MINNESOTA WATERSHEDS

Connecting People. Protecting Water.

HANDBOOK

June 2025

ABSTRACT

This handbook is designed to be a reference tool and to provide guidance for watershed district and watershed management organization boards and staff.

Contents

Acronyms

1W1P: One Watershed, One Plan
BMPs: Best Management Practices
BWSR: Board of Water and Soil Resources
CEQ: Council on Environmental Quality
COBRA: Consolidated Omnibus Budget Reconciliation Act
COI: Conflict of Interest
CWMP: Comprehensive Watershed Management Plan
DOL: Department of Labor
EHA: Equivalent Hydraulic Acres
FEMA: Federal Emergency Management Agency
FLSA: Fair Labor Standards Act
FSA: Farm Service Agency
IRS: Internal Revenue Service
JPA: Joint Powers Agreement
LGU: Local Government Unit
LMC: League of Minnesota Cities
MAWQCP: Minnesota Agricultural Water Quality Certification Program
MDA: Minnesota Department of Agriculture
MDH: Minnesota Department of Health
MDNR: Minnesota Department of Natural Resources
MGDPA: Minnesota Government Data Practices Act
MPCA: Minnesota Pollution Control Agency
M.S.: Minnesota Statutes
NEPA: National Environmental Policy Act
NRCS: Natural Resources Conservation Service
OSHA: Occupational Safety and Health Act
PA: Public Assistance
PRAP: Performance Review and Assistance Program
SDAF: Survey and Data Acquisition Fund
SEC: State Environmental Coordinator
SWCD: Soil and Water Conservation District
USACE: US Army Corps of Engineers
USDA: US Department of Agriculture
USEPA: US Environmental Protection Agency
Watershed: WD and WMO collectively
WD: Watershed District
WMD: Water Management District
WMO: Watershed Management Organization
WMP: Watershed Management Plan
WRAPS: Watershed Restoration and Protection Strategy
DLI: Department of Labor and Industry

Welcome

Water is one of the words most people immediately associate with Minnesota, the "land of 10,000 lakes." Water resources play a significant role in our everyday lives, contributing to our economy, recreational activities, education, and lifestyles. As a board member of a watershed district (**WD**) or watershed management organization (**WMO**), or a watershed administrator or staff person, you have a tremendous opportunity to make valuable contributions to protect and manage these water resources. Throughout this document, information **specific to WDs is highlighted and bolded in blue**. Information **specific to WMOs and metropolitan WDs or Watersheds is highlighted and bolded in orange**.

Managing water is a unique task. Water follows its own confines and to effectively manage it, humans must conform to its natural hydrological boundaries, rather than trying to manage it in terms of political divisions. Unlike any other local unit of government (LGU), **WDs** and **WMOs** (collectively referred to as Watersheds) are specifically created to do just that. This type of management helps ensure that the entire watershed—not just the county, city, or township—is considered when water management decisions are made. In your role, you will become familiar with the science of water resources management as well as learning how to promote and enforce rules and regulations to protect these resources.

As a board member or employee, you will learn the importance of partnering with constituent cities, counties, townships, and state agencies; planning, developing, financing, and implementing capital projects; and ascertaining the legal obligations of a Watershed. As an Administrator, you will learn how to administer a regional government; hire and supervise employees and consultants and provide support to an appointed board. The field of water resources management is continually in flux and provides Watersheds with unlimited potential to discover and implement new ways of protecting this vital resource.

Minnesota Watersheds

Minnesota Watersheds provides educational opportunities and information to help manage Watersheds and to comply with governmental regulations and laws. It provides training for board members and staff through tours, meetings, and newsletters. It maintains an extensive website designed to provide basic information for members and the public about Watersheds and their location in the state.

Disclaimer

This handbook is designed to be a reference tool and to provide guidance for Watersheds. It is not intended to be a legal document and does not take the place of expert opinion on various subject matters. Minnesota Watersheds is not liable for any actions that may arise from the use of this handbook.

Special Thanks

This handbook was first developed in 2005 as a compilation of information from numerous resources. The handbook has been updated annually since 2021. We would especially like to thank those organizations that provided content at no charge to Minnesota Watersheds: The League of Minnesota for its Cities' (LMC) Handbook for Minnesota Cities; the Association of Minnesota Counties; Mark Lenz; TC Fields; Smith Partners; as well as several Watersheds.

A special thanks also to the Watershed Administrators participating in the Handbook Committee; staff of the Minnesota Board of Water and Soil Resources (BWSR); the Minnesota Watersheds Board of Directors, and the Minnesota Watersheds Executive Director.

Chapter 1. Watersheds in Minnesota

Section 1: History of Watersheds

In 1953, Congress approved the federal Watershed Protection and Flood Prevention Act (Act). The Act provided financial assistance to local agencies responsible for the management of secondary watersheds. These agencies had the power of eminent domain and the ability to levy for the support of their activities. When the existing soil and water conservation districts (SWCDs) declined to assume those powers in Minnesota, the Minnesota Legislature approved the Watershed Act, Minnesota Statutes (M.S.) Chapter 103D in 1955. This act allowed the establishment of **WDs** based upon a petition to the Minnesota Water Resources Board (now the BWSR) by either citizens or LGUs.

As the Act was being developed, it became clear that many believed that **WDs** should be run by people somewhat removed from the political process, so they would be able to make tough and possibly unpopular decisions without worrying about political consequences. To facilitate this, it was agreed that **WD** managers would be appointed, rather than elected.

The High Island WD was established in 1957. It was the first WD in Minnesota. It encompasses parts of Sibley, Renville, and McLeod counties. Other **WDs** followed, with the most recent one, the Cedar River WD, established in 2007.

In 1982, the Minnesota Legislature approved the Metropolitan Area Surface Water Management Act (M.S. Chapter 103B), which requires LGUs in the seven-county metro area to prepare and implement comprehensive water management plans (CWMPs) through membership in a **WMO**, in areas where a **metropolitan WD** does not already exist. Like **WDs**, **WMOs** are based on watershed boundaries. **WMOs** are formed and governed through joint powers agreements (JPA) among all the cities and/or townships within their boundaries.

Over the years, Watershed responsibilities have increased significantly from their original objectives of focusing upon water quantity. Watersheds now deal with a wide variety of water-related concerns, especially those related to water quality, including wetlands, stormwater, and groundwater management.

Section 2. Local, State, and Federal Agency Relationships

Watersheds work with local, state, and federal agencies. Oftentimes, the success of a Watershed's efforts relies upon a good working relationship with these agencies.

Local Government Entities

Cities

The M.S. Chapter 103B.235, requires that all cites develop local surface water management plans (WMPs) which are approved by the **WMO** or **metropolitan WD**. Since a Watershed's boundaries are based on hydrology, several cities may be included within the Watershed's boundaries. Similarly, a single city may be included within the boundaries of multiple watersheds. Watersheds and cities both have regulatory authority on projects that impact water resources. It is important that each entity understand the other's roles and when it is appropriate and/or beneficial to work together to establish and enforce rules and regulations, as well as to partner on capital improvement projects (CIPs).

Soil and Water Conservation Districts

Soil and Water Conservation Districts (SWCDs) are LGUs that manage and direct natural resources conservation programs using local, state, federal, and private resources. SWCDs are governed by a board consisting of five elected supervisors. Virtually all the SWCDs in Minnesota have at least one staff person. SWCDs work directly with landowners to put conservation practices on the land. SWCD boundaries follow county boundaries. Watersheds often partner or contract with SWCDs on programs like water monitoring, cost share incentives (particularly in agricultural areas), and education and outreach. They also partner in other programs where Watershed and SWCD goals align, collaboration is mutually beneficial, and the partnership results in an efficient use of public funds.

SWCDs administer several state programs, including the State Cost-Share Program and the Reinvest in Minnesota Program. SWCD funding primarily comes from the county, state, and self-generated income (e.g., tree sales, fee for service to Watersheds and other units of government, etc.). While Ramsey County and Hennepin County SWCD no longer exist, the duties of those organizations have been absorbed by their respective counties. More information about SWCDs is available on their website.

Counties

Counties are LGUs that manage resource-related activities through planning and zoning laws. Each of Minnesota's 87 counties is governed by a board of either five or seven commissioners. Counties vary greatly in terms of how strictly they control the use of land and water resources.

Counties administer several state programs, including Shoreland and Floodplain Management, Feedlot Program, Individual Sewage Treatment System, and the Comprehensive Local Water Management Program. Through this program, counties receive base grant funding to hire staff and implement priority programs and activities identified in a state approved and locally adopted CWMP. These local water plans are developed by local task forces representing a variety of interests. The plans address virtually all aspects of water management, including drainage management, water quality and quantity, lake levels, wetlands, recreational water use, and fish and wildlife habitat.

In 1987, the metropolitan counties obtained authority to prepare and adopt groundwater plans through M. S. Chapter 473.8785 (now M.S. Chapter 103B.255). This allows counties to set priorities, address issues, and build local capacity for the protection and management of groundwater.

Each county has a designated local water planning coordinator. Often, this is the SWCD. Sometimes it is someone with the county planning and zoning or environmental health office (the list of coordinators is on the BWSR website.) As with SWCDs, Watersheds often partner with counties to implement certain projects and programs jointly or collaboratively. More information about counties can be found on their website.

State Agencies

Board of Water and Soil Resources

The Board of Water and Soil Resources (BWSR) is the state soil and water conservation agency charged with helping meet the state's goals for clean water, clean air, and abundant fish and wildlife. The 78% of state land that is held in private ownership -- farms, forests, and urban areas -- contribute greatly to the production of environmental goods and benefits including cleaner air and water, fish and wildlife habitat, and preservation of open spaces.

Staff members in Bemidji, Brainerd, Duluth, Detroit Lakes, Mankato, Marshall, Rochester, St. Paul, and Waite Park provide grants, technical assistance, and training to local entities for projects with landowners and conservation groups to:

- prevent sediment and nutrients from entering our lakes, rivers, and streams,
- enhance fish and wildlife habitat, and
- protect wetlands.

The local-state conservation delivery system ensures that state policy is implemented with local issues and problems in mind -- and working together has improved and protected Minnesota's water and soil resources in spite of intensified agriculture, greater demands for forest products, and rapid urbanization in many parts of the state.

The BWSR board consists of twenty members. Members can be citizens, state agency staff, or local government representatives that deliver BWSR programs. The board is the state's administrative agency for SWCDs, **WDs**, **WMOs and metropolitan WDs**, and counties responsible for land and water management. The board sets a policy agenda designed to enhance conservation delivery through these governmental partners. Board members, including the board chair, are appointed by the governor to serve staggered four-year terms. The BWSR website is: www.bwsr.state.mn.us.

Minnesota Department of Agriculture

The Minnesota Department of Agriculture (MDA) has served our state for more than 125 years. MDA's mission is to enhance all Minnesotans' quality of life by equitably ensuring the integrity of our food supply, the health of our environment, and the strength and resilience of our agricultural economy.

Today, the MDA's three general areas of responsibility include:

- protecting our food supply,
- protecting our natural resources, and
- cultivating our agricultural economy.

The MDA helps ensure that farmers have quality seed, fertilizer, pesticides, and animal feed so that the final product is also high quality. It provides a myriad of services to farmers including risk-management education, organic and sustainable agriculture technical support, and dairy and livestock development support.

The MDA conducts dairy and food processing facility inspections and international market development. It provides consumer food safety education, agriculture chemical spill response, and grocery store inspections.

The MDA administers the Agriculture Best Management Practices (BMP) Loan Program and coordinates the Minnesota Agricultural Water Quality Certification Program (MAWQCP). The MAWQCP is a voluntary opportunity for farmers and agricultural landowners to take the lead in implementing conservation practices that protect our water. Those who implement and maintain approved farm management practices will be certified and in turn obtain regulatory certainty for a period of ten years. The MDA website is: www.mda.state.mn.us.

Minnesota Department of Health

The Minnesota Department of Health (MDH) exists to protect, maintain, and improve the health of all Minnesotans. MDH is a premier state health department and has experienced many successes in its efforts to:

- promote health throughout the lifespan,
- make physical environments safe and healthy,
- prevent the occurrence and spread of disease,
- prepare for and respond to disasters and emergencies,
- help all people get quality health care services, and
- assure strong systems for health.

The MDA website is: www.health.state.mn.us.

Minnesota Department of Natural Resources

The Minnesota Department of Natural Resources (MDNR) was created in 1931. Its mission is to "work with citizens to conserve and manage the state's natural resources, to provide outdoor recreation opportunities, and to provide for commercial uses of natural resources in a way that creates a sustainable quality of life." The agency is organized into four geographic regions and seven divisions with multiple field offices across the state.

The divisions include:

- Ecological and Water Resources
- Enforcement
- Fish and Wildlife
- Forestry
- Lands and Minerals
- Parks and Trails

Of these, Watersheds work most closely with MDNR staff in the Ecological and Water Resources Division. This division works toward its vision of "healthy lands and waters throughout Minnesota" through four areas of work including ecosystem management and protection; conservation assistance and regulation; inventory, monitoring, and analysis; and strategic information systems. Watersheds often collaborate with the MDNR on monitoring, invasive species management and research, and preparing and implementing ecological restoration plans. The MDNR website is: www.dnr.state.mn.us.

