



## **COUNCIL COMMITTEE REPORT**

### **COMMITTEE ON OPEN SPACE, ENVIRONMENT AND SUSTAINABILITY**

**Date:** September 28, 2016

**Agenda Item #:** 4

**Agenda Item:** Briefing, discussion, and possible action on the City of Dripping Springs' permit request for direct discharge into Onion Creek (Watershed Protection Department).

**Vote** No vote was taken.

**Sponsors/Department:** Watershed Protection Department

**Presenters:** Mike Personett, Assistant Director, Watershed Protection Department, and Chris Herrington, Supervising Engineer, Watershed Protection Department.

#### **Summary of Discussion**

- Mike Personett, Assistant Director for the Watershed Protection Department (WPD) provided the committee with a brief background on the topic. Watershed Protection became aware of the City of Dripping Springs' intent to seek a permit to discharge treated wastewater effluent into Onion Creek over two years ago. Since that time, WPD has been proactively engaging with the City of Dripping Springs. This engagement has taken place under the guidance of past council resolutions and precedent. Mr. Personett, Patricia Link (Law Department), and Mr. Herrington have been authorized by the City Manager to represent the City in this matter.
- Mr. Herrington explained that wastewater disposal is regulated by the State of Texas, specifically the Texas Commission on Environmental Quality. There are two basic types of disposal permits—land application and direct discharge to a waterbody. The City of Dripping Springs currently manages their 75,000 gallons/day of wastewater effluent via land application. Their current permits allows them to dispose of up to 348,500 gallons/day. In October 2015, the City of Dripping Springs applied to convert their land application facility to a direct discharge facility.
- If permitted as requested, the City of Dripping Springs would be able to discharge up to 995,000 gallons/day of treated effluent into Onion Creek in an area that provides recharge to the Trinity Aquifer. This also may potentially influence the Dripping Springs water supply corporation.
- Since WPD and the Law Department learned of the City of Dripping Springs' intentions, they have been coordinating with regional partners to try to find alternatives that would

be protective of water quality, including the City of Dripping Springs, the Lower Colorado River Authority, the Barton Springs/Edwards Aquifer Conservation District, area landowners, and non-profit organizations.

- The draft permit has been released by TCEQ and WPD staff have evaluated it using advanced modeling techniques. WPD's opinion is that TCEQ does not use adequate procedures to assess the environmental impacts to very sensitive waters.
- Onion Creek, which provides the majority of recharge to Barton Springs, currently has the highest water quality of all 50 watersheds that WPD assesses. Using an Environmental Protection Agency calibrated model, the WPD analysis shows that if Dripping Springs were to operate the facility as TCEQ has proposed it could under the draft permit, it would significantly degrade water quality in Onion Creek. Furthermore, it would degrade it to such an extent that it would adversely impact one of the City's conservation easements on private property along Onion Creek.
- This comes after the City of Austin successfully pursued a rule-change for land application permits specifically intended for the Dripping Springs situation. Under this rule-change, the effluent could be re-used for irrigation on existing land and on land owned by City of Dripping Springs reclaimed water customers, rather than having to purchase more land for land application. This was one of the primary reasons for pursuing the rule-changes with TCEQ—to attempt to find a more cost-effective way of doing land application that would meet their specific needs. TCEQ staff are in the rule-making process, and the new rules may be in place next summer. Despite the availability of this alternative in the future, Dripping Springs has elected to pursue a discharge permit on their own time line.
- TCEQ has scheduled a public meeting for November 10<sup>th</sup>, which would mark the end of the public comment period on the draft permit. Prior to issuance of the draft permit, the City of Austin submitted comments to TCEQ in an attempt to positively influence the draft permit, but that was not successful. Now, the City of Austin is preparing to submit a third round of comments to TCEQ in response to the draft permit. TCEQ will provide a response to those comments before the TCEQ commissioners take action (not until January, most likely).
- Because the permit is issued by the State, there are not a lot of options. These options are 1) submit comments to TCEQ in the hopes that they are taken into account, 2) attempt to negotiate directly with the applicant, and 3) protest the permit with TCEQ to try to get them to issue a more protective permit.
- Council Member Garza asked for more detail on the negotiations that have occurred up to this point. Mr. Herrington explained that WPD has been in direct negotiations with the City of Dripping Springs to attempt to find alternatives. The negotiations have not been successful at achieving a mutually-agreeable settlement.
- Council Member Garza asked if the City has an official position going forwards if a mutually-agreeable settlement cannot be reached. Mr. Herrington stated that existing council policy via multiple council resolutions is to oppose direct discharges of effluent

in the contributing zone. At this time, WPD and the Law Department have not reached a decision on whether they need to come to council—they would do so under the guidance of the City Manager and Law Department, likely in an Executive Session.

- Council Member Garza asked about the consequences of contesting the permit. Mr. Herrington explained that it extends the timeline. If the City of Austin does not request a contested case hearing, either prior to November 10<sup>th</sup> or in the 30 days afterwards, there are no further avenues to continue negotiating with the applicant. The only way to continue to negotiate is to request a contested case hearing.
- Mr. Herrington stressed that COA is not trying to manage Dripping Springs' growth, but only wants to make sure that the City has provided the best-available scientific information to the City of Dripping Springs about the potential impacts. WPD wants to understand how they intend to operate the facility and are looking for the engineering analysis to verify those claims. That has not happened to date. WPD needs documentation to validate how the City of Dripping Springs is claiming the facility will be operated. If successful in obtaining the permit as written, a very concerning precedent could be set for additional point source discharges in the sensitive Barton Springs Zone.
- Ex-officio Member Marisa Perales asked whether if the settlement agreement reached with Belterra was reached after the city had entered into the protest of the permit. Mr. Herrington answered affirmatively. Ms. Perales noted that a protest seems like an effective point of leverage as it enters into negotiations.
- Council Member Garza requested an Executive Session to help the committee understand the issue better. Chair Pool agreed.

### **Speakers**

Sarah Faust.

### **Direction**

Request an Executive Session.

### **Recommendation**

There was no recommendation to the full Council.