

CITY OF CHATTANOOGA

STORM WATER REGULATIONS BOARD

MINUTES

August 14, 1995, 5:00 p.m.
Public Works Conference Room
Second Floor, City Hall

- I. Verification of meeting notification was made, and the meeting was called to order at 5:02 by Chairman Ray Childers.
- II. The roll call showed the following members were present:

Ray Childers, Chairman
Evelyn Lovelady
Vicki James
Mike Poe, Vice Chairman
Charles Shaw
Tony Williams

Derek V. Henry, Secretary, was absent. Also present were staff members:

Jack Marcellis, Public Works Administrator
Jack Wilkinson, City Engineer
Tom Scott, Stormwater Manager
Mike McMahan, Special Counsel, City Attorney's Office
- III. It was moved by Mike Poe and seconded by Vicki James to adopt the minutes from May 22, 1995, meeting. This was approved by all present.
- IV. Tom Scott explained use of the "DUMP NO WASTE - DRAINS TO RIVER" signs that have a picture of fish. These are stencils being painted at catch basins throughout the City. TVA participated with \$3,000.00 toward stencil paint. The Youth Service Corps of the YMCA are to paint stencils, and the Kiwanis are to do publicity. Mr. Shaw volunteered Highland Park Neighborhood Watch to paint these throughout their area. Tom also explained that the division added a Commercial/Residential Program Manager.

He also reported that the EPA award of excellence for Region 4 is to be presented by TDEC Commissioner Dan Deal for the education program of our Stormwater program.

CITY OF CHATTANOOGA

STORM WATER REGULATIONS BOARD

MINUTES

August 14, 1995, Public Works Conference Room

Page 2

V. Briefing on lawsuit - Mike McMahan

The suit named the Stormwater Board as litigant. It was not correct in reference to Tennessee Law. Basically the suit says the stormwater ordinance is:

- (1) Vague
- (2) Delegation of legislation
- (3) Violates Constitution.

They want injunctive release for all or part.

Litigants raised \$5,000.00 to sue. It was filed in Chancery Court. The City Attorney suggested filing in Federal Court. He expects to win if there is an informed decision. Federal law has much law on the protection of Boards, etc.

The City does not now have NPDES Permit, because state has not responded, but the application was filed timely.

The lawsuit says called fee but does not give dollar for dollar return.

Although James R. Nash and James R. (Buster) Vandergriff are parties to suit, no mention was made for relief of appeals or that they were turned down from appeal.

It is the City Attorney's recommendation that the lawsuit be changed to Federal Court and that the City file a request for dismissal.

In answer to a question from the Chairman if the Board should change the appeal process, Mike said "No."

He explained the City Attorney will work with the Mayor and Chairman. Mr. Shaw made the motion, seconded by Ms. Lovelady, to allow the City Attorney to work with the Chairman and move to Federal Court if appropriate. The motion was approved by all.

CITY OF CHATTANOOGA

STORM WATER REGULATIONS BOARD

MINUTES

August 14, 1995, Public Works Conference Room
Page 3

- VI. There was no business from last meeting.
- VII. There were no appeals to be heard.
- VIII. Other Discussion from Board or Others Present

General questions to Tom Scott re: Covenant Transport.

Tom announced that Covenant Transport had disturbed ground without permits or any environmental control at Cummings Road or at Birmingham Highway. The State TDEC now is handling investigation. When ARAP is approved, the City will enforce. Covenant Transport may be fined, but they have made plan and will restore wetlands.

- IX. Mike Poe made the motion for adjournment, seconded by Vicky James, which was approved by all. The meeting adjourned at 5:34 p.m.

Note: A copy of the lawsuit and explanatory letters from the City Attorney are filed with these minutes as are audio tapes of the meeting.

Approved June 10, 1996
J. Williams