors reflecting intensities of development. The initial ordinance was an interim action. It required a Cost of Service Analysis and Rate Study to be completed by July 1999, and no bill could be issued after December 1999, without further City Council action to establish rates by ordinance action.

The initial ordinance was modified in September 1998. The modification allowed procedures for disputing the rates and charges, granting credits, providing an appeal process using a Council appointed board, and specifying public information measures to be initiated.

The City staff undertook primary responsibility for creating the utility without the assistance of outside professionals, and for issuing the first bill. Billing data was obtained from the tax assessor's office. The bills were calculated and a master account file was prepared. The approach taken was to prepare a stand-alone billing that would show the annual fee amount. This decision further helped the City maintain separate receipts, which would prove to be useful. Once prepared, the master account file was provided to a printing company for the bills to be printed and mailed. The bills for 1998 were mailed in January 1999. A temporary customer service workforce was organized, trained, and prepared for the anticipated response to the bill.

There was an immediate flood of customer inquiries. Most of the public's questions centered

around not having heard more about the program and how the bill was calculated. The City staff's original estimate of the service fee revenue stream was \$2 million to \$3.5 million. Later, the City learned that the billing totaled approximately \$9 million. By mid-February 1999, the City had collected over \$3 million and deposited it into a holding account. A lawsuit was filed in Fulton County Superior Court in March 1999 and active collection activities were stopped.

In October 1999, Judge Rowland W. Barnes issued a ruling on a request for summary judgment. The Court recognized that "Clearly, the City has the authority to provide stormwater services to its citizens and expect the citizens to pay for this service." The ruling further states, "... the question before the Court is not whether the City has the power to assess a charge for providing stormwater maintenance services, the question is whether the City followed the appropriate steps to exact this charge from the owners of parcels of property in the city of Atlanta." There is no single issue in the Atlanta case that caused the ruling to be against the City. However, there is one aspect, which seems to be paramount - the judge ruled that the fee was a revenue program in its intended purpose. And as such - in accordance with Georgia law - it is a tax.