

elm creek

Watershed Management Commission

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MINUTES

April 14, 2010

I. The regular monthly meeting of the Elm Creek Watershed Management Commission was called to order at 11:33 a.m., Wednesday, April 14, 2010, in the Mayor's Conference Room, Maple Grove City Hall, 12800 Arbor Lakes Parkway, Maple Grove, MN, by Chairman Doug Baines.

Present were: Bill Walraven, Champlin; Doug Baines, Dayton; Joe Trainor, Maple Grove; Dick Picard, Medina; Fred Moore, Plymouth; James Kujawa and Ali Durgunoğlu, Hennepin County Dept. of Environmental Services (HCDES); John Barten and Randy Lehr, Three Rivers Park District; Jeff Weiss, Barr Engineering; and Judie Anderson, JASS.

Absent: Corcoran, Hassan and Rogers.

Also present: Tom Cossette, Corcoran; Rick Lestina, Maple Grove; Randy Foote and Elizabeth Weir, Medina; and Brad Wozney, Board of Water and Soil Resources (BWSR).

II. Motion by Walraven, second by Trainor to approve the **revised agenda**. * *Motion carried unanimously.*

III. Motion by Moore, second by Picard to approve the **minutes of the March 10, 2010 meeting*** with the following correction:

III. C. **Adjournment.** There being no further business, motion by ~~Picard~~
~~Walraven~~, second by ~~Walraven~~ Ebert to adjourn.

Motion carried unanimously.

IV. Motion by Moore, second by Picard to approve the **April Treasurer's Report and Claims*** totaling \$9,129.59.
Motion carried unanimously.

V. **Open Forum.**

A. Weir introduced Foote as the newly-appointed Alternate Commissioner from the City of Medina.

B. **Commissioner Reporting.** The Commissioners were asked how often they report the activities of the Commission to their city councils/town board. Weir indicated Medina will add this item to their agenda soon. Baines suggested this should occur at least semiannually. Staff will draft a letter to the member communities requesting that "Report from the Elm Creek Commissioner" be placed as an item on their council/board agendas.

C. Concerned was expressed regarding the status of **2007-014W Hamel Station, Medina**. The Commission holds a \$15,000 surety to secure establishment and proper performance of the buffer area and to cover additional monitoring costs on this project. Fortin Consulting is performing the streambank and buffer monitoring. On October 27, 2009, Staff noticed that a significant number of trees had been cut within the buffer area and remaining trees had been pruned up to about 20 feet high. Fortin has documented the extent of clearing done. The developer's agent, Eric Simmer, has taken responsibility for removing the trees. On December 23, 2009, the City of Medina sent a letter to the developer notifying him of violations to various city ordinances and offering him an opportunity to remediate the violations. Because vegetation located in the MnDOT right-of-way was also removed, MnDOT was also notified and has been in contact with the City Planner.

On March 1, 2010 the applicant responded to the City, indicating that he could not meet their replacement plans on-site. He has proposed to come in front of the City Council to talk about alternatives (a

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combination of on-site tree replacement, other on-site vegetation on the banks of Elm Creek, and cash dedication for off-site tree planting).

City and Commission staff discussed alternatives going forward. They, along with MnDOT staff, unanimously recommended against an alternative that results in no replacement shade trees being planted in the area where they were removed. Simmer responded with a new proposal that would plant twelve 4" trees and include a possible cash payment to the City equivalent to the remaining required tree replacement. Staff members recommended replacement with at least twice the number of trees removed beyond the amount allowed, (eight more trees were removed) or 16 trees. Commission staff recommended more, and generally all staff members recommended the replacement trees be larger, perhaps 4" diameter, trees. Staff from all the parties recommended that the landscaping plan include shrubs and shorter plantings in order to restore the streambanks. City staff also recommended a maintenance agreement and financial guarantee that the planted trees would survive two years.

Simmer appeared at the April 6, 2010, Council meeting where the Council instructed city staff to work with the Commission on a replacement plan, to be delivered within 45 days. The plan will be presented to Simmer for implementation at that time. Following extensive discussion, motion by Moore, second by Walraven directing Staff to join with city staff in seeking a proposal to prepare a plan for stream restoration that meets City and Commission requirements and to return to the May meeting with that information. *Motion carried unanimously.*

VI. Action Items.

A. Motion by Moore, second by Walraven to accept the **2009 Annual Report*** contingent on review and comments received by April 21, 2010. *Motion carried unanimously.*

B. Motion by Walraven, second by Picard to accept the **2009 Audit Report.*** *Motion carried unanimously.*

C. Motion by Moore, second by Walraven to approve submittal on behalf of Three Rivers Park District of an application for a Clean Water Fund grant for the **Medicine Lake Regional Trail Corridor/Rice Lake Plant Community Restoration project.*** *Motion carried unanimously.*

