



Title:	Authorization to Initiate Stakeholder Engagement Process for Permitting Alignment and Responsive Program
Resolution number:	21-090
Prepared by:	Name: Becky Christopher Phone: 952-641-4512 bchristopher@minnehahacreek.org
Recommended action:	Authorize staff to initiate stakeholder engagement process for the Permitting Alignment and Responsive Program initiatives
Budget considerations:	N/A
Past Board action:	N/A

Summary:

Background

The Minnehaha Creek Watershed District (MCWD or District) is focused on the protection and improvement of natural resources in ways that support thriving communities. Since what happens on the land is the primary driver of ecosystem health, MCWD's Balanced Urban Ecology Policy recognizes that the District can best achieve its mission by working in close partnership with those who change the landscape. By integrating its work into land use change, MCWD not only achieves its environmental goals, but also broader social and economic goals, thereby delivering maximum value to the taxpayer.

From 2015-2017, the District led a robust stakeholder engagement process as part of the development of its 2017 Watershed Management Plan (WMP). A central focus of this engagement effort was to create awareness of the District's new vision and shift the District's brand reputation from that of a regulator to a partner. Since the adoption of the WMP in early 2018, the District has been working to align the organization around its vision of a Balanced Urban Ecology and improve integration between land use and water planning. Two key initiatives the District has undertaken to operationalize this policy commitment are the development of the Responsive Program and the alignment of the Permitting Program:

- **Responsive Program:** development of a new program designed to leverage opportunities created through land-use change by partners and incentivize water resource improvement through financial and technical support
- **Permitting Program Alignment:** streamlining the District's regulatory process and rules to improve customer experience, reduce duplication of efforts with cities, and promote early coordination and collaboration

Over the past several months, staff have reviewed and refined the policy recommendations for both of these initiatives with the Board and Citizens Advisory Committee and are now ready to engage the District's land use partners to vet and build support for these initiatives.

Staff also plan to use this engagement effort as an opportunity to collaboratively define an approach for ongoing engagement with these key audiences. For example, it is anticipated that there would be mutual benefit in maintaining a

Technical Advisory Committee (TAC) long-term and transitioning into other topics such as climate action planning. Staff intends to seek partner input on the most effective approaches for ongoing coordination and engagement.

At the [October 21, 2021 Board Meeting](#), staff presented a preliminary stakeholder engagement plan for these two initiatives, including the engagement goals, target audiences, outreach/engagement methods, and anticipated schedule. Attachment 1 expands on this stakeholder engagement plan to include a summary of key messages and additional detail about the Technical Advisory Committee process. Attachments 2 and 3 provide a summary of the policy direction for the two program initiatives, as discussed at the [September 23, 2021 Policy and Planning Committee Meeting](#).

Responsive Program Name

In previous discussions with the Board about the Responsive Program, it was flagged that staff would be evaluating alternative names for the program as part of the development of external messaging and outreach materials. The name “Responsive Program” has been utilized internally during program development but has not been heavily used with external audiences to date. Staff recommends selection of a program name that is more descriptive and compelling for external audiences before kicking off this engagement process. Staff considered a range of options for the new program name and discussed them with the District’s communications consultants, John Himle and Tom Horner. Based on these discussions, staff recommends renaming the program to the “Minnehaha Land & Water Partnership”. Staff will be seeking the Board’s input on this new name at the December 16, 2021 meeting to determine if the Board is comfortable proceeding with this recommended name change.

Requested Action and Next Steps

At the December 16, 2021 Board Meeting, staff is requesting Board authorization to initiate the stakeholder engagement process, as described in Attachment A.

