

# elm creek

## Watershed Management Commission

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### MINUTES

December 9, 2009

I. The regular monthly meeting of the Elm Creek Watershed Management Commission was called to order at 11:40 a.m., Wednesday, December 9, 2009, in the Emergency Operations Center, Maple Grove City Hall, 12800 Arbor Lakes Parkway, Maple Grove, MN, by Chairman Doug Baines.

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

Absent: Hassan and Rogers.

Also present: Todd Tuominen, Champlin; Tom Cossette and Kent Torve, Corcoran; Bill Craig, Hassan; and Kevin Springob, Plymouth

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

III. Motion by Picard, second by Walraven to approve the **minutes of the November 4, 2009 meeting**.\* *Motion carried unanimously.*

IV. Motion by Picard, second by Moore to approve the **December Treasurer's Report and Claims**\* totaling \$62,335.75. *Motion carried unanimously.*

#### V. Open Forum.

Picard requested an update on the Hamel station project. (See item X.E., below.) Staff responded to Commissioners' questions and will provide a more complete report at the January meeting.

#### VI. Action Items.

A. Motion by Moore, second by Walraven to **schedule the next regular meeting** for January 6, 2010. *Motion carried unanimously.*

B. Motion by Moore, second by Trainor to authorize the Chair to sign the 2010 **Blue Thumb Partners Agreement**.\* *Motion carried unanimously.* The Commission's contribution will be \$500 cash and \$1,000 in-kind.

C. Staff's December 3, 2009 memo outlines Move One Degree's services to redesign the **Commission's website**.\* Motion by Moore, second by Walraven to contract with Move One Degree at a cost of \$1,500 to provide the outlined services. *Motion carried unanimously.*

D. Motion by Moore, second by Walraven to approve **Nonwaiver of Monetary Limits on Tort Liability**.\* *Motion carried.*

E. Staff's December 4, 2009 memo describes **NEMO (Non-Point Education for Municipal Officials)**.\* Motion by Walraven, second by Trainor to approve charter membership in NEMO and Amy LeMieux, JASS, as the "lead" individual. *Motion carried unanimously.* There is no cost for membership.

F. **2007-047 Hassan Local Plan**. Hassan Township submitted a first draft Local Surface Water Management Plan for Commission review in October 2007. Staff has reviewed the plan and a subsequent revised plan for compliance with

*\*item included in meeting packet*

the Commission's second generation Watershed Management Plan and found them to be deficient. A new revision received October 5, 2009, was reviewed by Staff and found to address the majority of the Commission's April 6, 2009, comments. Four items remain outstanding – 1) the DNR protected water that originates at DNR wetland 27-292W and flows to the Crow River must be added to the a narrative and maps; 2) the date of the City's municipal boundary used on the maps should be listed in the Plan; 3) the Commission's 50-foot buffer requirement for Rush Creek must be added to the Plan; and 4) development of a new buffer ordinance and modifications to the existing floodplain and erosion and sediment control ordinances should be approved by the Town by July 1, 2010 and copies of the approved ordinances provided to the Commission. Motion by Moore, second by Walraven to grant approval of the Hassan Local Plan conditioned on satisfactory completion of these four items. *Motion carried unanimously.* Moore observed that the local surface water plans for all the member communities have now been approved.

**G. 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 standards and erosion control standards. Staff findings were outlined in their review dated December 4, 2009. Motion by Moore, second by Trainor to grant approval conditioned on receipt before the review deadline of 1) a temporary and permanent erosion and sediment control plan, 2) a Stormwater Pollution Prevention Plan (SWPPP); and 3) final plans dated and signed by a professional engineer. *Motion carried unanimously.*

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

Lehr gave a verbal update of the 2009 monitoring. The Minnesota Pollution Control Agency (MPCA) has requested a meeting in January with the monitoring agencies and city stakeholders to discuss monitoring efforts to date and to plan for future monitoring as part of its **Intensive Watershed Monitoring (IWM) program**. Staff will contact the stakeholders as soon as the meeting is scheduled.

**VIII. New Business.**

Baines recapped the Technical Advisory Committee (TAC) meeting that preceded this meeting. The TAC was charged with revising and updating the Commission's **project review fee schedule**.\* The draft schedule proposes to charge fees for all projects, including those submitted by government entities. The TAC is proposing a one-time application fee. Staff will seek clarification from the Commission's attorney re certain issues. Staff was also asked to return to the next TAC meeting with the cost of some representative projects. The TAC will reconvene at 10:00 a.m., preceding the January 6, 2010 regular meeting.

