



Title: Responsive Program Refinement: Schedule, Services, and Next Steps

Prepared by: Name: Becky Christopher, Policy Planning Manager and Kate Moran, Policy Planning Coordinator
Phone: (952)-641-4512; (952)-641-4520
Email: bchristopher@minnehahacreek.org; kmoran@minnehahacreek.org

Purpose

To serve as a final checkpoint with the Board on the proposed policy direction for the Responsive Program prior to vetting the program with external stakeholders through a Technical Advisory Committee (TAC) in early 2022. Staff will recap the discussions to date and focus specifically on recommendations for the program services and schedule.

Background

Overview

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 (BUE 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 objectives, thereby delivering maximum value to the taxpayer.

Since adopting its BUE Policy in 2014 and building its 2017 Watershed Management Plan (WMP) around the same principles, MCWD has begun putting this commitment into action by targeting work in "focal geographies" currently located within the Minnehaha Creek subwatershed, and the Six Mile Creek-Halsted Bay subwatershed. Focusing work in an area of high need over an extended period allows MCWD to build the relationships, local knowledge, and momentum to meaningfully integrate into land use changes. This approach has generated a number of high impact projects, and produced significant water resource improvements as well as community benefits.

As a regional water resource agency, MCWD recognizes that there is need for a thoughtful approach for responding to opportunities across the watershed that will complement MCWD's focal geography approach. Without a system to identify, evaluate, and respond to opportunities throughout the watershed, MCWD will not be able to fully deliver the value to communities that comes with integrating water resource investment into land use change. By defining a process for how it identifies, evaluates, and responds to opportunities, MCWD will continue to close the gap between land use and water planning and provide increasing levels of stacked benefits for its taxpayers.

Work to Date

The District's 2017 WMP broadly framed this approach of "opportunity-driven implementation" and incorporated opportunity-based stormwater management projects into the capital improvement plan (CIP) for each of the eleven subwatersheds. To further define this approach, in late 2019, staff presented a draft framework to the Board for what is now referred to as the Responsive Program (AKA Responsive Model). This included a draft purpose, goals, high-level process, and evaluation criteria. Staff has been operating the program in a pilot phase while continuing to develop the internal workflows, technology tools, formal policy and guidance documents, and outreach materials to support the program.

At the [July 22, 2021 Board Meeting](#), staff presented draft implementation guidance for the Responsive Program which would formally establish the terms of the program for anticipated adoption in early 2022. Attachment 1 provides a summary of the program's recommended purpose, goals, and key decision areas as discussed at the July meeting. Based on program design and Board input to-date, the Responsive Program recommendation is to be focused on capital projects that provide regional water resource benefit with public or private partners who have capacity to implement. This focused scope allows MCWD to leverage partners' land use projects and ultimately provide stacked benefits to the taxpayer. Based on the July discussion, the Board was generally supportive of the recommendations, and staff flagged two areas for further refinement to be brought back for additional discussion: program services and schedule.

Summary

Since July 22nd, staff have further evaluated and refined recommendations for the program's services and schedule. Staff have conducted a scan of comparable programs at the state, county, and other watershed organizations and had conversations with the program leads. Discussions highlighted how others address:

- Transparency in criteria and evaluation process,
- Incentives for early coordination and/or greater focus of up-front planning to produce high quality projects, and
- Balance of schedule that allows for proper internal reviews and is still responsive to partners' project timelines.

District staff also vetted program recommendations with the Citizens Advisory Committee (CAC) at its September 15 meeting. The CAC had a robust discussion and provided valuable feedback related to the proposed approach for evaluating project opportunities as well as recommendations for messaging and marketing of the program. All of this input will be useful as staff work to refine the program operations and begin developing outreach materials for prospective partners.

Services

What is the range of services the District should provide to support project development and implementation?

Considerations

Throughout the watershed, land use changes present windows of opportunity for water resource improvement that, if missed, may not come around again for decades. The historical and on-going challenge for the District is how to incentivize and change the pattern of late engagement to one of early discussions and project collaboration. By providing the right type of service at critical project development stages, the District could shift towards earlier partnership exploration and collaboration. Some key questions District staff considered include:

- What are the key services our partners value and often seek out from the District?
- What expertise and capacity does the District have to support partner projects?
- What services will provide the best incentives for early coordination with the District?
- How do we account for differences between the public and private opportunity pathways?

Recommendation

The Responsive Program is designed to incentivize early coordination and collaboration with public and private partners by providing key services throughout the project development process. Under this idea of earlier engagement, the District must accommodate the differences between public and private partners' capacity, project development approach, and timeline. Therefore, 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 then allows the District take on a supporting or advisory role for public partners while typically leading project concept and feasibility development to shape and drive private project implementation.

- **Phase I (Concept)** - Opportunity identification and concept development
 - District support in Phase I is viewed as critical for several reasons: it will help incentivize early engagement of the District, the District is well-equipped to identify opportunities for water resource

improvement, it is a service that is valued by partners, and it can provide the District with confidence in the resource need and benefits of a given opportunity from an early stage.

