

MEETING DATE: September 13, 2018

TITLE: Approval of Chanhassen Local Water Management Plan

RESOLUTION NUMBER: 18-094

PREPARED BY: Renae Clark

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REVIEWED BY: Administrator Counsel Program Mgr.
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date):_____	<input type="checkbox"/> Refer to taskforce or committee (date):_____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other: Requesting approval at July 26 Board Meeting	

PURPOSE or ACTION REQUESTED:

Approval of the City of Chanhassen Local Water Management Plan (LWMP)

PROJECT/PROGRAM LOCATION:

N/A

PROJECT TIMELINE:

- February 1, 2018 – Chanhassen LWMP first draft submitted to MCWD
- April 3, 2018 – MCWD denial letter sent
- June 20, 2018 – MCWD and City staff meeting to discuss plan revisions
- July 27, 2018 – Chanhassen submitted draft response to MCWD

PROJECT/PROGRAM COST:

N/A

PAST BOARD ACTIONS:

- July 20, 2006, Resolution 06-039: MCWD approval of Chanhassen local water resources management plan
- March 24, 2011, Resolution 11-021: Authorization of a Memorandum of Understanding with the City of Chanhassen as conditioned in the approval of the local water resources management plan, formalizing responsibilities of the City and the Watershed District in ensuring that the goals, policies, and implementation items in the Local Water Management Plan are satisfactorily carried out
- January 11, 2018, Resolution 18-004: Approval and adoption of MCWD Watershed Management Plan for the implementation period 2018-2027

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SUMMARY:

Background:

MN Statutes § 103B.235 and MN Rules § 8410.0160 grant watershed districts the authority to review and approve local water management plans (LWMPs). Under this framework, watershed districts can assign responsibilities to local government units (LGUs) for carrying out implementation actions defined in the watershed plan. The LWMP is a required element of the LGU comprehensive land use management plan which LGU's must adopt by the end of 2018.

The Minnehaha Creek Watershed District (MCWD or District) adopted its new Watershed Management Plan (Plan) in January 2018. The Plan is rooted in the District's Balanced Urban Ecology policy (BUE) as the principal strategy to accomplish its mission. The BUE policy recognizes the inter-dependence of the natural and built environment and that both benefit through a holistic planning approach. The BUE policy establishes the guiding principles of focus in areas of highest resource needs, flexibility to respond to emerging opportunities as a result of land use change in real time, and pursuing clean water goals in partnership with our communities.

The Plan establishes the District as a regional water planning agency. The Plan provides rationale for subwatershed-based planning and prioritization by which to focus implementation efforts for the 2018-2027 Plan cycle. The District has prioritized the subwatersheds of Minnehaha Creek, Six Mile Creek-Halsted Bay and Painter Creek based on a combination of resource needs and opportunities for management of some of the State's most prized recreational natural resources of Lake Minnetonka and Minnehaha Creek – including the Minneapolis Chain of Lakes.

In addition to these focused planning and implementation efforts, the District's approach watershed-wide is to remain responsive to opportunities created by local land use change or partner initiatives. The District's responsive approach relies on early and effective coordination by the District's communities to help identify opportunities to integrate plans and investments. As opportunities arise, the District will evaluate them against the resource needs and priorities defined for each subwatershed in the District's Plan and determine the appropriate response. The District has a wide range of services it can mobilize to address resource needs and support partner efforts, including data collection and diagnostics, technical and planning assistance, permitting assistance, education and capacity building, grants, and capital projects.

Integration of land use and water planning is the primary focus of the LWMP requirements set forth in the District's Plan. To effectively integrate the goals of MCWD and its LGUs in a way that maximizes community benefits and effectively leverages public funds, the District has invited a partnership framework with its communities. In addition to the legally required elements of LWMPs, as defined in State statute and rules, the MCWD Plan requires communities to propose a coordination plan which describes how the LGU and MCWD will share information and work together to integrate land use and water planning. Specifically, the purpose of a MCWD/LGU coordination plan is to:

1. Establish a framework to be informed as to current LGU land use and infrastructure planning and enable early coordination of land use and water resources management
2. Foster LGU development regulation that integrates water resource protection before plans are fixed
3. Identify and capitalize on project opportunities for improved water resources outcomes while maximizing other public and private goals

As established in the District's Plan, MCWD will prioritize implementation efforts and resource deployment based on its established priorities and LGU commitment to coordination. This commitment is demonstrated through the coordination plan and its implementation by the LGU.

