



## **Land & Water Partnership Initiative**

### **Technical Advisory Committee Meeting #3 Summary**

December 8, 2022 | 1:00 – 3:00 PM

MCWD Office – 15320 Minnetonka Blvd, Minnetonka

#### **TAC Meeting Schedule**

- Becky Christopher, MCWD Policy Planning Manager, reviewed the updated TAC meeting schedule. A seventh meeting has been added, based on TAC input, to provide additional time for discussion.
- Meeting 3 is focused on vetting potential changes to optimize the permitting experience to build partnerships and projects that result in water resource and community benefits. These permitting improvements aim to streamline rules, increase clarity, align requirements with other regulatory agencies, and optimize the process to promote partnership.
- Meetings 4 and 5 will be dedicated to discussion of specific rule revisions and potential areas for partnership and coordination with MCWD's permitting program. Meeting 6 will be used for review of draft guidance materials for the Land & Water Partnership program and planning for ongoing coordination and engagement. The seventh and final meeting of the TAC will focus on review of final deliverables and next steps.

#### **Optimizing the MCWD Permitting Experience**

- Abigail Ernst, MCWD Permitting Technician, introduced Meeting 3's agenda. MCWD's permitting program staff engage with the land-use community to ensure projects and development protect the District's natural resources, and therefore the program can be an ideal conduit for advancing the District's Balanced Urban Ecology policy and integrating land and water planning for mutual benefit. To align around this new mission, MCWD identified areas of permitting program improvements:
  - Adjusting regulatory scope and standards to align with other local and state agencies
  - Simplifying and streamlining rule language, technical submittals, and procedural requirements to enhance clarity with plain language and create a more user-friendly experience
  - Improving the program to be more efficient by tailoring regulations to natural resource risk and project opportunity
  - Formalizing a compliance framework for consistency and efficiency
  - Exploring formal partnerships with municipalities to improve coordination, reduce duplication of efforts, and leverage each other's capabilities
  - Creating clear processes for identifying and exploring partnership opportunities with applicants
- The TAC engaged in a brief Mentimeter activity to gauge their comfort and understanding with the proposed permitting program improvements and share ideas for further improvements.
- One TAC member noted that staff retention and continuity in the permitting team should also be considered as an area for continued improvement, as it can be frustrating for applicants to

work with new staff frequently. MCWD staff agreed, noting that training staff to build relationships and negotiate partnership opportunities is a priority for MCWD's permitting program. MCWD is also engaging in a comprehensive compensation evaluation to maintain competitiveness and create a career ladder to improve retention and growth within the program.

- Another TAC member noted that the District should consider a tailored approach to partnering with cities of different sizes and regulatory capacities so MCWD can focus on supporting cities that need assistance to comply with state standards rather than those cities that already have robust regulatory programs.

### **Proposed Rule Revisions and Input Process**

- In this round of rule revisions, MCWD is not seeking to increase standards, but is focused on simplifying language, streamlining process, and aligning the permitting rules with MS4 standards. These changes are intended to improve customer service and promote partnership.
- Meeting 3 is intended to provide an overview of the rule revisions to get TAC members familiar with the scope and purpose of the changes and identify areas of interest for future discussion. Meetings 4 and 5 will be used to discuss the more substantive rule changes in greater detail. After the TAC meetings have wrapped up, the draft revisions will be updated with TAC input, brought forward to the District's Board of Managers, and distributed for a 45-day public comment period.
- An overview of the rule revisions for erosion control, stormwater management, waterbody crossings, dredging, floodplain alteration, wetland protection, shoreline and streambank stabilization, and variance and exemption was provided. This information was also included in the meeting 3 packet. There are no substantial changes proposed for the remaining rules (appropriations, definitions, financial assurance, illicit discharge, procedural) beyond simplifying language.
- TAC members asked whether red-lined versions of the rules would be provided. MCWD staff shared that, due to the volume of changes for simplifying language and streamlining content, red-lined versions would not be very useful. Instead, staff will provide a table to compare old rules to the new rules for closer review.
- TAC members also suggested that MCWD use definitions consistent with MS4 to assure alignment and ease of use.

