



MEMORANDUM

To: MCWD Board of Managers
From: Renae Clark
Date: June 28, 2018
Re: Item 4.2 – Framework for Local Water Management Plan Review

Purpose:

To inform the Board of Managers of the framework and process for Local Water Management Plan (LWMP) review in preparation for requested Board action to approve LWMPs beginning in July 2018.

Background:

The MCWD 2018 Watershed Management Plan (Plan) is rooted in the District's Balanced Urban Ecology policy (BUE) as the principle strategy to accomplish its mission. The BUE policy recognizes the interdependence of the natural and built environment and that both benefit through a holistic planning approach. The BUE policy is based on 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 District's overarching organizational strategy, as adopted through the strategic plan, is two-pronged and consists of the following:

1. Develop high impact capital improvement projects that are integrated with non-water initiatives through multi-jurisdictional partnerships
2. Improve the integration of land use and water resources planning and policies to produce value-added partnerships with private development and public infrastructure investments

The 2018 Plan establishes the District as a regional water planning agency. The Plan establishes rationale for subwatershed-based planning by which to focus implementation efforts for the 2018 Plan cycle based on the guiding principles of the BUE policy. 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.

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Integrating land use and water planning policies locally is the primary focus of the LWMP requirements in the District's 2018 Plan. Through the 2018 Plan, to effectively integrate the goals of MCWD in a way that maximizes non-water 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 2018 Plan requires communities to propose a coordination plan which identifies planning procedures for land use plans and describes how the local government unit (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

Also as established in the 2018 Plan, MCWD will prioritize implementation efforts and resource deployment based on its established priorities and LGU commitment to coordination. This commitment is defined by the coordination plan within the LWMP and carried out through practice.

Summary:

Minnesota Statute 103B.235 states that after the District Plan is approved, each LGU within the District must prepare a LWMP. The LWMP must be submitted for review and approval by the District and found to be consistent with the District's 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.

Throughout the remainder of 2018, the District will be required to review LWMP's for conformance with Minnesota Statute 103B.235, MN Rule 8410 and the MCWD 2018 Plan.

To fulfill this obligation and effectively leverage the opportunity to support the District's implementation model through the LWMP review, staff has created a framework to guide the consistent review of local water management plans. The framework places higher priority and rigor for the development and review of LGU/District coordination plans for those LGU's located in areas of District priority (established through its Plan), with highest resource need and opportunities for maximum benefit of integrated land use and water resources planning.

The Board of Managers will be requested to act on LWMP's at their meetings throughout the remainder of 2018 beginning in July. For each LWMP, staff will summarize its compliance with requirements described in Appendix A of the 2018 Plan (attached) and identify areas of future coordination identified by the LGU.

MCWD also has the opportunity to provide comment on LGU comprehensive land use management plans. Comprehensive land use plans are largely within the early stages of a six month review period. Staff will review prioritized plans for their integration of water and land use planning principles and

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prepare written comments that reflect the District's BUE policy. These comments will be prepared and routed for approval on future Board of Manger's meeting Consent Agendas.

Next Steps:

Staff will review the requirements and process for LWMP approval at the Planning and Policy Committee on June 28, 2018. LWMPs will be scheduled for approval at upcoming Board of Manager's meetings throughout 2018.

If there are questions in advance of the meeting, please contact Renae Clark at 952-641-4510 or rclark@minnehahacreek.org

Attachments:

1. MCWD 2018 Water Management Plan, Appendix A: Local Water Plan Requirements

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APPENDIX A LOCAL WATER PLAN REQUIREMENTS



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APPENDIX A: LOCAL WATER PLAN REQUIREMENTS

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Section 3.6 of this Plan describes the District’s approach to local water management plan requirements, the role of local plans in achieving land and water goals, and the District’s procedures for review and approval of these plans. The following sections detail the specific requirements against which the District will review local water plans.

