



# Washington County

## Planning and Parks Department

### Land and Water Conservation Division

## EROSION CONTROL & STORMWATER MANAGEMENT INFORMATIONAL MEETING

### MINUTES

*of 05/24/07*

*Meeting held on 05/24/07 @ 2:07 PM  
Washington County Public Agency Center, Room 3224,  
333 E. Washington St., West Bend, WI 53095-2003*

The meeting was called to order by Paul Sebo, Senior Technician of the Land & Water Conservation Division @ 2:07 P.M. A meeting notice was provided to the Washington County Clerk and the local newspaper for their information.

*Excused: Steve Wendelborn, Town of Barton, Scott Mathie, Metropolitan Builders Association; Absent: Frank Mayer, Town of Trenton, Ken Voigt, Village of Germantown, Kirk Radtke, Village of Germantown.*

*Those in attendance included the following:*

<b>City/Town/Village Representatives</b>		<b>Washington County Representatives</b>	
<i>William Ripp, P.E.</i>	<i>City of Hartford, Engineer</i>	<i>Scott Schmidt, P.E., R.L.S.</i>	<i>Washington Co., Engineer/Surveyor</i>
<i>Max Marechal</i>	<i>City of West Bend, Asst., City Engineer</i>	<i>Paul Sebo</i>	<i>Washington Co., Senior Technician</i>
<i>Jim Reinke</i>	<i>City of West Bend, Community Dev., Asst.</i>	<i>Phil Gaudet</i>	<i>Washington Co., Land Resource Manager</i>
<i>Jim Bennett</i>	<i>Town of Hartford, Chairman</i>	<i>Paul Backhaus</i>	<i>Washington Co., Project Technician</i>
<i>Leander Herriges</i>	<i>Town of Wayne, Chairman</i>	<i>Fay Fitts</i>	<i>Washington Co., Administrative Sec.</i>
<i>*Jim Haggerty, P.E.</i>	<i>Village of Slinger, Engineer</i>		
<i>Matt Bednarski</i>	<i>Village of Newburg</i>		
		<b>State Representative/Others</b>	
		<i>Benjamin Benninghoff</i>	<i>DNR, Water Res. Stormwater Specialist</i>
		<i>Matt Moroney</i>	<i>Metropolitan Builders Association</i>

*\* Mr. Haggerty arrived late for the meeting due to conflicts with other previous scheduled meetings.*

Introductions were made to all present. Mr. Sebo questioned if everyone received the information through email and whether that was an acceptable form of communication. Members indicated that they did receive the information and emailing was acceptable for those that have the capability for future correspondence.

#### **Review and Approve Minutes of 04/24/07**

The minutes of the previous meeting had been mailed out for review. **There being no changes or corrections, Mr. Bennett motioned to approve the minutes of 04/24/07, seconded by Mr. Ripp. Motion carried.**

#### **Review/Add to the Agenda**

Nothing was brought forward.

## Discussion/Review of Ordinance Amendments to meet NR 151

Chapter 17 draft (dated 05/17/07) was presented to the committee members for their review, staff indicated where changes had specifically been made in the draft to incorporate the minimum DNR NR 151 state requirements (Exhibit #1). The draft was reviewed in entirety, notable changes following discussions occurred.

Page 3 – 17.05(3)(1) includes ...”silviculture” as an exemption.

Page 7 – 17.08(1)(a) includes ...”by design, achieve to the maximum extent practicable, a reduction of 80% of sediment load carried in runoff, on an average annual basis”....

Page 8 –17.08(3) noting that the following language was not based on the model ordinance, but was inserted from existing ordinances. ...”shall be determined by the administering authority as meeting the 80% sediment reduction goal.” It was noted that Dust Control may be added under 17.08(3) Specific Erosion Control Requirements and will be discussed at the next meeting.

Discussion ensued on who is the administering authority of the ordinance. It was stated that whoever is the administering authority for that particular municipality, would have the deciding factor in determining if the erosion control plans are meeting the 80% sediment reduction goal (*as found in Chapter 17.10 of this draft*). Concern rose over the aspect of final determination of meeting the 80% reduction goal, noting that one person may review a plan differently than another person, and the fact that all plans are not equal. It was stated that by default the DNR administers NR 151 and can issue a “Notice of Noncompliance” if projects are not meeting plan specifications found in noncompliance; in addition, the Environmental Protection Agency also has jurisdiction. It was also noted that if any municipality that does not have an ordinance adopted that is at least as restrictive as the county ordinance, Washington County could then also take enforcement action on those projects.

The draft ordinance cross references the NR 151 code language regarding technical standards, for the purpose of technical updates when they occur. Because of this aspect, the ordinance would automatically update along with the state code.

Mr. Benninghoff agreed that if consultants use the DNR Technical standards as guiding principles reviewing the projects would then be based upon reaching the 80%. Mr. Schmidt stated he felt instead of poor plan design, enforcement is lacking regarding post construction of installation/maintenance of Best Management Practices (BMP’s) such as checking silt fence and tracking pads. Mr. Schmidt stated that if a municipality administers their own ordinance and is having problems with a particular consultant, (time after time, not meeting technical standards); a decision by the municipality would need to be made regarding hiring another consultant, if necessary.

