



City of Chula Vista

Staff Report

File#: 15-0338, Item#: 5.

ORDINANCE NO. 3348 OF THE CITY OF CHULA VISTA AMENDING SECTION 14.20 OF THE CHULA VISTA MUNICIPAL CODE RELATING TO "STORM WATER MANAGEMENT AND DISCHARGE CONTROL" (SECOND READING AND ADOPTION)

RECOMMENDED ACTION

Council adopt the ordinance.

SUMMARY

On May 08, 2013, the San Diego Regional Water Quality Control Board (Regional Board) adopted a new National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4) Draining the Watersheds within the San Diego Region, Order No. R9-2013-0001 (Municipal Permit). The Municipal Permit regulates discharges to storm drain systems within 18 municipalities in San Diego County, the County of San Diego, the San Diego County Regional Airport Authority, and the San Diego Unified Port District, as well as 13 Copermittees in Orange County and 5 Copermittees in Riverside County (collectively referred to as "Copermittees").

The Municipal Permit established a new watershed-based approach by which the Copermittees plan and implement storm water programs. The new approach requires that the jurisdictions' storm water programs address the priority receiving water conditions, focusing efforts toward measureable improvements in receiving water quality. The Municipal Permit requires Responsible Parties, in each of the region's watersheds, to develop Water Quality Improvement Plans. The Cities of San Diego, Chula Vista, La Mesa, Lemon Grove, National City, Imperial Beach, San Diego Unified Port District (Port of San Diego), San Diego County Regional Airport Authority, County of San Diego and California Department of Transportation, collectively referred to as the Responsible Parties (RP) developed the San Diego Bay WQIP document in response to the requirements of the Municipal Permit.

The Municipal Permit required Copermittees to review and update their storm water, grading and other relevant ordinances and standards, as necessary, to comply with the more stringent requirements of the Municipal Permit. Each Copermittee is also required to update their Jurisdictional Runoff Management Program (JRMP) and other relevant program documents and standards by June 27, 2015 in order to be in compliance with the Municipal Permit.

The proposed actions would place amendments to the Ordinance of Chula Vista Municipal Code (CVMC) Chapter 14.20 on first reading and adopt a resolution approving and authorizing the submittal of San Diego Bay (WQIP), approving and authorizing the submittal of the "City of Chula Vista JRMP document, and authorizing submittal of subsequent JRMP reports and updates along with the WQIP annual report to the Regional Board.

ENVIRONMENTAL REVIEW

The Development Services Director has reviewed the proposed amendments to ordinance CVMC, Chapter 14.20 (Storm Water Management and Discharge Control), approving and authorizing the submittal of San Diego Bay (WQIP), approving and authorizing the submittal of the "City of Chula Vista JRMP document, and authorizing submittal of subsequent JRMP reports and updates along with the WQIP annual report to the Regional Board for compliance with the California Environmental Quality Act (CEQA) and has determined that there is no possibility that the activity may have a significant effect on the environment; therefore, pursuant to Section 15061(b)(3) (General Rule) of the state CEQA Guidelines the activity is not subject to CEQA. Although environmental review is not necessary at this time, additional environmental review will be required as applicable prior to the approval of any future project specific development entitlements including, but not limited to, site development plans, building permits, land development permits, and conditional use permits.

BOARD/COMMISSION RECOMMENDATION

Not applicable.

DISCUSSION

A. Amending CVMC Chapter 14.20

Pursuant to the Regional Board's adoption of the Municipal Permit, City staff reviewed Chapter 14.20 of the CVMC to determine if the City's legal authority to control pollutant discharges from various land uses within the city are adequately defined and meet all the requirements of said permit. Such legal authority empowers the Enforcement Official (the Director of Public Works or designee) to:

- Set standards for quality of storm water or non-storm water permitted to be discharged into public storm drainage systems and require the development, implementation, and maintenance of Best Management Practices (BMPs), as defined in the City's JRMP, BMP Design Manual, and other plans, where deemed necessary by the Enforcement Official, to prevent pollution of storm drainage systems;
- Prohibit all discharges of storm water or non-storm water not meeting the standards for permitted discharges, as determined by the Enforcement Official;
- Prohibit dumping of any pollutants into the storm drainage systems or causing pollutants to come into contact with the storm water runoff;
- Prohibit and eliminate illegal connections to the storm drainage systems;
- Enter construction sites and existing industrial, commercial, municipal, and residential land uses for regular or incidental inspection of the facilities or land uses in order to investigate possible water quality related violations or to ensure that required BMPs are properly installed and maintained;
- Require those construction sites and industrial facilities that are subject to coverage under the State National Pollution Discharge Elimination System (NPDES) Construction or Industrial Permits to obtain and maintain State permit coverage and to provide evidence of coverage and compliance for the Enforcement Official's inspection and documentation when required to do so;

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- Require construction sites and high priority industrial facilities to carry out annual monitoring and reporting of storm water discharges, as required under the relevant State NPDES Construction or Industrial Permits, and to present results to the Enforcement Official, when required to do so; and,
- Carryout enforcement actions to bring about compliance with the requirements of the Municipal Permit, the City's Storm Water Management and Discharge Control Ordinance, and any other relevant CVMC requirements.