1. DATA AND INFORMATION

The District maintains certain regional data systems that it makes available to its LGUs and others for their own benefit and for consistency across the watershed. An LGU should identify these data systems in its local plan and describe their application to LGU activity in order for the District to ensure that the LGU is aware of these systems and that they are being used for common intended purposes. These systems, with a brief description of their applications, are as follows:

- » Hydrology and hydraulics (H&H) model - provides information on regional flood elevations and hydraulics
- » Waterbody flood elevations derived from Atlas 14 precipitation data – provides information on base flood elevations for new structures and flood sensitive areas
- » Functional Assessment of Wetlands (FAW) – provides data on wetland functions and values, establishes management classifications based on quality and sensitivity, and identifies restoration opportunities
- » Stream Assessments – provides data on biological and physical condition of District streams
- » Hydrologic Data reports – provides data on water quality, water quantity, and ecological integrity conditions and trends for District resources

In addition to information the District is requiring, Minnesota Rules 8410.0160 specifies certain local data and information that the local plan must include. These combined requirements are as follows:

- » A summary of water resource management-related agreements, including joint powers agreements, into which the LGU has entered with watershed management

organizations, adjoining LGUs, private parties or others.

- » Maps of current and projected land use .
- » Maps of drainage areas under current and future planned land use with paths, rates and volumes of stormwater runoff.
- » A stormwater conveyance map meeting standards of the current MS4 general permit and indicating an outfall or a connection at the LGU boundary.
- » An inventory of public and private stormwater management facilities including the location, facility type and party responsible for maintenance (e.g., landowner, homeowner’s association, LGU, other third party).
- » A listing and summary of existing or potential water resource-related problems wholly or partly within LGU corporate limits. A problem assessment consistent with Minnesota Rules 8410.0045, subpart 7, is to be completed for each. This includes but is not limited to:
 - Areas of present or potential future local flooding
 - Landlocked areas
 - Regional storage needs

Finally, Minnesota Rules 8410.0160 requires that the local plan include: (a) an executive summary stating highlights of the local water plan; and (b) a statement of the process to amend the local plan. The latter must be consistent with Minnesota Statutes 103B.235.

2. LGU HOUSEKEEPING

The purpose of this section is for the LGU to describe its land, facilities and operations; assess the contribution to pollutant load, water quality impacts or demand on water resources; and identify potential actions to address these. Potential actions may be unilateral or may involve cooperation with property owners, the District or other partners.

2.1 Land

The local plan is to inventory real property owned by the LGU. A map may be used, coordinates can be provided or each parcel or tract may be located by other means. The inventory should classify properties in useful terms such as developed parcels, land suited to development or redevelopment, right

of way, dedicated outlots, park and recreational land, and nondevelopable or conservation land. The inventory should indicate locations of facilities and operations identified in the LGU SWPPP, as noted below.

The purpose of this inventory is to assist the District, and the District and LGU together, in scanning opportunities for stormwater management retrofit, engagement in conservation development, regional stormwater management, water reuse, water-related recreation, conservation corridors, leveraged public investment in adjacent lands, and similar land-based initiatives. With this inventory, the LGU should discuss what it sees, from its perspective, as: (i) water resource issues and opportunities associated with its properties; and (ii) potential opportunities to coordinate with the District or other partners.

2.2 Facilities and Operations

In the NPDES MS4 stormwater pollution prevention program (SWPPP) that the Minnesota Pollution Control Agency requires each LGU to prepare, the LGU is required to inventory facilities that it owns or operates and municipal operations that may contribute pollutants to groundwater or surface waters. It then is required to describe best management practices that it commits to implement to address potential water resource impacts.

The SWPPP requirement is comprehensive. It includes the following types of facilities:

- » Composting and recycling sites, landfills and solid waste handling and transfer
- » Hazardous waste handling, transfer and disposal
- » Pesticide storage
- » Salt, sand and materials storage yards or facilities
- » Equipment and vehicle fueling, storage, washing and maintenance facilities
- » Public works yards
- » Public parking lots
- » Parks, public golf courses and public swimming pools

And the following operations:

- » Waste disposal and storage, including dumpsters
- » Vehicle fueling, washing and maintenance
- » Cleaning of maintenance equipment, building exteriors and dumpsters, and the disposal of associated waste and wastewater
- » Street and parking lot sweeping
- » Landscaping, park, golf course and lawn maintenance
- » Road maintenance, including pothole repair, road shoulder maintenance, pavement marking, sealing and repaving
- » Right-of-way maintenance, including mowing
- » Application of herbicides, pesticides, and fertilizers
- » Cold-weather operations, including snow removal, sand use, and application of deicing compounds
- » Management of temporary and permanent stockpiles of materials such as street sweepings, snow, salt and other deicing materials, sand and sediment removal piles
- » Emergency response, including spill prevention plans

This information is of substantial interest to the District. For example, it will assist the District to understand potential pollution sources within specific catchments and subwatersheds; assist the District to identify project, cost-share and educational opportunities; and provide data for planning associated with subwatershed-based implementation plans. Taken together, the information from all local plans within the District will give the District a watershed-wide inventory of LGU practices that is likely to be very useful in assessing and prioritizing potential District actions or programs pertaining to municipal operations, and in identifying LGUs that may be useful contacts for such matters.