Chanhasen LWMP Summary:

The City of Chanhasen (City) has submitted its LWMP for MCWD review and approval. District staff reviewed the LWMP and provided detailed comments for consideration and incorporation into the LWMP and met with City representatives to discuss the goals and requirements of the District's Plan. The City has revised the LWMP to address the District's comments.

The City of Chanhasen is located partially within the MCWD and drains to three different subwatersheds; including Christmas Lake, Lake Virginia, and Lake Minnetonka. Approximately one-quarter of the city (5 sq. mi.) is within the MCWD, including the area west of Hazeltine Boulevard draining to Lake Minnewashta, and an area along the northern border, part of which drains to Christmas Lake and part into Lake Galpin to the north. MCWD waterbodies within Chanhasen include Lake Minnewashta, Lake St. Joe and a portion of Christmas Lake. Lake Minnewashta and Lake St. Joe are part of the Lake Virginia Subwatershed. Lake Virginia is on the States Impaired Waters List for excess nutrients and both Virginia and Lake Minnewashta are listed for excess mercury in fish tissue. Existing and future land use within MCWD is single family and parks and recreation, including Lake Minnewashta Regional Park and the Minnesota Landscape Arboretum.

Since approximately 1997, the City of Chanhasen has exercised sole regulatory authority within the City with respect to development permitting for water resource protection and has served as the Local Government Unit responsible to implement the Wetland Conservation Act. The City wishes to continue in this role. City ordinance updates have been pending since the District adopted new water resources regulations in 2011. In recent months, City staff has initiated an administrative process to authorize the District to exercise its permitting authority for individual land use applications. Section 5 of the LWMP outlines a process and provides a six month timeframe for ordinance updates to meet minimum requirements of watershed management organizations. The LWMP also provides a summary of water management organization regulations compared to City ordinances and indicates most restrictive standards intended to be adopted by the City.

The LWMP identifies the following issues and strategies for Lake Minnewashta, Lake Virginia, and Christmas Lake.

Lake Minnewashta:

The City will continue to undertake BMPs as opportunities arise and will work with residents and other stakeholders to undertake improvements to help preserve water quality. Lake Minnewashta has been infested with Eurasian watermilfoil, curlyleaf pondweed and zebra mussels. The City has identified partnership opportunities with MCWD and the Lake Minnewashta Preservation Association to continue to monitor any impacts or trends related to the zebra mussel infestation and other invasive species.

Lake Virginia Tributary Area:

The outlet of Lake Minnewashta, is a channel to Lake Virginia that flows under several driveways that are undersized for large events. More information is needed regarding potential flooding or other issues that may arise.

Christmas Lake:

A tributary from Chanhassen to the southern bay of Christmas Lake is Christmas Creek in Curry Farms Park. The park recently experienced flooding in June 2014. Christmas Creek downstream of Powers Boulevard is in need of stabilization.

Through its Water Management Plan, MCWD recognizes the need to protect good water quality, wetland and terrestrial corridors, manage excess nutrients, and address localized flooding. Implementation priorities in these subwatersheds include resource protection through regulation, early coordination and integration with land use planning, opportunity-driven stormwater management projects/grants, and education and capacity building for lake associations.