**IX. Education.**

At its recent meetings the Joint Education and Public Outreach Committee (EPOC) has concentrated its efforts in developing a **west metro-wide education and public outreach plan**. Members of the committee, representing the Basset Creek, Elm Creek, Pioneer-Sarah Creek, Shingle Creek and West Mississippi WMOs and Hennepin County Environmental Service, have reviewed a draft plan and provided comments to the "skeleton plan subcommittee." A third iteration will be reviewed by the Joint EPOC at their January 5, 2010 meeting (8:30 a.m., Plymouth City Hall) and a final draft will be presented to the Commissions at their January meetings. Others that have expressed interest in being members of this group include the Minnehaha Creek and Nine Mile Creek WDs, the Mississippi WMO, and Three Rivers Park District. At their December 8 meeting the group established its name as the **West Metro Water Alliance**.

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

**A. 2004-001W Three Rivers Estates, Hassan.** Staff provided a copy of the 2008 monitoring report to the landowner and also followed up with them re ongoing maintenance issues. 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.** Approval of this single family residential development was granted in 2005. 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. Mowing of the areas that were reseeded was completed in spring 2009. Maintenance and monitoring will continue in 2010.

\*item included in meeting packet

**C. 2006-002W Doboszinski and Sons, Corcoran.** This 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. Barr Engineering is monitoring this site.

**D. 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 in 2008. The development of the mitigation area appears to be consistent with the design. Monitoring continued in 2009. 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.** Staff has received a final plat showing all the required easements and the recorded documents. Fortin Consulting is performing the streambank and buffer monitoring. The Commission holds a \$15,000 surety to secure establishment and proper performance of the buffer area and to cover additional monitoring costs. Fortin Consulting provided a written report of their December 4, 2008 site inspection and conducted follow-up inspections in March, April and September, 2009. On October 27, 2009, staff noticed that a significant number of trees had been cut within the buffer area and the remaining trees have 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 in his letter to the City and the Commission. Staff has documented the extent of vegetation removal within the buffer and compared it with the approved buffer plan. On December 4, 2009 Staff met with City staff to determine a plan of action. They will also notify the Department of Natural Resources (DNR) in whose right-of-way some of the tree removal occurred.

**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 December 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 plans. First year vegetation establishment has been slow due to the lack of moisture but is progressing. Monitoring will continue in 2010 with the restored areas potentially being finalized by the TEP.

**G. 2007-049W 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. 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 and is continuing with the work but has not completed the restoration as of this date. Quilling submitted a wetland replacement/restoration plan to the City of Dayton for review.

A Technical Evaluation Panel (TEP) was held on October 21 to discuss the proposed replacement plan. It proposes to a) restore most but not all of the impacted area; b) leave the barn and some fill around the horse barn; c) and mitigate the remaining fill with banking credits purchased from a Stearns County banking site. The plan proposes one-to-one replacement. The plan also claims an agricultural exemption for the barn and the paddock areas. An amendment to the replacement plan was submitted by the applicant on October 27, 2009. The TEP met on November 19, 2009 to review the amendment. At this time the TEP findings have not been finalized.

**H. 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. Staff contacted BWSR and learned they have no new information on the appeal. The Commission will not act on this project until the BWSR appeal has been resolved.

**I. 2009-032W Oswald Farm, Greg Ebert no-loss determination, Corcoran.** The applicant is constructing a temporary driveway for equipment access for tree removal and farming preparation in an upland area. A driveway with a 6" culvert will be built over a wet area where a geothermal discharge pipe from an existing residence outlets. This will provide a dry area for equipment to access the pasture area where work will take place. The applicant then proposes to remove the driveway and re-establish the original grades and configuration and reseed the disturbed area with a buffer grass mix. Approximately 2400 SF of wetland area will be temporarily disturbed for the driveway and fill. Applicant is also seeking to remove some foreign material that was deposited within the wetland prior to his acquisition of the property. Staff noticed their decision to approve the no-loss determination on November 13, 2009, according to WCA requirements. This item will be removed from the agenda.

*\*item included in meeting packet*

**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. This item will be removed from the agenda until an application is made to the Commission.

**B. 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. An extension of time to July 1, 2010 was requested by the applicant and approved by Commission staff.