Minnesota Pollution Control Agency

The Minnesota Legislature formally established the Minnesota Pollution Control Agency (MPCA) in 1967 in response to a growing awareness of the environment's fragile nature and increasing threats to its condition. The legislature charged the agency with the unique challenge and demanding responsibility to protect the air, water, and land of our great state.

The creation of the MPCA expanded on the efforts and actions of the Water Pollution Control Commission, established in 1945 to encourage communities to build wastewater treatment plants at a time when no plants existed, and raw sewage was dumped into lakes and rivers. MPCA's creation in 1967 occurred three years before the first national Earth Day celebration and establishment of the U.S. Environmental Protection Agency (USEPA) in 1970.

The MPCA has six regional offices in seven cities. The MPCA is organized in seven divisions:

- Remediation
- Watershed
- Operations
- Environmental Analysis and Outcomes
- Resource Management and Assistance
- Industrial
- Municipal

The MPCA website is: www.pca.state.mn.us.

Federal Agencies

Natural Resources Conservation Service

Since 1935, the Natural Resources Conservation Service (NRCS) (originally called the Soil Conservation Service) has provided leadership in a partnership effort to help America's private landowners and managers conserve their soil, water, and other natural resources. NRCS employees provide technical assistance based on sound science and suited to a customer's specific needs.

The NRCS provides the following services:

- Technical assistance through the Conservation Technical Assistance program, which provides

voluntary conservation technical assistance to land-users, communities, units of state and local government, and other federal agencies in planning and implementing conservation systems.
- Outreach to all segments of the agricultural community, including underserved and socially disadvantaged farmers and ranchers to ensure that programs and services are accessible to everyone.
- Management of natural resource conservation programs that provide environmental, societal, financial, and technical benefits.
- Technical expertise in such areas as animal husbandry and clean water, ecological sciences, engineering, resource economics, and social sciences.
- Expertise in soil science and leadership for soil surveys and for the National Resources Inventory, which assesses natural resource conditions and trends in the United States.
- Technical assistance internationally.

The NRCS website is: www.nrcs.usda.gov.

The United States Army Corps of Engineers

The United States Army Corps of Engineers (USACE) is responsible for regulating activities in wetlands and water courses. The St. Paul District borders the edges of four river basins: Mississippi River, Red River of the North, Souris River, and the Rainy River, and shares about 500 miles of border with three Canadian provinces. The Rock Island District includes parts of southern Minnesota. The Heron Lake, Shell Rock River, Turtle Creek, and Cedar River WDs outlet into this district. The Omaha District includes the extreme southwestern part of Minnesota. The Okabena-Ocheda WD outlets into the Missouri River which is in this district. The Detroit District covers part of the North Shore. There are no WDs in this part of the state. The St. Paul District includes most of Minnesota, the western half of Wisconsin, the northeastern half of North Dakota and small portions of South Dakota and northern Iowa. The majority of Watersheds in Minnesota are included in this district. A map of the USACE Districts can be found at the following link: Map -- Headquarters U.S. Army Corps of Engineers.

The St. Paul District is responsible for:
- Supporting inland navigation by operating thirteen locks and dams and by maintaining the nine-foot navigation channel on the Upper Mississippi River.
- Issuing permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, as well as associated enforcement activities or works in wetlands and navigable rivers.
- Operating sixteen vital flood damage reduction reservoirs and annually inspecting more than 100 flood damage reduction levees, channel improvements, and bank protection projects.
- Environmental restoration programs to improve fish and wildlife habitat.
- Emergency response operations following natural disasters.
- Recreation activities at Corps facilities including campgrounds, day-use areas, boat ramps, and swimming beaches.

The USACE website is: www.mvp.usace.army.mil.

United States Department of Agriculture Farm Service Agency

The mission of the US Department of Agriculture (USDA) Farm Service Agency (FSA) is equitably serving all farmers, ranchers, and agricultural partners through the delivery of effective, efficient agricultural programs for all Americans.

USDA FSA was set up when the USDA was reorganized in 1994, incorporating programs from several agencies, including the Agricultural Stabilization and Conservation Service, the Federal Crop Insurance

Corporation (now a separate Risk Management Agency), and the Farmers Home Administration. Though its name has changed over the years, the USDA FSA's relationship with farmers goes back to the 1930s.

At that time, Congress set up a unique system under which federal farm programs are administered locally. This grassroots approach gives farmers a much needed say in how federal actions affect their communities and their individual operations. USDA FSA must consider the environmental effects of its proposed actions upon the human environment in accordance with the National Environmental Policy Act of 1969 (NEPA). In 1978, the Council on Environmental Quality (CEQ) promulgated regulations to implement the procedural requirements of NEPA. These CEQ regulations direct agencies to adopt procedures to implement NEPA.

USDA FSA's implementing regulations for NEPA are found at 7 Code of Federal Regulations part 1940 subpart G (Farm Loan Programs) and 7 CFR part 799 (Farm Programs). Both environmental regulations classify the agency's actions into levels of environmental review such as Categorical Exclusions, Environmental Assessments, and Environmental Impact Statements. The National Historic Preservation Act compliance and other cultural resource considerations also are incorporated into USDA FSA's NEPA process.

USDA FSA's programs are administered through its network of state, district, and county offices. Each FSA State Office has a State Environmental Coordinator (SEC). These SECs provide oversight, support, and training to district and county personnel to ensure that NEPA compliance is fully implemented. USDA FSA's website is: www.fsa.usda.gov.

United States Environmental Protection Agency

The US Environmental Protection Agency (USEPA) was formed in 1970 to protect human health and the environment. It works with state agencies to:

- Develop and enforce regulations that implement laws. It is responsible for researching and setting national standards for environmental programs and delegates the responsibility of issuing permits, monitoring, and enforcing compliance to tribes and states.
- Provides direct support through grants to state environmental programs, such as research grants and graduate fellowships; environmental services and projects; and through programs such as: the Drinking Water State Revolving Fund, the Clean Water State Revolving Fund, and Brownfields.
- Performs environmental research to assess environmental conditions and to identify, understand, and solve current and future environmental problems, and to integrate the work of scientific partners in the public and private sectors.
- Sponsors voluntary partnerships and programs on pollution prevention and energy conservation.
- Promotes environmental education through its programs and information.

The USEPA website is: www.epa.gov.

United States Fish and Wildlife Service

The US Fish and Wildlife Service (USFWS) is a bureau within the Department of the Interior. Its mission is working with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. Although a relative newcomer to the Department of the Interior, USFWS programs are among the oldest in the world dedicated to natural resource conservation. The USFWS traces its origins to the U.S. Commission on Fish and Fisheries in the Department of Commerce and the Division of Economic Ornithology and Mammalogy in the USDA.

The USFWS manages the 93-million-acre National Wildlife Refuge System of more than 570 National

Wildlife Refuges and thousands of small wetlands and other special management areas. Among its key functions, the USFWS enforces federal wildlife laws, protects endangered species, manages migratory birds, restores significant national fisheries, conserves and restores wildlife habitat such as wetlands, and helps foreign governments with their international conservation efforts. It also oversees the Federal Aid program that distributes hundreds of millions of dollars in excise taxes on fishing and hunting equipment to state fish and wildlife agencies.

Most fish and wildlife habitat are on non-Federal lands. The Partners for Fish and Wildlife, Partners in Flight, Sport Fishing and Boating Partnership Council, and other partnership activities are the primary mechanisms for assisting voluntary habitat development on private lands and fostering aquatic conservation.

The USFWS is a decentralized organization with a headquarters office in Washington, D.C., seven geographic regional offices, and nearly 700 field units. The USFWS's website is: www.fws.gov.

Federal Emergency Management Agency

The Federal Emergency Management Agency (FEMA) was established in April of 1979. Their mission is to help people before, during, and after disasters. FEMA helps state, local, tribal, and territorial governments and certain types of private nonprofit organizations respond to and recover from major disasters or emergencies. After an event like a hurricane, tornado, earthquake, or wildfire, communities need help to cover their costs for debris removal, life-saving emergency protective measures, and restoring public infrastructure.

To deliver grant assistance following a disaster declaration, the Public Assistance (PA) Program Delivery Model process is used. The PA process pairs specialized staff, roles, and responsibilities to fit the needs of the applicant and centralizes processing to ensure consistency across multiple disaster operations. To apply for a PA Grant, the local or state emergency manager must be contacted to begin the process and submit a Request for PA form. The FEMA's website is:| FEMA.gov.

Section 3. Establishment of Watersheds

Watershed Districts

The general purposes for establishing a **WD** are found in M.S. Chapter 103D.201. The specific purposes for which a **WD** may be established are found in M.S. Chapter 103D.201, Subd. 2.

The authority to create a **WD** is provided in M.S. Chapter 103D.205. To create a **WD**, an establishment petition needs to be filed with BWSR and signed by one or more of the groups designated under M.S. Chapter 103D.205, Subd. 3., which could be counties, cities, or residents. Specific information must be provided, and the number of managers proposed cannot be less than three or more than nine. The manager cannot be a public officer of the county, state, or federal government, except that a SWCD supervisor may be a manager. More details on the history, purpose authority, and organizational structure can be found here on the BWSR website.

The director of the MDNR, Division of Waters, must prepare a preliminary map and report and submit it to BWSR within thirty days after receipt of the petition (M.S. Chapter 103D.215). BWSR determines if there are the required number of petitioner signatures and provides a legal notice that a public hearing will be conducted (M.S. Chapter 103D.221). After considering public input, BWSR will approve or deny the petition. If BWSR approves the establishment of a **WD**, it will designate the **WD's** boundaries, name, place of business, and first Board of Managers. (Appendix A-01)

Watershed Management Organizations

The authority to create a **WMO** is provided in the Metropolitan Area Surface Water Management Act (M.S. Chapter 103B). **WMOs** are required in the seven-county metro area to develop and implement

WMPs. **WMOs** are based on watershed boundaries. **WMOs** can be organized in three ways:

- as a JPA between the cities and townships within the watershed,
- as a WD operating concurrently under M.S. 103B and 103D, or
- as a function of county government, usually administered by the county planning department.

WMOs are governed by a board of commissioners appointed by the member municipalities and townships. More details on the history, purpose, authority, organizational structure, board, committees, and staff can be found here on the BWSR website.

Section 4. Boundaries/Consolidation/Termination of Watersheds

Watershed Districts

In order to change the boundaries of the **WD**, a petition for the change must be completed and signed by one half of the counties or counties having at least 50 percent of the watershed area, the majority of the cities, at least 50 or 50 percent of resident owners in the area to be added or removed, or the managers of the **WD** affected by the proposed boundary change, as indicated in M.S. Chapter 103D.251. In addition, the managers must pass a resolution authorizing the boundary change before they sign the petition. BWSR will set a hearing and will determine if the boundary change is in the public's best interest. For **metropolitan WDs,** M.S. Chapter 103B.225 refers to addition or transfer of property as well as conditions on a boundary change or termination.

M.S. Chapter 103D.255 relates to withdrawal of territory from an existing **WD** through a petition process. Proceedings must be initiated by a petition filed with BWSR. A majority of the managers may file a petition for withdrawal. BWSR will set a hearing and will determine if the boundary change is in the public's best interest. BWSR must give notice of the hearing by mail at least ten (10) days before the hearing and follow the statutory requirements for filing an order.

M.S. Chapter 103D.261 refers to proceedings to enlarge a **WD** and follows the establishment petition, generally. A majority of the managers may file a petition. If two or more **WDs** want to consolidate, a petition must be filed with BWSR. The BWSR will determine whether consolidation will be allowed. BWSR must give notice of the hearing by mail at least ten (10) days before the hearing and follow the statutory requirements for filing an order. Real and personal property assets as well as enforceable claims and contract obligations of the **WD** pass to the new **WD**. Chapter and contractual obligations will be passed onto the new **WD**, as indicated in M.S. Chapter 103D.265.

Finally, M.S. Chapter 103D.271 allows a termination petition to be filed after the first five years from when the **WD** was created. The petition must be signed by at least 25 percent of the resident owners residing in the **WD**. BWSR will provide notice and conduct a hearing. The hearing will be held in the nearest publicly accessible facility if those are not available within the **WD**. BWSR may or may not issue a termination order. BWSR must have each **WD** manager personally served with a copy of the order. The **WD** ceases to exist once the termination order is filed with the Secretary of State. (See Appendix A-02) Two **WDs** have been terminated: South Two River WD and Thirty Lakes WD. (See Appendix A-03 and A-04)

Watershed Management Organizations

Changes to the boundaries of a **WMO**, or termination, must not affect the benefits or damages for any improvement previously constructed by the **WMO** having jurisdiction. The property remains liable for its share of any outstanding indebtedness. To satisfy the requirements of the law, BWSR may prescribe conditions on the boundary change or termination, or they may prescribe a later effective date for the termination. (See Appendix A-05)

Section 5. Watershed Powers and Duties

In general, under M.S. Chapter 103D.335, a **WD** has the power to:

- sue and be sued,
- incur debts, liabilities, and obligations,
- exercise the power of eminent domain,
- levy property taxes and special assessments,
- issue certificates, warrants, and bonds,
- acquire and dispose of property,
- hire staff and consultants, and
- regulate development.

Basic **WD** Manager duties include:

- adopt watershed plan,
- adopt rules and regulations,
- establish annual budget,
- prepare annual report and audits,
- establish citizen advisory committee,
- initiate projects,
- maintain and operate existing projects, and
- implement a WMP.

