

# elm creek

## Watershed Management Commission

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### MINUTES

August 12, 2009

I. The regular monthly meeting of the Elm Creek Watershed Management Commission was called to order at 11:32 a.m., Wednesday, August 12, 2009, in the Emergency Operations Center, Maple Grove City Hall, 12800 Arbor Lakes Parkway, Maple Grove, MN, by Chairman Doug Baines.

Present were: Dean Franssell, Corcoran; Doug Baines, Dayton; Bob Ivey, Hassan; Dick Picard, Medina; Fred Moore, Plymouth; James Kujawa, Hennepin County Dept. of Environmental Services (HCDES); Randy Lehr, Three Rivers Park District (TRPD); Jeff Weiss, Barr Engineering; and Judie Anderson, JASS.

Absent: Champlin, Maple Grove and Rogers.

Also present: Jan Haugen and Kevin Springob, Plymouth.

II. Motion by Picard, second by Ivey to approve the **revised agenda**. \* *Motion carried unanimously.*

III. Motion by Moore, second by Picard to approve the **minutes of the July 8, 2009 meeting**. \* *Motion carried unanimously.*

IV. Motion by Moore, second by Ivey to approve the **August Treasurer's Report and Claims**\* totaling \$18,884.92. *Motion carried unanimously.*

V. **Open Forum.**

VI. **Action Items.**

A. **2008-039 City of Medina Surface Water Management Plan.** The City of Medina submitted a draft Local Surface Water Management Plan for Commission review on October 15, 2008. Metropolitan Council and Commission staff found several deficiencies. The original submittal was denied by the Commission at the November 2008 meeting. A revised version of the plan was received in June 2009 and a second revision was received in July 2009. Staff reviewed the second version and found it met the requirements of the Commission's second Generation Watershed Management Plan. Motion by Picard, second by Moore to approve the City of Medina's revised Surface Water Management Plan. *Motion carried unanimously.* This item will be removed from the agenda.

B. **2009-018 Eye West Vision Clinic, Hassan.**\* This is a three-acre vacant lot zoned for commercial/industrial use located between Highway 101 and Northdale Boulevard, on the west side of Highway 101. The project includes the construction of a 6,000 SF medical clinic and associated parking area. Approximately 0.5 acres of new impervious surface will be created. Motion by Moore, second by Franssell to grant approval contingent upon final Staff approval of: 1) buffer establishment vegetation maintenance plan, 2) pond operation and maintenance plan and document recording, 3) filtration shelf engineered soil media layer revised to 12" depth, and 4) erosion and sediment control plans. If said contingencies are not approved before August 21, 2009, or written notification by the applicant for an extension to MN Statute 15.99 is not received before that date, this application will be denied. *Motion carried unanimously.*

C. **2010 Operating Budget.**\*The Commission received a letter from the City of Plymouth requesting the Commission to review their adopted 2010 budget and consider making reductions to ease the burden currently seen in local government budgets. In the letter dated July 1, 2009, the City requests convening the Technical Advisory Committee to make recommendations on reductions to the budget. Derek Asche, Water Resources Manager for the City of Plymouth, met with Baines and Commission staff to discuss possible modifications. A revised budget with proposed adjustments was presented to the Commission for consideration. Additional modifications were proposed by the Commissioners.

*\*item included in meeting packet*

Baines suspended the regular meeting at 12:34 to open the **public hearing**. Motion by Moore, second by Ivey to receive the July 1, 2009 letter from the City of Plymouth. *Motion carried unanimously*. Baines closed the public hearing at 12:35 p.m.

Motion by Moore, second by Ivey to amend the 2010 Operating Budget to reduce expenses by \$22,500 and project review fee revenue by \$2,000. *Motion carried unanimously*.

Motion by Moore, second by Ivey to maintain total member assessments at \$180,000, as previously approved. *Motion carried unanimously*.

**D.** Motion by Moore, second by Franssell to accept the **2008 Annual Report**. *Motion carried unanimously*. Anderson will include the names of the Alternate Commissioners in the appendix and various water quality reports will be added as the information is received.

**E.** Motion by Moore, second by Ivey authorizing the Chair to execute the **Elm Creek Watershed-wide TMDL Cooperative Agreement with Three Rivers Park District**.\* *Motion carried unanimously*.

**VII. Elm Creek Watershed-wide TMDL.**

Monitoring sites have been identified and sampling has begun. Lehr will provide monthly updates to the Commissioners.

