



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** February 18, 2021

Staff Contact: Darren Schulz, Public Works Director

Agenda Title: For Possible Action: Discussion and possible action regarding a business impact statement concerning a proposed ordinance amending Title 12 and Title 18 Appendix of the Carson City Municipal Code ("CCMC"), and concerning a proposed "Carson City Drainage Manual" ("Drainage Manual"), which together would implement low impact development ("LID") standards in Carson City. (Darren Schulz, Dschulz@carson.org; Dan Stucky, Dstucky@carson.org and Robb Fellows, Rfellows@carson.org)

Staff Summary: NRS 237.080 requires that Carson City prepare a business impact statement when a new ordinance or a new rule that imposes a fee that is paid by businesses is proposed. This business impact statement concerns a proposed ordinance and the proposed adoption of the Drainage Manual which, if adopted, would implement LID development standards in Carson City. The proposed business impact statement finds that the proposed ordinance and Drainage Manual will not impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.

Agenda Action: Formal Action / Motion **Time Requested:** 10 minutes

Proposed Motion

I move to approve the business impact statement as presented.

Board's Strategic Goal

Sustainable Infrastructure

Previous Action

On May 17, 2018, the Board of Supervisors adopted the Carson City Storm Water Management Plan Update which includes the goal to incorporate LID into the development standards.

September 22, 2020, a draft LID ordinance and Drainage Manual were sent out for review and comments to the Nevada Builders Alliance and to various local engineering firms. Feedback was received, which resulted in changes to the proposed Drainage Manual. The feedback that was received is attached to this staff report.

October 20, 2020, direct mailings were sent to the Carson City Area Chamber of Commerce and the Nevada Builders Alliance. One email was received with questions about the impact of the LID development standards. A response was provided explaining the impact.

On October 28, 2020, the Planning Commission conducted a public hearing on the text amendment to CCMC Title 18 and on the Drainage Manual. The Commission voted 6-0, 1 absent to recommend approval.

December 10, 2020, certified mailers were sent to the Carson City Area Chamber of Commerce and the Nevada Builders Alliance.

Background/Issues & Analysis

Direct mailings to the Carson City Area Chamber of Commerce and the Nevada Builders Alliance were distributed on December 10, 2020. The mailers explained the planned implementation of the LID standards and included a draft of the proposed ordinance and the proposed Drainage Manual. It was requested that any data or arguments as to whether the proposed ordinance or Drainage Manual will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business be provided to Carson City by January 8, 2021.

On January 7, 2021, Aaron West from the Nevada Builders Alliance (NBA) responded with a letter (attached) expressing the desire to discuss the Drainage Manual and its impacts on their members. On February 2, 2021, a virtual meeting was held to review the Drainage Manual development standards and answer questions about the development standards and associated cost implications. The meeting was attended by four members of the building and development community and four engineers. At the meeting City staff reaffirmed that developments approved or under construction before the implementation of the LID ordinance and the Drainage Manual development standards will follow the specific conditions and development standards that were previously approved. In addition, staff clarified that existing infrastructure that provides mitigation from storm water impacts or water quality treatment can still be used by the properties benefitting from that infrastructure, with the proper supporting engineering analysis. Staff also clarified that standard maintenance practices like parking lot asphalt concrete overlays would not likely be a catalyst that would require implementation of the new LID development standards. All attendees of the meeting expressed a willingness to work through site specific issues that may arise during the design process after the new LID development standards are implemented. One change was made to the Drainage Manual as a result of the meeting.

Based on the above, staff requests that the Board of Supervisors find that the changes to CCMC do not impose a direct and significant economic burden on businesses or directly restrict the formation, operation, or expansion of a business.

A copy of the Business Impact Statement, along with the appeal petition form, is available at the public counter of the Public Works Department, 3505 Butti Way, Carson City, Nevada.

Applicable Statute, Code, Policy, Rule or Regulation

NRS Chapter 237 (Business Impact Statements)

Financial Information

Is there a fiscal impact? No

If yes, account name/number: N/A

Is it currently budgeted? No

Explanation of Fiscal Impact: N/A

Alternatives

Do not approve the business impact statement or provide alternative direction to staff.