The District does not intend to create any added burden related to transmittal of this information. Therefore, in the text or as an attachment, the local plan may simply incorporate the inventory and description of practices from its SWPPP. However, to the extent the SWPPP inventory is not current, the LGU should supplement it as necessary.

The LGU also is invited to discuss issues or opportunities related

to particular facilities or operations where the District’s technical assistance, LGU/District cooperation, shared facilities/services with other LGUs or other forms of collaboration with other interested parties may result in water resource benefits.

2.3 Stormwater Management Facilities

Under its NPDES MS4 permit administered by the Minnesota Pollution Control Agency, the LGU is required to prepare a map that locates, among other things, all structural stormwater best management practices within the LGU’s stormwater conveyance system. In addition, it is required to prepare an inventory of all stormwater management basins within its political boundaries, whether owned by the LGU or otherwise.

The local plan is to include this map and inventory, with any adjustments so that it is current. As the public agency with the responsibility to understand and manage hydrologic systems and water quality issues at a regional level, the District requires this information for its regional system-level understanding and, more specifically, to assist in maintaining its watershed hydrologic and hydraulic models accurate and current. In addition, the District has offered and will continue to offer assistance to LGUs in matters of stormwater facility maintenance, including deferred maintenance of private facilities and potential collaborative means to fund and perform future maintenance of public and private facilities efficiently.

For each basin and other stormwater management practice contained in the map and inventory, the local plan is to identify the party responsible to maintain the practice; state whether the practice is in maintained condition (or that the LGU does not know); and, for those practices that the LGU is responsible to maintain, the date of next maintenance, if maintenance is programmed.

In addition, the LGU is asked to describe its approach to maintenance of stormwater management practices constructed in conjunction with private development. This includes: (a) whether the LGU assumes maintenance responsibility and, if so, under what circumstances; (b) the LGU’s program to inspect practices and secure maintenance by private parties; (c) the means by which the LGU funds its maintenance and inspection activities; and (d) other means of funding that are within its legal authority but that it does not presently use.

Finally, noted above is the issue of deferred maintenance of public and private stormwater management practices. Each LGU is invited to discuss the scope of its knowledge on this issue with regard to practices within its boundaries. The District intends to explore the problem of deferred maintenance and potential approaches to reduce the scope of deferred maintenance. The District’s interest presumes cooperation with interested LGUs and consideration of alternative procedures and funding mechanisms. The LGU is invited to include in its local plan any consideration it has given to this issue and any information that may be useful in exploring a cooperative approach with the District.

3. LAND USE PLANNING AND DEVELOPMENT REGULATION

Under the Metropolitan Land Planning Act (MLPA), by December 31, 2018, each land use authority (LUA) must revise its local comprehensive land use plan (CLUP). The law requires that once the CLUP is approved by the Metropolitan Council and adopted by the LUA, the LUA must amend its development code to be consistent with the CLUP. Further, the MLPA requires that in order for the Metropolitan Council to approve a CLUP, it must contain the local water plan approved by the District.

The most substantial policy shift from the previous WMP to this one is the District’s effort to more closely integrate land use planning and water resource management. Land use, and how it is planned and executed, is what most directly determines water quality and quantity conditions within the hydrologic system. The thrust of the District’s Balanced Urban Ecology approach is to integrate water resource goals into LGU land use planning, private development and redevelopment intentions, and LUA development regulation in order to be alert to, and exploit, opportunities to achieve multiple public and private goals with well-timed and efficient investments.

