

# elm creek

## Watershed Management Commission

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### MINUTES Regular Meeting | July 12, 2023

**I. CALL TO ORDER.** A meeting of the Elm Creek Watershed Management Commission was called to order at 11:46 a.m., Wednesday, June 14, 2023, in the Plymouth Community Center, 14800 34th Avenue North, Plymouth, MN, by Vice Chair Catherine Cesnik.

Present: Bill Walraven, Champlin; Joe Trainor, Maple Grove; Catherine Cesnik, Plymouth; and David Katzner, Rogers. Not represented: Corcoran, Dayton, and Medina.

Also present: Kent Torve, Stantec, Corcoran; Derek Asche, Maple Grove; Rebecca Haug, WSB, Medina; Ben Scharenbroich, Plymouth; Andrew Simmons, Rogers; Diane Spector and Erik Megow, Stantec; James Kujawa, Surface Water Solutions; Kevin Ellis, Hennepin County Environment and Energy (HCEE); Brian Vlach, Three Rivers Park District; Judie Anderson, JASS; and Mike Payne, Plymouth, and Stephanie Thulien and Chadd Larson, Kimley-Horn, for item IV.A.

**II. CONSENT AGENDA.** Motion by Walraven, second by Trainor to approve the Consent Agenda:

- A. **Minutes\*** of the June 14, 2023, regular and public meetings.
- B. **July Treasurer's Report and Claims\*** totaling \$32,065.06.

*Motion carried unanimously.*

**III. OPEN FORUM.**

**IV. PROJECT REVIEWS.**

**A. 2023-01 Chankahda Trail Phase 2 Reconstruction, Plymouth.\*** At the request of the City of Plymouth and the project engineers, Kimley-Horn, this project is under review by the TAC. No action by the Commission is required at this time.

**B. 2023-011 Sundance Greens 9th Addition, Dayton.\*** The site is located within the broader Sundance Greens development north of Rush Creek Parkway and west of Fernbrook Lane and west/south of east/west portion of where 113th Avenue North tees into 110th Avenue North. The applicant is proposing to add 31 single family homes and a community pool to the existing development. Staff findings dated July 3, 2023, recommend approval with four conditions: (1) reconciliation of the project review fees, (2) provision of adequate wetland buffer and monumentation for the wetland in Outlot E as outlined in Project Review 2020-029; (3) addition of an erosion control blanket to grading plan where slopes are steeper than 3:1; and (4) provision of a Stormwater Maintenance Agreement acceptable to the City and the Commission within 90 days of plat recordation. Motion by Trainor, second by Katzner to table approval of this project. *Motion carried unanimously.* Staff-level approval for grading was issued on July 5, 2023.

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RULE G - WETLAND ALTERATION  
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**C. 2023-012 Hope Community Development EAW, Corcoran.\*** Hope Community Church proposes phased construction of a mixed-use development spanning approximately 44.5 acres at the northwest corner of County Roads 30 and 116. The proposed plan reflects 738 housing units (primarily within multifamily buildings) and up to 110,300 square feet of commercial, retail, and medical office space. The existing and proposed cover for the site (draft EAW Table 3) is shown in Staff’s memo. Soils on site are C C/D and likely will not allow for infiltration. The site plan proposes meeting Commission requirements via stormwater ponds and filtration basins. The site is fairly flat with slopes less than 10%. The project is located in the Rush Creek Sub-watershed, with no lakes, streams or county ditches in the project area. The site is not located within any floodways or floodplains. Rush Creek, located north and west of the project site, is impaired for Dissolved Oxygen, E. Coli, fish bioassessments, and benthic macroinvertebrate assessments.

Table 9 of the draft EAW summarizes the wetlands on site and two wetlands on the adjacent church development which will be impacted. Four low quality wetlands on site totaling 1.2 acres are planned to be filled and replaced with mitigation banking credits. Discharge from the remainder of the site is routed to two other wetlands on the previously developed church site.

The project will disturb 43 acres in total and add 17.3 acres of new impervious area. Increasing runoff will be from roadways, roofs, driveways, maintained lawns and landscaped areas. Stormwater ponds and filtration basins placed throughout the development are proposed for mitigating increased runoff rates and meeting water quality and filtration standards. Stormwater runoff quality and quantity will be designed to meet the requirements of the Commission and the MPCA National Pollutant Discharge and State Disposal System (NPDES/SDS). The project will eliminate two SSTS systems (one for a private residence and one for a church) by connecting to city sanitary.