D. Motion by Moore, second by Walraven to approve submittal on behalf of Three Rivers Park District of an application for a Clean Water Fund grant for the **Crow River Plant Community Restoration project.*** *Motion carried unanimously.*

VII. Elm Creek Watershed-wide TMDL.

At the request of Brooke Asleson, Minnesota Pollution Control Agency (MPCA), she, Lehr and Anderson have scheduled monthly teleconferences to discuss progress on this project. Goals of the April teleconference include: Lehr will develop a scoping document by June; Anderson will identify a technical and a non-technical representative from each member community to serve on the Steering Committee; contact will be made with the Crow River watershed to begin discussion re overlapping jurisdictions; Lehr will meet with appropriate individuals re ditch authority; and Asleson will upload the Elm Creek project page to the MPCA website. (Link is <http://www.pca.state.mn.us/water/tmdl/project-elm-creek-watershed.html>.) The next Steering Committee meeting is scheduled for 2:00 p.m., Wednesday, June 23, 2010, at Plymouth City Hall. The Citizen Advisory Committee will be a separate body. Its constituents will be identified later in the process and include members of lake associations and lakeshed residents.

VIII. New Business.

IX. Education.

Following discussion with the Shingle Creek WMO's attorney, the **West Metro Water Alliance (WMWA)** has decided to draft a cooperative agreement to formalize the group. Following approval of the agreement by the

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current WMWA representatives, prospective members will be asked to:

- A. Adopt the agreement.
- B. Recognize WMWA as a consortium of organizations working to provide coordinated education and outreach on water resource issues in the West Metro Area.
- C. Authorize participation in WMWA.
- D. Designate a formal representative from the Commission to WMWA.
- E. Provide comments on the vision, mission, goals, draft Plan, and administrative structure.

The next meeting of WMWA is scheduled for 8:30 a.m., Tuesday, May 11, 2010, at Plymouth Creek Center.

X. Watershed Management Plan.

At their December 2009 meeting the Commission approved Hassan Township's Local Surface Water Management Plan (2007-047) conditioned on satisfactory completion of four items by July 1, 2010.

XI. Wetland Conservation Act (WCA).

A. 2004-001W Three Rivers Estates, Hassan. Staff provided a copy of the 2009 monitoring report to the landowner and followed up with him re ongoing maintenance recommendations. Barr Engineering will continue to monitor the site for progress and compliance with the approved Wetland Conservation Act (WCA) replacement plan.

B. 2005-057W Maria Meadows, Hassan. The 2006 monitoring report noted deficiencies in the wetland replacement basins. Remedial work was completed in 2007 and 2008. Mowing of the reseeded areas was completed in spring 2009. A copy of the 2009 monitoring report was provided to the landowner in January 2010. Maintenance and monitoring will continue in 2010.

C. 2006-002W Doboszanski and Sons, Corcoran. This site was constructed in 2007 and the wetlands were excavated and seeded in 2008. The Commission holds a construction surety of \$50,000 and a monitoring surety of \$20,000 for the wetland work. Barr Engineering is the monitoring consultant. A copy of the 2009 monitoring report was provided to the landowner with deficiencies and management recommendations highlighted. Monitoring will continue in 2010.

Klein Bank, holder of the construction surety, has allowed the letter of credit to expire despite efforts of Staff to communicate with bank officials. Staff has so informed the Commission's attorney and a future course of action is being considered.

D. 2006-037W Hayden Lake Road/Tilden Avenue Construction, Champlin. The first and second annual monitoring reports have been submitted by WSB & Associates. Development of the mitigation area appears to be consistent with the design. Monitoring will continue in 2010. Recorded Restrictions and Covenants over the replacement area are still necessary. Staff will continue to follow up with the City.

E. 2007-014W Hamel Station, Medina. See V.C., above.

F. 2007-023W Scott Stewart Wetland Cease and Desist Order, Hassan. The DNR issued a Cease and Desist Order (C&DO) and Restoration Order for excavating and filling wetlands in violation of the WCA. A replacement plan was approved by the Commission in 2007 and construction and restoration work was completed in November 2008. The monitoring consultant, SEH, has determined that the site has been constructed and seeded according to the restoration plan. First year vegetation establishment has been slow due to the lack of moisture but is progressing. Staff reviewed the 2009 monitoring report and found the site to be progressing as expected. Monitoring will continue in 2010, with the restored areas potentially being finalized by the TEP.

G. 2007-049W Jason Quilling, Dayton. A final restoration plan was approved by the City on January 15, 2010. The approval was conditioned upon: 1) 0.286 acres of fill being removed by June 1, 2010, 2) the final area of

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wetland fill (0.074 acres) being replaced at a 4:1 ratio, 3) proof of wetland bank account debit for the replacement being provided, and 4) compliance with the conditions of the Restoration Order. The WCA Notice of Decision was posted by the City. The applicant has not purchased the banked credits and they are no longer available at the site he had chosen.