**VIII. New Business.**

**A. Correspondence.**

**1.** The Commissioners received copies the June 12, 2009 meeting notes for the **Upper Mississippi River Bacteria TMDL**.

**2.** The Commissioners received notice of the March 11-12, 2010 **Minnesota Erosion Control Association (MECA) Annual Conference**. More information is available at [www.mnerosion.org](http://www.mnerosion.org).

**B. Education.**

Copies of the **Ten Things You Can Do to Improve Minnesota's Lakes and Streams brochure** were available at the meeting. An e-file of the brochure has been emailed to the member cities. The next meeting of the Joint Education and Public Outreach Committee (EPOC) will be scheduled for October. The 2009-2010 education program will be developed at this meeting.

**IX. Local Plans.**

**A. 2007-047 Hassan Local Plan.** Hassan Township submitted a first draft Local Surface Water Management Plan for Commission review in October 2007. Staff reviewed the plan for compliance with the Commission's second generation Watershed Management Plan and found it to be deficient in many areas. The Commission denied approval of the plan in November 2007. Hassan submitted a revised draft plan on February 20, 2009. Staff found it continues to be deficient. The Plan was denied at the April 2009 meeting.

**B.** An update of the **status of local plans** is included in the Staff Report.\*

**X. Wetland Conservation Act (WCA).**

**A. 2004-001W Three Rivers Estates, Hassan.** Site plans were approved in 2004 and Restrictions and Covenants recorded in August 2008. The 2008 monitoring report provided maintenance recommendations for this coming year. Staff has provided a copy of this report with its recommendations to the landowner. Barr Engineering will continue to monitor the site for progress and compliance with the approved Wetland Conservation Act (WCA) replacement plan.

**B. 2004-022W Meadow Creek Estates, Corcoran.** This project, with its wetland replacement plan, was approved by the Commission in 2004. The wetland replacement area was constructed in 2004/2005. SEH began monitoring this project in 2008. Some minor invasive vegetation management mowing was done this spring by the landowner. The site is developing as designed and will be considered for certification this summer/fall.

*\*item included in meeting packet*

**C. 2005-057W Maria Meadows, Hassan.** In 2005 the Commission granted approval of this single-family residential development. The 2006 monitoring report noted deficiencies in the wetland replacement basins. Remedial work was completed in 2007. Some additional seeding and maintenance was completed in 2008. Monitoring will continue in 2009.

**D. 2006-002W Doboszinski and Sons, Corcoran.** In 2006 the Commission approved site and wetland replacement plans for this project. The site was constructed in 2007 and the wetlands were excavated and seeded in fall 2008. The Commission holds a wetland construction surety of \$50,000 and a monitoring surety of \$20,000 for the wetland work. Barr Engineering has been retained to provide the monitoring for this site.

**E. 2006-037W Hayden Lake Road/Tilden Avenue Construction, Champlin.** This city project was approved by the Commission in 2006. The first annual monitoring report was submitted by WSB in 2008. The development of the mitigation area appears to be consistent with the design. Monitoring will continue in 2009. Recorded Restrictions and Covenants over the replacement area are still necessary. Staff will continue to follow up with the City.

**F. 2007-014W Hamel Station, Medina.** Staff has received a final plat showing the required easements and the recorded documents. Fortin Consulting is performing the streambank and buffer monitoring and the Commission has approved a \$15,000 surety to secure establishment and proper performance of the buffer area and to cover additional monitoring costs. The monitoring surety is included in the City's development surety and will not be released until the monitoring has concluded. Fortin Consulting provided a written report of their December 4, 2008 site inspection and conducted follow-up inspections in March and April 2009. Staff contacted Fortin to inquire as to how much additional monitoring would be required and the amount of replacement surety that should be retained were the site to fail and the developer become unresponsive after the City releases the surety it holds. In July the Commission voted to notify the City of Medina that it will require the City to retain \$15,000 on behalf of the Commission as replacement surety. Staff has been advised by the City that the applicant will provide a check in that amount.

**G. 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 December 2007 and construction and restoration work was completed in November 2008. Per the monitoring consultant, SEH, the site has been constructed and seeded according to the restoration plans. Vegetation establishment has been slow this year due to the lack of moisture. Monitoring will continue.