Page 15 – 17.09(4)(b) Stormwater Quality... new language was incorporated direct from NR 151 regarding post-development total suspended solids reduction targets based on average annual rainfalls for new land development 80% reduction in total suspended solids for redevelopment 40% reduction of total suspended solids and for in-fill development occurring prior to October 1, 2012 40% reduction of total suspended solids and for in-fill development occurring after October 1, 2012 80% reduction of total suspended solids. Discussion ensued whether the dates should be left in or deleted. It was noted that the former cap was < 5 acres 40% reduction.

**Committee consensus was that the dates and percentages described above regarding in-fill development should remain as indicated.**

Mr. Benninghoff noted that under 17.05(3) Stormwater Management - Exemptions the DNR code portrays additional exemptions besides silviculture which are not included in the draft, noting the five exemptions in the code as being:

- (a) Construction projects that are exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under 40 CFR 122, for land disturbing construction activity.
- (b) Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.
- (c) Nonpoint discharges from agricultural facilities and practices.
- (d) Nonpoint discharges from silviculture activities.
- (e) Routine maintenance for project sites that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

It was also noted that the code also applies to a construction site, which has one or more acres of land disturbing construction activity after March 10, 2003. Consideration will be given to other technical exemptions such as found in other municipal ordinance's. It was also noted that following 17.09(4)(b) number 5 may be added to incorporate the following:

Notwithstanding subd. 1. to 4., if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

Language may also be added before the next meeting to incorporate NR 151.12 Post-construction performance standard for new development and redevelopment occurrences. Discussion ensued regarding how to handle a post-construction site with less than 10% connected impervious area, it was mentioned that language may possibly remain by referencing impervious surfaces of 20,000 sq. ft. or greater in total area.

Mr. Monorey stated that he would like to see the draft ordinance mirror NR 151, noting that it would lead to less confusion for everyone.

Additional definitions such as protective areas, infiltration system and layers and seasonal high groundwater, top of bedrock, may be added – identifying at least a 3 foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10% fines or greater will be considered for incorporation. Infiltration exemptions may also be added for the next meeting.

Mr. Benninghof noted that in his experience, many of the exemptions have been applied incorrectly, stating that instead of correctly using actual onsite soil borings, the consultant is referencing a soil survey book showing a range of soil types not meeting the requirements. Noting that the consultant should then go back and analysis where infiltration can occur on the site. Mr. Benninghof will draft language for the ordinance regarding recommendations for infiltration methods, with emphasis being less exemptions.

County staff had discussed protective area set back requirements, noting that the Washington County Code Chapter 23 has different set back requirements than the DNR code identifies. Mr. Benninghof noted that he had prepared a handout for county staff regarding buffers and protective area restrictions. Discussions regarding setbacks will continue at the county level.

Mr. Benninghof will be in contact with staff to assist with language recommendations regarding exemptions and redevelopment issues to be considered for the next draft.

### **Discussion/Review of potential additional code language from other Municipal Ordinances**

An additional handout was distributed to the committee members for their review and consideration, listing language from other municipal ordinances which may also be incorporated into the draft ordinance (see Exhibit #2). Mr. Sebo briefly reviewed the talking points of the document, noting that committee comments and suggestions will be addressed and considered at the next meeting.

### **Developers Comments with respect to Waukesha County's ECSM Ordinance**

Mr. Moroney stated that he felt that the direction of the construction movement was advancing towards more infiltration, questioning if a thermal control section was really necessary. He stated that if it was added, he would like to see it clearly worded and identified as to what prescribed set method(s) are to be recommended. Moroney noted that the MBA has been faced with a lot of construction delays due to unclear ordinance language and changes occurring in Waukesha. Mr. Moroney questioned whether there has been any analysis done on data documenting stream water temperature readings and the cost benefit to thermal control, noting that in order meet compliance requirements, options should be available to contractors (i.e., subsurface control, outlet control or tiling/infiltration methods) to meet compliance.

Mr. Sebo commented that thermal control standards are listed in the DNR Code 102.09. It was also noted that the obvious concerns are to protect exceptional water resources, cold water streams or outstanding water resources. Mr. Sebo stated that whether a 300 ft. buffer or a 100 ft. stone trench and/or temperature controls recommendation is agreed upon, anything is better than nothing. Discussion was tabled until next meeting.

Mr. Benninghof also noted that the City of Milwaukee has looked into what other alternatives regarding stormwater management and ways to enhance the ecosystem, noting that it's very clear that sediment control designs benefit the environment, regarding base flow in streams and assisting in fluctuations which occur during peak flows.

Language for building setbacks from basins and basement limits for groundwater were also a concern. Noting that this was the number one concern of homeowners.

### **Generate Issues and Concerns list for next meeting**

Recommendation from the committee that a draft could be completed and mailed out for review before the committee's next meeting.

### **Review of Meeting Dates & Times**

The next meeting for June 28 has been cancelled due to workload schedules from various members. The following meeting dates have been scheduled as follows:

*July 26, 2007 - 2-4 PM*  
*August 23, 2007 - 2-4 PM*

**There being no further comments, Mr. Bennett motioned to adjourn the meeting, seconded by Mr. Ripp.**

Meeting adjourned @ 4:20 P.M.

Respectfully Submitted,  
Fay Fitts