Attachments:

[BIS - LID Ordinance second round.pdf](#)

[Drainage_Manual_Comments.pdf](#)

Cover_Letter_Builders_Association_of_Western_Nevada_LID_BIS.pdf

Cover_Letter_Chamber_of_Commerce_LID_BIS.pdf

LID Itr NBA 1-8-21.pdf

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)



BUSINESS IMPACT STATEMENT

This Business Impact Statement was prepared in accordance with the provisions of NRS (Nevada Revised Statutes) 237.030 to 237.150, inclusive, as a statutory prerequisite to the adoption of any rule***, as that term is defined in NRS 237.060, by the Carson City Board of Supervisors.

*** A "rule" may include an ordinance, or an action taken by the Board, that imposes, increases or changes the basis for the calculation of a fee which is paid in whole or in substantial part by businesses. A "rule" **does not** include actions that impose, increase or change the basis for the calculation of: (1) special assessments imposed pursuant to NRS chapter 271; (2) impact fees imposed pursuant to NRS chapter 278B; (3) fees for remediation imposed pursuant to NRS chapter 540A; (4) taxes ad valorem; (5) sales and use taxes; or (6) a fee that has been negotiated pursuant to a contract between a business and Carson City. A "rule" also **does not** include: an action taken by the Board that approves, amends or augments the annual budget of Carson City; an ordinance adopted by the Board pursuant to a provision of NRS chapter 271, 271A, 278, 278A, 278B or 350; an ordinance adopted or action taken by the Board that authorizes or relates to the issuance of bonds or other evidence of debt of Carson City; or any rule for which Carson City does not have the authority to consider less stringent alternatives, including, for example, a rule that Carson City is required to adopt pursuant to a federal or state statute or regulation or to a contract into which Carson City has entered.

ORDINANCE OR ACTION PROPOSED FOR ADOPTION

The following ordinances and polices are proposed for adoption:

1. An ordinance implementing low impact development standards in Carson City; and
2. the Carson City Drainage Manual.

1. *The manner in which notice was provided to the applicable trade associations and officers of businesses likely to be affected by the proposed ordinance or action, and a summary of any data, arguments or comments received from those recipients:*

a. Notice

On May 17, 2018, the Board of Supervisors adopted the Carson City Storm Water Management Plan Update which includes the goal to incorporate Low Impact Development (LID) practices into the development standards. LID is a stormwater management approach to land development and redevelopment that works to manage stormwater close to its source. LID practices can be effective in reducing runoff quantity, enhancing groundwater recharge, preserving flood plain storage, and removing pollutants by filtration and biological processes before entering the City's storm drainage system.

On September 22, 2020, a draft LID ordinance and Carson City Drainage Manual (Drainage Manual) were sent out for review and comments to the Nevada Builders Alliance and to various local engineering firms. One engineering firm returned comments which were included in the Drainage Manual. Comments were mainly concerning detention basin design.

On October 28, 2020, the Planning Commission conducted a public hearing on the text amendment to the Title 18 and on the Drainage Manual. The Commission voted 6-0, 1 absent to recommend approval.

In order to meet the requirements of NRS 237.080, on December 10, 2020, direct mailings were sent to the Carson City Area Chamber of Commerce and the Nevada Builders Alliance. The mailers explained the planned implementation of the LID development standards and included a draft of the proposed ordinance and the proposed Drainage Manual. It was requested that any data or arguments as to whether the proposed ordinance or Drainage Manual will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business be provided to Carson City by January 8, 2021.

A copy of this Business Impact Statement, along with the appeal petition form, is available at the Carson City Public Works Department, 3505 Butti Way, Carson City, Nevada, 89701. A copy of the appeal petition form can also be obtained at the Carson City Clerk/Recorder's office.

b. Summary of comments

In response to an earlier solicitation for comment on September 22, 2020, Staff did receive one written comment in support of the ordinance and Drainage Manual with suggested edits to the Drainage Manual. Staff considered the comment and made edits to the Drainage Manual in response to the comment.