Next steps for this process in December-January will include:

- Development of a visually-compelling kickoff publication (currently underway with new communications consultant, Background Stories)
- Calls to primary staff contacts (soft rollout)
- Planning and preparation for the kickoff event in late February

Supporting documents:

Attachment A – Stakeholder Engagement Plan

Attachment B – Policy Direction for Responsive Program

Attachment C – Policy Direction for Permitting Alignment



RESOLUTION

Resolution number: 21-090

Title: Authorization to Initiate Stakeholder Engagement Process for Permitting Alignment and Responsive Program

WHEREAS, the Minnehaha Creek Watershed District (District) 2017 Watershed Management Plan (WMP) outlines its strategy of working in partnership with the land use community to protect and improve natural resources in ways that support thriving communities; and

WHEREAS, from 2015-2017, the District led a robust stakeholder engagement process as part of the development of its 2017 WMP with a focus on creating awareness of the District’s new Balanced Urban Ecology vision; and

WHEREAS, since the adoption of the WMP in early 2018, the District has been working to align the organization around its vision and improve integration between land use and water planning; and

WHEREAS, two key initiatives the District has undertaken to operationalize this policy commitment are the development of the Responsive Program and the alignment of the Permitting Program; and

WHEREAS, over the past several months, staff have reviewed and refined the policy recommendations for both of these initiatives with the Board and Citizens Advisory Committee and are now ready to engage the District’s land use partners to vet and build support for these initiatives; and

WHEREAS, at the October 21, 2021 Board Meeting, staff presented a preliminary stakeholder engagement plan for these two initiatives, including the engagement goals, target audiences, engagement methods, and anticipated schedule; and

WHEREAS, this plan was further refined and discussed with the Board at the December 16, 2021 Board Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes staff to initiate the stakeholder engagement process for the Responsive Program and Permitting Alignment.

Resolution Number 21-090 was moved by Manager _____, seconded by Manager _____. Motion to adopt the resolution ___ eyes, ___ nays, ___ abstentions. Date: 12/16/2021

Secretary Date: _____

Stakeholder Engagement Plan
Permitting Alignment and Responsive Program

Engagement Goals:

- Ensure successful rollout of initiatives (short-term)
 - Build understanding for proposed program/rule changes through clear and easily understood communications
 - Refine proposed program/rule changes with input to ensure they meet partner needs
 - Build explicit, enthusiastic support for proposed program/rule changes through meaningful and targeted engagement opportunities
- Strengthen relationships and improve integration of land use and water planning (long-term/ongoing)
 - Broaden awareness of MCWD’s strategy to partner with the land use community and appreciation of the value MCWD adds to collaborative projects
 - Build and strengthen relationships with land use community
 - Co-develop approach for ongoing coordination and engagement
 - Maintain situational awareness and identify blind spots ahead of MCWD’s 2027 Watershed Management Plan (WMP)
 - Document our champions (quotes in writing we can re-use)
 - Increase early coordination and collaboration of public and private partners with the District
 - Understand barriers to early coordination/collaboration and co-develop solutions
 - Obtain guidance on how to improve the pipeline of quality projects
 - Identify reciprocal actions our land use partners will take
 - Generate projects that measurably improve water resources

Target Audiences:

- Local public agencies: cities, counties, Minneapolis Park and Recreation Board (MPRB), Three Rivers Park District (TRPD)
 - Staff – water resources, public works, planners, community development, engineers, regulators
 - Policy makers - councils, administrators
- Private development community: developers, contractors
- State/regional agencies: Met Council, DNR, BWSR, MPCA
- General public/permit applicants

Outreach Methods:

The table below summarizes the key external audiences, proposed outreach and engagement methods for each, and anticipated schedule. The table also includes the [level of participation](#) and role in decision making for each audience, as defined by the International Association for Public Participation (IAP2).

Staff anticipates Board involvement in the Technical Advisory Committee (TAC) kickoff, one-on-one policy maker meetings (when requested), and verbal/written updates in Board meetings throughout the TAC process. Formal adoption of the Responsive Program and revised rules is anticipated in August 2022.