The City has developed a coordination plan under which it has committed to the following:

- Meet annually with District staff to exchange and review capital improvement plans and maintenance activities for stormwater infrastructure as part of the MS4 reporting process
- Notice of and consult with MCWD on land use, infrastructure, park and recreation capital improvement planning efforts annually
- Notice to the District on small area plans and other focused development or redevelopment actions
- Notice of prospective development/redevelopment and receive proposed preliminary plats and development plans
- Regulatory coordination:
 - Pre-application and permit reviews
 - Construction site inspection and compliance
 - Enforcement of water resource rules
 - Implementation of WCA and MCWD Rules

The City's coordination plan is attached and the full LWMP can be found here:

<https://www.dropbox.com/sh/rnb9ov9ececqhht/AAAabk3YI7QSnTsp1ipYn9Vta?dl=0>

Recommendation:

Staff has verified that the LWMP meets the requirements of Minnesota Statutes §103B.235, Minnesota Rules 8410.0160, and the MCWD Watershed Management Plan. Staff recommends approval of the LWMP and coordination plan, with the requirements that the City (a) develop ordinances satisfactory to the District with respect to erosion control, floodplain alteration, wetland protection, and stormwater management; (b) provide for those ordinances, as well as administrative, enforcement and District review procedures, to be adopted and effective within one year of the Board's LWMP approval. The Board's approval should provide that if these requirements are not met, the District will reassert its regulatory jurisdiction until such time as the requirements are met.

ATTACHMENT:

City of Chanhassen Coordination Plan

RESOLUTION

RESOLUTION NUMBER: 18-094

TITLE: Approval of Chanhassen Local Water Management Plan

WHEREAS, on January 11, 2018, the MCWD adopted its Watershed Management Plan (WMP) pursuant to Minnesota Statutes §103B.231 and Minnesota Rules 8410, which describes how the MCWD will fulfill its responsibilities under the Metropolitan Surface Water Management Act for implementation over the period 2018-2027, and which is guided by the organizational strategy and approach defined through the Balanced Urban Ecology policy; and

WHEREAS, the Balanced Urban Ecology policy prioritizes partnership with the land use community to integrate policy, planning, and implementation in order to leverage the value created when built and natural systems are in harmony; and

WHEREAS, the Balanced Urban Ecology policy rests on the guiding principles of focusing in areas of highest resource needs, being flexible to respond to opportunities that arise through land use changes, and working in partnership to achieve the MCWD's goals; and

WHEREAS, on watershed district adoption of its WMP, cities and towns (local government units or LGUs) within the watershed must prepare local water management plans (LWMPs) that meet content requirements of Minnesota Statutes §103B.235, Minnesota Rules 8410.0160 and the WMP;

WHEREAS, the LWMP is a primary tool to provide a framework for increased early coordination of land use and water planning through the coordination plan that is a required component of the LWMP and the content of which is described in the WMP, Appendix A; and

WHEREAS, the MCWD will prioritize implementation efforts and resource deployment based on its established priorities and LGU commitment to coordination as demonstrated through the coordination plan and its implementation by the LGU; and

WHEREAS, the City of Chanhassen (City) has revised its LWMP and submitted it to the MCWD for review and approval; and

WHEREAS, MCWD staff reviewed the draft LWMP, provided detailed written comments on the LWMP, and thereafter worked with City staff to achieve the development of a proposed LWMP for consideration by the MCWD Board of Managers; and

WHEREAS, the Metropolitan Council has reviewed the LWMP and provided its written comments to the MCWD in a letter on March 16, 2018, and the MCWD has fully considered the comments; and

WHEREAS, the LWMP states that the City elects to continue to act as the Local Government Unit responsible to implement the Minnesota Wetland Conservation Act; and

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WHEREAS, the City of Chanhassen wishes to retain water resource regulatory authority within the meaning of Minnesota Statutes §103B.211, subd. 1(a)(3), and assert sole permitting jurisdiction with respect to activities subject to MCWD Erosion Control; Floodplain Alteration; Wetland Protection and Stormwater Management Rule; and

WHEREAS, the MCWD will continue to exercise its present authority with respect to its rules for Appropriations, Illicit Discharge, Dredging; Shoreline and Streambank Stabilization; and Water Body Crossings and Structures under authority provided by MCWD Rules and the Minnesota Department of Natural Resources, and otherwise exercise its permitting and approval authority in accordance with the terms of Minnesota Statutes §103B.211(a)(3); and

WHEREAS, the LWMP contains a coordination plan that meets the standards set forth in the MCWD WMP, Appendix A; and

WHEREAS, the MCWD has determined that the final revised LWMP meets the requirements of Minnesota Statutes § 103B.235, Minnesota Rules 8410.0160, and is consistent with the MCWD WMP including Appendix A, "Local Water Plan Requirements".