In order to comply with the Municipal Permit, amendments to CVMC Chapter 14.20 are needed so that the exemptions to discharge prohibitions align with the exemptions listed in the Municipal Permit.

Proposed amendments to CVMC Chapter 14.20 would incorporate, by reference, the City of Chula Vista Best Management Practice Design Manual "BMP Design Manual, October 2015" and establish new requirements and guidelines for storm water management on development and redevelopment projects during the construction and post-construction phases. The JRMP document outlines the City's program to comply with Municipal Permit requirements for the duration of the Municipal Permit.

B. Water Quality Improvement Plan and Jurisdictional Runoff Management Program

The purpose of the WQIP is to guide the Responsible Parties' Jurisdictional Runoff Management Programs (JRMPs) toward achieving improved water quality in MS4 discharges and receiving waters. In the San Diego Bay WQIP, priorities and goals are established and strategies selected for implementation by the Responsible Parties in order to achieve progress toward improving water quality. This approach establishes the WQIP as the foundation that each Responsible Party uses to develop and implement its JRMP. Responsible Parties' JRMPs contain the strategies, standards and protocols by which each Responsible Party will implement its individual program in response to the priorities and goals established in the Water Quality Improvement Plan.

The WQIP Plan identifies goals related to each Highest Priority and Focused Priority. Furthermore, individual schedules for each goal were established. Together, the goals and schedules define the targets that the Responsible Parties use to develop their programs and to measure progress.

The JRMP is an outline of the program to be implemented by City staff, as required by the Municipal Permit, to ensure that all new development and redevelopment, existing industrial, commercial, residential, municipal land uses, and construction sites implement adequate pollution prevention measures and BMPs, as well as conduct necessary monitoring and reporting.

The Municipal Permit places responsibilities on municipalities to prevent, through enforcement of their ordinances and permitting requirements, discharges of pollutant(s) from their storm drainage systems to the waters of the United States. San Diego Bay is the ultimate receiving water body of the watershed that encompasses Chula Vista. Pursuant to Section 303(d) of the Clean Water Act, 33 USCA Section 1251 et seq., the United States Environmental Protection Agency (USEPA) and the Regional Board have declared San Diego Bay to be an impaired water body. Therefore, special restrictions apply to discharges from all municipalities within the San Diego Bay Watershed. This condition demands extra vigilance and effort on the part of affected municipalities.

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The JRMP document includes the overall program to be implemented by the City within its jurisdiction during the life of the Municipal Permit and covers major components as follows:

1. Legal Authority Establishment and Enforcement
2. Illicit Discharge Detection and Elimination
3. Development Planning
4. Construction Management
5. Existing Development Management
6. Enforcement Response Plan
7. Public Education and Participation
8. Fiscal Analysis

The JRMP is a dynamic document, and includes: inventories of active construction and building sites; commercial and industrial facilities; lists of minimum and recommended BMPs, Best Available Technologies, and Best Conventional Technologies; and, locations of sensitive areas and impaired water bodies. Such information will need to be updated from time-to-time in future years. Each year the City will submit its JRMP reports and updates along with the San Diego Bay WQIP annual report to the Regional Board. Any program modifications will be for the advancement of the City's program and will comply with all regulations as presented in the Municipal Permit.

Updating the City's Ordinances and approving JRMP by the due date of June 27, 2015, are requirements of the Municipal Permit. Non-compliance with said requirements will result in a violation of the Municipal Permit and expose the City to enforcement action, including Notices of Violation and/or monetary fines as well as possible third party suits.

Additionally the City is currently continuing to implement the storm water quality program that was developed for compliance with the previous NPDES Municipal Permit, Order No. 2007-0001, and Municipal Code Section 14.20.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site specific and consequently, the 500-foot rule found in California Code of Regulations section 18705.2 (a)(11), is not applicable to this decision. Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

LINK TO STRATEGIC GOALS

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. Amending CVMC Chapter 14.20 and approving WQIP and City's JRMP document supports Operational Excellence as it allows the City to improve the water quality through reducing and prohibiting storm water and non-storm discharges of pollutants to its municipal separate storm sewer system (MS4) receiving waters within the San Diego Bay Watershed Management Area.

CURRENT YEAR FISCAL IMPACT

Updating the City's JRMP is a Municipal Permit requirement, which in itself will not have fiscal impacts on the City. However, compliance with the Municipal Permit requirements will demand

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significantly increased program expenditures over and above the requirements of the prior five-year permit issued in 2007. The Municipal Permit requires: extensive data management and reporting; effectiveness assessment of various program elements; regional, watershed, and jurisdictional receiving water and dry weather monitoring; and more frequent storm drain maintenance. The City's costs for compliance with the Municipal Permit in Fiscal Year 2015-2016 have been included in the Public Works budget for Fiscal Year 2015-2016.

ONGOING FISCAL IMPACT

The City's existing storm drain fee will partially fund the costs that are related to existing facilities (commercial, industrial, municipal, and residential). The remaining unfunded costs will impact the City's General Fund.

ATTACHMENTS

- (1) Proposed amendments to CVMC Chapter 14.20
- (2) Executive Summary of the San Diego Bay Watershed Management Area Water Quality Improvement Plan
- (3) Executive Summary of City of Chula Vista's updated Jurisdictional Runoff Management Program document, June 2015 "JRMP" document

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