

elm creek Watershed Management Commission

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Technical Advisory Committee Meeting Minutes - April 13, 2022

I. A virtual meeting of the **Technical Advisory Committee (TAC)** of the Elm Creek Watershed Management Commission was convened at 10:01 a.m., Wednesday, April 13, 2022.

In attendance: Heather Nelson, Champlin; Nico Cantarero, Stantec, Dayton; Derek Asche, Maple Grove; Matt Danzl, Hakanson-Anderson, Medina; Ben Scharenbroich, Plymouth; Andrew Simmons, Rogers; Diane Spector and Erik Megow, Stantec; James Kujawa, Surface Water Solutions; Rebecca Carlson, Resilience Resources; Kris Guentzel and Kevin Ellis, Hennepin County Dept. of Environment and Energy (HCEE); Brian Vlach, Three Rivers Park District; and Amy Juntunen and Judie Anderson, JASS.

Not represented: Corcoran.

Also in attendance: Ken Guenthner, Corcoran; Doug Baines, Dayton; Jeff Weiss, Minnesota Department of Natural Resources (MNDNR); and RSB.

II. Motion by Scharenbroich, second by Danzl to approve the **revised agenda**. * *Motion carried unanimously.*

III. Motion by Scharenbroich, second by Danzl to approve the **minutes*** of the March 9, 2022, meeting. *Motion carried unanimously.*

[Simmons arrived 10:03 a.m.]

IV. **HUC 8 Watershed Floodplain Modeling and Mapping Project.**

A. **Background.**

Asche's April 11, 2022, memo* to the Commission recapped the history of this project, which spans 49 months. In his memo, Asche states:

[At the request of the DNR, on April 7, 2022, a Teams Meeting was held] to discuss the responses/comments provided by the DNR regarding the Third Party Review. (Present at that meeting were Derek Asche, Erik Megow, Jeff Weiss, and Judie Anderson.) Jeff Weiss reiterated that Comment "5", subdivision of watersheds in the MNDNR Response to the Third Party Review should be included in the Commission's work to revise the model as the DNR expects this to only take one-half day. After discussion with Ross Mullen, Stantec, at the time the DNR comments were initially submitted, this comment was not included in the RFP out of concern for cost. In fact, the comment refers to 9 example watersheds recommended for subdivision as examples but is open ended and is not necessarily limited to 9. In addition, the DNR made a similar request of Barr regarding subdivision of watersheds. According to Barr's calculations they spent 95 hours and \$9,500 on this similar request. The DNR subsequently funded \$5,000 of the requested \$9,500 for this work. While

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*included in meeting packet

likely not apples to apples, there was enough cause for concern to leave sub-division of watersheds out of the RFP. Also of note, all TAC requests for the RFP could not be included, again, out of concern for cost.

DNR's letter dated April 11, 2022,* in response to Asche's memo, was included in the TAC's supplemental meeting packet. Asche continued, "The Commission is trying to get a model that works for the member communities. The DNR is already satisfied with the product submitted by Barr Engineering. The Commission has met its obligation. The subdivision process could be never-ending. That effort should have been done before." Asche stated that his recommendation is that we have to stop at some point.

B. Discussion.

Weiss: I don't have to review anything if [what is being done by Stantec] is not replacing the DNR/Barr model. The Commission has to decide if the Stantec model is replacing the DNR/Barr model.

Guenthner: Are you comfortable with the [Barr] data so we are not undertaking excessive costs?

Asche: In Maple Grove I would not use data from the DNR/Barr model.

The Flood Risk Review meeting is still to come. Had we known the problems we would have addressed them.

The stakeholder meeting as part of Stantec's work is intended [to be held] in May, when cities can comment on how they see the model in their communities.

Third party review – these nine [subdivisions] are being addressed differently, left [out] due to concern for cost.

Vlach: If subdivided, would you be changing calibration points?

Megow: No.

Asche noted that the DNR has already accepted a model without the requested subdivisions.

Asche: Let's stay the course. If we find problems we address them. Or describe how flows are split up. Recommend to the Commission that we continue with the RFP and address any problems as they arise and be flexible in the timeline to complete the review.