### **Discussion of Proposed Rule Revisions**

- TAC members were asked to participate in a dot exercise where they indicated their level of comfort with the proposed rule changes by choosing a colored dot. This exercise helped MCWD gauge priorities for further discussion. This was followed by a small group discussion in which they discussed the following questions:
  - What is your level of comfort with the proposed rule revisions? Where would you like to focus future discussions?
  - Are there additional rule changes or improvements you would like to see included that support the current scope?
  - Are there ideas for rule changes outside of the current scope that you would like MCWD to consider?

- Key takeaways from the discussion were related to general permitting program improvements, specific rule revisions, partnership and coordination options, and the schedule and process for reviewing the proposed rules.

#### Program Improvements:

- TAC members noted that staff retention and training is a key area for program improvement as applicants often find themselves working with new staff, which can be a challenge. It was suggested that MCWD allocate a dedicated permitting staff member to specific cities within its boundaries, so there is a clear contact for each municipality.

#### Rule Revisions:

- The TAC requested more clarity and definition for low-risk and routine maintenance projects. For example, outfall dredging and pipe/culvert replacement are routinely done by municipal public works staff but may trigger multiple rules and processes. Options for further streamlining the process for these low-risk activities should be explored, including a fast-track option, reduced submittals, a general permit, or programmatic agreement. Similarly, TAC members requested that the permitting process for emergency projects be further streamlined. Overall, TAC members are strongly in favor of improving and streamlining MCWD's processes for reviewing maintenance work.
- The TAC was interested in exploring options for regional treatment and banking for stormwater requirements to make development easier in otherwise limited areas.
- A TAC member also noted that, while maybe beyond the scope of this round of revisions, it may be worth revisiting how buffer width is calculated.
- Committee members also expressed concern over MCWD's promotion of exceeding regulatory requirements and stated that many projects would not be a good fit for this. They also advised MCWD not to force partnerships, but to pursue them in a process that is clear and comfortable for both parties.
- TAC members were asked to consider the policy question of whether buffers for new subdivisions should be required to be in outlots. TAC members were not in favor of adding this requirement but were open to discussing alternative approaches for improving buffer protection.
- The TAC was also asked to reflect on the policy question of changing MCWD's freeboard requirement from low-opening to low-floor since most cities use low-floor. TAC members were generally comfortable with this change but wanted more information on the implications of this adjustment.

#### Partnership and Coordination Options:

- TAC members requested that MCWD make it easier for cities to take on sole regulatory authority in areas like Erosion and Sediment Control, to reduce duplication. Overall, TAC members are excited to talk about formalizing and streamlining partnership agreements. TAC members suggested that MCWD share some examples of agreements.
- The TAC suggested several options for engaging to promote coordination on projects, such as: annual meetings, pre-application meetings, and closer coordination throughout project and

permit completion. Ultimately, working together proactively requires building relationships and trust between MCWD and its permittees.

- TAC members also noted the potential to coordinate with and engage the private sector early but reinforced that a different approach would be necessary since private development projects move faster. Permitting can be a conduit for identifying partnerships but may be too late in the process for some projects.

#### Schedule and Process:

- The TAC expressed concern over having enough time to review the rules during the holiday season, when many are traveling. The TAC wanted ample time to review the Stormwater rule and therefore suggested moving it to meeting 5. However, some TAC members also noted that MCWD should keep the process moving and not provide too much time for review as many will procrastinate, even with a longer window. It was suggested that smaller amounts of material would also make review more feasible for TAC members and their teams.
- For regular meeting packets, TAC members also requested more time to share the materials with their colleagues and gather collaborative input.

#### **Next Steps:**

- By December 16, MCWD will send rule drafts, a comparison table, and a survey for TAC members to review and document overarching questions, comments, and recommendations for the first batch of rules. The survey will allow staff to refine content for the next TAC meeting. The TAC will not be asked to redline the rules in this review survey. More detailed comments can be provided during the public comment period or through direct communication with MCWD Permitting Technician, Abigail Ernst. The deadline for completing this survey is January 10, 2022.