The project will disturb more than one acre of land and will likely trigger Commission Rules D, E and G. The project appears to be on track with appropriate considerations to meet Commission requirements. Staff would encourage incorporating resilient and native vegetation and landscaping to reduce maintenance costs, improve habitat and reduce irrigation needs and runoff.

As an EAW, this project requires no action by the Commission at this time.

**D. 2023-013 River Valley Church, Maple Grove.\*** This project consists of the construction of a single building, bituminous parking lot, stormwater basin, and other associated site improvements on an undeveloped lot located at the southwest corner of Arbor Ridge Parkway and 101st Avenue North. The development will create 3.36 acres of impervious area, all of which is net, new impervious. The project triggers Commission Rules D and E. In their findings dated June 30, 2023, Staff recommends approval with two conditions: (1) reconciliation of the project review fees and (2); provision of a Stormwater Maintenance Agreement acceptable to the City. Motion by Trainor, second by Katzner to approve Staff’s recommendations. *Motion carried unanimously.*

**V. OLD BUSINESS.**

**2023 CIP.** Revisions to the Commission’s CIP (Capital Improvement Program) have been discussed at the last few meetings. In June, the Rush Creek Stabilization-Rush Hollow project was

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RULE E - EROSION AND SEDIMENT CONTROL

RULE F - FLOODPLAIN ALTERATION

RULE G - WETLAND ALTERATION

RULE H - BRIDGE AND CULVERT CROSSINGS

RULE I - BUFFERS

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approved for addition to the 2024 CIP. Also in June, TAC members expressed concern that the description for a second project, the **Downtown Rogers Pond Expansion and Reuse project**, did not address a number of issues, specifically rate and volume control and water quality “above and beyond” the Commission’s requirements, ownership and future maintenance of the facility, impacts to the wetland, and drought mitigation. Rogers’ representative provided some of the missing information to the TAC members at their meeting today. The TAC asked that Megow review the stormwater management plan and calculations to see if they meet Commission Rules. This project will be presented to the Commission as project review 2023-016 and recommended for approval at the August 2023 Commission Meeting.

**VI. NEW BUSINESS.**

**A. Project Review Fees.\*** In June, Staff discussed the results of their internal review of the adequacy of the project review fees to not only recover the costs of performing the project reviews, but also the administrative and other tasks associated with the program. They determined:

1. The nonrefundable admin fee was not recovering the cost of admin time, which was more extensive than anticipated at the time of the programmatic switch from a flat fee to an actual-cost fee.

2. The nonrefundable tech fee is adequately recovering costs. While both the non-billable admin and tech costs are tracked separately, currently the Treasurer’s Report lumps the technical costs in with other engineering costs on the line item “Technical Other,” and should be shown separately.

3. More than half the project reviews incurred costs that exceeded the base fee, requiring staff to invoice applicants for additional escrow funds and causing what was sometimes a several month gap between when the review expense was incurred and when the fee was recovered. Staff recommended increasing the base review fees.

Table 1 shows the estimated and actual costs of performing project reviews and undertaking admin and technical tasks related to project reviews but not associated with a formal project review.

**Table 1. Budgeted revenues compared to actual expenses.**

Category	2021		2022		2023
	Budget	Actual	Budget	Actual	Budget
Review fees (incl conting)-revenue	\$155,758	\$181,987	\$169,720	\$188,032	\$184,000
Admin fee expense	13,750	27,806	13,100	22,703	16,000
Tech Fee expense	20,265	12,448	19,650	14,634	17,000
# reviews		56		49	

The TAC recommended adjusting both the base fees and the nonrefundable admin and tech fees to reduce some of the administrative and financial burden and better align with

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 RULE E - EROSION AND SEDIMENT CONTROL  
 RULE F – FLOODPLAIN ALTERATION

RULE G - WETLAND ALTERATION  
 RULE H – BRIDGE AND CULVERT CROSSINGS  
 RULE I – BUFFERS

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actual costs. Based on Table 1, given the historical number of project reviews reasonable revenue goals for each would be: (a) review fees: \$180,000-200,000; (b) admin fees: \$18,000-20,000; and (c) tech fees: \$16,000-18,000.

