COON CREEK WATERSHED DISTRICT
Request for Board Action

MEETING DATE: February 13, 2017
AGENDA NUMBER: 14
ITEM: Funding Operations and Maintenance of Stormwater BMPs

AGENDA: Discussion

ACTION REQUESTED
Discussion of options, or combinations of options, available to Cities and/or the District, for the establishment of a permanent funding stream for the ongoing inspection, operation and maintenance of stormwater BMPs.

BACKGROUND
Long-term operation and maintenance of stormwater best management practices (BMPs) is essential to effective management of stormwater quantity and quality and control of city and District infrastructure costs. BMP maintenance is often not provided for in development plan approval, or is delegated to homeowner associations. These associations are poorly equipped, and often unwilling to manage and fund the maintenance of stormwater BMPs. This deficiency is particularly acute in water quality BMPs that are designed to trap significant amounts of sediment. It is this circumstance which was the focus of the discussion at both the Board and TAC meetings.

Lack of regular and long-term maintenance and the necessary funding for this maintenance decreases the efficiency of BMPs, and presents significant costs for local governments and landowners. Proper inspection, maintenance and funding requirements within local stormwater management regulations ensure BMPs are designed to facilitate inspection and maintenance and can help ensure that regular inspection and maintenance activities are completed.

Such requirements are components of the Federal Environmental Protection Agency (EPA) and Minnesota Pollution Control Agency (MPCA) Phase II Stormwater Management Program for designated Municipal Separate Storm Sewer Systems (MS4s) and the EPA Construction General Permit. The current MS4 permit requires a stand-alone inspection and maintenance plan for stormwater BMPs that includes the following information:
- Identification of the entity responsible for inspection and maintenance of the BMP
- Routine and non-routine maintenance tasks be undertaken.
- A schedule of inspection and maintenance
- Legally-binding maintenance easements and agreements
- Mapping showing all access and maintenance easements
CURRENT SITUATION
The Coon Creek Watershed District, as part of its SWPPP and MS4 permit compliance has developed and implemented the following to assist landowners, developers and designers with the design, construction and long term operation, maintenance and funding of storm water BMPs:

- A comprehensive stormwater management rule
- Model inspection and maintenance agreement
- Model maintenance plan for select BMPs

General Funding Approaches: Funding mechanisms available to the District and Cities for the perpetual inspection, operation and maintenance of stormwater BMPs. Two scales and mechanisms are reviewed:

1. Large Scale Approaches: Fund the overall stormwater management program in a city or watershed including development of standards, regulations, training for local engineers and stormwater professionals, inspections, mapping, preventive maintenance and other activities throughout the city or Watershed District. There are generally two options.
   a. General Tax Revenues
   b. Stormwater Utility Fees

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<tr>
<th>Scale</th>
<th>Mechanism</th>
<th>Strengths/Pros</th>
<th>Weaknesses/Cons</th>
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| Large   | General Tax Revenues  | • Benefits & protection to the public from continued safe & effective operation of these facilities is more than justified.  
           |                       | • Collection & disbursement system is in place & familiar.                      | • Water management activities must compete each year with other more immediate often more tangible programs in the budget.  
           |                       |                                                                               | • Can lead to inconsistent & unreliable funding making comprehensive long range water management difficult.  |
| Large   | Storm Water Utility Fees | • Equitable system of collecting funds for storm water.  
                               |                       | • Provides a predictable & dependable amount of annual revenue for implementation of water management  
                               |                       | • Predictability allows for orderly implementation of projects.  
                               |                       | • Fees are legally defendable.                                                | • Elected officials & public may view fee as another tax.  
                               |                       |                                                                               | • Initial administrative costs for development of the ordinance or rule, billing/collection system and public education.  |
Taxation and stormwater fees collected through a stormwater utility are in general use within the District. Each method has its advantages and disadvantages. Neither will be reviewed at length in this report, but could be upon Board request.

**ISSUES/CONCERNS**

1. **Need:** With regulatory requirements in place through these three tools, the District, and other MS4s within the District, must also have a funding mechanism to ensure that:
   a. Money is available for inspection and maintenance
   b. Periodic and generally lower cost preventive maintenance occurs
   c. Residents and elected officials are not surprised by large scale BMP failures

2. **Funding Maintenance at the Subdivision or Subwatershed Scale:** The real question posed during discussion of the O&M agreement and the TAC has to do with funding inspections, operations and maintenance at the development or subwatershed scale. This question exists for both projects being reviewed and projects that have been reviewed (and perhaps built out and are on line).

