



Statement Regarding August 8, 2017, Franklin Board of Mayor and Aldermen Meetings

The Harpeth Conservancy is a 501(c)(3) non-profit organization dedicated to clean water and healthy ecosystems for rivers in Tennessee, championed by the people who live here. We have represented the public interest in restoring and protecting the Harpeth River since 1999. Our approach employs scientific expertise and collaborative relationships to develop, promote, and support broad community stewardship and action for the Harpeth River and all of Tennessee's waters.

We want to address item 21 on the Work Session agenda: the engagement of counsel for the appeal of the discharge permit for the Franklin sewage treatment plant. Harpeth Conservancy has appealed the permit because it allows the City to more than double the amount of phosphorus pollution it is currently actually discharging into the Harpeth River. Even at current levels of discharge, the river is on the state's list of impaired waters for excessive phosphorus. The state has identified this pollution as coming from the City's sewer plant and stormwater runoff. The permit Franklin seeks does not result in any restoration of the river, or even hold the line at current phosphorus pollution levels.

Phosphorus is a principal concern because it causes the growth of potentially toxic blue-green algae and other harmful algae blooms. Examples of this happening can be seen all across the country, from the Great Lakes to California and Florida. Experts say that the Harpeth River is at or beyond a tipping point for the growth of blue-green and other harmful algae blooms.

We want to make sure that the BOMA and the public are aware of the positions that the City is taking in this matter. The City sought, from the Tennessee Department of Environment and Conservation, permission to more than double the amount of phosphorus it is currently actually discharging into the river. The City has now filed its own permit appeal, and states in its appeal that "... no phosphorus limit is necessary for Franklin." Further, Franklin's own permit appeal states that "If TP [total phosphorus] limits more stringent than those set forth in the prior NPDES permit are deemed to be appropriate, the limits should be higher than 63,693 lbs/yr." 63,000 lbs / year, the annual limit of the new permit, is more than double the amount the City is now discharging into the river. At current discharge levels the river is still on the state's 303(d) list, but the City seeks permission to discharge more than double that amount.

These claims also contradict the statements in the settlement agreement the City entered into with the Harpeth Conservancy little more than a year ago to resolve the federal

SCIENCE-BASED CONSERVATION FOR THE RIVERS OF TENNESSEE

Harpeth River Watershed Association, DBA Harpeth Conservancy, is a Tennessee non-profit corporation and a 501(c)(3) organization.

All donations are tax deductible to the full extent allowed by law.

P.O. Box 1127, Franklin, Tennessee 37065 | Phone: 615-790-9767 | <http://www.harpethconservancy.org>

Board of Directors

John M. Dab
Board Chair
HealthTrust

Christian Currey
Vice Chair
Founder, FarmVet

John R. Mattox II, Ph.D.
Secretary
Owner, Paddle Dog
Adventures

Brian A. Wilson, CPA
Treasurer
Senior Manager,
KraftCPAs PLLC

Wayne Edwards
Strategic Communications
Consultant

John C. Priest
Retired Human Resources
Professional

Kimberly K. Sharp
Manager, Retirement &
Compliance, Total Rewards,
Nissan USA

Mary O. Stone
Community Volunteer

W. Stacy Vereen
Owner, Loyal Brand Co.

Advisory Council

Becky Barkley
Mike Blosser
Linda Breggin
David Bridgers
Mary Brockman
Angela Calhoun
Mike Corn
Matt Dobson
Sarah Ford
Dodd Galbreath
Patty Ghertner
Joe Glaser
John Guider
Lisa Harless
Gary Hawkins
Nancy Hiatt
John Ingram
Orrin Ingram
Susan Kaestner
Robanne T. Legan
David Lemke
Emily A. Magid
Deborah Miede, Ph.D.
Tom Morales
John Noel
Phil Pace
Ginger Shirling
William H. "Chip" Smith

citizen suit we brought under the Clean Water Act regarding compliance with the City's permit for its sewer plant. At that time the City admitted that "... the Harpeth River is listed by TDEC on the Section 303(d) list as impaired for Total Phosphorus and a water quality-based effluent will therefore be required for this parameter in the Permit," We also have significant concerns about the City's compliance with other terms of the settlement agreement.

Harpeth Conservancy is being represented in these matters *pro bono* by Waller Lansden Dortch & Davis, Nashville's premier business law firm. We note, however, the significant public resources the City will spend in its positions to push for more phosphorus pollution. In addition to the Luna Law Firm, the City is also being represented in these matters by Hall & Associates and Gary Cohen, the City's outside counsel in its unwarranted counterclaim against Harpeth Conservancy. These misguided efforts cost the City at least \$300,000 in attorney fees, which was the amount discovered by the *Tennessean* only part way through the case.

As Judge Sharp noted in dismissing the City's unfounded counterclaim against the Conservancy,

"And should y'all even be filing a counterclaim or should the parties be spending this time ... trying to figure out how to resolve this case and figure out how to get clean water and make sure the water is the way it should be in the Harpeth River? I mean, it seems like a lot of money is being spent when everybody should want to be obtaining the same objective."

We also want to address item 17 on the BOMA agenda, the authorization of an additional \$482,000 to the CDM contract for the Franklin sewage treatment plant. We speak to this item because of some of the statements made in the proposed contract amendment. They seem to place blame on citizens and citizens' groups exercising their legitimate rights to participate in government decision-making.

The amendment inappropriately says that

The design and permitting for the Franklin WRF Improvements project continues to be prolonged due to the lack of finalization of the plant's expanded NPDES permit; ultimately, delaying the funding (SRF) and bidding processes. In addition, there also continue to be questions and request for clarification by a small facet of the public and regional environmental group with regards to the planned biosolids upgrades and the permitted effluent discharge limits for the proposed expansion. The delays in themselves result in additional week-to-week expenditures ..., but the public objections have also resulted in additional tasks required to respond to input and requests; and most recently, in the evaluation of a potential new biosolids process, the Lystek Thermal Hydrolysis Process.

The delaying of the NPDES permit has also resulted in additional coordination and delays with the SRF loan process for the City's approved financing. The process has become protracted and has required additional work above the originally defined scope of work

The cause of the issues regarding the NPDES discharge permit is the City's failure to recognize and to seriously address the conditions in the Harpeth River. As we have noted, the City is seeking from

TDEC permission to more than double the amount of phosphorus it is currently actually discharging into the river.

The City is taking this position to increase its pollution in spite of the river's status on the state's 303(d) list as being impaired for phosphorus, and thus legally unable to accept more pollution, and that the sources of that pollution are the City's sewage treatment plant and stormwater runoff.

There is no issue of the City begin able to afford systems to control phosphorus discharges into the river. The City is borrowing almost \$100 million to build the plant expansion, and is even prioritizing the installation of chemical processes to control phosphorus pollution if this is needed.

We understand that either or both of the proposed biosolids systems mentioned in the contract amendment can also be utilized reduce phosphorus and other pollution in the river. We would strongly urge the BOMA and the City's Water Management Department to explicitly make one of their selection criteria an evaluation of the Cambi and Lystek systems' relative abilities to reduce phosphorus pollution in the river.

Harpeth Conservancy stands ready to work cooperatively with the City to help restore and protect the river and is prepared to assist the City in evaluating the two technologies' ability to cleanup and protect the river. As a part of this effort, Harpeth Conservancy also looks forward to a serious commitment by the City to live up to prior obligations and to work amicably with us.