

CLFLWD Draft Rules: Review by TAC-CAC

Notes/Minutes from the February 19, 2008 TAC/CAC meeting

Attendance:

Randy Anhorn-CLFLWD
Doug Borglund-City of Forest Lake
Dan Fabian-EOR
Jeff Fertig-Chisago County
Jack Frost-Met Council
Anne Hurlburt-City of Scandia
Jerry Spetzman- Chisago County
Jyneen Thatcher- Washington Conservation District
Fred Weck- Wyoming Township

Comments:

Review/Comment or Permitting (Dan handed out a memo detailing the differences between implementing the rules through a review/comment program and a permitting program.)

General Comments from Anne Hurlburt, Doug Borglund and Jack Frost, were that it was probably more likely for the District to have some type of permitting program.

- Cities have a hard enough time collecting their own money without having to try to get review comment reimbursement for CLFLWD.

Jeff Fertig-

- *(General)* District could act as a clearing house “one-stop shop” for permits, coordinating needs. And provide an overall review of the developer will need, what the cities need etc. The District acts as an intermediary.
- *(Review and Comment, Rule 1.0- 1.2 “District review for the following activities is required”)* Jeff asked about Forest Lakes variances (impervious). Doug Borglund stated that they have 25% impervious for shoreland and then look at the practicality for a specific lot and lot size. This could mean 10% if the lot is small and tough to work with.

Anne Hurlburt-

- *(General)* The City ultimately requires a building permit. Anne stated that she would not want the WD overseeing all permits, maybe just stormwater, erosion/grading....
- *(General)* WD should permit things that the cities do not currently issue permits for –city can say that they do not have permit, but WD does—stress partnership and do not let developer pit one against other. (surface water, stormwater, grading, erosion control).

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- *(General Applicability)* Has a problem with some of the applicability thresholds. For one, a rule applies to any project creating impervious surface exceeding one acre of five percent of a site, whichever is less. This is an extremely low threshold. On a 10,000 square foot lot this is only 500 square feet. Cities have lots this size and even smaller in some areas. This would be burdensome and excessive. An alternative would be to change this to an acre or five percent of the site whichever is more. Doug Borglund (Forest Lake) agreed.
- *(General Applicability)* It would be worthwhile in the permit version of the rules to indicate threshold similar to that in the review comment. Dan Fabian also mention a potentially developing a guidance manual to address such issues.
- *(Review and Comment, General)* Questioned who pays for legal fees if brought to court? District participate? Should talk to your attorney about this. Currently Wash. Co. will not deal with misdemeanors, while Chisago county does (not on a first come first serve basis however.)
- *(Review and Comment, General)* Anne said that she does not want to have to issue permits (watershed) on things the city does not want to have to issue.
- *(Review and Comment, General)* If the City is going to be required to permit for activities (District rules/standards) that the City does not currently permit for, the District will ultimately have to permit.
- *(Review and Comment, Introduction)* The Introduction section of the rules should be reduced.
- *(Review and Comment, Rule 1.0; Permit Program, Rule 1.0)* Questioned how to coordinate page 8 of the review comment version, specifically “preliminary plat approval prior to submitting to watershed”. This would be too late for the WD to get much changed.
- *(Review and Comment, Rule 10.0)* As far as the District trying to recoup costs for a review comment program, she is not sure how this would work. The city currently has a difficult time getting paid itself. Therefore, financially it may be better to permit as opposed to review comment.
- *(Review and Comment, Rule 12.0; Permit Program, Rule 13.0)* How are these rules going to be enforced? This needs to be worked out with the cities. For example, if approving SWPPP—WD and city work together—have building inspector check for erosion control during their inspections since they are out there already.
- *(Review and Comment, Rule 12.0)* Review/comment version, 12.1 should read “These rules shall be administered by the LGU, not District.

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- *(Permit Program, Rule 1.0)* Section 1.9 states that a permit is valid for a one-year period. The rules should be clear on whether the intent is that the work be completed in that one-year period, or that it be commenced within that time. Requiring that it be commenced or begun during that time would seem to make more sense and would be consistent with city permitting and approval.
- *(Permit Program, Rule 1.0)* Anne thinks it would be helpful for District review before the City issues a formal approval.
- *(Permit Program, Rule 10.0)* If the District does permit, it is good to collect non-refundable fees and up front cash escrow. Then bill out of pocket after that.
- *(Permit Program, Rule 10.0)* Bill for site inspections, permit review both office and field.
- *(Permit Program, Rule 10.0)* Add “Penalty” under Section 10.1. There should be a penalty fee
- *(Permit Program, Rule 11.0)* Change 11.2 “Form and Conditions of a Performance Bond or Letter of Credit” to “Form and Conditions of a Letter of Credit or Cash Surety”. Also mention that you do not pay interest.
- *(Permit Program, Rule 11.0)* Consider changing conditions under 11.4 Release of Sureties to have surety release be a consent item, with staff okaying. Does the Board really need a motion to release the sureties (money that is the developers?)
- *(Permit Program, Rule 12.0)* Spell out procedures in variance section. May want to talk to attorney about variances.