WDs have expanded authorities:

- when acting as a public drainage authority under M.S. Chapter 103E, or
- when acting as a **WMO** under M.S. Chapter 103B.201, a **metropolitan WD** has the expanded authority for:
    - increased ad-valorem authority,
    - an ability to certify capital projects to county for payment and collection,
    - identified capital improvements in the WMP, and
    - approval authority of municipal water plans.

In general, under M.S. Chapter 103B, a **WMO** has the authority to:

- jointly or cooperatively manage or plan for the management of surface water in a watershed,
- prepare, adopt, and implement a plan for the watershed,
- review and approve local WMPs,
- regulate the use and development of land in the watershed. This is not a typical authority exercised by most **WMOs**. 103B language has certain conditions under which land use and development can be regulated by a **WMO**,
- accept the transfer of drainage systems in the watershed, to repair, improve, and maintain the transferred drainage systems, and to construct all new drainage systems and improvements of existing drainage systems in the watershed,
- adopt a budget and decide on the total amount necessary to be raised from ad valorem tax levies to meet the budget,
- certify its budget with the auditor of each county having territory within the joint powers **WMO**,
- file approved assessment statements with each affected county, and
- other powers necessary to exercise authority include the power to enter contracts for the performance of functions with governmental units or persons.

Chapter 2. Boards and Administrators

Section 1. Watershed Boards: Powers and Duties

Board Structure

The Watershed board presides over the business of the Watershed. Working as part of the board, a manager or commissioner helps direct the activities of the Watershed, sets policy, guides staff, and makes key decisions on Watershed priorities.

Each **WD** is governed by an appointed board of managers consisting of three to nine members, distributed by residence among the counties affected by the **WD** and in consideration of the counties' portion of the land area and net tax capacity of the watershed (M.S. Chapter 103D.301). The manager must be a resident of the **WD**; and may not be a county, state, or federal government public officer. The exception is that the manager may be a SWCD supervisor. The number of managers may be increased through a petition process outlined in M.S. Chapter 103D.305. The WD secretary or administrator must keep a record of all appointments and file them with the respective county (M.S. Chapter 103D.311, Subd. 4).

WMOs are governed by commissioners appointed by the members of the JPA, typically cities and townships. The JPA dictates the makeup of the board including the total number of commissioners and how many commissioners will represent each member.

Board Duties

The categories below guide boards in their governance roles. For those items that are required, specific statutory or rule references are included.

Organizational Support and Direction

- Elect officers: president, vice president, secretary, and treasurer (M.S. Chapter 103D.315, Subd. 3) (MN Rules Chapter 8410.0030, Subp. 1.D).
- Employ a chief engineer, professional assistants, and other employees, and provide for their qualifications, duties, and compensation (M.S. Chapter 103D.325, Subd. 1).
- At least every two years solicit interest proposals for legal, professional, or technical consultant services before retaining the services of an attorney or consultant or extending an annual services agreement (M.S. Chapter 103B.227).
- Provide for continued growth of the organization and board members through education, succession of positions, and maintenance of the Watershed charter, bylaws, and/or mission statement (M.S. Chapter 103D.315, Subd. 11).

Planning, Programming, and Budgeting

Develop a mission statement, policies, and rules for the conduct of business and the implementation of goals.

- Set short and long-term goals through ongoing strategic planning and preparation of the WMP (M.S. Chapter 103D.401 and 103D.405, or M.S. Chapter 103B.231).
- Establish and maintain program and project priorities (M.S. Chapter 103D.401 or M.S. Chapter 103B.312).
- Approve an annual budget for conducting the business of the Watershed and pursuing Watershed goals for the following year (M.S. Chapter 103D.911) (MN Rules 8410.0030, Subp. 1.G).
- Develop guidelines for the contents of local WMPs that meet the different water and related land resources needs of counties and watersheds across the state (M.S. Chapter 103B.321, Subd. 1 (1).

Bylaws and Administrative Policies
Develop structure for the administration of business.

- Bylaws (M.S. Chapter 103D.315, Subd. 11) – usually incorporating:
    - Conflict of interest policy and
    - Open Meeting Law compliance protocols (M.S. Chapter 13D).
- Collateralization protocols – for bank deposits exceeding Federal Deposit Insurance Corporation limits.
- Credit card policy [if **WD** chooses to have a credit card account] (M.S. Chapter 103D.325, Subd. 4).
- Data Practices Act policy (M.S. Chapter 13).
- Financial management/internal controls/fund accounting.
- Per diem policy (M.S. 103D.315, Subd. 8) (MN Rules 8410.0030 Subp. 1.L).
- Personnel policy.
- Public purposes policy.
- Records retention schedule (M.S. 103D.315, Subd. 5).
- Surety management policy.
- Travel policy.

Financial management
Ensure financial solvency and accountability and the efficient and effective use of funds.

- conduct an annual audit of the books and accounts (M.S. Chapter 103D.355),
- maintain generally acceptable methods of accounting and finance, and
- approve monthly expenses.

Reporting and evaluation
Annually monitor the effectiveness and efficiency of programs and services.

- Evaluate board and staff performance in relation to established mission and goals and prepare an annual report for distribution to the county, the BWSR, and the MDNR (M.S. Chapter 103D.351).

Leadership
Exercise leadership in the community.

- hold regularly scheduled board meetings (M.S.103D.315, Subd. 10) (MN Rules 8410.0030, Subp. 1.E),
- establish a notification process for the agenda, location, and time of meetings (MN Rules 8410.0030, Subp. 1.F),
- adopt rules of order and procedure (MN Rules 8410.0030. Subp. 1.N),
- provide for and encourage a citizens advisory committee (required to meet annually (M.S. Chapter 103D.311) (MN Rules 8410.0030, Subp. 1.H),
- work with members to achieve consensus on public policy issues,
- review and approve contracts, and
- ensure all legal standards and requirements are met.

Regulation
Arbitrate conflicts among competing interests.

- Conduct review of permit applications and project proposals in a fair and equitable manner.
- Review and approve local WMPs (M.S. Chapter 103B.235).

Section 2. Appointment, Vacancy, Removal Processes, and Compensation

Appointment of WD Managers

Counties within the jurisdiction of the **WD** appoint the managers. The manager must be a voting resident of the **WD** and not be a public officer of the county, state, or federal government; however, a SWCD supervisor may be a manager. At least 30 days before the term of office of a manager expires, the appointing county board must provide public notice. (M.S. Chapter 103D.311, Subd. 1 and 2) (See Appendix A-06)

If it is a **metropolitan WD**, the county commissioners must appoint managers from a list of persons nominated by one or more of the townships and municipalities within the **metropolitan WD**. This list must contain at least three names for each position and be submitted to the county board at least 60 days before the positions expire. If a list is not submitted, commissioners must appoint the managers from eligible persons residing in the **metropolitan WD**.

The managers must fairly represent the various hydrologic areas within the **WD** but represent the entire **WD**. The county commissioners must meet at least 30 days before the manager's term of office expires and appoint a successor. (M.S. Chapter 103D.311, Subd. 3 (a)(b)(c))

The term of office is three years. Some counties have established term limits. (M.S. Chapter 103D.315, Subd. 6)

Managers must sign an oath defined in the Minnesota Constitution, Article V, Section 6. It must be filed with BWSR. (See Appendix A-07) Each manager must file a $1,000 bond with the BWSR (M.S. Chapter 103D.315) before taking on the duties. The bond may be:

- a personal bond for each manager,
- a schedule or position bond or undertaking by the managers of the **WD**, or
- a single corporate surety fidelity, schedule, or position bond covering all managers and employees of the **WD**.

The **WD** will pay the bond for officers and employees in the amount set by law or by the person or board authorized to set the amounts. Many **WDs** presently use what is commonly referred to as a "position bond." This is a single bond that lists the positions of the board and not the individual managers. The benefit of this practice is that a new bond is not required each time a new manager is appointed. (See Appendix 08)

Vacancies due to death or resignation should be reported to the respective county, BWSR, and Minnesota Watersheds. (M.S. Chapter 103D.315, Subd. 7 and M.S. Chapter 351.02)

A record of the appointments made must be filed with the affected county auditor, secretary of the Board of Managers and BWSR. (M.S. Chapter 103D.311, Subd. 4)

A manager of a **WD** may be removed from the position by a majority vote of the appointing authority before term expiration for violation of a code of ethics of the **WD** or appointing authority or for malfeasance, nonfeasance, or misfeasance, after being provided an opportunity for a hearing before the appointing authority. (M.S. Chapter 103D.357)

Appointment of WMO Members

WMOs are governed by a board appointed by the member municipalities and/or townships. The JPA between the members includes the process and authorities to appoint board members.

WMOs shall notify BWSR of member appointments and vacancies in member positions within 30 days. Appointing authorities shall fill vacant positions by 90 days after the vacancy occurs. (M.S. Chapter 103B.227, Subd. 1)

Appointing authorities for **WMO** board members shall publish a notice of vacancies at least once in a newspaper of general circulation. Staff of LGUs that are members of the **WMO** are not eligible for appointment. Published notice must be given at least 15 days before an appointment or reappointment is made. (M.S. Chapter 103B.227, Subd. 2)

Appointing authorities may remove members of **WMO** boards for just cause. BWSR shall adopt rules prescribing standards and procedures for removing members of **WMOs** for just cause. (M.S. 103B.227, Subd. 3)

Washington County has created a WMO Orientation document. It can be found in Appendix A-20.

Compensation and Reimbursement

The compensation for **WD** managers for meetings and for performance of other necessary duties may not exceed $125 a day (this amount is set in state statute and may only be changed by the Minnesota Legislature). Managers are entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties. Some Watersheds allow payment of one per diem for meeting preparation in keeping with a BWSR policy that was adopted in 2018. (See Appendix A-09) Some Watersheds allow payment to board members at an hourly rate for committee meetings, meeting individually with constituents, and meeting preparation. Payment cannot exceed $125 per day. Mileage may be paid at a rate established by the board but may not exceed the current rate allowed by the federal government. (MS. Chapter 103D.315, Subd. 8)

Some **WDs** file 1099s for manager per diems, others issue W-2s. Determining the correct method should be done in consultation with the **WD's** accountant.

Board members of **WMOs** may be compensated for meeting attendance and performance of other duties if allowed by the JPA. Board member expenses for travel, training, conference registration, or other expenses may be reimbursed if allowed under WMO policies. (MN Rules 8410.0030, Subp. 1.L)

Removal

A manager of a **metropolitan WD** or a member of a **WMO** may be removed from the position by a majority vote of the appointing authority before term expiration for violation of a code of ethics of the **WMO** or appointing authority. (MN Rules 8410.0040. Subp. 1 and 2)

Statement of Economic Interest for Appointed Public Officials

Every year county commissioners and other elected and appointed officials in Minnesota must file a Statement of Economic Interest with the Minnesota Campaign Finance and Public Disclosure Board. (See Appendix A-10)

Section 3. Roles of Officers

Officers should be elected annually. If there is an unexpired term of a manager or commissioner, one of the members should be elected to complete the term. Generally, the officers are President or Chair, Vice President or Vice Chair, Secretary, and Treasurer.

The President or Chair will: serve as chairperson for all meetings; sign and deliver any contracts, deed, correspondence, or other instruments pertaining to the business of the Watershed; be a signatory to the Watershed's accounts; oversee development of meeting agendas; always have full voting privileges, vote on any issue, and not need to confine his or her voting to break ties in voting by the managers or commissioners.

The Vice President or Vice Chair will: discharge the President's duties in the event of the absence or disability of the President and be a signatory to certain instruments and accounts of the Watershed.

The Secretary will: oversee the preparation and distribution of the minutes of all meetings of the

Watershed; distribute minutes in advance of meetings; suspend oral reading of minutes at regular meetings; certify levies, records, and proceedings of the Watershed; maintain all approved and revised meeting minutes at the Watershed office and oversee the preparation and proper notice of all meetings called by Watershed boards. For many Watersheds, these tasks are delegated to Watershed staff.

The Treasurer will: review the Watershed's financial accounts and records; be a signatory to Watershed's accounts and financial records; arrange for an annual audit of the Watershed's financial records; provide the board with monthly reports of records to describe the financial condition of the Watershed and ensure that receipts are provided for the receipt of all currencies. For many Watersheds, these tasks are delegated to Watershed staff. (See Appendix A-11 and A-12)

Section 4. Conflict of Interest

There are several statutes dealing with ethics in government, ranging from the Ethics in Government Act (M.S. Chapter 10A) to specific prohibitions on public officials having interests in contracts (M.S. Chapter 471.87, 471.88, and 471.89). M.S. Chapter 471.88 allows Watersheds to contract for goods and services with an interested officer of the governmental unit in certain circumstances, by unanimous vote of the board. These statutes attempt to ensure that public confidence in government officials is not eroded by irresponsible or unethical conduct.

The Watershed and its employees or contracted staff will not engage in conduct that is immoral, unethical, or illegal. Both the Watershed and its employees should be respectful of authority and abide fully by employment regulations. Any conflict between personal and private interest should be resolved in favor of the public interest. If a manager is required to take an action or make a decision that would substantially affect his or her financial interests or those of an associated business, unless the effect on the manager or commissioner is no greater than on other members of their business classification, profession, or occupation, the manager or commissioner must take the following actions:

- prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest (COI), and
- deliver a copy of the statement to the presiding officer of the board.