The members agreed by consensus.

Other documents related to this item included in the meeting packet: RFP, DNR February 14, 2022 memo,* January 22, 2022, Third Party Review,* Consider Third Party Review,* and Barr December 7, 2021 memo.**

V. Revisions to Commission Rules.*

A. Background. In 2021, the Minnesota Pollution Control Agency (MPCA) issued a new Municipal Separate Storm Sewer System (MS4) Phase II general permit to Minnesota cities. An individual MS4 Phase II permit requires a city to develop and implement a stormwater pollution prevention program to reduce the discharge of pollutants from their storm sewer systems. All member communities in the Elm Creek Watershed Management Commission are MS4 Phase II permit holders.

The revised MS4 Phase II permit requires:

1. For non-linear projects, treatment of the amount of 1.0-inches of runoff from new and fully reconstructed impervious surfaces.

2. For linear projects, treatment of (a) 1.0-inches of runoff from the new impervious surface or (b) 0.50-inches of runoff from new and fully reconstructed impervious surfaces, whichever is greater.

The 2015 Third Generation Elm Creek Watershed Management Commission Plan rules require applicants to provide treatment in the amount of 1.1-inches of runoff from the net, new impervious areas for projects with construction disturbance of more than one acre.

The revisions to the MS4 Phase II permit create inconsistencies between the Commission's Third Generation Plan rules and the rules of its member cities as required by the newest MS4 Phase II permit. Staff propose to revise the Commission's rules to align with the MS4 Phase II permit requirements. These proposed revisions will have the greatest impact to redevelopment, including public works projects (i.e., road projects) and will have negligible impact to new construction projects on greenfield sites. It is important to the Commission's member cities that its rules be aligned with their MS4 Phase II permit requirements so as to be at least as stringent as those of its member cities and to create consistency in the project review process.

B. Timeline. The MPCA updated MS4 discharge permits to the Commission's member cities in October and November 2021. The member cities have one year to come into compliance with the new MS4 Phase II permit requirements. Project reviews submitted to the Commission after November 30, 2022, shall be required to follow the revised requirements. This rule shall go into effect as soon as a member city fully implements its new MS4 Phase II permit and a Minor Plan Amendment is approved by the Minnesota Board of Water and Soil Resources, no later than November 30, 2022.

C. Proposed Revisions.

1. Revise Rule A to include the definition of fully reconstructed impervious surfaces: *Areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and other pavement rehabilitation projects that do not expose the underlying soils beneath the structure, pavement, or activity are not considered fully reconstructed. Maintenance activities such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting, and pedestrian ramp improvements are not considered fully reconstructed"*

2. Revise Rule A to include the definition of linear projects: *Linear projects are projects with construction of new or fully reconstructed roads, trails, sidewalks, or rail lines that are not part of a common plan of development or sale."*

3. Revise Rule D.2.b. a.

a. Existing: *"Linear projects that create one acre or more of new impervious surface must meet all Commission requirements for the net new impervious surface. Sidewalks and trails that do not exceed twelve feet (12'0") in width, are not constructed with other improvements, and have a minimum of five feet (5'0") of vegetated buffer on both sides are exempt from Commission requirements."*

b. Proposed: *“Linear projects that create one acre or more of new or fully reconstructed impervious surfaces must meet all Commission requirements for 1.1-inches of runoff from the new impervious surface or 0.55-inches from the combination of new and fully reconstructed impervious surfaces, whichever is greater. When this volume cannot be treated within the existing right-of-way, a reasonable attempt to obtain additional right-of-way, easement, or other permission to treat the stormwater during the project planning process must be made. Volume reduction practices must be considered first. Volume reduction practices are not required if the practices cannot be provided cost effectively. If additional right-of-way, easements, or other permission cannot be obtained, owners of construction activity must maximize the treatment of the water quality volume.”*

