

TODD COUNTY BOARD OF COMMISSIONERS

Work Session Agenda

Date: December 20th, 2016

Time: Immediately to Follow the County Board Meeting at approximately 10:00 A.M.

Meeting to be held at the Historic Courthouse 215 1st Avenue So, Long Prairie, Minnesota

Item #		Approx. Time
1	Tim Stieber - SWCD Todd County Wetland Management Policy	10:00 A.M.
2	Denise Gaida - Auditor/Treasurer Point & Pay Credit Card Program Options	10:10 A.M.
3	Chairperson Becker Board Protocol Update for 2017	10:20 A.M.

Standing Reports

Adjourn

The County Board Meeting will begin promptly at the prescribed time. The County Board reserves the right to alter the order of the agenda items and the amount of time allowed for an item based on business needs.

Todd County Wetland Management Policy



Todd County

Vision - The Community of Todd County offers a high quality of life for all.

Mission - Enhancing our County Community by delivering exceptional outcomes and outstanding service.

Strategic and Efficient Government - Todd County will constantly strive to meet objectives and goals, and to do it in a transparent, and exceedingly efficient manner.



Todd Soil and Water Conservation District

Mission Statement:

To Meet the Public's Needs by Protecting the Land and Safeguarding the Water.

The Todd Soil and Water Program was organized on March 29th, 1965 by the Todd County Commissioners and was certified by the Secretary of State on April 12th, 1965. Leadership and governance is provided by the board of five locally elected Soil and Water Conservation District Supervisors. The role of the elected District Supervisor is to develop policy, long range plans, and budgets. In a merger/co-location in 2012, SWCD staff became county employees

Todd County Wetland Management Policy

The Minnesota Wetland Conservation Act (WCA) of 1991 required Local Government Units (LGU's) to implement this law on the local level. Minnesota Board of Water and Soil Resources (BWSR) developed rules associated with WCA but these rules are not specific enough to manage a county program without some level of interpretation. This policy and procedure development effort aims to detail how the program is to be implemented in Todd County and is in the spirit of the vision and mission of the county and mission of Todd SWCD.

Policy Goals

Provide Local Direction - WCA is a state law the program that is implemented locally and therefore local policy and action plans related to implementing WCA are integral to the success in the county. Todd County seeks to allow landowners full use of their land whenever possible and looks for solutions to challenges encountered as landowners develop their land. Todd County has incorporated wetland protection and enhancement into its local plans and rules such as the Planning and Zoning Ordinance, the County Water Plan, and work plans for Todd Soil and Water Conservation District.

Protect and Preserve Wetlands – This is important to ensure that wetlands continue to provide the water quality, water supply and control, and wildlife benefits. This is accomplished one project at a time - working with landowners on proposed projects to ensure compliance with WCA and by seeking resolution of reported violations and favorable outcomes.

Accountability - Implementation of Todd County's Program will largely be completed by staff that are accountable to elected supervisors and commissioners through regular reporting and involvement with TEP meetings. Customer service expectations of staff have been established by Commissioner Resolution.

**Resolution Adopting a Policy For Administration
of the
Wetland Conservation Act (WCA) in Todd County Minnesota**

- WHEREAS,** it is required that Todd County implement the Minnesota Wetland Conservation Act of 1991; and
- WHEREAS,** it is required that Todd County implement Minnesota Board of Water and Soil Resources Wetland Conservation Act Rules (Minnesota Rules, Chapter 8420, as amended); and
- WHEREAS,** it is the vision of Todd County to “Provide a high quality of life for all” and the mission to “Enhance our County community by delivering exceptional outcomes and outstanding service” and because Todd County values the protection of our abundant natural resources that have been here for generations and should be available for all future generations; and
- WHEREAS,** Minnesota Rules Chapter 8420, as amended does not set forth specific procedures to handle specific cases; and
- WHEREAS,** well drafted procedures and policies are essential to guide and direct staff administering WCA; and
- THEREFORE,** BE IT RESOLVED that the Todd County Board of Commissioners adopts the following WCA Administrative Procedure Policy.