Jack Frost-

- *(General)* Mentioned that Capital Region started out as review comment, but quickly realized that in order get compliance they needed to change to a permit program.
- *(General Applicability)* Set up the permit program (or review comment program for that matter) to “catch the big fish” the District has limited staff and has a lot going on, you should probably re-look at the applicability areas. Subdivision as small as 2 lots is small (maybe 4 lots or subdivision that create new roads), there seems to be some concern on the sections 1.2 b and c as well.
- *(General)* Stated that it would be beneficial to be somewhat similar to bordering watersheds (if similar issues) in order to be less burdensome on municipalities that transect multiple WDs.

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- *(Review and Comment, Rule 10.0; Permit Program, Rule 10.0)* Stated that if the WD did become the WCA LGU, however, there is no funding that goes along with it so it comes with added costs.
- *(Permit Program, Rule 13.0)* Should have some type of tiered enforcement i.e. first letter, then letter from attorney, then cease and desist.

Jyneen Thatcher-

- *(General)* Maybe after the program is in place it would be worthwhile for the WD to become the WCA LGU
- *(General Applicability)* Maybe it would be worthwhile to have a tiered system for urban and rural? One reason would be that in an urban setting the District would not want to have their rules restrict them from being able to do downtown retrofit projects of regional stormwater maintenance projects themselves.
- *(Review and Comment, Rule 1.0)* Mentioned that timing of a review comment program is essential in working with the municipalities permitting process.
- *(Review and Comment, Rule 1.0)* In review comment, the WD should require applicant to provide information prior to preliminary plat because if not it would be too late to get comments to the city to incorporate in their comments/requirements.
- *(Permit Program, Rule 1.0)* For permits specifically, the rules need to indicate what submittals are needed—provide a little section “when do we issue permits similar to 1.1 of review comment?”
- *(Permit Program, Rule 1.0)* Need a list—stormwater permit if X threshold; erosion permit if X threshold, etc.

Fred Weck-

- *(Review and Comment, General)* If the District continues under 103D, balancing the municipalities versions of the rules make it difficult under review comment. Each Community may have slightly different standards

Doug Borglund-

- *(Review and Comment, General)* Similar to Anne Hurlburt’s comments, he does not want to have to issue permits (watershed) on things the city does not want to have to issue.
- *(General)* On a similar issue, there seem to be places where the City already addresses issues (i.e. tree removal) and does the WD really have the time, and resources to get into all those areas? Time consuming.

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- *(Review and Comment, Rule 10.0; Permit Program, Rule 10.0)* Major project escrows should be up front.
- *(Permit Program, Rule 11.0)* Sureties. 150% of costs collected by staff, then bill
- *(Permit Program, Rule 11.0)* Take out 11.3; resolution which states Board resolution for each surety unless resolution states the percentage.
- *(Permit Program, Rule 12.0)* When it comes to spelling out procedures in the variance section, there is a lot of boilerplate language to use.

Jerry Spetzman-

- *(General)* Jerry asked about what other watersheds did as far as review comment or permitting (as well as recouping costs for review comment). Dan Fabian went through others –only SWWD really review comment.

Common from all-

- Stressed the need for some CLFLWD District Managers to attend these draft rules review meetings in order to hear comments “straight from the horse’s mouth” and take part in the discussion to truly get concerns and comments.
- Try to keep rules as simplistic as possible.
- All agreed that they had problems with some of the applicability thresholds (in particular those listed as 1.2 b and c in the Review and Comment version). They also thought (although buffers were not on the agenda on the February 19th) the requirement for riparian buffers at time off home sale or variance was onerous and unenforceable. If no one would be able to enforce such a rule, the District would be better off concentrating on education. Additionally, the TAC/CAC questioned: “projects requiring variance to shoreland ordinances and other ordinances that impact water” wondering what doesn’t impact water.
- Pertaining to a Review and Comment Program:
 - The Rules need to do a better job on indicating the needed submittals. The list was rather long and some issues would not need all the listed submittals. There are different needs for different rules. This is a long list for the city to require for all cases.
 - All agreed that it would be problematic for the District to try to recoup costs for a review comment program through the cities. The cities currently have a difficult time getting paid themselves. Therefore, financially it may be better to permit as opposed to review and comment.