Table 2 shows the estimated fees collected from a hypothetical 50 project reviews: 50 requiring erosion control review, 45 stormwater management and 15 buffer reviews. The TAC initially supported doubling the review fees. Scenario 1 shows the impact of just doubling the fee, while Scenario 2 shows doubling the review base fee but also reducing the contingency and nonrefundable fees, which are a percentage of the total review fee.

Scenario 3 takes a slightly different approach. It doubles the review fee while eliminating the 10% contingency; charges a flat \$250 administrative fee per application plus 5% of the total review fee; and reduces the tech nonrefundable fee to 8% of the total fee. The advantage of a flat amount plus a percent of the total is that for project reviews such as a grading plan for erosion control only, even doubling the fee from \$500 to \$1,000 means a 10% multiplier would yield only a \$100 admin fee, which would not cover costs.

**Table 2. Project review fee scenarios.**

Scenario	Fees	Contingency	Total Eng	Admin	Tech
Current fee structure (10%/10%/15%)*	\$127,500	\$12,750	\$140,250	\$12,750	\$19,125
1-double fees (10%/10%/15%)*	255,000	25,500	280,500	25,500	38,250
2-double fees, reduce NRF (5%/8%/8%)	255,000	12,750	267,750	21,420	21,420
3-double fees, elim contingency, add flat application fee, reduce NRF (5%/8%)	255,000	0	255,000	25,250	20,400

\*10% contingency, 10% nonrefundable (NRF) admin fee, 15% nonrefundable tech fee, etc.

4. Staff believes either approach would bring the Commission closer to its desired revenue goals and, by reducing the number of project reviews requiring invoicing and chasing after additional escrow, would be more administratively cost-effective. Discussion would determine the appropriate nonrefundable fee percentages based on desired revenue goals. The project review fee schedule would be reviewed annually to determine if the fees are adequately recovering costs and adjusted as necessary on a regular basis as part of the annual budget/audit process. The TAC voted to recommend to the Commission Scenario 3 with annual review of the fee schedule and an effective date of August 1, 2023.

Motion by Katzner, second by Walraven to approve the recommendations of the TAC. *Motion carried unanimously.*

**B. TMDL 10-YEAR REVIEW UPDATE.** A few months ago, the Commission and TAC discussed undertaking a progress review of the Elm Creek Watershed TMDL. Staff’s July 5, 2023, memo\* is a progress report on the development of a scope of work to undertake that review.

The TMDL was completed in phases over several years, starting with additional monitoring and data gathering in 2009-2010, analysis and development of the TMDL in 2012-2014,

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RULE E - EROSION AND SEDIMENT CONTROL

RULE F - FLOODPLAIN ALTERATION

RULE G - WETLAND ALTERATION

RULE H - BRIDGE AND CULVERT CROSSINGS

RULE I - BUFFERS

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and then final completion of the TMDL document and accompanying Watershed Restoration and Protection Strategies document (WRAPS) in 2015. This TMDL covers seven nutrient-impaired lakes, and multiple impairments (dissolved oxygen, nutrient, sediment, bacteria) on Elm, Diamond, and North and South Forks Rush Creek.

The final reports were approved by the MPCA and EPA in 2016. While the final TMDL has been in place for seven years, much of the underlying data about watershed conditions goes back to 2010 and one area to 2006. Since those “baseline years” there have been numerous Best Management Practices and improvement projects implemented, and it is timely to compile that information to determine how much progress has been made toward meeting the required pollutant load reductions and whether any measurable improvement in water quality has occurred.

In previous discussions Staff has met to review how best to approach this analysis and as previously discussed has developed a multi-phase approach: 1) compile BMP and water quality data; 2) fill water quality monitoring gaps; and 3) finalize TMDL review. This will take 2-4 years to complete, depending on the amount of supplemental monitoring that is desired. The intent is to set this up as a “living analysis” that can be added to every year as more data becomes available.

Staff met recently and have developed a division of labor that seems workable. Stantec will take the lead on gathering and analyzing BMP and project data and will develop an interactive GIS application to track progress. Three Rivers Park District will take the lead on analyzing lake water quality data, and Stantec will lead analyzing stream water quality data. Staff still have some work to do to estimate the level of effort for the BMP collection. They assume some, but not all, cities have some BMP removals computed for their NPDES reporting and GIS location data. In addition, older project reviews will have to be reviewed to estimate removals and added manually to the GIS coverages. That will allow Staff to partition the load reductions by drainage area.