Audience	Local Public Agencies (Cities, Counties, MPRB, TRPD)			Regional/ State Agencies	Private development community	General public
	Primary Staff Contacts	Other Key Staff	Policy Makers			
Level of Participation	Consult or Involve	Consult	Inform or Consult	Consult	Consult	Consult
Role in Decision Making	Advisor	Reviewer	Observer	Reviewer	Reviewer	Reviewer
Outreach/Engagement Methods and Schedule						
Soft Rollout (individual calls) <i>December 2021-January 2022</i>	X					
TAC Kickoff <i>February 2022</i>	X	X	X			
TAC Meetings <i>March-August 2022</i>	X					
Written Communications (publications, email updates) <i>Key milestones throughout</i>	X	X	X	X		
1:1 Meetings <i>As needed/requested</i>	X	X	X			
Targeted Input Sessions <i>May-June 2022</i>					X	
Notice/Formal Comment for Rules <i>June-July 2022</i>	X	X	X	X	X	X

Key Messages:

Purpose/Call to Action:

- MCWD believes in a partnership approach to watershed management
 - We recognize we can best protect and improve water resources through close coordination with those acting on the landscape
 - Through partnership with cities and developers, we can generate impactful projects that produce environmental, economic, and community benefits
- We're building on the direction set in our 2017 Plan by making program improvements to strengthen relationships with the land use community
- We're reestablishing a Technical Advisory Committee (TAC) as one method for improving coordination and maintaining connection with our communities
 - By joining the TAC, you can engage with peers across the watershed to strengthen our partnership approach and advise on new programming that will benefit your community
- You can engage in the process in multiple ways beyond serving on the TAC (kickoff event, individual meetings, email updates)

Responsive Program:

- As a complement to our own focused planning efforts, the District seeks to remain responsive to opportunities created by land use change
- MCWD is developing a new program to provide funding and planning/technical support for partner-led projects that benefit water resources
- The program aims to promote early coordination and integrated planning with both public and private partners
- As a regional agency, the District will prioritize projects that provide significant, regional water resource benefit
- We're seeking your input to ensure that the program provides a clear and transparent framework for how we will evaluate and prioritize partnership opportunities

Permitting Alignment:

- One way MCWD works to protect natural resources is by administering rules that ensure changes to the built environment don't degrade water resources
- MCWD recognizes the potential to achieve better outcomes for both applicants and water resources through a partnership approach than through regulation alone
 - When engaged early in project planning, the MCWD can act as an advisor to help applicants navigate regulatory challenges and find creative solutions that can save applicants time and money
- MCWD is undertaking a series of improvements to its permitting process and rules to position itself as a value-added partner to applicants and communities
- We're seeking your input on these improvements to help us:
 - Streamline and simplify the permitting process and rules to improve clarity, efficiency, and overall customer experience
 - Align District rules with State MS4 requirements to create the potential for District-City partnerships that reduce duplication of efforts and strengthen coordination

TAC Process:

Committee role and expectations:

- The TAC's role will be to:
 - Vet and refine the work products for the two program initiatives (e.g. Responsive Program guidance, revised rules)
 - Advise on methods for improving ongoing engagement and coordination with public and private land use partners
- The TAC will be asked to participate in seven to eight 2-hour monthly meetings anticipated to occur between February-August 2022
- The process will begin with virtual meetings and may be reevaluated based on guidance from the CDC, MDH, and MCWD protocols
- Committee membership, structure, and meeting frequency will be reevaluated at the end of this series of discussions (~August 2022), before transitioning to other topics

Committee membership:

- An invitation to serve on the TAC will be sent to all municipalities, counties, TRPD, and MPRB (through the kickoff invitation and soft rollout calls)
- Considerations for member selection will include:
 - Target committee size of 15-20 members
 - Desire for broad geographic/agency representation
 - Desire for representation across a variety of roles that will interact with these programs (e.g., planners, engineers, water resources, public works, regulators)
- Members will be appointed by the Board
- Other interested parties (policy makers, state agencies, other staff) will be invited to the kickoff event and will receive TAC meeting summaries

Meeting topics:

- Meeting 1 – Kickoff:
 - Overview of District's partnership approach and the proposed direction for the Responsive Program and Permitting Alignment
- Meetings 2-3 - Responsive Program:
 - Program purpose, scope, case studies, partnership benefits
 - Program mechanics – schedule, evaluation process, requirements
- Meetings 4-5 – Permitting Alignment:
 - Proposed rule changes, intent, and benefits
 - Municipal partnerships and coordination on private development review
- Meetings 6-7 – Review and Next Steps:
 - Review of draft rules and Responsive Program guidance
 - Future topics and approach for ongoing partner engagement

Attachment B

Summary of Policy Direction for the Responsive Program

Consensus has been developed between staff, CAC and the Board that the following recommendations serve as a strategic foundation for the Responsive Program (Program), to be further refined with the input of the Technical Advisory Committee. These recommendations were reviewed and discussed at the [September 23, 2021 Policy and Planning Committee Meeting](#).