COUNTY RESPONSIBILITIES

1. Act as the Local Government Unit (LGU) responsible for ensuring that WCA is implemented.
2. Ensure that adequate staff are designated to implement WCA either through a delegation agreement or through direct hire of staff (Delegation agreement for WCA with Todd SWCD signed 3-24-1992).
3. Designate one knowledgeable and trained staff to be the primary contact for the WCA program (WCA Coordinator) that works to implement the WCA policy developed by Todd SWCD and accepted by the County.
4. Pass a resolution delegating WCA decisions to Division Director related to no-loss, exemption, delineations, sequencing, replacement applications, and banking applications.
5. Provide match funding as directed under Natural Resources Block Grant (NRBG) guidelines.
6. Provide equipment, facilities, supplies necessary for staff carrying out delegated WCA activities as outlined in Service Agreement between Todd County and Todd SWCD.
7. Provide County Attorney services to handle WCA cases that are litigated.

SOIL AND WATER CONSERVATION BOARD RESPONSIBILITIES

1. Develop, review, and amend as necessary this policy guiding the WCA program.
2. Develop and recommend changes in ordinances and/or plans to the County Board that are necessary to improve implementation of WCA county-wide.
3. Review program outputs monthly as presented by staff. Review and accept the annual WCA report prepared and submitted to BWSR.
4. Channel customer service concerns to Division Director for follow-up.
5. Work to affect change in WCA through MASWCD resolutions and other lobbying efforts.

STAFF RESPONSIBILITIES

For purposes of this resolution, staff refers to SWCD and Planning and Zoning Staff.

1. Division Director

- A. Ensure that customer service expectations of staff are met.
- B. Oversee WCA Coordinator work performance and workload. Provide additional staff assistance if needed. Provide staffing bridge if position is vacant.
- C. Sign LGU Notices of Decision.
- D. Appoint TEP members for SWCD and LGU.
- E. Assist WCA Coordinator with violations and make decisions on cases being forwarded to court.
- F. Ensure that adequate records are kept to meet statutory deadlines and annual reporting.
- G. Pursue improvements or changes to the WCA program as directed by SWCD Board.

2. Customer Service Expectations

Staff are public servants hired to assist landowners with WCA and other programs. Staff are responsible to assist landowners in wetland compliance including completion of applications, development of alternatives, and navigating through WCA process steps. Staff will seek to understand the land owners point of view, provide landowners with information on how the process will proceed, and follow-up as necessary.

- A) Staff will adhere to Todd County expectations for dealing with customers (Resolution passed in 2012).
 - 1) To be treated with respect, consideration and dignity at all times, we ask the same in return.
 - 2) To receive prompt service, if possible.
 - 3) To receive due process under relevant federal, state laws, local rules, ordinances and regulations.
 - 4) To have requests acted on in a timely manner.
 - 5) To receive accurate and easily understood information.
 - 6) To be told the truth.
 - 7) To be told clearly the consequences of withholding or misrepresenting information.
 - 8) To expect confidentiality to the extent it is legally possible.

3. Exemptions and No-Loss Decisions

For activities for which exemptions and no-loss decisions are requested, they shall be conducted in compliance with all other applicable federal, state, and local requirements, including best management practices and water protection requirements established under Minnesota Rules Part 8420.0420

- A) Exemption Determinations under Minnesota Rules Part 8420.0420 shall be made by staff.
- B) No-Loss determinations under MN Rules Part 8420.0415 shall be made by staff.
- C) Documentation and findings of fact concerning exemptions and no-loss determinations shall be kept on file for at least 10 years.

4. Sequencing Decisions

- A) Decisions regarding sequencing in which Avoidance (MN Rules Part 8420.0520, Subpart 1 Item A) is agreed to by the applicant shall be made by staff and forwarded to the Technical Evaluation Panel (TEP) for review.
- B) When a decision regarding sequencing in which Avoidance (MN Rules Part 8420.0520, Subpart 1 Item A) is NOT agreed to by the applicant the case is forwarded to the TEP.