Staff will meet separately with the cities and county to better understand existing data so they can prepare a final Scope of Work for consideration at the August meeting. They expect that will require a supplemental contract with Three Rivers and an additional Work Order for Stantec. Vlach also suggested that, as was completed for the original TMDL, an animal count be included as part of the update.

Staff will develop a questionnaire by which to capture the existing data in the watershed.

**VII. COMMUNICATIONS.** The following communications were received:

**A. Staff Report.\*** Staff reports provide updates on the development projects currently under review by Staff. The projects listed in the table beginning on page 8 of these minutes are discussed in the July 5, 2023, report.

**B. Hennepin County Staff Report.\***

**1.** The June staff report erroneously stated the **Bottema Wetland Restoration project, Corcoran**, had secured all permits. It had secured all permit approvals from the City but still requires erosion & sediment control permit review from the Commission and Stormwater Pollution

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RULE E - EROSION AND SEDIMENT CONTROL

RULE F - FLOODPLAIN ALTERATION

RULE G - WETLAND ALTERATION

RULE H - BRIDGE AND CULVERT CROSSINGS

RULE I - BUFFERS

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Prevention Plan (SWPPP) approval from the MN Pollution Control Agency (MPCA). Both are anticipated by mid-July. Two bids to restore the wetlands have been secured and the landowner is working with county staff to review bids and select a contractor. Work is expected to begin in 3-4 weeks and be completed in August. Prairie seed application was completed in June.

**2. Mattila, Corcoran.** The landowner returned the updated bid for the manure bunker. Updated cost is \$54,800 instead of the originally quoted \$36,900 over a year ago. Bunker is being moved to be closer to the barn and dry lot area for easier access. Contractor recommended that landowner install a trench drain to capture water from dry lot area before it runs into manure bunker. Staff are currently working to finalize this design.

Mattila is interested in working with NRCS and Hennepin County to implement more conservation projects such as an exclusionary fence for the pasture northwest of Rush Creek, a grazing plan, and more livestock waterers. Staff have connected him with NRCS staff to start the EQIP application process. Staff have also prepared a state and county contract amendment for the project and are circulating it for signature.

**3.** Staff performed a free soil test at **Welcome Ranch, Dayton**, in late June. Staff were able to meet the owner of the ranch and discuss the cost-share program and potential BMPs. Landowner is very interested in installing a manure bunker regardless of needed placement, and installing fencing for rotational grazing. Application for a fall round of cost-share funding will be developed and analyzed.

**4. Van Asten Bunker and Basin, Dayton.** Information necessary for design of the manure bunker and conceptual settling basin/water diversion BMP have been sent to engineering for review. Designs are expected to be completed in 4-6 weeks and available for review by staff and the landowner.

**5. Cain Exclusionary Fence, Corcoran.** Staff performed a one-year inspection on the exclusionary fence that was installed as a part of the Clean Water Fund grant for Rush Creek. The fence is in excellent condition and the landowner has done a good job of keeping it clear of brush. Owner of cattle recently pulled the herd from this property for the rest of the year, but will return them for the 2024 season.

**6. Christian Settling Basin, Dayton.** Information was submitted to Mike Candler for conceptual designs of potential interventions. Landowner was unable to bring neighbor on board for the project, so the proposed BMP will be sited on the landowner's side of the property line. Most likely BMP will be a sediment basin to catch and settle erosion coming from row crop field to the West.

**7.** Included in the County report is a table showing **updates for cost-share projects** and overall budgeting. This table will be included in future staff updates with revisions as appropriate.

**8. Other County Programming.**

**a. Natural Resources Opportunity Grant Applications** are due July 20,

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RULE E - EROSION AND SEDIMENT CONTROL

RULE F - FLOODPLAIN ALTERATION

RULE G - WETLAND ALTERATION

RULE H - BRIDGE AND CULVERT CROSSINGS

RULE I - BUFFERS

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2023, to [ellen.sones@hennepin.us](mailto:ellen.sones@hennepin.us). (Also see IX.A., below.)

b. **Biological monitoring** involves tracking plants and animals on county properties and conservation easements and includes monitoring for butterflies and bees. Contact [nicole.itzel@hennepin.us](mailto:nicole.itzel@hennepin.us).

c. A report summarizing feedback received regarding the **Zero Waste Plan** is available at [beheardhennepin.org/zero-waste-future](http://beheardhennepin.org/zero-waste-future).