Purpose and Goals:

The Program's purpose is to provide support for public and private projects that are well-coordinated with the District and align with District goals and priorities. MCWD's intent is to achieve the following goals:

- *Improve water resources*
 - Achieve significant, measurable progress towards District goals by capitalizing on opportunities created through land use change.
- *Improve integration and early coordination with land-use planning*
 - Promote and incentivize closing the gap between land-use and water resource planning by establishing clear pathways and an orderly process for early coordination.
- *Provide service and value to communities*
 - Remain responsive to needs outside of the District's focal geographies by providing support for partner-led projects that address water resource needs and priorities identified by the District.
- *Maintain focus and flexibility*
 - Operate the program in a way that supports the District's principles of focus and flexibility, by maintaining focus on high-impact projects and ensuring the flexibility to develop creative partnerships.

Scope and Eligibility:

The program will focus on development and implementation of capital projects that measurably improve water quality, beyond regulatory requirements, at a *regional scale*. This approach leverages public partners (e.g., cities, counties) or private developers that have the capacity to lead implementation, by incorporating significant regional water resource benefits into partner projects.

2017 WMP Connection and Funding Mechanism:

Project implementation costs will be funded through the District's Capital Improvement Plan (CIP), as opposed to establishing a grant program. This CIP approach is anticipated to be a more effective for promoting early coordination and collaborative planning with public partners, allowing for greater District influence over project development and implementation as compared to a grant program.

District Services:

The Program is designed to incentivize early coordination and collaboration with public and private partners by providing key services throughout the project development process. Services are tied to both project development phases (e.g., concept, feasibility, and implementation) as well as the difference between public and private partners' areas of needed support. This approach allows the District to take a supporting or advisory role for public partners while typically leading project concept and feasibility development to shape and drive private project implementation. In all phases, the funding percentage will be based on the evaluation ranking.

- *Phase I (Concept)* - Opportunity identification and concept development
 - Public Partner Track: District may lead or provide support including technical/planning advisory support and/or funding up to 75% for studies or preliminary engineering work to develop a project concept (e.g. subwatershed assessment)
 - Private Partner Track: Assumed that the District would be the lead for any concept development
- *Phase II (Feasibility)* - Completion of feasibility study (determine project viability)
 - Public Partner Track: District may provide technical/planning advisory support that aligns with project needs (e.g., feasibility study scoping, regulatory screening, grant strategy, stakeholder engagement plan) and/or funding up to 75% for feasibility work
 - Private Partner Track: Assumed that the District would be the lead for feasibility analysis of any project concepts identified by the District
- *Phase III (Implementation)* - Design, permit approvals, and construction
 - Public and private partners lead project implementation with the District providing ongoing technical advisory support and/or financial support of up to 75% for project elements focused on water resource benefit in excess of regulatory requirements

Process and Schedule:

The program includes set deadlines that align with the District's CIP and budget development process, with the option for a fast-track process for private opportunities. This approach allows for effective and efficient administration of the program by ensuring that the District will have the time needed to review and act on project requests on a reasonable schedule.

- *Public Partner Track*:
 - April 1 (Phase I): Deadline to submit concept and request District participation in feasibility work
 - February 1 (Phase II): Deadline to submit feasibility report and request District participation in implementation the following year
- *Private Partner Track*:
 - Projects that originate in the District's permitting review, typically private development, will tend to come with external timing imperatives and move forward on a condensed timeline. It is anticipated that the Board would need to consider these projects on a schedule that may not match the District's annual budget and CIP development process, and that the District may need to finance its project costs from its strategic reserves.