NOW, THEREFORE, BE IT RESOLVED, that the MCWD hereby approves the City of Chanhassen Local Surface Water Management Plan;

BE IT FURTHER RESOLVED, that the Board approves the associated coordination plan and adopts it on behalf of the MCWD;

BE IT FURTHER RESOLVED that the City is to adopt and implement its LWMP within 120 days, and to notify the MCWD within 30 days thereafter that it has done so;

BE IT FURTHER RESOLVED that within one year days of this action, the City shall adopt ordinances for Erosion Control; Floodplain Alteration; Wetland Protection and Stormwater Management approved by the District Administrator as equally protective of water resources as the District Rules, and provide for those ordinances to be effective, and shall adopt with the concurrence of the District administrator procedures governing the City's regulatory program administration and enforcement, and governing District review of the City's regulatory program implementation; and

BE IT FINALLY RESOLVED that if the actions in the foregoing paragraph are not timely accomplished, the District will reassert its regulatory jurisdiction in the indicated areas within City boundaries.

Resolution Number 18-0 94 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: September 13, 2018.

Secretary Date: _____.

City of Chanhassen MCWD Coordination Plan

Through the Minnehaha Creek Watershed District (MCWD) 2018 Water Management Plan, LGU coordination is identified as an integral component of the Local Water Management Plan. A coordination plan is requested to define a set of protocols that supports ongoing communication and promotes value-added collaboration between the District and LGU. Through these communications, the District and LGU will coordinate programs and resource deployment and be best suited to identify areas of collaboration and partnership. The goal of the coordination plan is to create a framework to maintain awareness of needs and opportunities to co-plan water and land use early in the planning process, while also identifying LGU services and expectations of MCWD.

Through the Local Water Plan, the District invites a partnership framework that fosters increased early coordination of land use and water resource management to achieve its water quality goals.

Table 2.1. MCWD LGU Coordination Plan.

Element	When and How	Department and Position Responsible
Annual meeting to review LWMP implementation	September annual meeting	Water Resources Department - Water Resources Coordinator
Transmittal of annual NPDES MS4 report	Available on MPCA website	MPCA staff via MPCA website
Notice of and consult with the LGU on its land use, infrastructure, park and recreation and capital improvement planning efforts	Annual meeting	Planning Department - staff
Notice to the District on small area plans and other focused development or redevelopment actions	Agency Review Request email transmittals will continue to be sent as applications and development proposals are received	Planning Department - staff
Notice of alterations within the LGU MS4 system for District maintenance of its watershed-wide hydrology and hydraulics model.	September annual meeting	Water Resources Department - Water Resources Coordinator

Notice of prospective development/redevelopment and receive proposed preliminary plats and development plans	Agency Review Request email transmittals will continue to be sent as applications and development proposals are received	Planning Department - staff
Procedures by which the LGU ensures permit applicants are aware of permitting authority of both bodies	Agency Review Request email transmittals will continue to be sent as applications and development proposals are received	Water Resources Department - Water Resources Coordinator
Pre application and permit reviews	Agency Review Request email transmittals will continue to be sent as applications and development proposals are received	Planning Department - staff
Construction site inspection and compliance	Annual email transmittal and meetings as needed	Water Resources Department - Natural Resources Technician
Enforcement of water resource rules of MCWD and LGU	Water Resource Permit Application email	Water Resources Department - staff
Implementation of the Wetland Conservation Act where LGU is acting as WCA LGU	WCA Notice emails	Water Resources Department - staff
Implementation of District Rules where LGU is authority	Water Resource Permit Application email	Water Resources Department - staff