#### VIII. Education and Public Outreach.

A. The **West Metro Water Alliance (WMWA)** will meet via Zoom at 8:30 a.m., August 8, 2023.

B. The new conservation specialist, **Grace Barcelow**, is devising a six-month education and outreach plan and amassing appropriate resources.

#### IX. Grant Opportunities and Project Updates.

A. Last month the Commission authorized Staff to prepare an application\* for a **Natural Resources Opportunity Grant for the Dayton River Road Ravine Stabilization Project**. Total cost of the project is \$75,000, with the requested grant amount being \$37,500. The Commission would provide the remaining \$37,500. The application was approved by consensus.

B. The Board of Water and Soil Resources (BWSR) opened the annual solicitation for **Clean Water Fund Grants** on June 29, 2023. Grant applications are due by August 24. The program is similar to the grant solicitation in past years with a few exceptions.

This \$8.5 million is funding from the ongoing Legacy Amendment and is one of the primary funding sources for surface water improvements in Minnesota. Up to 20% of that amount may be reserved by BWSR for focus on projects that protect or improve drinking water sources.

Projects must be identified in a watershed management plan that has been state approved and locally adopted or an approved total maximum daily load study (TMDL), Watershed Restoration and Protection Strategy (WRAPS), Groundwater Restoration and Protection Strategy (GRAPS), surface water intake plan, or well head protection plan. Unlike previous years, the required match has been reduced from 25% to 10%.

These are very competitive funds, so well thought out, targeted projects with local consensus and significant cost-effective removals will complete best. The Commission does have a few projects on its CIP\* for the next few years that cities might consider for application but, again, the funds are extremely competitive, and the pool of available funds is growing smaller each year.

No projects were identified at the meeting. Cities should contact Staff by month's-end if they have projects they would like to have considered at the August meeting.

#### X. Other Business.

XI. **Adjournment.** There being no further business, the meeting was adjourned at 12:49 p.m.

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RULE D - STORMWATER MANAGEMENT

RULE E - EROSION AND SEDIMENT CONTROL

RULE F - FLOODPLAIN ALTERATION

RULE G - WETLAND ALTERATION

RULE H - BRIDGE AND CULVERT CROSSINGS

RULE I - BUFFERS

\*indicates enclosure

**elm creek Watershed Management Commission**

Regular Meeting Minutes | July 12, 2023

Page 8

Respectfully submitted,



Judie A. Anderson  
Recording Secretary

JAA:tim

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Project No.	Project Name
W=wetland	
2014-015	Rogers Drive Extension, Rogers.
2015-030	Kiddiegarten Child Care Center, Maple Grove.
2016-005W	Ravinia Wetland Bank Plan, Corcoran.
2017-014	Laurel Creek, Rogers.
2017-050W	Ernie Mayers Wetland/floodplain violation, Corcoran.
2018-046	Graco, Rogers.
2019-021	Brenly Meadows, Rogers.
2019-026	Interstate Power Systems, Rogers.
2020-009	Stetler Barn, Medina.
2020-017	Meadow View Townhomes, Medina.
2020-032	Enclave Rogers - Commerce Boulevard, Rogers.
2020-033	Weston Woods, Medina.
2020-036	Balsam Pointe, Dayton.
2021-007	Birchwood 2nd Addition, Rogers
2021-016	Territorial Lofts, Rogers.
2021-020	Crew Carwash, Maple Grove.
2021-021	Territorial Triangle, Dayton.
2021-023	Maple Grove Medical Office Building (MOB).
2021-024	Riverwalk, Dayton
2021-025	Hackamore Road Reconstruction, Medina/Corcoran.
2021-027	Xcel Energy Elm Creek Substation, Maple Grove
2021-029	Tri-Care Grocery / Retail, Maple Grove
2021-031	Cook Lake Edgewater, Maple Grove
2021-034	BAPS Hindu Temple, Medina.
2021-035	Mister Car Wash, Rogers.
2021-036	D & D Service, Corcoran.
2021-037	Marsh Pointe, Medina.
2021-039	1-94 Logistics Center, Rogers.
2021-040	Napa Auto, Corcoran.
2021-041	Carlson Ridge, Plymouth.
2021-043	Northwood Community Church, Maple Grove.
2021-044	Balsam II Apartments, Dayton.
2021-047	CR 10 Box Culvert Replacement, Corcoran
2021-050	Evanswood, Maple Grove.
2021-051	Fields of Nanterre Drainage Improvements, Plymouth.
2021-052	Norbella Senior Living, Rogers.