Board and Staff Roles:

Opportunity identification, evaluation, and response will be led by Policy and Planning staff for public partner opportunities and by Permitting staff for private opportunities identified through the development review process. These lead staff will utilize a cross-departmental team for review and vetting of their evaluation and recommendations prior to Board review. Points of engagement with the Board of Managers will include:

- At least annually, staff will provide an update to the Policy and Planning Committee on program operations and opportunities in the concept phase
- The Board will decide whether a project moves to Feasibility (Phase II), and consider Feasibility-phase expenditures beyond the Administrator's authority
- The Board will decide whether the project will proceed to project implementation, and will be responsible for all formal actions subsequently necessary to order and implement the project

Criteria and Evaluation Process:

Consistent with the approach used during the pilot phase, staff recommends that opportunities be evaluated using the following four criteria categories and then ranked or scored based on sub-criteria.

- *Resource Need and Priority:* Alignment with the resource needs and priorities identified in the District's Plan or through ongoing monitoring and diagnostic efforts
- *Project Benefits:* Estimated benefits across the District's goals of water quality, water quantity, ecological integrity, and thriving communities
- *Cost-effectiveness:* Cost effectiveness compared to alternatives or other past/current project opportunities
- *Coordination and Partnership:* Strength of partner's coordination, integration of District goals, and willingness to commit resources to advance the opportunity

Program Funding:

The program would utilize two fund sources:

- *Planning and Permitting Programs (Funds 2001 and 2002):*
 - Budgeted annually to explore opportunities in the concept and feasibility phases
- *Responsive CIP (Fund 3500):*
 - Set through annual CIP/budget process to fund implementation for projects that follow the public partner process (see above schedule)
 - Reserve funds will be held assigned to provide flexibility for a budget amendment to fund faster-moving projects

Attachment C

Summary of Policy Direction for the Permitting Program Alignment

Consensus has been developed between staff, CAC and the Board that the following key policy directives exist as a strategic foundation to guide revisions to the District permitting process and rules. These recommendations were reviewed and discussed at the [September 23, 2021 Policy and Planning Committee Meeting](#).

Key Permitting Policy Directives:

1. The scope of MCWD's regulation should be "right-sized" to align with and reduce overlap with other local and state agencies
 - The most notable change is aligning MCWD stormwater and erosion control requirements with those in the Minnesota Pollution Control Agency (MPCA) municipal separate storm sewer system (MS4) construction stormwater permit, with which all cities and the District are required to comply.
2. Rule language, technical submittals, and procedural requirements should be simplified into plain language and streamlined, to enhance clarity and create a more intuitive user-friendly experience.
 - This includes changes to the rule text as well as development of guidance documents.
3. The program should improve efficiency and align staff time with natural resource risk/opportunity. Examples include:
 - Creating a general permit for erosion control on sites disturbing less than 1 acre, which present lower risk than larger sites.
 - Utilizing the program's new online permitting portal to improve customer service through quick and accurate plan reviews and reduce administrative overhead.
4. The Compliance Framework should be formalized
 - Refining MCWD's internal processes for escalating enforcement proceedings
 - Clarifying inspection and enforcement priorities, to effectively focus MCWD's resources
 - Routinely updating financial assurances to reflect modern construction pricing
5. The District should establish formal partnerships with municipalities to improve coordination, reduce duplication of efforts, and leverage each other's capabilities.
 - Integrating MCWD earlier into the land use planning processes to reduce potential conflict due to late coordination and to increase the likelihood of developing functional partnerships with applicants that exceed regulatory standards.
 - Proactively identifying existing MCWD regulatory services that could supplant municipal requirements to the state would reduce burden on cities, strengthening and sustaining policy relationships within the land use community.
6. The District must formalize its objectives and process in policy to guide staff and applicants through planning and approval within the Responsive Program to leverage partnerships repeatedly and successfully with the land use community and deliver projects that exceed regulatory requirements.
 - This includes establishing clear process and guidance for opportunity identification, feasibility assessment, evaluation, approval, and partnership agreements.

Recommended Rule Direction:

The following are recommended revisions to MCWD rules in order to align and support the key policy directives.

1. Erosion Control:

- a. *Change:* Rule language must be revised to include or reference missing Minnesota Pollution Control Agency (MPCA) Municipal Separate Storm Sewer System (MS4) Construction Stormwater General Permit standards (CSW GP).
 - ii. *Original:* MCWD's existing Erosion Control rule does not include required CSW standards.
 - iii. *Rationale:* The District is required to implement these changes to comply with the updated MS4 permit.