In response to the notice to the Chamber of Commerce and the Nevada Builders Alliance, Carson City received one comment from the Nevada Builders Alliance. The Nevada Builder's Alliance suggested a workshop to discuss the development standards in the Drainage Manual with builders, developers, and the design community.

On February 2, 2021, a web meeting was held to review the proposed design standards in the Drainage Manual and answer questions about the drainage manual criteria and cost implications. The meeting was attended by four members of building and development community and four engineers. One change was made as a result of the workshop, and all

attending the workshop expressed a willingness to work through site specific issues that may arise during the design process.

2. *The estimated economic effect of the proposed ordinance or rule on businesses, including both adverse and beneficial effects, and both direct and indirect effects:*

a. *Adverse effects:*

The City's stormwater drainage standards are being revised to include LID development standards, and the minimum design storm is being increased from a 5-year, 24-hour storm to a 10-year, 24-hour storm. In many cases, the LID development standards are more stringent than existing development standards, which will require developers and property owners to take into account the new standards when designing projects constituting development or redevelopment under the ordinance. This may take additional design time and may require more costly design approaches to meet the new standards.

b. *Beneficial effects:*

Under the current Municipal Separate Storm Sewer System (MS4) permit issued by Nevada Division of Environmental Protection, Carson City is required to implement LID development standards. Carson City is also required to implement and enforce a Stormwater Management Program (SWMP) to reduce the pollutants in its stormwater and discharge through its MS4, and to have development policies and procedures to implement and enforce the operation and maintenance of source control and structural treatment controls for new development and redevelopment within the City. The requirements for the SWMP and a permit to discharge pollutants into the waters of the United States from a MS4 are contained in Section 402 of the Federal Clean Water Act.

Implementing LID development standards will permit the City to comply with state and federal law and the City's Storm Water Management Plan Update. It is anticipated that LID development standards will be effective in reducing runoff quantity, enhancing groundwater recharge, preserving flood plain storage, and removing pollutants by filtration and biological processes before entering the City's storm drainage system. In turn this will improve the water quality in the Carson River and other Carson City water ways. In conjunction with the City's stormwater planning, this will also permit the City to more effectively plan for flood events and help alleviate flooding in Carson City during storm events.

c. Direct effects:

If approved, the storm water development standards will be replaced with the Drainage Manual and developers and property owners will be required to meet the new development standards, or obtain an exemption.

d. Indirect effects:

Over the course of several years as LID development standards are implemented, it is anticipated that storm runoff quantity will be reduced, groundwater recharge will be enhanced, flood plain will be preserved, and pollutants will be removed by filtration and biological processes before entering the City’s storm drainage system.

3. *The methods considered by the Carson City Board of Supervisors to reduce the impact of the proposed ordinance or action on businesses and whether any of those methods were used:*

At this time, because the LID development standards are state and federally required, the development standards are likely to have a minimal impact, and Carson City has not received notice that the development standards in the Design Manual will have a significant impact on any businesses, the Carson City Board of Supervisors has not considered alternatives. The ordinance does contain recourse for an exemption from the LID development standards where the LID development standards are not suitable for the site, would interfere with existing drainage in such a manner as to cause damage to an adjacent property or a public right-of-way, would present a hazard to a persons or property; or have a detrimental influence upon the public welfare.

4. *Estimate of the annual cost to Carson City for enforcement of the proposed ordinance or action:*

It is estimated that there will be minimal increases in costs for Carson City to enforce the proposed ordinance and Drainage Manual. The City already employs drafters, designers, project managers, and inspectors, and those individuals will now enforce a new set of development standards. There may be some minimal cost for those individuals come up to speed on the development standards in the Drainage Manual.

5. *The total annual amount of money expected to be collected as a result of the new fee or increase in fee proposed by the ordinance or action, and the manner in which the money will be used:*

The ordinance and Drainage Manual will not generate any funds for Carson City.