**OPTIONS**

**Smaller Scale Approaches:** Funding approaches the Cities or the Watershed District can implement to fund development, catchment or subwatershed stormwater BMP inspection and maintenance. There are two options

   a. Water Maintenance/Water Management Districts
   b. Permit Fees

1. **Drainage or Subwatershed Maintenance Districts:** A water maintenance district provides a mechanism whereby a property owner and a city or watershed district would establish a permanent funding stream for operation and maintenance of stormwater BMPs on a development-by-development basis. This does not provide comprehensive funding for comprehensive water or stormwater management, but can ensure that new stormwater infrastructure is properly inspected and supported.

   The steps for establishment for each subdivision might be as follows:
   
   1. Property owner/developer
      a. Requests city or watershed district that the stormwater BMPs for the development/subdivision be accepted into the Drainage Maintenance District and that an annual assessment be collected.
      b. Must place restrictions/easements on each lot with the subdivision that has storm water infrastructure, specifying inspection and maintenance activities to be performed.
   
   2. City Council or Board of Managers accept the request to establish the District
3. City Council or Board of Managers establishes annual assessment.

The City/Watershed District is responsible for performing the inspection and maintenance activities with funding from the annual assessment placed on each lot. As part of the subdivision or other approval process, appropriate easements for drainage must be shown on the plat and held by either the City or Watershed District.

The initial investment into the Water Maintenance District fund is made by the developer/project applicant on the percentage total cost of the construction of the stormwater infrastructure for the project. The percentage of initial investment ranges from 2-10%, and is set by either the City or Watershed District on a case-by-case basis based on the type of stormwater infrastructure. On average the percentage should be around 4% of the construction cost.

Once the fund is established, the City Council or Board of Managers would approve an annual assessment on each lot utilizing the stormwater infrastructure.

1b. Subwatershed Scale Variation: The watershed district could use its authority under Minn. Stat. 103D.729 and .730 to establish a water management **district** on a subwatershed basis as a funding mechanism to pay for the inspection, operation and maintenance of stormwater BMP’s in the District.

Steps:
1. The District would have to amend its watershed management plan to create the water management district. This amendment must describe:
   a. The area to be included (this could be the subwatershed area containing specified BMP’S) in the District;
   b. The amount to be raised annually by charges to pay for the BMP’s inspection, operation, repair;
   c. The methods used to determine the charges [example, method to determine charge per parcel] - (methods governed by Minn. Stat. 444.075);
   d. The length of time the water management district will remain in effect.

2. Approval of plan amendment as provided under Minn. Stat. 103B.231 (submission to and review by agencies, BWSR).

3. After adoption the amendment must be filed with the Anoka County auditor and recorder.
2. **Permit Fees**: Collecting permit fees to finance runoff inspection and maintenance activities are a long standing funding procedure. Both Cities and the Watershed District can establish and collect fees and other charges to obtain operating funds for programs and services. For the Watershed District it could be through the review and inspection fees. Many inspection services, most notably the construction inspection of erosion and sediment control measures and permanent drainage and runoff management facilities are financed in part through fees collected by permitting agencies.

Unlike taxes or some utility charges, inspection costs are borne by those who need them. The permit fee collection program should have a demonstrable link to the stormwater management or drainage systems. The City/District should be able to demonstrate a direct link between the fee collected and the permitted project.

One method is using dedicated accounts for individual projects or facilities. Like Water Maintenance/Management Districts, permit fees apply to specific developments and do not enable local governments a funding stream for Comprehensive Stormwater Management program.

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<td>Drainage/ Sub-watershed Management District</td>
<td>• Provides dedicated permanent funding stream for O&amp;M&lt;br&gt;• Can be scaled to a development-by-development basis or a drainage area, catchment, minor subwatershed, etc.&lt;br&gt;• Can ensure that new, as well as old storm water BMPs are properly inspected &amp; supported.</td>
<td>• Does not provide comprehensive funding for all stormwater management</td>
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<td>Small</td>
<td>Permit Fees</td>
<td>• Collection &amp; disbursement system is in place &amp; familiar.&lt;br&gt;• Inspection costs are borne by user.&lt;br&gt;• Easily defendable dedicated account</td>
<td>• Must have a direct link to the stormwater system&lt;br&gt;• Could increase administrative costs due to the number of accounts generated.&lt;br&gt;• Does not provide comprehensive funding for all stormwater management</td>
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PRIOR DECISIONS
At the January 23, 2017 meeting the Board briefly discussed and heard concerns about the efficiency and effectiveness of the current method of financing and ensuring maintenance of stormwater BMPs.

On January 31, 2017 the same topic was reviewed and discussed by the District’s Technical Advisory Committee (TAC)

RECOMMENDATION
1. Discuss
2. Send topic to CAC and TAC for review and comment.