FINAL MEETING SUMMARY

Date:	October 5th, 2020 10:00 AM – 12:00 PM
Location:	Online Meeting
Subject:	Regional Compliance for a Sustainable Bay Advisory Committee Meeting #3
Attendees:	

Advisory Committee:	*In Attendance (Yes/No)*
Shannan Young, City of Dublin, ACCWP	Yes
Kristin Hathaway, City of Oakland, ACCWP	Yes
Karin Graves, CCCWP	Yes
Frank Kennedy, Kennedy & Associates, CCCWP	Yes
Matt Fabry, SMCWPPP	Yes
James O'Connell, City of Redwood City, SMCWPPP	No
Rinta Perkins, City of Santa Clara, SCVURPPP	Yes
Pam Boyle Rodriguez, City of Palo Alto, SCVURPPP	Yes
Kevin Cullen, Fairfield-Suisun	No
Rob Carson, MCSTOPPP	Yes
Jamison Crosby, Napa County Stormwater Management Program	Yes
Sarah Minick, SFPUC	Yes
Oriana Hart, County of Sonoma	Yes
Angela Clapp, Port of Oakland	Yes
Hardeep Takhar, Caltrans	No
Wilfung Martono, Caltrans	No
Steering Committee:	
Amanda Booth, City of San Pablo	Yes
Sarah Kolarik, City of San Pablo	Yes
Joanne Le, City of Richmond	Yes
Steve Waymire, City of Walnut Creek	Yes
Lucile Paquette, City of Walnut Creek	Yes
Michele Mancuso, Contra Costa County	Yes
Project Consultant Team:	
Lisa Austin, Geosyntec	Yes
Kelly Havens, Geosyntec	Yes
Mark Kieser, Kieser & Associates	Yes

Discussion Topics

1. Introductions and Agenda Overview

No comments on agenda.

2. Project Schedule Update and Notes Approval

Advisory Meeting #2 notes approved. Kelly Havens provided an overview of the project schedule. Literature review discussion:

- *Michele Mancuso* – Given where the System concept is heading, is there enough information on fees and types of fees? *Kelly* – This will be considered during System development but we will take a look at Literature Review to see if more introduction on fees is needed.

3. Presentation of System Concept and TAC Feedback

Amanda Booth provided a presentation of the proposed System Concept. Discussion highlights are provided:

Off-site Projects

- *Matt Fabry* – Clarifying question: offsite projects could be built by developer, municipality, or 3rd party? *Amanda* – Yes, but offsite project must be a non-regulated project.

Pollution Reduction Fee

- *Matt* – Is the nexus to Pollution Reduction Fee is that developers are not treating runoff from their property? There is an argument that developers are meeting C.3 with off-site projects and shouldn't need to pay additional fee. *Amanda* – The current thinking is that the Fee provides net environmental benefit and will also cover administration costs. *Kelly* – Fee also potentially lends itself to C.3.e requirement to treat "equivalent pollutant load".

- *Matt* – Could the Pollution Reduction Fee fund any type of system? One-time purchase or have to repurchase credits, fee for long term O&M? *Amanda* – Yes, idea is fee will cover non-GSI. There is likely to be a charge for O&M (either up front or ongoing, to be determined).

- *Pam Boyle Rodriguez* – I also have concern with seeming double charge with offsite credits plus Pollutant Reduction Fee. Will the total cost for developers be similar to cost of staying onsite? *Amanda* – Fee setting is an ongoing discussion. It's possible that adding this fee could potentially discourage developers from going off-site – question is this what we want?

- *Kristin Hathaway* – What is the difference between the Pollutant Reduction Fee and Stormwater Impact Fees (which are already being levied)? *Amanda* – In Contra Costa, we have

a stormwater utility fee, we need to look into impact fees and how the Pollutant Reduction Fee would differ.

- *Rinta Perkins* –Would the Pollutant Reduction Fee be fixed or negotiated project-by-project? *Amanda* – The team is leaning towards a set fee, which could vary by project characteristics or location. *Rinta* – Will this be kept general so that the pollutants of concern can change over time? *Amanda* – Yes.

- *Pam* – We should try to figure out how the program can incentive building additional GSI, especially given the potential C.3.j goals in MRP 3. Proposed System gets rid of one process [on-site GSI] but adds another [Pollutant Reduction Fee]. Developers may decide to go on-site route instead of having to learn a new process.

- *Pam* – Question on administrative issues of managing the fund at the county level. Who and how will the fee be managed? *Amanda* – Could expand the fee to all projects to enable more GSI, but this requires additional legal and regulatory considerations. Regarding the management issues for the fee – all under discussion.

CEQA

- *Kristin* – What are the CEQA issues with the alternative project being built before hand?