The District’s interest in LGU land use planning and development regulation, then, is threefold:

- » First, to establish a framework to be informed as to current LGU land use and infrastructure planning and enable early coordination of land use and water resource management. The purpose here is to incorporate regional water resource considerations before broader patterns of land development are fixed or regional infrastructure

investments are programmed. Planning coordination also allows for District and LGU exploration of methods to manage development impacts at a regional level.

- » Second, to foster LGU development regulation that integrates water resource protection. Integration allows for public goals often seen as competing (economic development, landowner rights, protection of natural systems) to be favorably reconciled and sets clear expectations so that development and redevelopment may proceed with a more limited risk of disruption due to water resource compliance requirements arising after site plans have been fixed and invested in. It also facilitates managing development footprints and targeting park dedications to: (i) support supra-parcel priority resources and conservation corridors; and (ii) advance water-related recreation and use goals.
- » Third, to identify and capitalize on project opportunities that can result in beneficial water resource outcomes while also serving goals of the LGU and other public and private partners such as infrastructure and operations cost savings, economic and jobs development, park and public space improvements, amenity and property value enhancements, and public recreational and educational benefits.

3.1 Land Use Planning

To serve the above purposes, the District asks that the local water plan include the content that follows. This content will constitute a baseline for the District to understand the LGU's planning status and procedures. Combined with the LGU/District coordination plan described in Section 5, below, this will allow the District to understand and participate usefully in the LGU's land use planning efforts to achieve the described goals.

Local plan content is as follows:

1. Identify those areas within or adjacent to the LGU that the LGU has designated in its CLUP for potential development or redevelopment within the CLUP planning horizon. This includes planned rezoning, land assembly, and infrastructure extension or expansion.
2. List and describe completed or programmed small area plans and similar planning activities to assess the LGU's role with respect to defined-area redevelopment.
3. Describe the procedures by which the LGU plans, programs and implements each of the following:
 - Transportation infrastructure
 - Sewer and water infrastructure
 - Park and recreation land acquisition and management
 - Conservation land acquisition and management
 - The description should include the date of the most recent approved capital implementation or land acquisition and management program, the frequency of program updating, the internal procedures to develop and approve the implementation program and to implement specific actions, and how programming and implementation is coordinated with other LGU activities.
4. Provide links to small area/redevelopment plans, capital implementation programs, and land acquisition and management plans listed pursuant to items 2 and 3.

3.2 Development Regulation

The LGU's application of its zoning and subdivision codes can integrate water resource and conservation protection in a number of ways. In this section, the LGU is asked to evaluate its official controls with respect to the integration of such concerns and specifically consider means of improving this integration.

The following are some elements of a local development code that can maximize overall public water resource benefit without inhibiting private development of property:

- » Regulatory tools that create incentives to consolidate development footprint to protect resources (e.g., conservation development, clustering, density credits, transfer of development rights).
- » Dedication or development fees applied to support acquisition or consolidation of public park, recreation or conservation land, particularly as directed toward acquiring or protecting priority water resource areas.
- » Setbacks and/or vegetated buffer requirements with respect to wetland or other surface waters, reconciled with other terms of its development code that restrict development footprint to prioritize waterbody protection

where feasible.

- » Controls on mature tree removal.

The LGU is invited, in its local plan, to review these or similar measures that it has adopted or is considering and to indicate any role the District might play in evaluating or implementing such measures.

Also, several aspects of the interplay between LGU and District development regulation arise systematically. The District seeks to resolve these in the best way and, for that purpose, will benefit from certain specific information relating to LGU regulatory programs. The local plan therefore is requested to inform the District on the following:

- » Does the LGU development review process incorporate voluntary or obligatory low-impact site design review? If so, what is the process and would it accommodate District participation?
- » Does the LGU require that stormwater management practices, wetlands or wetland buffers be platted on outlots? If not, what are the obstacles to doing so?
- » Does the LGU assume maintenance responsibility for stormwater management practices within residential, industrial or other subdivisions? Explain the LGU's policy and practice, and how the LGU funds the obligations it assumes.
- » In its role as the Safe Drinking Water Act public water supplier, does the LGU have an approved and operative wellhead protection plan? How does it implement the plan? Does it have an established policy as to where and when infiltration will not be required or permitted as a stormwater management practice?
- » Describe provisions of official controls or LGU practices that make applicants aware of District permitting requirements.