5. Replacement Plan Decisions

According to 8420.0522 Replacement Standards, applications for replacement must meet the requirements listed in this section and checklist provided by BWSR.

- A) Staff will determine if applications are complete.
- B) Applications related to replacement plan decisions will be submitted to the TEP for review and recommendation made prior to forwarding to the Division Director for decision.

6. Banking Decisions

According to 8420.0705 Banking Applications must meet requirements listed in this section and the checklist provided by BWSR.

- A) Staff will determine if applications are complete.
- B) Applications related to Banking Decisions will be submitted to the TEP for review and recommendation made prior to forwarding to the Division Director for decision.

7. Restoration and Replacement Orders

A) Staff shall prepare plans for Restoration or Replacement Orders in accordance with Minnesota Rules Part 8420.0900 only after landowner is provided opportunity to remedy the violation in a voluntary manner. Decisions to prepare a Restoration Order/ Replacement Order shall be made by the Director.

B) When directed to prepare a Restoration Order to restore impacted wetlands, they shall do so in consultation with the TEP and any appropriate county and state agencies.

C) If necessary, staff should seek assistance from the TEP regarding the location, size, and type of wetland prior to final drafting of a Restoration or Replacement Plan.

8. Monitoring

A) Staff should seek assistance from the TEP in monitoring of replacement wetlands and banked Wetlands and assure enforcement of Minnesota Rules Part 8420.0800.

9. Accountability

- A) Landowner cases will be recorded in a manner that allows monthly status reporting and annual program reporting. A shared computer file accessible by all staff will be used to store data on cases and log communications after they occur.
- B) Monthly status reports will be reviewed by the SWCD Board of Supervisors.
- C) Annual WCA report submitted to BWSR will be reviewed and accepted by SWCD Board.
- D) All LGU decisions such as exemptions and no-loss decisions will be reviewed by a minimum of two staff members and signed by Division Director.

9. Limits of Staff Technical Assistance

Staff will make every effort to be helpful to landowners. However, in some cases requests are made that go beyond the ability and responsibility of staff. Having staff design projects or complete extensive wetland determinations utilizes funds on a few landowner projects that were meant to be used countywide.

- A) Staff may decline technical assistance related to project design of water control structures or other items needed for a restoration order. These may require a private engineer.
- B) Staff may decline technical assistance related to a large scale or property-wide wetland delineation such as those needed for property platting or an Environmental Assessment Worksheet. These projects require a private Wetland Delineator.
- C) Staff may decline technical assistance if the TEP determines that a proposed project can not reasonably be completed without impacts much greater than stated in the application.
- D) Decisions to decline technical assistance will be noted in monthly reports.

LANDOWNER RESPONSIBILITIES

1. Accurately represent the proposed project when applying for a wetland decision.
2. Allow property access upon request to view project site.
3. Submit a complete application that allows the LGU to evaluate the proposed project.
4. Accurately follow Restoration Orders developed by SWCD and reviewed by the TEP.
5. Communicate effectively with staff.
6. Ensure that a contractor liability form is completed and submitted to SWCD.

TECHNICAL EVALUATION PANEL (TEP)

The TEP makes technical findings and recommendations to the LGU, meets monthly, and often goes on site visits. The TEP provides a forum for all staff involved to focus on resolving difficult cases brought forward by the LGU. TEP findings support the LGU in decision making on cases and in resolving violations. TEP meetings are not public meetings. However, landowners can attend and provide information about their application. Landowners will be contacted verbally as an invitation to the TEP meeting. Landowners can bring consultants or contractors to assist with presenting or discussing their proposed project.

1. TEP Functions

- A) Make recommendations regarding sequencing, delineations, replacement plans, wetland banking, and no-loss and exemption determinations

2. TEP Members - LGU and SWCD appointments made by Division Director

TEP members will all have wetland delineation credentials and receive regular training in the WCA rules. Individuals with the highest field project experience will be selected.