4. Revise Rule D.3.c

a. Existing: *“Stormwater runoff volume must be infiltrated/abstracted onsite in the amount equivalent to one point one inch (1.1”) of runoff generated from new impervious surface.”*

b. Proposed: *“For non-linear projects, stormwater runoff volume must be infiltrated/abstracted onsite in the amount equivalent to one point one inch (1.1”) of runoff from the new impervious surface or 0.55-inches from the combination of new and fully reconstructed impervious surfaces, whichever is greater.”*

D. Minor Plan Amendment to Revise Rules.*

The proposed amendment would revise Appendix C of the Third Generation Plan, Rules and Standards, to (1) make the rules consistent with the most recent Minnesota General Stormwater Permit and (2) clarify the Commission’s standards regarding the required freeboard between the high-water elevation of a constructed or natural water and the low floor or opening of a proposed adjacent structure.

Motion by Scharenbroich, second by Danzl to approve the rules as revised, (revising what was proposed ~~“one point one inch (1.1”) of runoff from the new impervious surface or 0.55-inches from the combination of new and fully reconstructed impervious surfaces, whichever is greater”~~ to read: “one point one inch of runoff from the sum of new and fully reconstructed impervious surfaces.”) and recommend to the Commission that it proceed with a Minor Plan Amendment and set May 11, 2022, as the date of the public meeting at which the proposed revised rules will be discussed. *Motion carried unanimously.* If approved, the revised Rules would go into effect June 1, 2022, for the revisions to the low floor rules (Rule D.3.b.i.7 and Rule F.3.b) and November 30, 2022, for the linear project rules (Rule D.2.b and Rule D.3.c)

A copy of the proposed notice* was included in the meeting packet.

VI. 2022 CIP Minor Plan Amendment.*

A. The Third Generation Watershed Management Plan and Capital Improvement Program (CIP) is proposed for a Minor Plan Amendment (MPA). The members reviewed the proposed revisions at its March meeting and agreed to revise the Plan to add three new projects to the Capital Improvement Program (CIP):

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1. Line 50: Maple Grove South Fork Rush Creek Steam Restoration project, \$406,252 each in 2022 and 2023.

2. Line 57: City Cost Share Program, a new project to the CIP – to share in the cost of small Best Management Practices (BMPs) on city projects, in accordance with the Commission’s Cost Share Policy, approved in August 2021, \$100,000 annually.

3. Line 58: Partnership Cost Chare Program , a new project to the CIP – to share in the cost of voluntary load-reduction BMPs on private property, in accordance with the Commission’s Cost Share Policy, also approved in August 2021, \$50,000 annually.

B. Some smaller projects (under \$100,000) have been submitted to the CIP by the cities, as well as one since the March meeting from Three Rivers Park District for the proposed Oxbow Trail-Rush Creek Channel Stabilization that is likely to be under \$100,000. It is recommended that those projects be handled administratively through the city cost share program rather than as small (<\$50,000) line items on the CIP.

C. Ongoing discussions regarding the Watershed Based Implementation Funding (WBIF) may result in additional projects being added to the CIP, and the TAC may need to suggest a revision to the proposed Minor Plan Amendment. One option would be simply to allocate some of the WBIF grant funding to the city Cost Share program to accommodate the several small projects that are currently being contemplated. That would not require a Plan Amendment.

D. Motion by Scharenbroich, second by Cantarero to recommend to the Commission that it proceed with the Minor Plan Amendment and set May 11, 2022, as the date of the public meeting at which the revisions to the CIP will be discussed. *Motion carried unanimously.* A copy of the proposed notice* was included in the meeting packet. Public meetings are noticed twice, at least seven and 14 days prior to the meeting, in the Commission’s official newspaper, the *Osseo-Maple Grove Press*.

VII. 2022-2023 Watershed-Based Implementation Funding (WBIF) Convene Meeting.

Due to time constraints, this meeting will be rescheduled to a separate time later in the month.

VIII. The next Technical Advisory Committee meeting will be rescheduled to a time NOT prior to the regular meeting.

There being no further business, the meeting was adjourned at 11:27 a.m.

Respectfully submitted,



Judie A. Anderson
Recording Secretary
JAA:tim