RULE D - STORMWATER MANAGEMENT

RULE E - EROSION AND SEDIMENT CONTROL

RULE F - FLOODPLAIN ALTERATION

RULE G - WETLAND ALTERATION

RULE H - BRIDGE AND CULVERT CROSSINGS

RULE I - BUFFERS

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**CHAMPLIN - CORCORAN - DAYTON - MAPLE GROVE - MEDINA - PLYMOUTH - ROGERS**



**elm creek Watershed Management Commission**

Regular Meeting Minutes | July 12, 2023

Page 9

2021-053	Towns at Fox Creek, Rogers.
2021-055	Morningside Estates 6th Addition, Champlin.
2022-002	Summerwell, Maple Grove.
2022-003	Fox Briar Ridge East, Maple Grove.
2022-006	Hamel Townhomes, Medina.
2022-008	Bechtold Farm, Corcoran.
2022-009	Dunkirk Lane Development, Plymouth.
2022-011	Arrowhead Drive Turn Lane Expansion, Medina.
2022-012	Graco Building 2, Dayton.
2022-013	Dayton 94 Industrial Site, Dayton.
2022-014	Aster Mill, Rogers.
2022-015	County Road 47 Phase I Reconstruction, Plymouth.
2022-016	Rogers Activity Center, Rogers.
2022-017	City Center Drive, Corcoran.
2022-018	Big Woods, Rogers.
2022-019	Grass Lake Preserve, Dayton.
2022-020	Skye Meadows Extension, Rogers.
2022-022	Cook Lake Highlands, Corcoran.
2022-023	Asguard, Rogers.
2022-024	Bridge No. 27J70, Maple Grove.
2022-025	Harvest View, Rogers.
2022-026	Archway Building, Rogers
2022-027	Edison at Maple Grove Apartments.
2022-028	Elsie Stephens Park, Dayton.
2022-029	Hayden Hills Park, Dayton.
2022-030	Garages Too, Corcoran.
2022-031	Corcoran II Substation.
2022-033	Pet Suites, Maple Grove.
2022-034	CSAH 101 Improvements, Maple Grove.
2022-035	Rush Hollow, Maple Grove.
2022-036	West French Lake Road Improvements, Maple Grove.
2022-037	CSAH13 CR203 Culvert Replacement, Dayton.
2022-038	Tavera North Side, Corcoran.
2022-039	Garland Commons, Maple Grove.
2022-040	Karinieimi Meadows, Corcoran.
2022-041	Elm Creek Swim Pond Culvert, Maple Grove.
2022-042	Walcott Glen, Corcoran.
2022-043	Meander Park and Boardwalk, Medina.
2022-044	Trail Haven Road Bridge Replacement, Corcoran.
2022-045	Corcoran Water Treatment Plant.
2022-046	CSAH12 Culvert and Guardrail Replacement, Dayton.
2022-047	Suite Living of Maple Grove.
2022-048	Hassan Elementary Pavement Renovation, Rogers.
2022-049	Connexus Energy South Dayton Substation.
2023-001	Chankahda Trail Reconstruction Phase 2, Plymouth.
2023-002	Lynde Greenhouse Fire Damage Repair, Maple Grove.
2023-003	Cemstone Supply Facility, Dayton.

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RULE E - EROSION AND SEDIMENT CONTROL

RULE F – FLOODPLAIN ALTERATION

RULE G - WETLAND ALTERATION

RULE H – BRIDGE AND CULVERT CROSSINGS

RULE I – BUFFERS

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**CHAMPLIN - CORCORAN - DAYTON - MAPLE GROVE - MEDINA - PLYMOUTH - ROGERS**

**elm creek Watershed Management Commission**

Regular Meeting Minutes | July 12, 2023

Page 10

2023-004	Medina Industrial Site, Medina.
2023-005	MTL Troy Lane Addition, Dayton.
2023-006	Sota Shine, Maple Grove.
2023-007	Lakeview Knoll's Pickleball Courts, Maple Grove.
2023-008	Rush Creek Boulevard Interchange, Maple Grove.

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RULE E - EROSION AND SEDIMENT CONTROL

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RULE H - BRIDGE AND CULVERT CROSSINGS

RULE I - BUFFERS

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