

DRAFT

STORMWATER MANAGEMENT PLANNING COMMITTEE MEETING MINUTES

March 28, 2013

The DeKalb County Stormwater Management Planning Committee (SMPC) met on March 28, 2013 at 3:00 p.m. in the DeKalb County Administrative Building, Conference Room East, in Sycamore, Illinois. In attendance were Committee members Joel Maurer, Norm Beeh, Pat Vary, Bill Lorence, Norm Beeh, Paul Miller, Joe Misurelli, Paul Stoddard, Roger Steimel, and Donna Prain. Also in attendance were Anita Zurbrugg, Robert Twombly, John Emerson, Roger Faivre, Pete Niles, Don Willrett, Michael Yagen, Richard Biddle, Jim Quinn, Greg Millburg, Robert Mullins, Frank Engel, John Frieders, Gary Hanson, Jeff Hartmann, Dean Johnson, Adrian Plapp, and Planning and Zoning Department staff Rebecca Von Drasek.

1. **Roll Call** -- *Mr. Miller noted that Committee members Tom Thomas, John Laskowski, and Mark Biernacki were absent.*
2. **Approval of Agenda** – *Mr. Lorence moved to approve the agenda, seconded by Mr. Beeh, and the motion carried unanimously.*
3. **Approval of Minutes** -- *Mr. Misurelli moved to approve the minutes of the December 6, 2012 meeting, seconded by Ms. Vary, and the motion carried unanimously.*
4. **Watershed Plan Status**

Mr. Miller provided the Stormwater Management Planning Committee (SMPC) with a brief history of the on-going watershed plan project. DeKalb County and the DeKalb County Community Foundation were awarded, on November 16, 2012, a Section 319 grant from the Illinois Environmental Protection Agency (IEPA) to undertake a watershed study. The watershed under consideration is the headwaters of the East Branch of the South Branch of the Kishwaukee River. Hey & Associates, in partnership with Baxter Woodman, were selected as the engineers for the project last December. The watershed plan is intended to provide a more area-specific approach to stormwater management and water quality within the study area.

Mr. Miller explained that the watershed plan project is now underway. Tasks undertaken have included the creation of a Steering Committee for the project. The Committee membership was selected by the Stormwater Management Planning Committee last December, and consists of representatives from DeKalb County, Kane County, the City of Sycamore and the Village of Maple Park, the Community Foundation, and others. The Committee has met three times (January, February and March of this year), and will continue to meet monthly throughout the project. The Committee has outlined the plan process, drafted initial goals and objectives, and developed a list of “stakeholders.” There are now over 100 names on the list of stakeholders, including units of local government, property owners, organizations, and others who may have an interest in the watershed plan. The Steering Committee also conducted a stakeholders workshop on March 7, 2013 to gather input on existing conditions and problems within the watershed. Feedback from that meeting is now being analyzed. The engineers are also in the process of gathering a wide range of information for the watershed, including topography, land

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uses, soils, drainage features (natural and man-made), biological data, etc. The watershed plan process extends over a period of 18 months.

The goal of the process will be a watershed plan that not only gives the existing conditions within the study area, but models stormwater, addresses water quality (including non-point source of pollution), and identifies problems and solutions for both in terms of physical projects, regulations, and best management practices. Mr. Miller emphasized that the process will keep the potentially effected governments and property owners engaged and involved throughout, with the goal of having the plan adopted upon its completion and implementation commencing immediately.

Mr. Maurer arrived at 3:05 p.m.

Mr. Miller announced the second Watershed Workshop scheduled for April 10, 2013 at 7:00 p.m. to be held at the DeKalb County Farm Bureau.

5. Dredging in Floodplain

Mr. Miller diagramed for the Committee the FEMA requirements related to the County's enforcement of the floodplain regulations. He explained that the Countywide Stormwater Management Ordinance includes by reference the Floodplain/ Conservation District regulations set forth in the DeKalb County Zoning Ordinance. DeKalb County has had floodplain regulations since the 1980s. These regulations are a necessary condition of participating in the National Flood Insurance Program (NFIP), which is the only way that residents of unincorporated DeKalb County can obtain flood insurance. The Floodplain/Conservation District regulations are reviewed and approved by the Federal Emergency Management Agency (FEMA) at the time they are first adopted, and through any subsequent updates, for compliance with the minimum standards of that agency. The County also adopts and enforces the Flood Insurance Rate Maps (FIRMs) produced by FEMA as part of its obligation under the NFIP.