H. 2008-027W (old 2006-071W) Stone's Throw Site Development/Wetland Delineation, Hassan.

Through their attorney, the Beard Group requested BWSR to table the hearing and delay scheduling any pre-hearing conference and briefing to December 31, 2009. The Commission will not act on this project until the BWSR appeal has been resolved.

XII. Project Reviews.

A. 2009-004 Markets at Rush Creek (Hustad), Maple Grove. This is a proposal to develop 135+ acres at the intersection of CSAH 101 and CSAH 10 into mixed use. Staff received a set of plans on March 3, 2009. The City will submit separate plans for the stormwater management of the CSAH 101/CSAH 10 reconstruction project. Conditional approval of the site plans was granted by the Commission at their April 2009 meeting. The conditions have not been met. An extension of time to July 1, 2010 was requested by the applicant and approved by Commission staff.

B. 2009-023 Northern Natural Gas Pipeline Extension, Corcoran. As part of its Northern Lights 2009-2010 Zone EF Expansion Project, Northern Natural Gas Company is proposing to expand and upgrade parts of its existing pipeline system in Hennepin County. Approximately 5.3 miles of new 16" diameter pipe will be constructed within the Elm Creek watershed. In October 2009 the Commission granted conditional approval of this project. Construction of the route is currently underway and will be completed by November 1, 2010. Staff noticed the wetland no-loss decision per WCA requirements and informed the applicant of the final decision. Staff inspected the complete corridor on March 26, 2010. Site restoration and erosion controls were adequate throughout the pipeline route. One intermittent stream had washed out the temporary erosion protection during snow melt. This has been corrected.

C. 2009-025 CSAH 81 Drainage Improvements, Rogers. The City of Rogers is proposing a realignment and drainage improvements at the intersection of CSAH 81 and Main Street near downtown Rogers. The project will create about 2.5 acres of new impervious cover. Two new ponds and an existing pond will provide stormwater treatment. Site plans were reviewed for compliance with the Commission's stormwater rate and quality control, channel protection, and erosion control standards. At their December 2009 meeting the Commission granted approval contingent on receipt of three items. On March 24, 2010, Staff received the final plan set for this project containing the required items and approved the plan. This item will be removed from the agenda.

D. 2009-027 Zanzibar Lane Culvert at Diamond Creek, Dayton. The City is preparing to do some emergency work, including culvert replacement, at this site and requested pre-approval of plans for this work. Plans will be reviewed for floodplain impacts, conveyance and erosion and sediment control. Staff indicated they would like to see compensatory storage on the west side of the site. At their September 2009 meeting, the Commission granted Staff authority to approve plans contingent upon compliance with their standards and to provide them status updates. The City forwarded preliminary hydraulic plans for two alternatives. Staff approved one of the alternatives. Final plans will be submitted for review.

E. 2009-029 Dean's Plumbing, Hassan. This is a commercial redevelopment on a 2.40-acre site at the northwest corner of CSAH 81 and I-94. The proposed development will increase the impervious area from 0.20 acres to 1.12 acres. There is a wetland on the northwest corner of the site. Staff has verified the wetland boundaries. At their October 2009 meeting the Commission voted to grant approval of this project subject to four conditions. Hassan Township has made these conditions, along with their own, part of their site plan approval on this project. Construction is proposed for the spring of 2010. No new information has been received from the applicant.

F. 2009-034 Open System International (OSI) Inc., Medina. This is a 19-acre site located in the northwest intersection of Highway 55 and Arrowhead Drive, across from the Hennepin County Public Works facility. The proposed plan would construct the OSI headquarters building on this parcel. Medina is the LGU in charge of administering the Wetland Conservation Act within their jurisdiction. Commission review is for compliance to its standards for water quality and quantity, erosion and sediment controls, potential floodplain

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impacts from the site grading and stormwater management proposed. The Commission accepted the findings dated February 2, 2010, and granted approval contingent on Staff approval of 1) an operation and maintenance plan and its subsequent recording on the title to the OSI property and 2) erosion and sediment control plans. No new information has been received as of this update. Staff is following up with Medina on their approval status.

G. 2010-002 Foundation Hills Montessori and Childcare, Plymouth. This site is located in the Taryn Hills development at the northeast corner of CSAH 47 and Vicksburg Lane. 1.14 acres of this lot will be developed into a Montessori school/childcare center. Staff review was for compliance with the Elm Creek Storm Water Management Plan's standards for erosion and sediment controls. Site plans meet the Commission's requirements and were administratively approved by Staff. This item will be removed from the agenda.

XIII. Other Business.

A. Communications.

B. The Commission will meet in work session at 10:00 a.m., prior to the regular May 12, 2010 meeting to draft a **2011 operating budget**.

C. Adjournment. There being no further business, motion by Picard, second by Walraven to adjourn. *Motion carried unanimously.* The meeting was adjourned at 12:34 p.m.

Respectfully submitted,



Judie A. Anderson
Administrator
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