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Ragsdale, Wuethrich Jeopardize Clean Water and Individual Property Rights

Proposed County stormwater ordinance does not meet state and federal laws

(Knoxville, Tennessee) Last month representatives from the Tennessee Clean Water Network (TCWN) and the Knox County Clean Water Alliance (KCCWA) met with Knox County Stormwater Engineers to discuss non-compliance with state and federal laws in the County's proposed stormwater ordinance. TCWN is the state's only statewide organization solely dedicated to protecting our clean water resources and makes sure the Clean Water Act is upheld through out the state. TCWN helped form the neighborhood group, KCCWA, to address County Mayor Mike Ragsdale's and Public Works and Engineering Department Head, Bruce Wuethrich's refusal to protect the community's right to clean water and property from flooding.

At the conclusion of the meeting, TCWN and KCCWA legal and technical experts drew up a memo illustrating at least **eleven points** in the County's proposed stormwater ordinance where the County disregards state and federal laws; jeopardizing clean water and individual properties rights. TCWN is demanding Mayor Ragsdale and Mr. Wuethrich address these issues.

"The sheer number of times the County disregards state and federal clean water laws in their proposed stormwater ordinance is shocking." Said Renée Hoyos, Executive Director for the Tennessee Clean Water Network.

Knox County created the new stormwater ordinance to fulfill the state of Tennessee's Municipal Storm Sewer System (MS4) phase II water pollution permit program. The MS4 Phase II Permit is given by the state, to small municipalities, to control pollution going into our waters. In particular, it is designed to control pollution that flows into our streams from over development, such as sediment or mud. The TN Department of Environment and Conservation (TDEC) labels sediment as the state's number one source of pollution to our rivers, streams, and lakes. Sediment carried in water increases flooding, impacts water supplies and navigation, degrades aquatic habitat and transports chemicals.

"If Mayor Ragsdale intends to continue growing Knox County, the Mayor must assume Knox County's responsibility for protecting our water and individual property." States Bob Wolfenbarger, president of Alice Bell neighborhood association and a leader of the Knox County Clean Water Alliance.

One of the most shocking aspects of the Knox County's proposed stormwater ordinance is the total disregard for individual property rights. In the County's ordinance, it provides that the ultimate homeowner or landowner will be responsible for managing stormwater controls. This means if a stormwater control measure, such as a detention pond, was poorly constructed by the developer and not properly inspected by the County and it fails (i.e. causes flood damage to homes or pollutes a water way) the landowner is responsible for the damages. This creates a situation were neighbors will be suing neighbors to recoup damages to their property for a developer's mistake and the County's lack of enforcement.

"Knox County cannot lawfully transfer its permit obligations to private landowners in order to escape the long-term obligations imposed by the permit." States Joe McCaleb, Esq. McCaleb is an environmental attorney

retained by the TCWN and KCCWA. He was involved with the TCWN lawsuit against the Knoxville Utilities Board.

McCaleb further warns this portion of the ordinance is not consistent with the interpretation of the Federal Clean Water Act and its stormwater regulations.

Also, Knox County is currently in violation of water quality standards. At the beginning of the meeting, Bob Wolfenbarger, KCCWA, passed around photos of water running thick with mud off of construction sites in the Beaver Creek Watershed. These photos illustrated clear violations of the Tennessee Water Quality Control Act and the Clean Water Act. Such violations should be fined several thousand dollars per day, per violation.

“On any given rainy day, any citizen can take pictures of a construction site polluting our streams with mud in Knox County.” Said Wolfenbarger. “That is how overwhelming this problem has become.”

In addition, Knox County has 35 streams and their associated 357 river miles on TDEC’s list of the most impaired and polluted waters. The current proposed ordinance does little to address cleaning up and protecting these streams. In fact, the County’s proposed use of the state Construction General Permit to regulate water pollution during construction increases the possibility of adding pollution to these streams where no additional pollution is allowed by law.

“Under Tennessee law, as mandated by the US EPA, TDEC has the authority to stop economic development in Knox County if water quality standards do not improve.” Said Mark Quarles, P.G. from Globally Green Consulting. Quarles is retained by TCWN and KCCWA.

Another example of Mr. Wuethrich’s failure to meet federal laws is neglecting to incorporate required provisions relevant to the Threaten and Endangered Species Act.

Mary Haley, AMEC, the consulting firm hired by the County to help write their MS4 permit, stated the process of determining the occurrence of threaten and endangered species is confusing and troublesome.

“The County is not at liberty to ignore sections of the Permit it finds burdensome.” Stated Quarles.

The methods and requirements for determining the occurrence of such species are clearly provided in the County’s MS4 permit. Upon review of the list of threaten and endangered species in Knox County, federally and state protected species are present in Knox County.

TCWN is demanding Mayor Ragsdale and Mr. Bruce Wuethrich respond to this memo and address the County’s violations of state and federal clean water laws and subsequent disregard for the protection of clean water and individual property rights.

Tennessee Clean Water Network and Knox County Clean Water Alliance are open to meeting with Knox County consultants and the Department of Engineering to further address the County’s non-compliance with state and federal clean water laws and subsequent disregard for the protection of clean water and individual property rights.

To read all eleven points of contention from the Tennessee Clean Water Network and Knox County Clean Water Alliance regarding the proposed Knox County stormwater ordinance please review the attached memo or view it on <http://www.tcwn.org/press.htm>

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