If a potential COI presents itself and there is insufficient time to comply, the manager or commissioner must orally inform the board regarding the potential conflict.

The Watershed and its employees will demonstrate professional integrity in the issuance and management of information. They will not knowingly sign, subscribe to, or permit the issuance of any statement or report that contains a misstatement or that omits any material facts. They will prepare and present information according to accepted practices and guidelines.

They will respect and protect privileged information they have access to because of their role. Within the framework of federal, state, or local government policy, they will be sensitive and responsive to inquiries from the public. (See Appendix A-13 and A-14)

Consultants should operate within the provisions of MN Rule 1805.0300. In all cases of actual or potential conflicts, transparency about the situation and reporting by and to all parties is of utmost importance. When developing a policy for consultants, a legal definition of COI must be developed, describing the evidence that is required, legal tests that must be met, and listing the legal and management remedies that may be available should be included.

Section 5. Watershed Administrator Roles and Responsibilities

The Watershed board may determine that professional staff should be hired to oversee the general operations of the Watershed. The board should determine its needs and ability to hire a part-time, full-time, or contract Administrator. A job description should be developed, and relevant materials gathered for distribution to Administrator candidates. Salary range depends upon location, jurisdiction, budget, etc. See Chapter 14, Personnel Management, for information regarding personnel. All laws regarding employment practices should be followed.

If a Watershed Administrator is hired, he or she serves as the primary staff for the Watershed. The Administrator oversees all the projects of the Watershed and reports to the Watershed board. If the Watershed chooses not to hire an administrator, the board members must conduct the work of the Watershed. For **WDs**, Administrators are typically an employee but can also be a contracted position. Administrator positions vary widely for **WMOs** and may be city, county, or SWCD staff, contractors or consultants, or actual employees. The Administrator is a key point of contact for the organization and the public. In this capacity, the Administrator plays the primary role of developing and maintaining positive relationships with agencies and LGUs. For information on the designation of "employee versus contract employee," refer to Appendix A-15.

General Role

The Administrator is often responsible for managing the daily operations of the Watershed including but not limited to: managing staff and providing leadership and guidance, overseeing operations and maintenance of building, capital equipment and administrative needs, keeping official records, filing legal reports and documents, budgeting operations and CIPs, project review and oversight, communicating with the public and public agencies and consultants hired by the Watershed and providing professional support to the board. Staff numbers range from one to several. For job descriptions for metropolitan and Greater Minnesota Administrators, see Appendix A-16 and A-17.

Project Management

The Administrator is responsible for the overall management of all projects and programs in the Watershed and provides regular updates to the board regarding progress status. The Administrator helps the board annually update and follow the guidance of the latest WMP, as authorized under M.S. Chapter 103D or M. S. Chapter 103B. In that role, it is necessary to initiate and maintain effective working relationships with local, state, and federal agencies, and their representatives.

Budgeting

The Administrator is responsible for fiscal planning and budgeting, and for obtaining the funding (through member assessments, levies, grants, or loans) required to support Watershed operations and the projects listed in the WMP. An annual report must be prepared and provided to BWSR in a timely manner. (M.S. Chapter 103D.351 or MN Rule 8410.0150)

Employee Supervision and Management

The Administrator is responsible for managing and supervising Watershed employees. This may include hiring and firing employees, or that task may instead be done by the board. The Administrator will comply with state and federal regulations and will assist the board in developing an employee manual that specifies employer and employee rights and responsibilities. As the primary office manager, the Administrator is responsible for maintaining an efficient office with professional employees. The Administrator is the public spokesperson and representative of the organization and is responsible for completing and maintaining required records and reports and representing the organization's interests. (See Appendix A-15)

Chapter 3. Meetings and Committees

Section 1. Open Meeting Law

Meetings of Watersheds are considered "public meetings." According to section 13D.01, local government meetings, when required or permitted by law to transact public business, must be open to the public. This includes a committee, subcommittee, board, department, or commission of the governing body Managers should consider a meeting as "public" unless it is allowed to be closed under statutory law. The public has the right to attend the meeting and observe the transaction of public business. If there is any question whether a meeting can be legally "closed" to the public, contact an attorney. (See Appendix B-01)

At least one copy of any printed material relating to the agenda items of the meeting and what is included in the board members' packets before and at the meeting must be available for inspection by the public at the meeting. (See Appendix B-02)

Votes on motions need to be recorded in a journal kept for that purpose and open to the public for review.

Quorum

Gatherings of less than a quorum (the minimum number of members of a committee or board who must be present before business can officially or legally be conducted) of a public body are not subject to the open meeting law. A "meeting" is held when the group can exercise decision-making powers. The Minnesota Supreme Court has held that the open meeting law applies only to a quorum or more of members of the governing body or a committee, subcommittee, board, department, or commission of the governing body. Serial meetings in groups of less than a quorum held to avoid open meeting law requirements may also be found to be a violation, depending on the facts of the situation.

Email Communication

A public body subject to the law should be cautious about using email to communicate with other managers. Although the statute does not specifically address the use of email, it is likely that the court would analyze the use of email in the same way as it has telephone conversations and letters. Private communication about official business through telephone conversations or letters by a quorum of a public body subject to the law, would violate the law.

Meetings by Interactive Technology

Non-state public bodies may conduct meetings by interactive technology if certain conditions are met as listed in 13D.02. If interactive technology is used to conduct a regular, special, or emergency meeting, the public body must provide notice of the regular meeting location and the fact that members may participate in the meeting by interactive technology. The timing and method of providing notice of the regular meeting location must be as described in section 13D.04.

Public bodies that are not a state-level public body may conduct a meeting using interactive technology under Minnesota Stat. sec. 13D.02 so long as:

- all members of the public body participating in the meeting, wherever their physical location, can see and hear each other, and can see and hear all discussion and testimony and all votes of members of the public body,
- members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of the members of the body,
- at least one member of the public body is physically present at the regular meeting location, and
- all votes are conducted by roll call so each member's vote can be identified and recorded;
- The public body must provide appropriate notice for this meeting. More information about notice for meetings is available here.

Advisory Opinion 18-019: The location of a member of a public body attending a meeting remotely under M.S. Chapter 13D.02 does not need to be within the territorial confines of the public body. However, the location must be open and accessible to the public and noticed properly.

Section 2. Board Meetings and Workshops

Each Watershed determines a board meeting and workshop schedule. The board meetings and workshops should be advertised as open meetings. If possible, the meetings should be held at a consistent time and location. The key to a productive meeting is in developing and following a consistent format. (See Appendix B-05)

Notices

The open meeting law includes specific requirements for noticing meetings. (M.S. Chapter 13D.04) A schedule of regular meetings must be kept on file in the primary office location of the Watershed. If a regular meeting is scheduled at a different time or place than usual, public notice needs to be handled as if it were a special meeting. Recessed or continued meetings do not need to be re-noticed, including cases where there is a public meeting. Closed meetings follow the same requirements.

Notices are required for regular meetings, special meetings, committee or subcommittee meetings, changes of meeting dates and times, and public hearings. Generally, public hearings are required for budget review and approval, watershed plan amendments, approval to proceed with a project, and rule adoption. (See Appendix B-06)

Special Meetings

There are special meeting notice requirements in M.S. Chapter 13D.04. Unless there is an emergency meeting or a special meeting otherwise required in another statute, the Watershed must post written notice of the date, time, place, and purpose of the meeting on the Watershed's principal bulletin board. If it does not have a bulletin board, the notice should be posted on the door of its usual meeting room.

If an individual filed a written request for notice of a special meeting, the Watershed must mail or deliver the notice to that person at least three days before the meeting is scheduled. An alternative to the targeted mailing is to publish the notice at least three days before the meeting in its official Watershed newspaper. If that is not available, the notice can be published in a "qualified newspaper of general circulation" in the Watershed's area.

An individual can file a request for notification only on a certain subject and the Watershed can set an expiration date for this notification. Sixty (60) days before the expiration date of a request for notice, the Watershed must send a notice to the person that the request needs to be refiled.

Closed Meetings

Meetings *may* be closed for the following reasons (See Appendix B-07):

- To evaluate the performance of an individual who is subject to its authority (probably an employee), provided that the individual is identified prior to closing the meeting. The meeting must be recorded, and the recording must be retained for at least three years. After reconvening in an open session, or at the next meeting, the chair must summarize the board's conclusion regarding the evaluation. The meeting must be open at the request of the individual who is the subject of the meeting.
- To consider strategy for labor negotiations. There must be a motion and a majority in favor of closing the meeting.
- If expressly authorized by statute or permitted by attorney-client privilege.
- Meetings with data not classified as public may be discussed at a meeting if the disclosure relates to a matter within the scope of the public body's authority as is reasonably necessary to conduct the business or agenda item before the public body.

Meetings *must* be closed if required by other law or if the following types of information will be discussed:

- The data would identify alleged victims or reporters of sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults.
- Active investigation data or internal data relating to allegations of law enforcement personnel misconduct collected or created by a state agency, statewide system, or political subdivision.
- Educational, health, medical, welfare, or mental health data that are not public data.
- For preliminary consideration of allegations or charges against an individual subject to the board's authority unless the individual requests that the meeting is open. If members conclude that discipline may be warranted, further meetings must be open. Notice requirements must be followed for a closed meeting.

Meetings cannot be closed:

- To discuss data classified as "not public data," which means any government data that is classified by statute, federal law, or temporary classification by the state Department of Administration as confidential, private, nonpublic, or protected nonpublic. This data may be discussed at a public meeting, providing that it relates to a matter that falls within the scope of the board's authority, is reasonably necessary to conduct the business or agenda item before the board and is done without malice. During such a meeting, however, the board must make reasonable efforts to protect "not public data" from disclosure, including acting by referencing a letter, number, or in some other way concealing the identity of the data subject.

Emergency Meetings

If an emergency meeting is scheduled, the Watershed needs to make a good faith effort to contact news media that has filed a written request for notice if the request includes the media's phone number. The notice must include the subject of the meeting.

Informational Meetings/Chance Meetings

The Minnesota Supreme Court has held that the open meeting law applies to all gatherings of members of a governing body, whether action is taken or contemplated. This means that a gathering of members of a public body for an informational seminar on matters currently facing the body or that might come before the body must be conducted openly, however, there are some exceptions:

- attendance at a training program if members do not discuss specific municipal business; and
- traveling together to visit sites and learn about projects without discussing or deciding matters.

The open meeting law does not apply to chance or social gatherings of members of a public body so long as watershed business is not discussed. A quorum of a public body may not, as a group, discuss or receive information regarding official business in any setting under the guise of a private social gathering.

Roberts Rules of Order

Roberts Rules of Order was first created in 1915 to provide common rules and procedures for deliberation and debate (parliamentary procedure) to conduct the business of the organization. Roberts Rules of Order may be used to help restore order in an unruly meeting. (See Appendix B-08)

Generally, the order of business using parliamentary procedure is as follows. This is a summary version of Robert's Rules, written by Beverly Kennedy from the website www.robertsrules.org.

- The meeting is called to order by the president.
- Roll call (if used).
- The minutes of the previous meeting may be referred to by the secretary and may be approved as read or may be approved with additions or corrections.
- The president states that the monthly statement of the treasurer is "received as read and filed.

for audit." No motion of approval is necessary.

- Reports from standing committees are called for by the chair.
- Reports from special committees are called for by the chair.
- Unfinished business is next in order at the call of the chair.
- New business is called for by the chair.
- If the meeting is an annual or special meeting, the program follows. The program is considered part of the meeting. The chair presides throughout the meeting.

Consent Agenda

A Consent Agenda is designed to assist meeting procedures by making meetings shorter and more efficient. Use of the Consent Agenda at meetings is permissive and at the discretion of the Watershed. Controversial items may not be placed on the Consent Agenda. Items placed on the Consent Agenda may not be discussed when the Consent Agenda comes before the board. Instead, if any manager or commissioner wishes to discuss a Consent Agenda item, the item must be removed from the Consent Agenda and placed in the appropriate place on the meeting agenda so the item can be discussed. The Consent Agenda must be approved by roll call vote. Approval of the Consent Agenda may be combined with approval of the entire agenda. (See Appendix B-02)

Action by Motion/Seconds

A motion is considered a parliamentary procedure. Motions can be used to introduce resolutions and actions, amend them, or take other actions.

Action by Resolution

As defined by Webster's Dictionary, a resolution is "a decision as to future action, a formal statement adopted by a group, or a solution to a problem." Resolutions can be used for any action that is temporary, routine, or administrative in nature. Courts may view motions that are approved and recorded as the equivalent of resolutions. (See Appendix B-09)

The purpose of a resolution is to provide support for an issue or action or to acknowledge a special event. The format can vary, but generally includes the following:

- WHEREAS: should clearly spell out what the problem is. It should justify the THEREFORE, BE IT RESOLVED part of the resolution. Use as many WHEREAS statements as necessary to explain the problem.
- THEREFORE, BE IT RESOLVED: should clearly spell out exactly what it is that you want to achieve. If you have clearly spelled out the problem in the WHEREAS portion, this will be a natural step.