- *Lisa* – Project deferral. When doing CEQA, developer has to look at adverse impacts and demonstrate there is no increase in impacts. Have to design a project compliant with [stormwater] permit; if you are not doing this while regulated project is implemented, you have an impact that would need to be mitigated.

- *Mark Kieser* – Regarding Pollution Reduction Fund – there is no "credit" proposed. Fund would be administered differently than C.3 projects, which need to be implemented at time you are purchasing credits. CEQA may not apply for pollution reduction fee/fund.

Fee Structure Considerations; In-Lieu Fee

- *Matt* – Have read a lot about the DC approach. Their system has a "cap and a floor", with a guaranteed buyer and fee-in-lieu option if you are generating credits. Overall intent is to try to get more GSI built than would otherwise occur. Would there be a ceiling with this System, could developers pay in-lieu fee if there are no off-site options? *Amanda* – Fee-in-lieu could result in CEQA concerns, as we would need to have an off-site project to purchase from. Regarding the "floor and ceiling" – question is how you get this started. The Pollution Reduction Fund may be a way to get this started, e.g., used as grant matching, etc.

- *Sarah Minick* – Based on outreach in San Francisco, fee-in-lieu is attractive to developers to be able to walk away and not have to deal with GSI process/project. The fee-in-lieu funds would be used to pay into projects that were being built with grant funds, which had a

programmatic CEQA done. *Amanda* – That is a potential option; programmatic CEQA would help. We'd like to pilot this System without an expensive Countywide CEQA process.

- *Matt* – Who will be setting the price for the credits? *Mark Kieser* – Cost would be set by the developer of the off-site project.

- *Mark* – With regard to in-lieu fee – developer purchases C.3 credits at the same time as they pay into the pollution reduction fund. That way fund is providing projects to reduce PCBs loadings separately from C.3. When you get to large enough program to have a central exchange, that is where you can have the floor and ceiling for cost of C.3 credits. There is some flexibility with a central bank to fix the process. In the early program, if you have fewer exchange, developer may be paying for credits based on cost plus profit, for entrepreneurial credit generators, or less for NGOs.

Metrics

- *Matt* – If you use greened acres, to what decimal point do you go (e.g., 10th of an acre). Creates challenges that if you have someone who builds a project needs 3.4 ac, only have 3.2… how do you handle this? *Amanda* – Potentially, developer could look forward and build something off-site and use that project for themselves. This program allows that to occur.

Developer Involvement

- *Kristin* – Are you involving developers? Housing is our biggest concern in Oakland, have housing projects that need special projects or off-site LID. Would be interesting to hear from affordable housing development community. *Amanda* – we want to have a conversation with developers in Contra Costa. Would agree with Sarah M. – main thing we are hearing from developers is to be able write a check and walk away.

- *Mark* – One of the largest uncertainties is participation. "If you build it, they will come" idea has failed in the past. Early on, you need to design the System to be flexible so it can evolve over time. The pilot phase can get this going, then work out evolution as other entities are interested. Santa Rosa turned into a broker model, where the broker finds the projects for the buyer. Even further, the aggregator model might help if there is greater demand. Wisconsin passed legislation for a statewide clearing house.

Regional Considerations; Closing Comments

- *Matt* – Seems like the MRP discussions are pointing to more need for this program. Seems like this is not quite there in terms of a way to get more GSI built, but more about just satisfying the demand for offsite compliance. *Amanda* – Point of the program is not to necessarily kickstart more GSI to happen. Potentially could, but the main goal was to create another option to meet TMDL requirements. We are hoping to allow non-GSI systems – these may be more efficient ways to achieve TMDL compliance. One consideration for developers is - if they can

build lotline to lotline and this program allows you another row of apartments, that may be their impetus to participate. Note that we started developing this before RWB came out with MRP guidelines, so we aren't totally sure how this fits into that.

- *Pam* – Is there more clarity on what the RWB is thinking about for applying the CCC program to other counties? *Amanda* – In meetings with RWB, we have been clear that this is a Contra Costa County system and that even when it's approved and running, it will take a while to get established. We don't have much more clarity on what would be put in the permit. Don't think RWB will require other counties to do this, but they will be reducing other permit options.

- *Lucile* – Would it be worthwhile for the project team to propose that projects that started in MRP 2 would be allowed as a jump starter for the program? Also, non-LID project flexibility potentially pulls us into needing RWB approval, so the approval process for non-LID needs to be clearly defined. *Amanda* – This project started last year, so that should be the starting date. Agree with argument that those projects should be used to start-up the system.

- *Kelly* – Tracking was a topic mentioned by the TAC. SFEI is leading this effort and project team is developing guidelines now, so please send input via email. We will discuss further during AC Meeting #4 in late November/early December.

4. Next Steps

- Please provide comments on System via e-mail.

- Next AC meeting will be held in early December. Scheduling poll will be sent out in the next few weeks.