

# elm creek Watershed Management Commission

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## Technical Advisory Committee Meeting Minutes January 12, 2022

I. A virtual meeting of the **Technical Advisory Committee (TAC)** of the Elm Creek Watershed Management Commission was convened at 9:30 a.m., Wednesday, January 12, 2022.

In attendance: Kevin Mattson, Corcoran; Nico Cantarero, Wenck/Stantec, Dayton; Derek Asche, Maple Grove; Matt Danzl, Hakanson-Anderson, Medina; Ben Scharenbroich, Plymouth; Andrew Simmons, Rogers; Ross Mullen, Ed Matthiesen, and Diane Spector, Wenck/Stantec; James Kujawa, Surface Water Solutions; Rebecca Carlson, Resilience Resources; Kurt Guentzel and Kevin Ellis, Hennepin County Dept. of Environment and Energy (HCEE); and Amy Juntunen and Judie Anderson, JASS.

Not represented: Champlin.

II. Motion by Scharenbroich, second by Cantarero to approve the **agenda**.\* *Motion carried unanimously.*

III. Motion by Scharenbroich, second by Danzl to approve the **minutes**\* of the November 30, 2021, meeting. *Motion carried unanimously.*

*[Mattson arrived 9:36 a.m., Simmons 9:40 a.m.]*

### IV. **Third Party Review of Preliminary HUC-8 Model.\***

Member cities have noted significant differences between the flood elevations in their community hydrologic and hydraulic (e.g., XPSMWM) models and the 2016 Federal Emergency Management Agency (FEMA) Hennepin County Flood Insurance Study (FIS) vs. those included in the preliminary Elm Creek Floodplain Modeling and Mapping HUC-8 Study (Preliminary HUC-8 Study). In some instances, especially in the upper watershed, the Preliminary HUC-8 model simulates a base flood elevation (100-year or 1%-annual-exceedance probability event) that is seven to eight feet higher than the 2016 FIS.

The MNDNR provided Elm Creek Commission technical staff with the Preliminary HUC-8 hydrologic and hydraulic models to review along with the memorandum documenting the methodology used to create the models, *“Elm Creek Narrative and QAQC Documentation”* (Barr Engineering Co., 2021). Staff also reviewed the web-based interactive map published by the MNDNR titled, *“Elm Creek Watershed District Draft Flood Risk Review Map.”*

In his December 22, 2021, memo, Mullen reviewed the hydrologic model; hydraulic structures, focusing on culverts and bridge openings; and the mapping process. He recommended four specific revisions to the Preliminary HUC-8 models.

1. That MNDNR update the hydrologic HEC-HMS model with an alternative modeling approach, such as *Reservoir Routing*, in the upper watershed to account for all the off-channel flood storage on the landscape.

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*\*included in meeting packet*

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2. That MNDNR update the hydraulic HEC-RAS model with the best available information for each of the hydraulic structures in the model.

3. That MNDNR review the boundary conditions for each of the stream sections as the mapped base flood elevations differ at stream confluences.

4. That MNDNR remap the floodplain after the above changes are made to the hydrologic and hydraulic models.

Motion by Mattson, second by Scharenbroich directing Mullen to send the memo as written to the MNDNR. *Motion carried unanimously.*

### **V. Proposed rules revisions regarding low floor/freeboard.\***

Rule D.3.b.i.7 of the Commission's Third Generation Watershed Management Plan states, "*The low floor shall be at minimum two feet above the critical event 100-year elevation and a minimum one foot above the emergency overflow elevation of nearby waterbodies and stormwater ponds.*"

The ambiguity in this rule and its purpose has prompted questions on the part of developers, technical staff, member communities, and members of the Technical Advisory Committee (TAC).

The Commission's technical staff and TAC met to discuss rules revisions for the low floor rules based on the risk to structures at the June and November 2021 TAC meetings. The Commission's technical staff and TAC have also reviewed requirements of state agencies, member cities, and adjacent watersheds.

The Commission's technical staff and TAC have determined to transition from the existing rules to a three-tiered approach based on the unique flood risk posed to structures based on the flooding source without overly complicating the Commission's rules.

The Commission's technical staff and TAC recommend the tiered approach to recognize the differences in flood risk from large waterbodies that may have flood stages that last weeks or months from those of small stormwater ponds and waterbodies where the flood stages last hours or days. The flood risk, especially that caused by groundwater sources, is significantly lower to structures surrounding these small stormwater ponds and waterbodies.

This rule is proposed to go into effect as soon as Commissioners approve the revisions and a Minor Plan Amendment is approved, likely November 2022-January 1, 2023.

Staff's December 22, 2021, memo outlined the proposed revisions to Rule A (definition of "Low Opening"), Rule D.3.b.i.7, and Rule F.3.b. It also included a flow chart of the proposed changes to the low floor/freeboard rules.