- For these reasons, staff recommends that the District provide a lead or supporting role for opportunity identification and concept development, depending on how the opportunity is identified and the capacity and goals of the partner.
 - 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
 - During feasibility phase, the District determines if a project is viable (e.g. technical feasibility, regulatory screening, land rights) and has reliable benefits and costs to inform decision-making regarding implementation funding. District involvement in this phase provides value to partners by helping to refine a proposed project's outcomes and highlighting potential roadblocks early on.
 - 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
 - During implementation phase, the expectation of both public and private partners is to lead project implementation with the District providing support. At this phase, the District's primary role is providing **financial support**, with contribution of **up to 75%** for project elements focused on water resource benefit in excess of regulatory requirements. In all phases, the funding percentage will be based on the evaluation ranking. The District may also provide ongoing **technical and planning support**, as identified in project agreements.

Schedule

What is the review process and program timeline?

Considerations

The District must determine to what extent it wishes to establish a schedule with deadlines for the submittal of requests and the timing of those deadlines. During the pilot phase, requests have been accepted year-round, which can result in the need for budget and CIP amendments on an expedited timeline to accommodate partners' project schedules. Staff have also considered the differences in process and timeline between public and private projects.

Recommendation

District staff recommendation is to provide a program schedule with deadlines to align with the District's CIP and budget development process, with the option for a fast-track process for private opportunities. The proposed approach would allow for effective and efficient administration of the program by ensuring that the District would have the time needed to review and act on project requests on a reasonable schedule. These program deadlines will be discussed with the TAC to ensure that the program schedule aligns with partner needs and their respective CIP and budget processes. Additionally, District staff will establish, in coordination with the District Engineer and Counsel, submittal requirements (i.e. checklists) at each deadline to ensure that the District has the required information for informed decision-making.

Public Partner Track:

Currently, staff is proposing two refined deadlines that are integrated into the project development process for partners to request services. This allows adequate time for the District to (1) review the project and feed it into the District's CIP

and budget schedule and (2) pursue external grants to maximize funding sources. Below are the recommended refined deadlines from project concept to project implementation.

- **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 under the same process (Phase I-III). 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. Based on pilot phase experience to-date, and discussions with District Legal Counsel, a private project can move through the condensed schedule within 2 months or 4 Board meetings.

Next Steps

Currently, staff are at a point where there is enough program definition that, if the Board is comfortable with the recommendations, staff would like to move forward with developing external communication materials and start engaging the TAC. In parallel, staff will continue program development and refinement in the following areas:

- Refine approach for evaluating projects to improve transparency, consistency, and justification for recommendations. This will also be an area for TAC input.
- Develop guidance and training for how Permitting staff screen for opportunities and develop and negotiate projects in the private track.
- Evaluate gaps in District understanding of water resource issues, drivers, and strategies, and options for filling those gaps, to provide a strong foundation for evaluating project opportunities.
- Conduct an analysis and develop recommendations for how the District evaluates and responds to land conservation opportunities and requests under the Responsive Program.

Based on the proposed next steps, District staff will seek Board review and authorization of the Stakeholder Engagement Process in October and November of 2021. The TAC meetings will begin in Q1 of 2022, and adoption of the program is anticipated in Q2 of 2022.

Supporting Documents

Attachment 1: Summary of program's purpose, goals, and key program decision areas

Attachment 1

Summary of Responsive Program Recommendations (discussed on July 22, 2021)

Program 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 under the Responsive Program 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.

In addition to the program's purpose and goals, key program decisions and staff recommendations for each of the following areas were discussed:

Scope and Structure

- Scope and Eligibility:
 - The recommendation is to focus on development and implementation of capital projects that measurably improve water quality, beyond regulatory requirements, at a regional scale. This would exclude support for programmatic/operational activities such as education and street sweeping.
 - The program is designed to leverage public partners (e.g., cities, counties) or private developers that have the capacity to lead implementation, by incorporating significant regional water quality benefits into partner projects.
- 2017 WMP Connection and Funding Mechanism:
 - It is recommended that the Responsive Program fund project implementation costs through the District's Capital Improvement Plan (CIP), as opposed to 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 and potentially higher quality projects as a result compared to a grant program.

- District Services:
 - District staff flagged this area for further refinement and discussion. Preliminary recommendation provided was to leverage the District's full range of services to support project development and implementation.

Program Operations

- Process and Schedule
 - It was recommended that the District establish a structured process that aligns with the District's annual CIP and budget development process. It would establish deadlines for requests for District participation in both the feasibility and implementation phases. The proposed deadlines are intended to allow adequate time for District review and required actions while also remaining responsive to partners' schedule needs.
 - It was also noted that private projects will tend to move on a quicker timeline and may need to be considered on a schedule that does not follow the 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 would 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 District will proceed to project implementation, and will be responsible for all formal actions subsequently necessary to order and implement the project.
- Opportunity Identification
 - The District's opportunity identification process would utilize both proactive and passive pathways (e.g., annual meetings, permitting notifications, partnership requests) for the Permitting and Policy Planning Departments to identify public and private opportunities early in the planning process.
- 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:
 - 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
 - Staff would use these criteria, and supplement guidance, to develop a ranking of Low, Medium, or High for each of the four categories and would document the reasoning for the ranking. Then each project is reviewed by a cross-departmental team for a final recommendation to be provided to the Board.
- Program Funding
 - Three funding “buckets” were recommended for the program:
 - Responsive Planning funds, budgeted annually within the Planning and Permitting programs, to explore opportunities in the concept and feasibility phases
 - Annual CIP set through annual budget process to fund project implementation
 - Designated reserve funds that could be utilized, through a budget amendment, for faster-moving projects