Request for Agenda Time

A Watershed can set a policy for timelines for individuals or agencies who wish to be placed on the agenda. Those individuals or agencies should contact the Watershed in advance to find out how to be placed on the agenda. The request for agenda time must state the topic or topics to be discussed, identify the individual(s) to be presenting information, and include an estimate of presentation time needed. The president of the Watershed will review all requests for agenda time and will determine whether an item will be granted time on the agenda.

Requests for agenda time should describe the proposed topic or topics in sufficient detail to permit analysis of the request, and if a request for agenda time is considered too broad or vague, it will be returned to the submitter for more information. All requests for agenda time will be considered on a case-by-case basis, considering available time and resources, prior consideration of similar issues, the extent to which the proposed agenda item is within the Watershed's jurisdiction and statutory authority, and the perceived need for priority of action upon the specific proposed item.

The individual(s) should be encouraged to make comments during the "comments from the public" portion of the meeting rather than adding a specific agenda item.

Minutes

The purpose of the meeting minutes is to provide an official record of discussion and actions taken by the Watershed. They should be complete enough that upon review, one can understand discussion and actions taken. (See Appendix B-10)

Section 3. Public Hearings

Official notice is required for all public hearings. Generally, public hearings are required for budget review and approval, WMP amendments, approval to proceed with a project, and rule adoption. When required by statute, the Watershed should comply with the requirements to conduct a public hearing. (See Appendix B-11)

Listed below is a general outline for a Watershed to use for conducting public hearings. The steps identified can be modified to meet specific needs:

- The chair formally calls the public hearing to order promptly at the published time and states the purpose of the public hearing. The chair explains the hearing process to the audience.
- The chair states for the record that the notice of the meeting was given on the (day) of (month) of (year) in the (place) at least 10 days in advance of the hearing and as required by the applicable state statute.
- If many speakers are anticipated, the chair may state that all those people interested in making a statement must register on the speaker roster for the record. Speakers may be called in order if the chair chooses.
- The chair asks for a staff/consultant presentation on the proposed project or activity and staff recommendations.
- The chair asks for clarification questions from Watershed board members and then citizens.
- The chair calls on the applicant, if it is a permit, or petitioners, if a petition, to make a brief statement. Then, individuals interested in making a positive statement for the record are invited to come forward. Finally, those people interested in making a negative statement for the record are invited to testify.
- Questions from the board members or the audience concerning a particular statement should be addressed to the chair.
- The chair may ask for any other statements or remarks from board members, staff, or members of the audience before closing the hearing. The chair then summarizes the issue(s) expressed at the hearing.
- The chair accepts a motion to officially close the hearing or continue the hearing for further testimony.
- The chair explains that the Watershed board will deliberate and decide on the issue at this time or at a specific future date.
- When a decision is reached, a motion or resolution, which includes the findings/reasoning of the decision makers, will be offered by a board member. The chair restates or asks the secretary to restate the motion or resolution prior to voting.

Section 4. Citizen and Other Advisory Committees

WDs are required to appoint an advisory committee annually to advise and assist the managers on all matters affecting the interests of the **WD** and to make recommendations to the managers on all proposed projects and improvements within the **WD**. It must consist of at least five members. If possible, the members should include representatives from the following: each SWCD; each county; a sporting organization, a farming organization; and of each federally recognized Tribal government within the **WD**. The members must live in the **WD** except for representatives of the SWCD and the county. In addition, the managers may appoint other interested and technical people who may or may not reside within the watershed to serve at the pleasure of the managers. The members serve at the will of the board.

To fulfill their role, advisory committees elect a chair and recorder from its membership; establishes a meeting schedule and meets at least annually; considers issues pertinent to the functions and purposes of the watershed; reviews and comments on reports, minutes, activities, and proposed **WD** projects, and reports to the managers on the general content of the advisory committee meetings and recommendations made. (M.S. Chapter 103D.331) (See Appendix B-12)

Minnesota Rule 8410.0030, 1H requires that **WMOs** must develop a procedure to establish an advisory committee or other means of public participation. (See Appendix B-12)

BWSR's fact sheet regarding advisory committee formation indicates that the most important thing for success is to have a definite committee role. (See Appendix B-12) The advisory committee needs to know the role it plays and the value it is adding to the watershed management process. The advisory committee needs to know its relationship to the board and the wider public.

Roles of the advisory committee could include the following: identification of water resource issues; assisting in establishing program goals; assisting the board in considering issues; serving as a "sounding board" for the board; communicating between the watershed and community; carrying out watershed information and education activities; collecting information and data; generating new ideas and approaches; and carrying out delegated responsibilities.

The board may reimburse members of the advisory committee for actual traveling and other necessary expenses incurred in the performance of duties in the amount provided for state employees. (M.S. 103D.331, Subd. 3)

In addition to an advisory committee, a technical advisory committee is required for **metropolitan WDs**. (M.S. Chapter 103D.337) This committee should meet at least annually to advise throughout lengthier processes such as the development/amendment process for a WMP, development of watershed rules, and revisions to rules.

Section 5. Public Data Request Policy

A Watershed's files are open to the public unless classified as restricted under state or federal law. It is strongly recommended that individual districts adopt a policy on how to handle such requests. The Administrator of the Watershed should be designated as the official record keeper. Watersheds can ask individuals to schedule an appointment ahead of time to ensure that staff will be available to gather the information.

If copies of information are requested, the Watershed can charge for searching, retrieving, compiling, and copying costs. A charge should not be included to separate public from not public data. The charges should be justifiable. If reproduction of slides, large maps, plan sheets, videotapes, etc. is requested, prices may vary. All estimated charges could be billed in advance. No charges should be assessed if the files are inspected and no copies are requested.

If a request for data involves any person's receipt of copies of data that has commercial value and is a substantial and discrete portion of an entire formula, pattern, compilation, program, device, method, technique, process, database, or system developed with a significant expenditure of public funds by the Watershed, a reasonable fee could be charged for the information in addition to the costs of making, certifying, and compiling the copies.

If the Watershed determines that the requested data is classified and access will not be allowed, the Watershed will inform the individual requesting that information as soon as possible, citing the legal basis for the denial. (See Appendix B-13, B-14, and B-15)

Click here For the MN Government Data Practices Act.

Chapter 4. Watershed Planning and Reporting

The Watershed Management Plan (WMP) is one of the Watershed's most important tools for identifying problems as well as establishing long- and short-term strategies and goals. The goals and policies of the Watershed establish the basis for the Watershed's regulations and funding authority.

The **WD** consults with the BWSR Board Conservationist and board to review the plan development process and develop a public input process. (See Appendix B-17)

Section 1: Greater Minnesota WD WMPs

The WMP must give a narrative description of existing water resources, existing water-related problems within the **WD**, possible solutions to the problems, and the general objectives of the **WD**. The WMP must also conform closely with WMP guidelines as adopted and amended from time to time by the BWSR. The step-by-step process for the development and revision of a WMP can be found on the BWSR website.

The **WD** must adopt and maintain a WMP to exercise the powers and fulfill the purposes for which a **WD** may be established. Each WMP must include the following elements (M.S. 103D.401, Subd. 1):

- narrative description of existing water and water-related problems,
- possible solutions to the problems,
- general objectives of the **WD,**
- conform closely with WMP guidelines adopted by BWSR, and
- may include a separate section on proposed projects.

The authority to adopt and maintain a WMP under this section is retained notwithstanding a WD's participation in a comprehensive watershed management planning program pursuant to section 103B.801.

The **WD** must submit the WMP to the following for a 60-day review and comment period (M.S. Chapter 103D.401, Subd. 2):

- the county auditors of counties affected,
- the BWSR,
- the commissioner of the MDNR,
- municipalities in the **WD**,
- SWCDs in the **WD**

The **WD** must respond in writing to all comments by the reviewing parties at least ten (10) days before the public hearing (M.S. Chapter 103D.401, Subd. 2).

The managers must give proper notice of and hold a hearing on the proposed plan (M.S. Chapter 103D.401, Subd. 4). If the WMP is noncontroversial and specific notice and procedural requirements are followed, BWSR may approve a plan without a hearing (M.S. Chapter 103D.105, Subd. 2).

After the WMP hearing, the managers shall submit the draft plan with any amendments, all written comments received, a record of the public hearing, and a summary of incorporated changes as a result of the review process to BWSR. BWSR shall review the plan for conformance with chapter 103D and may disapprove all or parts of the plan if it does not conform to the statute. BWSR must complete its review within 90 days, and by order, approve, disapprove, or approve with conditions the WMP for the **WD**. (M.S. Chapter 103D.401, Subd. 5(a)(b))

A watershed district may seek reconsideration of a decision of BWSR concerning its plan or capital improvement program within 60 days of receiving the decision by filing an appeal to the board's dispute resolution committee established under section 103B.101, subdivision 10. The dispute resolution committee must complete its reconsideration and make a recommendation to BWSR, which must issue a final decision within 90 days of the appeal.

Within 120 days of the BWSR order, the managers must adopt a plan that is in compliance with the order. A copy of the order and approved WMP must be sent to BWSR, the county board of each county in the **WD**; the commissioner of the MDNR, the director of the Division of Ecological and Water Resources of the MDNR, and SWCDs in the **WD**. (M.S. Chapter 103D.401, Subd. 5) (Click to view a Greater Minnesota WMP)

Amended WMP

All amendments to an adopted plan shall be submitted to the towns, cities, counties, state review agencies, and BWSR for review, allowing at least 30 days for receipt of comments and directed that the comments be sent to the **WD** and BWSR. The WD must publish notice and hold a public meeting to explain the amendments. (M.S. Chapter 103D.401. Subd. 7)

The following changes to a plan do not require an amendment, but must be distributed to agencies and local units of government that receive an adopted plan:

- formatting or reorganizing the plan,
- revising a procedure meant to streamline administration of the plan,
- clarifying existing plan goals or policies,
- including additional data not requiring interpretation,
- expanding a public process, or
- adjusting how a WD carries out program activities within its discretion. (M.S. Chapter 103D.405 Subd. 7)

Revised WMP

The **WD** must revise the WMP at least once every ten years after the original WMP is approved. The following items must be included in the revised WMP: (M.S. Chapter 103D.405, Subd. 1)

- updates and supplements of the existing hydrological and other statistical data,
- specific projects and programs to be considered for implementation,
- statement of the extent that the purposes for which the **WD** had been established have been accomplished,
- description of problems requiring future action,
- summary of completed studies on active or planned projects, including financial data, and
- analysis of the effectiveness of the **WDs** rules and permits in achieving water management objectives.

The revised WMP must be transmitted, reviewed, recommended, and approved as provided in M.S. Chapter 103D.405, Subds. 2 to 4, and 6. .

Procedure to Extend a WMP

Extensions may be requested for participation in and use of information from a Watershed Restoration and Protection Strategy (WRAPS) and/or One Watershed, One Plan (1W1P) process. All requests for extensions to a plan must be initiated by petition to BWSR. For detailed process information see: Amendments and Extensions | MN Board of Water, Soil Resources (state.mn.us)

Section 2. Metropolitan WD and WMO WMPs

WMOs must also prepare, adopt, and implement WMPs, as described in M.S. Chapter 103B.231, Subd. 1. Metropolitan area Watershed's must develop their plans in compliance M.S. Chapter 103B and regulations as well as M.S. Chapter 103D. The requirements governing **WMOs** and **metropolitan WDs** are more specific than those governing non-metro **WDs**.

In addition to the previously given requirements (in Section 1 above), metropolitan WMPs must contain the following elements (M.S. Chapter 103B.231, Subd. 6):

- a description of the existing physical environment, land use, and development in the area and the environment, land use, and development proposed in existing local and metropolitan comprehensive plans,
- information on the hydrologic system and its components, including drainage systems previously constructed under M.S. Chapter 103E, and existing and potential problems related thereto,
- objectives and policies, including management principles, alternatives and modifications, water quality, and protection of natural characteristics,
- a management plan, including hydrologic and water quality conditions that will be sought and significant opportunities for improvement,
- a description of the effects of the plan on existing drainage systems,
- identification of high priority areas for wetland preservation, enhancement, restoration, and establishment and description of any conflicts with wetlands and land use in these areas
- a description of any conflicts with existing local government plans,
- an implementation program consistent with the management plan, which includes a capital improvement program and standards and schedules for amending the comprehensive plans and official controls of LGUs in the watershed to bring about conformance with the watershed plan, and
- a procedure and timeline for amending the plan.

Metropolitan Area Watershed Plan Review, Approval, Adoption, and Implementation

To ensure that the plans are coordinated with other local government and agency plans, **metropolitan WDs** must submit a draft plan for review and comment to (M.S. Chapter 103B.231, Subd. 7):

- all counties,
- the Metropolitan Council,
- the state review agencies (commissioners of natural resource, the MPCA, agriculture, and health),
- SWCDs,
- Towns,
- statutory and home rule charter cities, and
- adjoining **WMOs** and **metropolitan WDs**.

The **WMO** must respond in writing to any concerns expressed by the review agencies at least ten (10) days before the public hearing. The **WMO** must hold a public hearing on the draft plan no sooner than 14 days after the 60-day review period of the draft plan.

After completion of the review as described in statute and rule, all written comments, a record of the public hearing, and a summary of changes shall be submitted to the Metropolitan Council, state review agencies, and BWSR for final review. BWSR has 90 days to complete its review. (M.S. Chapter 103B.231, Subd. 9)

The **WMO** shall adopt and implement its plan within 120 days after approval by BWSR. (M.S. Chapter 103B.231, Subd. 10)

MN Rules Chapter 8410 establishes a structure for the planning process and requires close coordination with state, federal, and local agencies during the plan development process. The rules have the force of law.