6. The proposed ordinance or action [] DOES [X] DOES NOT include any provisions which duplicate or are more stringent than Federal, State or local standards regulating the same activity.

7. The reasons for the conclusions regarding the impact of the proposed ordinance or action:

The proposed ordinance and Drainage Manual will not have a direct effect, or for the most part any effect at all, upon most businesses in Carson City, except those businesses that design or develop real property. At this time, it is not believed that the LID ordinance and the Design Standards will have a substantial impact on businesses that design or develop real property in Carson City, as those business are already required to comply with the Carson City development standards as a whole (Title 18 Appendix of the CCMC), and this change to the stormwater development standards is one of many development standards for such businesses to consider and comply with.

In addition, the City has not received any feedback that the proposed ordinance and Drainage Manual will constitute a significant economic burden upon Carson City businesses or will restrict the formation, operation, or expansion of any businesses.

8. Based on the information considered, it has been determined that this proposed ordinance or rule:

[] DOES [X] DOES NOT impose a direct and significant economic burden upon a business.

[] DOES [X] DOES NOT directly restrict the formation, operation or expansion of a business.

Pursuant to NRS 237.090(3), this Business Impact Statement was prepared and made available for public inspection by Carson City Public Works at the time the agenda notice on which the proposed ordinance or rule described in this statement is included was posted.

Pursuant to NRS 237.090(2), I, Nancy Paulson, the City Manager of Carson City, hereby certify that to the best of my knowledge and belief the information contained herein was properly prepared and is accurate.

Nancy Paulson
Signature

2/19/21
Date

Nancy Paulson
Printed Name

Robb Fellows

From: Michelle Gamble, P.E. <mgamble@LumosInc.com>
Sent: Wednesday, October 14, 2020 6:18 PM
To: Robb Fellows
Cc: Michael D. Bennett, P.E.
Subject: CC Drainage Manual and LID Implementation Ordinance

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hi Robb,

Thank you for the opportunity to review the proposed LID ordinance and changes to the CC Drainage Manual. This is a step forward for the City and is good to see. Below are our comments for your consideration. Please feel free to reach out to me directly if you have any questions.

Thanks!

Section 9. It is unclear as to whether LIDs are required or encouraged. The way section 9 is drafted, it seems to be encouraging the implementation of LIDs and providing guidance if they are used. If a project can demonstrate that they are keeping post project runoff at or less than pre-project runoff using other means, is this OK? I think this is what is intended and what the modification to section 12.20.040 of the Code is getting at but it seems unclear in the Drainage Manual. Maybe adding a clarifying sentence at the beginning of Section 9 that LIDs are encouraged and that they are a preferred stormwater reduction BMPs would help.

10.2 (5) The current and proposed language for in-channel detention indicates they are required to pass the 'probable maximum flood'. This is the only reference to this storm event in the manual. Elsewhere, detention basin overflows are required to pass the 100-year event. Consistency with having the design be to the 100-year event would clarify this.

10.2 (13) This section refers to detention basins as "generally" having side slopes no steeper than 5:1. Use of the term "generally" can be problematic. 5:1 side slopes are great where there is space. However, many smaller sites have limited area for stormwater BMPs and can fit in small basins with steeper side slopes that are appropriately armored. It is suggested that this language be amended to state that 5:1 side slopes are preferred but steeper side slopes are allowed if soil conditions allow and if proper armoring is provided.

10.2 (13), (14), (15) These sections require paved ramps. This is not practical for small basins. It is suggested that a specific size of basin be identified in which a ramp is required but that ramps are not required for the smaller basins as would be typically installed on smaller sites.

Section 10.5 This section is unclear. Are flow restrictor outlets required or does this just provide guidance when they are included? Also, this section refers to section 1.8 Storm Runoff Detention. This reference numbering is incorrect.

12.3(1) This section describes pollutant removal goals. It is unclear as to whether these are goals or discharge standards that will need to be met. With this, the proposed requirement is presented as using influent as a parameter to the treatment level. Would this require water quality monitoring to ensure compliance? If so, that can be particularly difficult for small sites without concentrated flows. If the intent is to require structural BMPs to have a specific performance requirement, consider rewording this section.