Members recommended inclusion of a definition of "emergency overflow" as well informing what structures are subject to low floor rules. They are agreed that there might be different rules for landlocked sites. Developer would need to show that alternative device/construction will work. Ordinary high water pertains for public waters, not stormwater ponds.

### **VI. Commission Rule Alignment with MS4 Revisions.\***

In 2021, the Minnesota Pollution Control Agency (MPCA) issued a new a 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

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pollutants from their storm sewer system. 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 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. For consistency, the Commission will continue to use the 1.1-inches of runoff standard (and 0.55-inches for linear projects), instead of the MS4 1.0-inch and 0.5-inch thresholds.

The revisions to the MS4 Phase II permit create inconsistencies between the Commission's 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 to be at least as stringent as its member cities and to create consistency in the project review process.

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 the Commission approves a Minor Plan Amendment, no later than November 30, 2022.

Proposed revisions include:

1. Revise Rule A to include the definition of fully reconstructed impervious surfaces.
2. Revise Rule A to include the definition of linear projects.
3. Revise Rule D.2.b. regarding linear projects and creation of impervious surfaces.
4. Revise Rule D.3.c a. regarding infiltration/abstraction of stormwater runoff volume.

Motion by Scharenbroich, second by Cantarero to forward items V. and VI. on to the Commission for approval. *Motion carried unanimously.*

### **VII. Cost Share Policy.\***

**A.** At their last meetings the TAC members recommended, and the Commissioners approved striking the reference to subwatershed assessments "Identified in areas outside of the Municipal Urban Service Area (MUSA)" from the cost share policy.

Motion by Asche, second by Scharenbroich to recommend to the Commission approval of the application for the **Rice Lake Subwatershed Assessment.\*** *Motion carried unanimously.* The total cost of the assessment is estimated to be \$30,000; the City of Maple Grove is requesting the Commission to contribute \$7,500, or 25% of the cost.

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**B.** The Cost Share Policy calls out the Commission's maximum annual share of the cost of a capital project to be up to \$250,000 and its maximum annual ad valorem tax levy to be \$500,000.

Asche informed the members of an upcoming project in his city that is estimated to cost in excess of three million dollars. Since it is anticipated that the costs of future projects may well exceed past projections, he is requesting the members to consider recommending increases in both the Commission's project share and its annual ad valorem tax levy. Staff will draft revised policy language for consideration at the February meeting. A copy of the current CIP\* was also included in the meeting packet.

### **VIII. Operations and Maintenance Agreements.\***

Often development projects are approved contingent upon receipt of an Operations and Maintenance (or other) agreement. This agreement is usually between the city and the project owner and requires approval by the Commission's technical staff. In some cases, this agreement cannot be generated until final plat occurs, sometime years into the future.

Since the City in which the project resides is ultimately responsible for having such an agreement in place to document the future operations and maintenance of the stormwater pond/device/structure, Staff were concerned that the language in the Commission's Rules is inadequate for this purpose. If such language were to be included as a condition for final approval of a project, it would remind cities that this is their responsibility, and Commission staff would not have to undertake the lengthy and costly process of ascertaining that the agreements are in place.

Staff's January 4, 2022, memo presented a possible remedy for this process. Members expressed concerns that the proposed language may not adequately address this issue and requested Staff to go back to the Commission's attorney with their concerns. Discussion will continue at the February meeting.

### **IX. 2022 Work Plan.**

Included in the meeting packet was a copy of the **final 2021 Work Plan.\*** Members were requested to review it and to contact the administrative office with proposed updates for the 2022 Work Plan. They were also encouraged to review the final PRAP report, which will be available at the January regular meeting, and incorporate responses to the Board of Water and Soil Resources' (BWSR's) recommendations in their updates. A draft 2022 Work Plan will be presented at the February TAC and regular meetings.

### **X. Other Business.**

Topics for future TAC meetings.

1. Cost share policy language regarding the maximum annual share of the cost of capital projects and the maximum annual ad valorem tax levy
2. Revised language in Rules regarding Operations and Maintenance Agreements.
  - a. HOAs being responsible for O&M plans within their developments.
3. 2022 Work Plan.
4. Watershed-wide TMDL follow-up.
5. Convene meeting, FY22-23 Watershed-based Implementation Funding (WBIF) program.
6. Consider projects for 2022 Stormwater, Wastewater and Community Resilience Planning Grants.
7. Update CIP (need by March 2022).
8. Consider projects/programs as line items in 2023 Operating Budget (need by April 2022).

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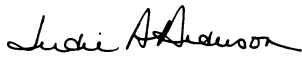
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9. Review Project Review Fee Schedule.
10. Others?

**XI.** There being no further business, the meeting was adjourned at 11:03 a.m.

Respectfully submitted,



Judie A. Anderson  
Recording Secretary  
JAA:tim

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