Executive Summary

MN Rules Chapter 8410.0050 explains the requirements for the WMP Executive Summary:

- the purpose of the **WMO**,
- a map of the organization,
- the primary issues addressed in the plan,
- the main goals of the plan,
- the major actions in the plan, and
- the responsibilities of local governments related to implementation of the plan including any changes in responsibilities from the previous plan.

Land and Water Resources

MN Rules Chapter 8410.0060 provides specific guidance for land and water resources:

- topography,
- soil,
- general geology,
- precipitation,
- surface water resources including streams, lakes, wetlands, public waters, and public ditches,
- water quality and quantity including trends of key locations and 100-year flood levels and discharges,
- groundwater resources, including groundwater and surface water connections if defined in an approved and adopted county groundwater plan,
- storm water systems, drainage systems, and control structures,
- regulated pollutant sources and permitted wastewater discharges,
- fish and wildlife habitat and rare and endangered species,
- water-based recreation areas,
- existing land uses and proposed development in local and metropolitan comprehensive plans, and
- priority areas for wetland preservation, enhancement, restoration, and establishment.

Implementation Actions

MN Rules Chapter 8410.0105 contains the requirements for implementation actions including:

- capital improvement program,
- operation and maintenance programs,
- information and education program,
- data collection programs,
- regulatory program,
- incentive programs,
- watershed restoration and protection program, and
- local water plans.

Plan Amendments

MN Rules Chapter 8410.0140 contains the requirements for plan amendments.

- Each plan must contain a section entitled "Amendments to Plan" containing the year the plan extends to and establishing the process and who may initiate.
- The plan must extend at least five years, but no more than ten (10) years from the date of the approved plan.
- An organization must evaluate the implementation actions with the annual activity report a minimum of every two years.
- Amendments are not required for:
    - formatting or reorganization of the plan,
    - revision of a procedure meant to streamline administration of the plan,
    - clarification of existing plan goals or policies,
    - inclusion of additional data not requiring interpretation,
    - expansion of public process, or
    - adjustments to how an organization will carry out program activities within its discretion.
- Amendments must adhere to the review process provided in M.S. Chapter 103B.231, Subd. 11, except when the amendments are determined to be minor according to the following:
    - BWSR has agreed the amendments are minor or failed to act within five working days of the end of the comment period.
    - The organization has sent copies of the amendments to the plan review authorities for review and comment allowing at least 30 days for receipt of comments, has identified the minor amendment procedure is being followed, and directed comments to be sent to the organization.
    - No county board has filed an objection to the amendments within the comment period.
    - The organization has held a public meeting to explain the amendments and published legal notice of the meeting twice.
    - The amendments are not necessary to make the plan consistent with an approved and adopted county groundwater plan.
- Draft and final amendments may be sent electronically.
- Each organization must maintain a distribution list of agencies and individuals receiving a copy.

Local Water Management Plans

After the preparation of a metropolitan area WMP, each of the LGUs within must prepare a local WMP that conforms with the metropolitan area Watershed's plan (M.S. Chapter 103B.235). These local WMPs must contain:

- a description of existing and proposed physical environment and land use,
- definitions of drainage areas and the volumes, rates, and paths of stormwater runoff,
- identification of areas and elevations for stormwater storage adequate to meet the performance standards established in the watershed plan,
- definition of water quality and water quality protection methods adequate to meet performance standards established in the watershed plan,
- identification of regulated areas, and
- an implementation program, including a description of official controls and, as appropriate, a capital improvement program.

All local surface water management plans must be approved by the **metropolitan Watershed**. If the county or counties within the local unit have a state-approved and local adopted groundwater plan, the local unit shall submit its plan to the county or counties for review. The counties have 45 days to review. (M.S. Chapter 103B.235, Subd. 3)

Concurrently with its submission of its local WMP to the **WMO**, each LGU shall submit its WMP to the Metropolitan Council for review and comment. The council shall have 45 days to review and comment. (M.S. Chapter 103B.235, Subd. 3a)

After approval of the local plan by the **WMO**, the LGU must adopt and implement its plan within 120 days. (M.S. Chapter 103B.235, Subd. 4)

All local WMPs shall be submitted to the **WMO** for review and approval. (M.S. Chapter 103B. 235, Subd. 5)

MN Rules Chapter 8410.0160 provides additional specific guidance for the content of local watershed plans.

- Each local water plan must, at a minimum, meet the requirements for local WMPs in M.S. Chapter 103B.235, except as provided by the **WMO** plan under part MN Rules Chapter 8410.0105, Subp. 9.
- Each LGU must include the local water plan as a chapter of its WMP.
- Each local water plan must contain the following:
    - an executive summary,
    - appropriate water resource management-related agreements, including JPAs related to water management,
    - existing and proposed physical environment and land use must be described,
    - assessment of existing or potential water resource-related problems must be summarized, and
    - a local implementation program through the year the local water plan extends must describe nonstructural, programmatic, and structural solutions to the identified problems.
- A section entitled “Amendments to Plan.”
- After consideration and before adoption, the local water plan or amendments shall be submitted for review according to M.S. Chapter 103B.235.
- Each local water plan shall be adopted not more than two years before the local comprehensive plan is due.

NOTE: A word of caution is appropriate here. M.S. Chapter 103D.335, Subd. 23, in conjunction with M.S. Chapter 103B.211, Subd. 1, may potentially prevent a Watershed from exercising its land use controls (permitting and enforcement of regulations) if, after the Watershed approves a local plan, the LGU declines to authorize the Watershed to continue to enforce its regulations within the subject LGU. Due to this clause, Watersheds should be quite specific as to what regulations a member LGU must adopt and enforce as part of implementing its local plan. Further, Watersheds should include some mechanism for oversight should an LGU fail to enforce such regulations or grant variances directly in conflict with the Watershed’s policies and goals. There are several ways to provide for this oversight, including:

- a JPA,
- a memo of understanding between parties, or
- through an administrative procedural requirement that keeps the Watershed in the review process of specific projects (i.e., those that might require a variance).

Section 3. Dispute Resolution Processes

Through the Local Water Planning and Management Program, LGUs can ask for a meeting with the chair of the BWSR to resolve a dispute regarding a water plan. Watershed decisions and rules may be appealed to the BWSR under the authority of M.S. Chapter 103D.535 and M.S. Chapter 103D.537. Projects that are initiated and financed by Watersheds wholly within the metropolitan area under a state-approved and locally adopted surface water management plan under M.S. Chapter 103B.201 are not reviewable under this statute. (**Click to view a WMO WMP or to view a metro WD WMP**)

Section 4. Annual Reporting and Work Plan

All Watersheds must prepare a yearly report on the financial conditions, the status of all projects, the business transacted, other matters affecting the interests of the **WD**, and a discussion of the board's plans for the succeeding year. Copies of the report must be transmitted to the BWSR, the Commissioner of the MDNR, and the director of the Division of Ecological and Water Resources of the MDNR within a reasonable time. (M.S. Chapter 103D.351) (**Click here for a Greater Minnesota WD annual report**)

Metropolitan Watersheds must prepare and submit a yearly activity report (**click here for a metropolitan Watershed annual report**) in accordance with BWSR rules establishing (M.S. 103B.231, Subd. 14):

- annual **WMO** financial reports, including a report on administrative, project, and other expenditures,
- standards for annual financial audits, procedures to follow before ordering state financial and performance audits, and procedures for charging the costs of financial and performance audits to the **WMO**, and
- requirements for the content of annual activity reports which must include the number and type of permits issued, complains received, plan and ordinance violations, projects constructed, new officers installed, variances granted, status of local unit adoption and enforcement of model ordinance requirements, and financial conditions of the **WMO**.

Within 120 days of the end of the calendar year an annual activity report shall be submitted to BWSR, the Commissioner of the MDNR and the director of the Division of Ecological and Water Resources of the MDNR. All Watersheds must also submit an audit report to BWSR and the state auditor's office within 180 days of the end of the organization's fiscal year. The audit report must be prepared by a certified public accountant or the state auditor in the format required by the Government Accounting Standards Board. (MN Rules Chapter 8410.0150, Subp. 1)

More specific requirements are listed in MN Rules Chapter 8410.0150, Subp. 3 for **metropolitan Watershed**. Non-metropolitan **WDs** may want to include those details within their annual reports. The annual activity report must include the following information:

- a list of the organization's board members, names of designated officers, and the governmental organization that each board member represents for joint powers organizations and the county that each member is appointed by for Watersheds,
- identification of a contact person capable of answering questions about the organization including a postal and electronic mailing address and telephone number,
- an assessment of the previous year's annual work plan that indicates whether the stated activities were completed including the expenditures of each activity with respect to the approved budget unless included in the audit report,
- a work plan and budget for the current year specifying which activities will be undertaken,
- at a minimum of every two years, an evaluation of progress on goals and the implementation actions, including the capital improvement program, to determine if amendments to the implementation actions are necessary,
- a summary of significant trends of monitoring data,

- a copy of the annual communication,
- the organization's activities related to the biennial solicitations for interest proposals for legal, professional, or technical consultant services under M.S. 103B.227, Subd. 5,
- an evaluation of the status of local water plan adoption and local implementation of activities required by the watershed management organization during the previous year,
- the status of any locally adopted ordinances or rules required by the organization including their enforcement, and
- a summary of the permits and variances issued or denied and violations under rule or ordinance requirements of the organization or local water plan.

Newsletter

A **WMO** shall publish and distribute at least one newsletter or other appropriate written communication each year to its residents. The communication must explain the organization's water management programs and list the officers and telephone numbers. (**Click here for a WMO newsletter**)

Section 5. Performance Review and Assistance Program

The Performance Review and Assistance Program (PRAP) was authorized by the legislature (M.S. Chapter 103B.102) in 2007 to monitor and assess the performance of local water management entities. In addition to conducting reviews, BWSR uses this program to provide organizational improvement or assistance grants to LGUs in need and prepares an annual report to the legislature outlining the work conducted under the program. (See Appendix C-01)

In 2022, the program was redesigned to accommodate the ongoing transition from county based local WMPs to watershed planning. The program includes an Annual Statewide Summary and the following assessments:

- Annual Statewide Summary is an annual tabulation of required plans and reports for all LGUs.
- Organizational assessments are routine, interactive reviews to evaluate operational effectiveness, partner relationships, and whether the LGU has achieved WMP implementation goals.
- Watershed-based Assessments are routine reviews contacted with partnerships of LGUs working together to implement CWMPs. The assessment occurs when a CWMP has reached or passed the five-year plan evaluation and evaluates progress on plan implementation and partner working relationships.
- Special assessments are conducted with LGUs experiencing significant obstacles or performance deficiencies and may include BWSR Board action to assign penalties as authorized by statute.

An Organizational Assessment is designed to give BWSR and individual LGUs an overall assessment of the LGU's effectiveness in both the delivery and the effects of their efforts in conservation. The review looks at the implementation of county water plans, WMPs, and/or SWCD comprehensive action items and their compliance with BWSR's operational performance standards. These assessments also include surveys of board members, staff, and partners to assess internal and external effectiveness. Reviews are routine, and each LGU will be selected for an Organizational Assessment approximately every 10 years.

BWSR uses a performance standard checklist to assess four areas of operation: administration, planning, execution, and communication/coordination. The standards vary, based on LGU type and requirements, but are divided into two categories: basic and high performance. The basic standards describe practices that are either legally required or fundamental to LGU operations. The high performance standards describe practices that reflect a greater level of attention and effort. All LGUs should be meeting the basic standards.

Performance standard checklists and instructions can be found on the BWSR website.

- Greater Minnesota **WDs**: guidance and checklist.
- **Metropolitan WDs** and **WMOs**: guidance and checklist.
- CWMP: guidance and checklist. (See Appendix C-02)

Section 6. One Watershed, One Plan

Plans created through BWSR's One Watershed, One Plan (1W1P) program are called CWMPs and are described in M.S. Chapter 103B.801. The program framework consists of three parts: the suggested boundary map; procedures for establishing boundaries, requesting variances on boundaries, and appealing boundaries; and the criteria used to establish and consider requested variances from the suggested boundary map. (See Appendix C-03)

When the 1W1P planning process is initiated within a watershed area, all potentially affected units of government within the planning boundary should be invited to participate. SWCDs, counties, and 103D **WDs** are required to participate in the process. Participation by metro SWCDs, counties, **metropolitan WDs**, **WMOs**, and tribal nations is optional.

Once the participants are determined, participating partners must enter into a Memorandum of Agreement or another type of formal agreement. Planning agreements must identify the purpose, participants, procedures, and fiscal agent.

During the planning process, partners will identify programs essential to achieving goals and implementing the projects for the watershed. The partners must determine and identify the organizational structures, whether they are existing or new, that will most effectively and efficiently implement the plan.

The intent of the 1W1P program is to develop a high quality, long-term CWMP that builds off existing local, state, and tribal plans and data, as well as existing services and capacity, emphasizes watershed management and implementation through shorter-term work plans and budgeting, and can be updated via a streamlined process to incorporate or reference new data, trend analysis, changes in land use, and watershed priorities.