Finally, in the local water plan, the LGU is to identify other regulatory mandates concerning water resources under which it operates. For each, the LGU should briefly describe its legal role and responsibility, if any; its legal compliance status; and other implementing roles that are not legally mandated, but that it elects to perform. This may be presented in tabular

form if the LGU chooses. Finally, the LGU is invited to identify any District assistance or coordination that would benefit its implementation of any particular program. The following should be specifically addressed:

- » NPDES MS4 stormwater program
- » Total Maximum Daily Load program
- » Federal and state anti-degradation requirements
- » Safe Drinking Water Act/state wellhead protection program
- » National Flood Insurance Program
- » State floodplain management law
- » State shoreland management law
- » Minnesota Wetland Conservation Act

4. IMPLEMENTATION PROGRAM

Minnesota Rules 8410.0160 requires that the local plan contain a local implementation program. According to the state rule, the program must:

- » Describe nonstructural, programmatic, and structural solutions to water resource problems identified under Section 1, above.
- » Present these implementation elements in a table that briefly describes each element, details the schedule, estimated cost and funding sources for the element, and includes annual budget totals.
- » Break out within this table a capital improvement program that sets forth, by year, details of each contemplated capital improvement including schedule, estimated cost and funding source.
- » Prioritize implementation elements consistent with the principles of Minnesota Rules 8410.0045, subpart 1.A, and District priorities as described in the WMP and communicated to the LGU.

Each LGU should include an implementation program as in its judgment will meet these legal requirements. The District will not place great emphasis on this table. The District's emphasis is to establish a framework of communication and collaboration

to develop and exploit opportunities as they arise. The implementation program framework as formed by the state rule contemplates a more static process of identifying projects in advance and then constructing them over the planning period. While the District will find it useful to know of any such LGU plans, it will be more interested to look to the partnering framework that the LGU creates in its local plan to complement this WMP. Under the state rule, the District must find that the local implementation program will not jeopardize the achievement of WMP goals. Provided a programmed action is not in direct conflict with a District goal, the District is not likely to find that an LGU program fails to meet this criterion.

5. LGU/DISTRICT COORDINATION PLAN

The crux of the District's approach to water resource management is communication and coordination with its LGUs. The goal is to maintain awareness of needs and opportunities and to implement programs and projects that: (i) develop out of coordinated, subwatershed-based planning; (ii) reflect the cooperation of other public and private partners; (iii) align investments; and (iv) secure a combined set of District, LGU and partner goals.

The LGU, in its local plan, is asked to describe the elements of a coordination plan that the LGU and District can implement at a staff level to achieve this goal. The District looks to the LGU in the first instance to propose a plan that is reasonable in the demands it places on LGU staff but that connects the LGU and the District in ways that efficiently provide for timely coordination.

The following are elements that the coordination plan should address:

- » An annual meeting to review water resource plan implementation
- » Mutual transmittal of the annual NPDES MS4 report
- » How the District can receive notice of and consult with the LGU on its land use, infrastructure, park and recreation, and capital improvement planning efforts
- » LGU notice to the District:
 - Updates to LGU road and infrastructure implementation programs
 - Updates to park and recreation plans

- Institution and completion of small area plans and other focused development or redevelopment actions
- Significant alterations within the LGU MS4 system (to maintain currency of the District watershed-wide hydrology and hydraulics model)
- » District notice to the LGU:
 - WMP amendments
 - Annual capital improvement program updates
- » District notice of significant events related to prospective development/redevelopment and receipt of proposed preliminary plats
- » Regulatory coordination
 - Ensuring applicants are aware of permitting authority of both bodies
 - Mutual notice of development/redevelopment applications filed
 - Pre-application meetings
 - Sharing of complaint information
 - Coordinating compliance inspections
 - Coordinating on enforcement
 - Providing for District consultation with Technical Evaluation Panel when LGU is the Wetland Conservation Act LGU
- » Partnership or coordination as to public communications and education
- » Which LGU staff positions are to be made aware of the coordination plan

The LGU's proposed coordination plan should identify specific departments or staff positions that will constitute appropriate points of contact, and should provide some clarity as to the timing of coordination actions in relation to LGU decisionmaking procedures. The District will work with LGU staff during local plan review to reach consensus on a simple but adequate coordination plan. A separate coordination plan document will be created and adopted as a part of LGU local water plan approval by the District Board of Managers.