- b. *Change:* A 'General Permit' track is recommended to be created on the District's online permitting system which will autonomously issue erosion control permits for low risk projects that disturb <1 acre (i.e., single-family homes with no wetlands on site).
 - i. *Original:* Over a 5-year average, 57% of the District's annual permit load, which equates to 385 out of 675 permits annually, are single-family home projects proposing <1 acre of disturbance.
 - ii. *Rationale:* Focusing or "right-sizing" the scope of MCWD regulations to align with and reduce overlap with other local and state agencies, without sacrificing natural resource. Protection will be maintained because when the GP is issued, sites will still be required to follow CSW standards and project details will be collected which allow for inspection spot checks.

2. Stormwater Management:

- a. *Change:* The trigger for the rule must now be site disturbance of greater than >1 acre
 - i. *Original:* Existing rule triggers are based on site type- new development, redevelopment, and sidewalks/trails
 - ii. *Rationale:* The District is required to implement these changes to comply with the updated MS4 permit.

- b. *Change:* Remove stormwater treatment exemptions in MCWD rule for:
 - i. *Original:* Existing rule exempts these situations from volume and pollutant load treatment.
 1. Single-family home (re)construction >1 acre
 2. New development with <20% site impervious surface
 3. Redevelopments that reduce impervious surface
 4. Linear work creating less than 10,000 sf of new impervious, but disturbing >1 acre
 5. Sidewalks and trails up to 12 feet wide, with downgradient pervious buffers at least half the width
 - ii. *Rationale:* The District is required to implement these changes to comply with the updated MS4 permit.

3. Waterbody Crossings & Structures:

- a. *Change:* Addition of fast-track permit option for the replacement of existing outfalls and culverts with equivalent dimensions and comparable materials (in-kind replacement)
 - i. *Original:* MCWD's current Waterbody Crossing rule requires a 14-day public comment period for in-kind replacement of outfalls and culverts.
 - ii. *Rationale:* In-kind replacements do change hydraulics and are necessary and routine action taken by MS4s to maintain storm sewer systems. Creating a fast-track options will streamline the permitting process, without compromising natural resource protection.

4. Shoreline and Streambank Stabilization:

- a. *Change:* Addition of velocity in the design consideration process.
 - i. *Original:* Only shear stress is included in the design consideration process.
 - ii. *Rationale:* Applicants already have to calculate velocity, so it should be included when choosing the appropriate stabilization method.

5. Wetland Protection:

- a. *Change:* Addition of an exception to buffer width requirements to exempt structures from providing the required buffer width due to infeasibility.
 - i. *Original:* When variances to the buffer rule are brought before the Board, they are frequently due to inability to provide required width due to historic structures or roadways
 - ii. *Rationale:* The rule should be 'right-sized' to align with natural resource risk and to improve customer service and remove unnecessary hurdles.

6. Dredging:

- a. *Change:* Addition of fast-track permit option for routine maintenance of sediment removal at outfalls.
 - i. *Original:* MCWD's current Waterbody Crossing rule requires a 14-day public comment period for sediment removal accumulated at outfalls.
 - ii. *Rationale:* Sediment removal from outfalls is a necessary and routine action taken by MS4s to maintain storm sewer systems. The MS4 permit requires municipalities to clean outfalls with regular frequency. MS4 requirements require operators (cities) to clean outfalls with regular frequency, in order to protect downstream water resources. Creating a fast-track options will streamline the permitting process, and supports partner MS4 compliance, without compromising natural resource protection.

7. Variance:

- a. *Change:* Addition of "Restoration Track" for projects proposing natural resource restoration projects.
 - i. *Original:* Existing rule has no track for reviewing restoration projects, so they are often considered variances or exceptions that are challenged to conform to requirements targeting development or infrastructure projects.
 - ii. *Rationale:* Existing rules create unnecessary hurdles for projects that improve watershed ecology and discourage restoration projects due to time to issuance and inflexibility.