Specifics on the plan content requirements can be found in the 1W1P – Plan Content Requirements document. Steps include reviewing the information, drafting the plan, and determining the organizational structure for implementation.

After the plan has been drafted, the policy committee submits the plan on behalf of the local plan authorities to the plan review authorities within the planning boundary for formal review. Once submitted, there is a 60-day review period, followed by a public hearing.

After the public hearing, the policy committee submits the final draft plan for final review. Submittal must include a copy of all written comments received, a record of the public hearing, and a summary of responses to comments. The BWSR regional committee makes a recommendation to the BWSR board where the final decision is made. Appeals and disputes of plan decisions follow existing authorities and procedures of the BWSR board.

Adoption by the local plan authority is required within 120 days of BWSR board approval. Implementation may occur individually or cooperatively for all or parts of the plan depending on ongoing agreement(s) between the planning partners.

Assessment, evaluation, and reporting should be completed according to the approach described in the plan. Updates are required every 10 years.

Section 7. Annual Meeting

Annual meetings for Watersheds are optional. Organizations choosing to conduct annual meetings should consider a format to introduce the board/commissioners, staff, advisory committee, and consultants; present awards to groups or individuals who helped to preserve natural resources; and explain the budget, revenues, and expenditures. (See Appendix C-04)

Chapter 5. Rules and Permitting

Once a WMP has been approved by the State and locally adopted, a **WD** must adopt rules to implement the regulatory powers of the managers (M.S 103D.341, Subd. 1). The rules must be adopted or amended by a majority vote of the managers, after public notice and a hearing. Prior to adoption, the proposed rules must be submitted to BWSR for review and comment. BWSR has 45 days to provide written comments. The public transportation authorities within the **WD** also have 45 days for review and comment. Notice of hearings and adopted rules must be published in one or more legal newspapers. The adopted rules must be filed with the county recorder of each county in the **WD** (M.S. Chapter 103D.341, Subd. 2 (a)(b)(c)(d)).

Rules are typically implemented and enforced through the issuance of a permit. The board, at its discretion, may require the applicant to appear before them to give any testimony necessary for decision making. If the permit is issued, the applicant must abide by all the conditions of its issuance and be responsible for timely notification regarding when work begins so that proper observation and inspection can be made. If it is necessary for **WD** staff or a consultant to review the application and all exhibits and view the site, fees may be charged. (See Appendix C-05)

Section 1. Permit Application and Inspection Fees

WDs may set a permit application fee not to exceed $10. However, **WDs** may charge, in addition, a field inspection fee of at least $35. The inspection fee must be used to cover actual costs related to a field inspection. Inspection costs include investigation of the area affected by the proposed activity, analysis of the proposed activity, services of a consultant, and any required subsequent monitoring of the proposed activity. Costs of monitoring an activity authorized by permit may be charged and collected as necessary after issuance of the permit. Fees may not be charged to the federal government, the state, or a political subdivision (M.S. Chapter 103D.345, Subd. 1 and 2). **WDs** may also require a permit applicant to file a bond or other form of financial assurance (M.S. Chapter 103D.345, Subd. 4).

Section 2. Permit Bonds and Guidelines

Watersheds may require a permit applicant to file a bond or other form of financial assurance with the Watershed in an amount set by the managers and conditioned on performance by the applicant of authorized activities in conformance with the terms of the permit. (M.S. Chapter 103D.345, Subd. 4)

To comply with federal regulations for the bonding process, a Watershed must first secure the services of an underwriter. The underwriter will create and execute a plan for the issuance of a bond. The Watershed must retain a bond attorney. This is a specialized attorney who provides the opinion that the Watershed can issue tax exempt bonds. The Watershed must also retain a Municipal Advisor to assist with bond pricing.

This bond is often called an escrow deposit or surety and can be a bond, a letter of credit, or other form acceptable to the Watershed. It should be filed with the Watershed prior to the issuance of the permit and definitely prior to the commencement of work. When the work is completed in a satisfactory manner, the bond is released to the applicant, minus any charges. If the work is of the nature that the acceptable completion is difficult to determine immediately after the project is completed, the Watershed may retain the bond or a portion of the bond until the Watershed can determine the permitted activities are in conformance with the terms of the permit. If the Watershed determines that the work is not acceptable, the bond or escrow will be forfeited, and the Watershed will complete the work using those funds. A Watershed should have proper accounting practices in place for managing permit fees and bonds. (See Appendix G-01, G-02, G-03, G-04, G-05, G-06, G-07, and G-08)

Chapter 6. Annual Programs

Section 1. Monitoring and Data Acquisition

Most Watersheds should develop an annual monitoring program to collect physical, biological, and chemical information on its water resources. The data can be used to assess the health of the resources and determine if additional management activities are necessary. The annual program could include in-lake monitoring, water levels of watershed lakes, and after major storm events and tributary/outlet monitoring.

The Watershed should determine the purpose for data collection, set quality assurance/quality control objectives, and design a plan. The Survey and Data Acquisition Fund (SDAF) can be set up by the managers and is designed to pay for conducting necessary surveys and acquiring data. See M.S. Chapter 103D.905 Subd. 8 for more information on this fund.

Metropolitan Watersheds can participate in the Citizens Assisted Monitoring Program, a volunteer lake monitoring program through the Metropolitan Council that provides historical baseline data to help document water quality impacts.

In 2003, the MPCA published its Volunteer Surface Water Monitoring Guide to discuss goals and processes that help ensure that monitoring data acquired through volunteer programs meets quality assurance and quality control. One of the challenges facing water resource managers is the lack of data necessary to understand the quality of Minnesota's surface water resources. Volunteers have taken an active role in monitoring Minnesota's resources since the 1970s.

Section 2. Education, Outreach, and Media Communication

Public education and outreach are key elements to the success of watershed projects. The purpose is to communicate activities to constituents, as well as to increase awareness of water resource issues, and provide opportunities for stakeholders to improve water resources. An education and outreach program could include items such as: a media plan to widely distribute news releases and project reports; local school programs; fact sheets and newsletters; social media; the Watershed's website; workshops and information for local businesses; and a stewardship or cost-share program to fund local initiatives. Ongoing efforts will help build Watershed recognition and trust. It is helpful to create a list of programs and projects to guide education and outreach efforts. (See Appendix H-01)

Media Communication

It is important to provide the public, through the news media, with factual, accurate, and timely information about Watershed policies, programs, and activities as they relate to the management, protection, and use of water resources, as well as local, state, and federal programs. This could be done through radio and television, government communications, and newspapers. (See Appendix H-02, H-03, and H-04)

Instances may arise in which internal and external communications need to be managed to effectively handle a crisis. A crisis can be defined as any situation that threatens the Watershed's integrity or reputation. A crisis requires an immediate and coordinated response. (See Appendix H-05)

Minnesota Watersheds Website

The Minnesota Watersheds website provides basic information for watersheds and the public about

Watersheds and where they are in the state.

Watershed Websites

A basic, yet complete **WD** website should contain the following:

- contact information,
- office phone numbers and phone numbers for staff and managers,
- email addresses for staff and managers,
- **WD** mailing address and office address, if different,
- Other contractors (attorney, engineer, etc.),
- meeting dates, times, locations, meeting minutes, etc.,
- a list of the organization's board members including identification of designated officers and the county that each board member is appointed by, term, address, email address, and phone number,
- projects (competed and under construction), including any funded by grants requiring webpages,
- **WD** rules with permit applications and fee and surety schedules,
- 10-year WMP, and
- annual reports and financial audits.

A **WMO** shall have a website that, at a minimum, contains (MN Rules Chapter 8410.0150, Subpart 3a):

- location, time agenda, and minutes for meetings and hearings,
- contact information, including a person capable of answering questions about the organization,
- the current WMP,
- annual activity reports and audits for the past three years,
- rules and regulatory program, if any,
- a list of the organization's board members including identification of designated officers and the governmental organization that each board member represents and the county or township that each board member is appointed by, and
- a list of employees including postal and electronic mailing addresses and telephone numbers.
- The website shall be kept current monthly or more frequently.

To comply with a BWSR PRAP a Watershed website should include an annual report, financial statement, board members and contact information, grant report(s), WMP, meeting notices, agendas, and minutes updated after each meeting. The Minnesota Watersheds website contains a page with links to every member's webpage.

Section 3. Water Resource Protection, Restoration, and Flood Hazard Mitigation Grants and Loans

Water resource protection, restoration, and flood hazard mitigation can be assisted through multiple funding sources. Besides taxing and assessments, Watersheds can receive money from various state and federal grant and loan programs. The following provides a list of current state grant and loan programs. Since funding to these programs can change on an annual basis, the Watershed should verify that the program is still active.

- MDNR: Conservation Partners Legacy Grant Program
- MDNR: Flood Hazard Mitigation Grant Program
- MDNR: Aquatic Invasive Species Management Grant Program
- BWSR: Accelerated Implementation Grant
- BWSR: Multipurpose Drainage Management

- BWSR: CWF Soil Health
- BWSR: Projects and Practices
- BWSR: One Watershed One Plan Planning Grant
- BWSR: Watershed-based Implementation Funding
- BWSR: PRAP
- BWSR: Habitat Enhancement Landscape Pilot Program
- BWSR: Water Quality and Storage Pilot
- USFWS: North American Wetlands Conservation Act U.S. Standard Grants
- MPCA: Clean Water Partnership and Section 319 Funding
- MPCA: Surface Water Assessment Grants
- MPCA: WRAPS Projects

Chapter 7. Ad Valorem Funds

The first step in establishing a **WD** project is to determine the project's type or category. This is important because M.S. Chapter 103D, the Watershed Law, specifies different establishment criteria for various types of projects. For example, the act requires that a project that essentially accomplishes drainage must follow the proceedings in the Drainage Law (M.S. Chapter 103E), rather than the Watershed Law. **WMOs** only have ad valorem taxing authority if it is established through special legislation (M.S. Chapter 103B.245). (See Appendix D-01)

"Ad valorem" is a phrase meaning "in proportion to the value." It means a tax that is collected over the entire taxing district and is based on property value, rather than benefits. For example, if a **WD** wishes to raise $100,000 through an ad valorem tax, it would calculate a tax rate, expressed in percent, that is necessary to raise the $100,000 based on the total value of real property within the **WD**. This tax rate would then be used to determine the tax for individual properties by maintaining the same proportion of tax to value for all properties within the **WD**.

Section 1. Organizational Expense Fund

When a **WD** is first established or later enlarged it may levy for an Organizational Expense Fund. The fund is to pay for organizational expenses and preparation of the WMP. Unspent funds remaining in this account after organization and preparation of the WMP may be transferred to the General Fund. The **WD** may levy only ONCE upon creation or expansion for this fund. (The **WD** may levy each time it expands, but only in the newly included area.) The levy is an ad valorem tax levy. It cannot exceed 0.01596 percent of taxable market value or $60,000, whichever is less.

Managers may borrow from the affected counties up to 75 percent of the anticipated funds that would be collected from the organizational expense levy. The advancement of these funds needs to be apportioned among the affected counties in the same ratio as the net tax capacity of the area of the counties within the **WD** bears to the net tax capacity of the entire **WD**. If the **WD** is enlarged, an organizational expense fund may be levied against the area added to the **WD** in the same manner. (M.S. Chapter 103D.905, Subd. 1 and 2)

Section 2. General Fund

The purpose of the General Fund is to pay for general administrative expenses and for the construction or implementation and maintenance of projects that are projects of common benefit. A **WD** may levy annually for a General Fund. The levy consists of an ad valorem tax levy which may not exceed 0.096 percent of taxable market value or $500,000, whichever is less (M.S. Chapter 103D.905, Subd. 3). The amount of the annual levy for the fund must be determined and justified through the **WD's** annual budget process (M.S. Chapter 103D.911).

In addition to the annual general levy, the managers may annually levy to pay the cost of basic water management features of projects initiated by petition of a political subdivision within the **WD** or by petition of at least 50 resident owners whose property is within the **WD**. The annual levy cannot exceed 0.00798 percent of taxable market value for not more than 15 consecutive years. Political subdivision means a county, city, township, SWCD, school district, or other political subdivision of the state, but not a **WD**. (M.S.103D.905, Subd. 3)

Section 3. Bond Fund

A bond fund consists of the proceeds from special assessments, storm water charges, loan repayments, and ad valorem tax levies pledged by the **WD** for the payment of bonds or notes they have issued. (M.S. Chapter 103D.905, Subd. 4) (See Chapter 5. Section 2 for more information)

Section 4. Survey and Data Acquisition Fund

The Survey and Data Acquisition Fund (SDAF) is designed to pay for making necessary surveys and acquiring data. This fund is to be established only if other funds are not available to the **WD**. The SDAF is established by an ad valorem tax levy. The levy may only be collected once every five years. The maximum levy is 0.02418 percent of taxable market value of real property within the **WD** or $50,000, whichever is less. The fund balance cannot exceed $50,000. At the end of a five (5) year period, any balance remaining in the fund may have to be accounted for in the new levy to keep the fund balance below $50,000. (M.S. 103D.905, Subd.8)

The SDAF may be used to survey or investigate some type of issue at a landowner's request, obtaining survey information for a potential project, or implementation of a water quality monitoring program. For future projects where a survey has been paid for from this fund, the cost of the survey as determined by the managers will be included as part of the project work and the sum will be repaid to the SDAF.