**H. 2007-049 Jason Quilling, Dayton.** Building, pasture and riding arena areas were constructed in a wetland, resulting in a WCA violation. A restoration order requiring a complete wetland restoration was issued to the landowner. Quilling filed a wetland replacement plan with the City that was determined to be incomplete. Quilling appealed the City's decision to BWSR who denied the appeal. The DNR placed a lien on the property and gave Quilling until June 30, 2009 to comply with the restoration order. Quilling has partially restored the site, but the work is not complete. HCD has informed Staff that Quilling is negotiating with DNR Enforcement Officer Jason Jensen for the next stage. An extension of the deadline is unlikely. DNR may issue a penalty because the restoration was not completed before the deadline.

**I. 2008-027W (old 2006-071W) Stone's Throw Site Development/Wetland Delineation, Hassan.** Through their attorney, the Beard Group has 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.

A new development plan was submitted by the Township in November 2008. The submittal was incomplete and the Township and developer were so notified on December 2, 2008. This site has since been annexed by the City of Rogers. Commission staff provided the City with preliminary review information for the most recent site plan on April 7. A complete application has not been received.

#### **XI. Project Reviews.**

**A. 2008-014 Hennepin County Wind Turbine, Medina.** The County proposes to build a wind turbine at the Medina Public Works Facility. The City has not forwarded plans for this project.

**B. 2008-034 CSAH 81 Realignment, Rogers.** City consultant requested information regarding the planned CSAH 81 and TH 101 intersection construction. Staff has contacted them with comments.

*\*item included in meeting packet*

**C. 2009-004 Markets at Rush Creek (Hustad), Maple Grove.** This is a proposal to develop 135+ acres into mixed use at the intersection of CSAH 101 and CSAH 10. 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 as of this writing. An extension of time to September 1, 2009 was requested by the applicant.

**D. 2009-007 CSAH 10 Reconstruction, CSAH 101 to Vagabond Lane, Maple Grove.** This project involves the realignment of CSAH 101 and CSAH 10 and is being reviewed in conjunction with 2009-004. A TAC was convened to discuss the stormwater design involving County Ditch #16 and its potential impacts on water elevations in Corcoran. TAC recommendations were incorporated into the design and the revised plans were approved with conditions by the Commission at their April 2009 meeting. On May 29, 2009 the Commission received revised plans that are significantly different from those approved. Staff advised the City of Maple Grove that these changes were significant enough to consider the revised plan as a new plan application. The City has subsequently reverted back to the original plan and is addressing the issues identified by Staff. City extended the project review deadline and Staff approved the project on June 23, 2009. This item will be removed from the agenda upon receipt of a set of signed final plans.

**E. 2009-013 DNR Permit 2009-0588 BNSF Railway, Maple Grove.** Staff is reviewing this project in conjunction with the DNR permit application.

**F. 2009-015 Medicine Lake Regional Trail Construction, Plymouth and Maple Grove.** Staff reviewed this plan for wetland, floodplain, stormwater management and erosion and sediment controls and approved the project administratively on June 9, 2009, subject to receipt of signed and dated plans. Those plans have been received and Staff granted final administrative approval. This item will be removed from the agenda.

**G. 2009-020 West French Lake Utility Improvements, Erosion Repair, Dayton.\*** The City of Dayton is proposing to repair a severe erosion problem within the ROW of County Street. A gully approximately 35' deep x 15' feet wide x 60' long has formed at the Mississippi River bluff line from runoff on County Street. The City proposes to remediate by constructing a small infiltration pond in the unused portion of the ROW above the gully to reduce the frequency and volume of water running down the bluff. In addition, the gully area will be restored to its original elevations with a permanent turf reinforcement mat, custom seed mix and hydro mulch. Staff administratively approved this project. Findings are in this month's packet. This item will be removed from the agenda.

**H. 2009-021 Blake Cain Lot Line Adjustment, Corcoran.** This is an application for lot adjustment. The 54-acre property lies between CSAH 30 and CSAH 10, east of CSAH 19. North Fork Rush Creek runs through the property. Staff established the required floodplain and wetland easement boundaries and asked for drainage easement to cover floodplain and wetlands. No new structures or grading are proposed. Therefore, the Commission did not require buffer easements along the creek. In addition to the easements, the City required minimum buffers and setbacks from the creek and wetlands. This item will be removed from the agenda.

**I. 2009-22W. Peony Lane North/Estate Development, Plymouth.** This is a wetland delineation decision mailed by the LGU (City of Plymouth). No action is necessary. This item will be removed from the agenda.

**XII. Other Business.**

**Adjournment.** There being no further business, motion by Picard, second by Ivey to adjourn. Motion carried. The meeting was adjourned at 1:30 p.m.

Respectfully submitted,



Judie A. Anderson  
Administrator  
JAA:tim

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*\*item included in meeting packet*