Mr. Miller pointed out that one consequence of the County's floodplain regulations is that when any waterway (natural or man-made) that has regulatory floodplain as depicted on the FIRMs is dredged, the dredged material, or "spoilage," is required to be removed from the floodplain itself. This requirement is at odds, however, with the common practice of depositing the spoilage along the banks of the waterway and "feathering" it out into the surrounding farm fields. Some farmers who have employed this practice for many years are troubled by the increased costs and difficulties of removing the spoilage from the floodplain. The County has received inquires as to whether there are any alternatives, interpretations, practices, or waivers that could allow the spoilage to be placed within the floodplain and in close proximity to the waterway.

Mr. Miller explained that the FEMA's requirements for floodplain regulation mandate a definition of "development" that includes dredging. Those requirements also stipulate that any development (and thus any dredging) in the floodplain may only be done in accordance with a plan drawn by a registered engineer and approved by the County Engineer. The purpose of the plan is to assure that the development does not increase flood heights or cause an increase in flooding up or downstream. Because the costs of creating an engineered plan are generally

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prohibitive, and because it is unlikely that an engineer can design a project for spreading the spoilage within the floodplain without increasing the flood heights, the County generally cuts to the chase and requires that the spoilage be deposited outside the limits of the floodplain.

Mr. Miller also highlighted the requirement to remove the spoilage from the floodplain only applies to those areas that are shown as having a regulatory floodplain on the FIRMs, or projects that are an acre or more in area (the Environmental Protection Agency mandates that dredging/grading projects affecting one acre or more in area must have an engineered plan to address the requirements of the Stormwater Pollution Protection Program). Smaller dredging projects and projects for non-floodplain drainage ways may be able to accommodate placement of the spoilage along the banks. Such projects may be overseen by the County through its Site Development Permit process, or by the DeKalb County Soil and Water Conservation District, in which case the County's policy is to waive its Stormwater Management Ordinance requirements.

Mr. Miller also addressed the question related to prevailing wage for the cost of removing spoilage from the floodplain. When a grading (or dredging) project is proposed within a regulatory floodplain, the application for Site Development Permit must be accompanied by an estimated cost of work that is based on prevailing wage. The required financial guarantee to assure the work is done in compliance with the approved grading plan must be in the amount of 120% of this estimated cost. This is because, in the worst case scenario, the County must complete the grading project, and the County must pay prevailing wage. However, the property owner who actually does the grading or dredging project is not required to pay prevailing wage; what the property owner pays to the excavator can be whatever the two parties agree. In other words, it is only the estimated cost of construction that must reflect prevailing wage, not the actual cost of the work.

Mr. Lorence noted that removing the material is easier and less expensive than hiring an engineer and calculating the changes made by placing the material on the banks.

Mr. Steimel thanked the Committee for having this discussion and asked for the history of how the County found itself reviewing this issue. Mr. Miller explained that a complaint about a property owner dredging the Little Rock Creek north of Hinckley first brought the issue to the County's attention. He said that complaint had been forwarded by the Illinois Department of Natural Resources Division of Water Resources.

Mr. Steimel disagreed with defining dredging of existing waterways as development. He indicated that in his opinion the maintenance of the ditch is a long standing practice and that he was unaware of this type of regulation enforcement elsewhere. He asked that staff to further discuss the issue with other entities such as FEMA, IEMA, Illinois Department of Water Resources, and other agricultural Counties. The Committee briefly discussed this request and Mr. Miller agreed to contact other agencies and discuss their findings on this issue and their interpretation of "development".

Mr. Miller recognized the audience for questions and comments.

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Mr. Millburg from the DeKalb County Farm Bureau agreed to follow-up with his contacts and review if they are aware of this requirement. He also stated he would also research if there is latitude for the Committee to interpret the regulations differently.

Mr. Emerson noted that the material could also not be placed in a wetland. The Committee and audience briefly discussed the Army Corps of Engineers regulations regarding land disturbances and tiling in relation to wetlands.

Mr. Miller thanked the Committee and audience for the discussion and agreed to follow-up with the Committee in June regarding this topic.

6. Next Meeting:

The Committee will next meet June 27, 2013 at 3pm in the Conference Room East.

7. Adjournment -- *Mr. Lorence motioned to adjourn, seconded by Mr. Beeh, and the motion carried unanimously.*

Respectfully submitted,

Paul R. Miller, AICP
Chairman, DeKalb County Stormwater Management Planning Committee

RGV:rgv

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