Technical Professional of BWSR: - BWSR Wetland Specialist

Technical Professional of SWCD: - Wetlands Coordinator

Technical Professional of LGU with wetlands training

Additional Members (TEP)

MN DNR Conservation Officer	- If projects are in Shoreland and for violations
MN DNR Hydrologist	- If public waters are involved
U.S. Army Corps	- For projects affecting Clean Water Act Provisions
Landowners	- Are invited to participate
Private Consultants	- Generally only on complex cases involving wetland credits
Ditch Authority	- For cases involving ditches
Watershed District	- for cases falling in Sauk River Watershed District area.

VIOLATIONS

Part of administering WCA is dealing with violations in a fair and efficient manner. Violations start out as complaints from landowners, agencies, or staff that are forwarded to the SWCD office for follow-up. Staff are not obligated to follow up on complaints that do not identify the complainant. If the complaint is validated as exceeding the allowed wetland impacts then it becomes a violation and merits further follow-up. Staff will work closely with BWSR and MN DNR Conservation Officers to resolve violations. The Director will be informed of cases requiring Conservation Officer notification.

1. Complaints will be handled following current county policy for handling complaints in which the complainant must submit their contact information to be a valid complaint.
2. Staff can be the complainant for a suspected violation. However, staff are tasked with the primary function of resolving reported violations and not seeking out new violations on the landscape. Maintaining a good customer service reputation is very difficult if staff are generating large numbers of complaints and also trying to resolve them. Therefore, staff are not to spend significant staff time seeking out new violations.
3. The initial step for complaint follow-up is to gather information through office and contacting a landowner and scheduling a field visit.
4. Information collected creates a case file and information used to determine if a violation occurred.
5. When an obvious gross violation is underway – a Cease and Desist order may be issued by a Conservation Officer to stop the project and allow staff time to develop restoration plans.
6. Simple fixes can be accomplished through voluntary landowner action.
7. Recommendation from the TEP and DNR may be used to develop an acceptable voluntary restoration or formal Restoration Order.
8. MN DNR Conservation Officers serve formal Restoration/Replacement Orders to landowners.
9. Staff continue to follow-up until project is complete.
10. If a case is clearly not moving toward resolution over an extended period of time it may move to the court system for final resolution. This decision is made by the Division Director.

TIMELINES

Adhere to the timelines established under WCA 8420 Rules. Staff will make an effort to process cases faster than the stated time windows.

LGU Action	Timeline
Complete Application Determination	15 days**
Notice of Application Mailing	15 days**
Decision Making Period	60 days
Extension of Decision Making Period	60 days
Notice of Decision Mailing	10 days**
Appeal Period	30 days
Decision Validity	5 years
Record Keeping Requirement	10 years

** Business days

Summary of LGU Application Types and Timelines

Decision Type	Notice of Application Required	Notice of Decision Required	Minimum Comment Period
Boundary & Type	Yes	Yes	15 business days
No – Loss ¹	No	Yes	15 business days
Exemption ¹	No	Yes	15 business days
Sequencing Plan	Yes	Yes	15 business days
Replacement Plan	Yes	Yes	15 business days
Bank Plan	Yes	Yes	15 business days

¹ No-Loss and Exemption applications may be noticed if the LGU believes input from noticed parties will be useful in making a decision.

Note: Impacts associated with road repair, rehabilitation, or replacement to meet safety standards do not follow the same procedures. See MN Rule 8420.0544, Part E of the joint application and associated guidance on the website for details.

Todd County Wetland Management Policy
Signature page

COUNTY OF TODD

BY _____
Chairman, Todd County Board of Commissioners

ATTEST _____
Todd County Auditor - Treasurer

DATE _____

TODD COUNTY SOIL AND WATER CONSERVATION DISTRICT

BY _____
Chairman, Todd Soil and Water Conservation District Board

ATTEST _____
Secretary, Todd County SWCD

DATE _____