Michelle Gamble, P.E.
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 Reno, NV 89521
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 mgamble@LumosInc.com



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From: Robb Fellows <RFellows@carson.org>
Sent: Tuesday, September 22, 2020 10:48 AM
To: Michael D. Bennett, P.E. <mbennett@LumosInc.com>
Subject: RE: Voicemail

Hi Michael,

The changes to Carson City Code include:

- Adding a new Chapter 12.20 Low Impact Development to C.C.M.C.
- Amending Title 18 Appendix, Development Standards, Division 14 (Storm Drainage) by deleting Division 14 and referencing the Carson City Drainage Manual
- Creating the Carson City Drainage Manual which includes the following items:
 - Requires all previous drainage criteria from Division 14 Development Standards
 - Requires Low Impact Development (LID) for all new development and redevelopment.
 - Provides LID control design criteria for both flow and volume-based storm water
 - Changes the minimum design storm from a 5-year, 24-hour storm to a 10-year, 24-hour storm.
 - Provides LID design flexibility where some LID controls are not suitable with existing site conditions.
 - Allows a 1 to 1 volume credit for LID facilities to detention volume.
 - Provides listing of various BMPs to control run-off and filter pollutants most suited for the area.
 - Provides recommended maintenance criteria of BMPs.

Send any comment to me by October 15, 2020. Feel free to have others review the draft documents as well.

Robb

Robert D. Fellows, P.E.
 Chief Stormwater Engineer
 CRS, Floodplain & NPDES Mgr
 Carson City Public Works
 (775) 283-7370
RFellows@carson.org
www.carsonsw.org

From: Michael D. Bennett, P.E. <mbennett@LumosInc.com>
Sent: Tuesday, September 22, 2020 10:43 AM
To: Robb Fellows <RFellows@carson.org>
Subject: Voicemail

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hey Robb,

Thank you for your call just now, I apologize that I was not available to take it.

I look forward to seeing a copy of the LID material and am happy to make comments back to you. Thanks for including us in the process!

Regards,
Mike



Michael D. Bennett, P.E.
Director
Engineering Division
308 N. Curry Street, Suite 200
Carson City, NV 89703
775.883.7077
mbennett@LumosInc.com



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CARSON CITY NEVADA

Consolidated Municipality and State Capital

PUBLIC WORKS

December 10, 2020

Mr. Aaron West
Nevada Builders Alliance
PO Box 1947
Carson City, NV 89702

Re: Proposed ordinance adding Chapter 12.20 LOW IMPACT DEVELOPMENT; amending Title 18 Appendix, Division 14 STORM DRAINAGE, to adopt the Carson City Drainage Manual; and repealing the remainder of Title 18 Appendix, Division 14 STORM DRAINAGE of the Carson City Municipal Code.

Dear Mr. West:

Enclosed for your review is a copy of a proposed ordinance adopting low impact development standards for Carson City. Low impact development standards are being proposed to improve and enhance water quality by reducing stormwater and non-stormwater runoff, reducing non-point source pollution, and providing for groundwater recharge through design techniques that mimic the pre-development hydrology of a site and effectively slow, capture, infiltrate, filter, detain, evaporate, and hold runoff onsite.

These changes are being implemented in a proposed ordinance and in a proposed Carson City Drainage Manual, drafts of which are enclosed for your review. Please be aware that the ordinance and the Drainage Manual may be further revised before being presented to the Board of Supervisors.

As required by NRS 237.080, before adopting an ordinance or changing a fee that is paid by businesses, Carson City must make a concerted effort to determine whether the proposed ordinance or fee change will impose a direct and significant economic burden upon a business or directly restrict the formation, operation, or expansion of a business. Please review the attached draft ordinance and submit to the City any comments that you may have and any data or arguments you may have as to whether the proposed ordinance will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business. Please also submit any comments that you may have on the Drainage Manual.