**C. 2009-013 DNR Permit 2009-0588 BNSF Railway, Maple Grove.** Staff reviewed this project in conjunction with the DNR permit application. The applicant would like to begin construction as soon as possible due to potential safety issues on-site. Staff reviewed erosion and sediment control plans and was granted administrative authority to approve the project contingent upon receipt of signed, stamped plans and a hydraulic analysis showing the high water elevation of the pond during the critical 100-year, 24-hour rain event. The elevation must not exceed that set by the City of Maple Grove's Storm Water Management Plan. The revised final plan submitted on October 29, 2009, satisfied the contingency requirements and was approved by Staff on November 9, 2009. This item will be removed from the agenda.

**D. 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. Construction of the route is scheduled to begin this winter and be completed by November 1, 2010. At their October 2009 meeting, the Commission voted to grant approval of this project subject to the seven conditions outlined in Staff's October 8, 2009 review and with the further condition that, prior to spring snow melt, Commission staff will inspect the corridor areas that have been disturbed. Staff has noticed the wetland no-loss decision per WCA requirements and informed the applicant of the final decision.

**E. 2009-025 CSAH 81 Drainage Improvements, Rogers.** The City engineer requested a preliminary review from Staff for this project. Staff provided feedback and is awaiting final plans for a complete review.

**F. 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 has 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 meeting, the Commission granted Staff authority to approve plans contingent upon compliance with their standards and to provide them status updates. The City has forwarded preliminary hydraulic plans for two alternatives. Staff approved one of the alternatives. Final plans will be submitted for review.

**G. 2009-028 Elm Creek Highlands, Plymouth.** Centex Homes is proposing to develop approximately 80 acres located at the northeast corner of Peony Lane and Schmidt Lake Road. The project will build 70 single-family residential homes and create 9.2 acres of new impervious cover. The main stem of Elm Creek crosses through the northern one-third of the site. There are extensive floodplains and wetlands and woodland on-site. Revised plans were approved with conditions at the October 14, 2009 meeting. A signed copy of the final plan set and the final plat have been submitted. This item will be removed from the agenda.

**H. 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 the three conditions outlined in Staff's review dated October 14, 2009, and with the further condition that the required monuments be placed to demarcate the wetland. Hassan Township has made these conditions, along with some of their own, as part of their site plan approval on this project. Construction is proposed for the spring of 2010. Prior to construction, the applicant must meet all of Hassan's and the Commission's conditions. No new information has been received from the applicant.

*\*item included in meeting packet*

**I. 2009-030w Severson Acres, Corcoran.\*** A 46-acre parcel will be subdivided into a 10 acre single family residential lot and 36-acre outlot. A wetland boundary/type determination completed on the 10 acre portion of the subdivision determined there are no wetlands present. Staff approved the boundary/site determination on November 13, 2009, and noticed it according to WCA requirements.

**J. 2009-031 Natures Crossing 4th Addition, Dayton.\*** This project proposes to relocate a stormwater pond within the Natures Crossing development. At their November 2009 meeting the Commission granted Staff administrative approval authority pending receipt of satisfactory information addressing stormwater runoff, water quality, rate control, volume control and wetland delineation that meets Commission requirements. The remaining items (recording a maintenance agreement and the final SWPPP) must be submitted before December 18, 2009. Staff's latest findings were included in the meeting packet.

**K. 2009-033 Ron Schultz Garage, Corcoran.** The Schultzes are proposing to build a new garage on their lot. Because of the extensive floodplains and wetlands on the lot, Staff has requested the exact placement of the garage in order to determine the type of application and information they must submit for their final review and recommendations. If there are no floodplain or wetland impacts Staff can review and approve the project administratively.

**XII. Other Business.**

**A.** The Commissioners received a copy of the minutes of the October 6, 2009 Stakeholder Meeting for the **Upper Mississippi River Bacteria TMDL.**

**B.** Franssell has resigned as the **representative from Corcoran.** He will be replaced in January by Greg Ebert. Commissioners were reminded that **member appointments to the Commission** should be made in January.

**C.** Baines has been appointed to **Metropolitan Council's Parks and Open Space Commission.**

**D. Adjournment.** There being no further business, motion by Picard, second by Walraven to adjourn. *Motion carried unanimously.* The meeting was adjourned at 12:47 p.m.

Respectfully submitted,



Judie A. Anderson  
Administrator  
JAA:tim

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*\*item included in meeting packet*