Please provide any comments, data, or arguments to the City in writing by January 8, 2021, by email to Robb Fellows, Senior Project Manager, at rfellows@carson.org, or to Randy Rice, City Engineer, at rrice@carson.org, or by mail to the Carson City Public Works Department, 3505 Butti Way, Carson City, Nevada 89701. All comments, data, and arguments will be included in the presentation to the Carson City Board of Supervisors for their consideration of the required Business Impact Statement.

If you have any questions, please call either Robb Fellows at (775) 283-7370, or Randy Rice at (775) 283-7378.

Sincerely,



Dan Stucky, P.E.
Deputy Public Works Director

Enclosures

Proposed Ordinance

Proposed Carson City Drainage Manual



CARSON CITY NEVADA

Consolidated Municipality and State Capital

PUBLIC WORKS

December 10, 2020

Ms. Ronni Hannaman
 Carson City Area Chamber of Commerce
 1900 South Carson Street, Suite 200
 Carson City, NV 89701

Re: Proposed ordinance adding Chapter 12.20 LOW IMPACT DEVELOPMENT; amending Title 18 Appendix, Division 14 STORM DRAINAGE, to adopt the Carson City Drainage Manual; and repealing the remainder of Title 18 Appendix, Division 14 STORM DRAINAGE of the Carson City Municipal Code.

Dear Ms. Hannaman:

Enclosed for your review is a copy of a proposed ordinance adopting low impact development standards for Carson City. Low impact development standards are being proposed to improve and enhance water quality by reducing stormwater and non-stormwater runoff, reducing non-point source pollution, and providing for groundwater recharge through design techniques that mimic the pre-development hydrology of a site and effectively slow, capture, infiltrate, filter, detain, evaporate, and hold runoff onsite.

These changes are being implemented in a proposed ordinance and in a proposed Carson City Drainage Manual, drafts of which are enclosed for your review. Please be aware that the ordinance and the Drainage Manual may be further revised before being presented to the Board of Supervisors.

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Please provide any comments, data, or arguments to the City in writing by January 8, 2021, by email to Robb Fellows, Senior Project Manager, at rfellows@carson.org, or to Randy Rice, City Engineer, at rrice@carson.org, or by mail to the Carson City Public Works Department, 3505 Butti Way, Carson City, Nevada 89701. All comments, data, and arguments will be included in the presentation to the Carson City Board of Supervisors for their consideration of the required Business Impact Statement.

If you have any questions, please call either Robb Fellows at (775) 283-7370, or Randy Rice at (775) 283-7378.

Sincerely,



Dan Stucky, P.E.
Deputy Public Works Director

Enclosures
Proposed Ordinance
Proposed Carson City Drainage Manual

January 7, 2021

Carson City Public Works
Attn: Dan Stucky, Deputy Public Works Director
3505 Butti Way
Carson City, Nevada 89701

Re: Proposed Ordinance adding Chapter 12.20 Low Impact Development and adoption of the Carson City Drainage Manual

Dear Mr. Stucky:

Thank you for your correspondence dated December 10, 2020 requesting input on the potential economic burden of the proposal cited above. While the ordinance adding Chapter 12.20 is fairly innocuous, of real concern to our members is the change from a relatively concise set of drainage guidelines under 14.1 to a voluminous Drainage Manual with multiple options and interpretations that could be implemented at wide ranging costs.

Considering the significant changes to the development standards, I would suggest this be discussed in a workshop format with stakeholders including builders, developers and the design community. This allows those responsible for implementing the new standards to be asked questions, on the record, about the need, intent and the purpose of such changes. A workshop would also provide an opportunity for Carson City staff to present and justify recent changes to accepted standards and practices that don't seem to require ordinance adoption.

Thank you for the opportunity to provide input on this especially important matter. Per your request, in accordance with NRS 237.080, as to whether this proposal will impose an economic burden upon a business. While it may not have a direct impact on a single business or sector, to adopt such an ordinance with wide ranging implications will most certainly create cost uncertainty for those trying to engage in development site feasibility analysis and will most definitely have an impact on housing affordability and access in the community.

Sincerely,



Aaron West, CEO