Section 5. Liability Insurance

WDs are permitted to levy outside of the administrative levy for liability insurance as described in M.S. Chapter 466.06. "Liability insurance" gives **WDs** the same authority that cities and counties have to levy more than their local tax rate limitation for the purchase of liability insurance. In order to exercise this authority, a **WD** must identify the liability insurance premium as a separate line in its levy certification to the county and indicate that the premium amount is being levied under M.S. Chapter 466.06.

Section 6. Funds Generated through Collection of Charges

This provision allows a **WD**, through the amendment of its WMP, the authority to establish one or more water management districts (WMDs) within the territory of the **WD** for the purpose of collecting revenues and paying the costs of projects initiated under M.S. sections 103B.231, 103D.701, or 103D.730. This provision also allows revenue to be collected in the form of a charge or fee. The method for determining the fee is authorized by M.S. Chapter 444.075, Subd. 2a.

Examples of when to use a WMD (See Chapter 13 for more information):

- funding for clean water efforts,
- funding for Technical assistance for water management, or
- studies and other agency support.

Section 7. Adoption and Certification of Ad Valorem Levies

The following procedure is required for the adoption and certification of ad valorem tax levies (M.S. Chapter 103D.915):

- Advertise the budget hearing, including the proposed budget, two weeks prior to the hearing. The notice should include the time and location of the hearing. (See Appendix D-02, D-03, and

D-04)

- After the adoption of the budget, and no later than September 15, the secretary of the **WD** must certify the **WD'S** portion of the county tax to the auditor. (See Appendix D-05)
- Each county's share will be an amount bearing the same proportion to the total levy as the net tax capacity of the area of the county within the **WD** bears to the net tax capacity of the entire **WD**. The proposed levy is certified by sending each county a letter with the levy amounts itemized according to the statute that authorizes the levy. (See Appendix D-06)

The designated "home county" auditor apportions the levy among the various counties in the **WD** so that each county's levy bears to the total levy the same proportion as the tax capacity of the area within the county bears to the total tax capacity of the **WD** (M.S. Chapter 275.065, Subd. 1a). The "home county" is generally the county in which the **WD** office is located. A listing of the current **WDs** and home counties is included in Appendix D-07.

Certification of final levy: The final levy of the **WD** must be certified to the counties no later than five working days after December 20 (M.S. Chapter 275.07, Subd. 1). The **WD** secretary certifies the final levy by forwarding to each county the original resolutions of the board of managers authorizing each of the itemized levies and sends a letter stating that the levy is final.

In the case of a special taxing district, such as a **WD**, the final levy may be less than, equal to, or greater than the proposed levy (M.S. Chapter 275.065, Subd. 6). The final levy can be certified within the deadline for the proposed levy and stipulated to serve as both the proposed and final levy.

Collection of tax and distribution: the auditor of each county in the **WD** will add the amount of the levy made by the managers to the other tax levies on the property of the county within the **WD** for the collection by the county treasurer with other taxes. The county treasurer will make settlement of the taxes collected with the treasurer of the **WD** in the same manner as other taxes are distributed to the other political subdivisions.

Chapter 8. Watershed District Projects

Section 1. Project Initiation

"Project" means planning and development, construction, maintenance, repair, or improvement of a **WD** for a purpose for which the **WD** is established. (M.S. Chapter 103D.011, Subd. 21)

Projects may not be initiated until BWSR approves a WMP for the **WD**. A WD project must be initiated by:

- a project petition filed with the managers,
- by resolution of a majority of the members of the board of managers, or
- as otherwise prescribed in statute. (M.S. Chapter 103D.701)

Section 2. Projects Initiated by Petition

Many **WD** projects originate through a petition from landowners or local government within the **WD**. The following is general information on how a project is established after being initiated by petition.

A project within the **WD** that generally conforms to the WMP may be initiated by project petition. The petition must contain the following elements:

- a description of the proposed project and purpose,
- a description of the property where the project passes over or is located,
- a description of the part of the **WD** affected,
- an explanation of the necessity for the project,

- a statement that the project will be conducive to public health, convenience, and welfare,
- a statement that petitioners will pay all costs incurred if the proposed project does not materialize,
- a deposit or bond to pay such costs (M.S. Chapter 103D.705, Subd. 3),
- a given number of signatures, depending upon the project (M.S. Chapter 103D.705, Subd. 2), and
- If the petitioners wish to withdraw a petition, they may do so upon paying the costs and expenses.

If the managers determine that a proper project petition has been filed, that the proposed project promotes the public interest and welfare, is practicable, and conforms to the WD WMP, the managers must identify the project by name and number and designate an engineer to make surveys, maps, and a report on the proposed project. (M.S. Chapter 103D.705, Subd. 5)

Projects initiated under this section may be linked to M.S.103D.905, Subd. 3, which allows the use of a **WD** -wide ad valorem levy if the project is initiated by a municipality and the cost is attributable to implementing and managing the basic water management features of projects identified in the plan. A project process flow chart can be found in Appendix E-05.

Engineer's report

The engineer's report must include findings and recommendations about the proposed project. If the engineer finds the project feasible, a plan must be provided that includes a map of the project area, estimated total cost of completing the project, acreage required for right-of-way, and other details and information to inform the managers of the practicability and necessity of the project. (M.S. Chapter 103D.711, Subd. 2)

The engineer may adopt, approve, and include as a part of the engineer's report a project of the state or federal government that is pertinent to the project and may accept data, plats, plans, details, or information pertaining to the state or federal project given to the watershed district by the state or federal agency. (M.S. Chapter 103D.711, Subd. 3)

If the engineer's report is unfavorable, the managers have 35 days to set a place and time within the **WD** for a hearing to give the petitioners an opportunity to demonstrate why the petition should not be referred to the petitioners or dismissed. (M.S. Chapter 103D.711, Subd. 4)

Advisory Reports

The engineer's report must be filed with the BWSR and the MDNR. The agencies have 30 days to respond with an advisory report. (M.S. Chapter 103D.711, Subd. 5)

Hearing procedures

Within 35 days of the filing of the engineer's report, the appraisers' report, and the MDNR and BWSR advisory reports, the managers must order a final hearing. The notice of the hearing must be published. If the **WD** must acquire property to carry out the project, then the managers must record a notice of tendency in the county recorder's office. (M.S. Chapters 103D.735, 103D.741, and 103D.745)

If the hearing results in a modification of the plan and affects those not notified in the original notice, then the hearing must be adjourned, and the proper notice must be given. If the managers approve the project, the engineer shall be directed to prepare final plans and specifications.

If the project is established, an order must be filed with the secretary of the **WD**, and a certified copy filed with the following:

- the county auditor of each county affected,

- the BWSR,
- the commissioner of MDNR and the director of the MDNR Division of Waters,
- the MPCA, and
- the commissioner of the MDH.

Determination of Benefits and Damages

After the engineer's report is filed, if the project is proposed to be funded in whole or in part by assessments of benefited landowners, the managers shall, with the least possible delay, appoint three appraisers to help determine the benefits and damages to the property of the proposed project. Alternatively, the managers can determine the benefits and damages with the help of the engineer. (M.S. Chapters 103D.715 and 103D.721)

Assessments for benefits must be based upon the benefits to the property because of the project. Benefited property must include:

- all property receiving direct benefits, including property owned by the state or a political subdivision,
- all property that is contributing water to the project,
- all property for which the project provides improved drainage,
- all property that contributes waters that are stored, handled, or controlled by the project, and
- benefits to the state by reason of improvement of lakes, streams, or other bodies of water, and others. (M.S. Chapter 103D.725)

Section 3. Projects Initiated by Managers

A majority of the members of the board of managers may initiate a project by resolution if the project generally conforms with the **WD** WMP. (See Appendix E-04) A project may be funded from one or more funding sources available to the WD. Appointing appraisers is only required if the project is funded in whole or in part by assessment. (M.S. Chapter 103D.707)

For projects initiated by the managers according to section 103D.707, the managers may decide at any time not to proceed to final hearing. (M.S. Chapter 103D.711, Subd. 6)

Section 4. Contracts and Bids for Construction

WDs and **WMOs** are authorized by statute to enter into contracts. A contract means an agreement for the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair, or maintenance of real or personal property. (M.S. Chapter 471.345) After it has been determined that the project will be established, the **WD** or **WMO** must call for bids for the construction work. Bid notice must be published in at least one of the newspapers of the state where notices are usually published. Bids which exceed the total cost of construction by more than thirty (30) percent must follow M.S. Chapter 103E.511. (See Appendix E-01, E-02, and E-03)

- Contracts over $175,000. If the contract amount is estimated to exceed $175,000, sealed bids solicited by public notice in the manner and subject to the requirements of the law governing contracts are required. With regard to repairs and maintenance of ditches, the provisions of section 103E.705, subdivisions 5, 6, and 7, apply. (M.S. Chapter 471.345, Subd. 3)
- Contracts over $175,000; best value alternative. As an alternative to the procurement alternative described above, a contract may be awarded for construction, alteration, repair or maintenance work to the vendor or contractor offering the best value as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c). (M.S. Chapter 471.345, Subd. 3a)
- Contracts over $175,000; construction manager at risk alternative. As an alternative to the procurement methods described above, a contract may be awarded for construction, alteration,

repair, or maintenance work to a construction manager at risk as provided in section 471. (M.S. Chapter 471.345, Subd. 3b)

- Contracts exceeding $25,000 but not $175,000. If the amount of the contract is estimated to exceed $25,000 but not to exceed $175,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. (M.S. Chapter 471.345, Subd. 4)
- Contracts exceeding $25,000 but not $175,000; best value alternative. As an alternative to the procurement method described in subdivision 4, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c). (M.S. Chapter 471.345, Subd. 4a)
- Contracts $25,000 or less. If the amount of the contract is estimated to be $25,000 or less, the contract may be made either upon quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Alternatively, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c). (M.S. Chapter 471.345, Subd. 5)

Section 5. Project Bids and Construction, State Project Funds, and Prevailing Wage Rules

WDs and **WMOs** are authorized by statute to construct projects using state funds. It is the policy of the state of Minnesota that wages of laborers, workers, and mechanics on projects financed in whole or part by state funds should be comparable to wages paid for similar work in the community as a whole. (M.S. Chapter 177.41)

Prevailing wage rules apply to any state funding award (Clean Water Fund, Outdoor Heritage Fund, General Fund) of $25,000 or more that qualifies as a "project" in M.S. 177.42, Subd. 2: demolition, erection, construction, alteration, improvement, restoration, remodeling, or repairing of a public building, structure, facility, land, or other public work, which includes any work suitable for and intended for use by the public, or for the public benefit, financed in whole or part by state funds. Project also includes demolition, erection, construction, alteration, improvement, restoration, remodeling, or repairing of a building, structure, facility, land, or public work when the acquisition of property, predesign, design, or demolition is financed in whole or part by state funds.

If a grantee is unsure if their project is subject to prevailing wage, the Department of Labor and Industry's (DLI) Project Assessment Form should be completed and submitted to the appropriate funder.

When prevailing wage applies, all bid requests and RFPs must state that the project is subject to prevailing wage to ensure that incoming bids have factored prevailing wage rates into their submittal. A prevailing wage form should accompany these bid submittals. All work on a project must be performed under contracts that specifically include the following language:

- "*Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this contract is subject to the prevailing wages as established by the Minnesota Department of Labor and Industry. Specifically, all contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties.*"

The contract for a project must specifically state the prevailing wage rates, prevailing hours of labor and hourly basic rates of pay. The contract for a project must also provide that the grant recipients and project owners shall demand and the contractor and subcontractor shall furnish copies of any and all certified payroll reports not more than 14 days after the end of each pay period. The DLI has prepared the following memo: Prevailing Wage Job Classification and Code Guidance for Grant Recipients and Contractors for Restoration, Conservation, and Similar Types of Projects.

For more information and resources on prevailing wage, please visit DLI's webpage.

Section 6. Emergency Projects of Common Benefit Fund

If the **WD** finds that an emergency exists and that immediate action must be taken, they may declare an emergency and designate the location, nature, and extent of the emergency. Once declared, they may order that work be done under the direction of the managers and the engineer without a contract. The project may be paid for in one of the following ways:

- the cost of work may be assessed against benefited properties,
- if the cost is not more than 25 percent of the most recent general ad valorem levy of the watershed and the work is found to be of common benefit to the **WD**, funding may be raised by an ad valorem tax levy upon all taxable property within the **WD**, or
- both methods can be used.

The purpose of this levy is to pay the costs of projects that protect the interest of the **WD** when associated with a declaration of an emergency. If the work is found to be of common benefit to the **WD**, funding may be raised by an ad valorem tax levy upon all taxable property within the watershed if the cost is not more than 25 percent of the most recent general ad valorem levy of the **WD**. This ad valorem authority may be combined with assessments against benefited property to pay costs associated with emergency work performed without a contract. (M.S. Chapter 103D.615, Subd. 3)

Section 7. Project Maintenance

Managers are responsible for maintaining the projects of the **WD** in an effective condition. The cost of normal or routine maintenance of the **WDs** projects, and the cost of removing obstructions and accumulations of foreign substances from a drainage system, must be paid from the **WD's** maintenance fund. (M.S. Chapters 103D.631, 103D.635). If the cost of a repair, including all fees and costs relating to it, is less than $25,000, the **WD** may have the work done by contract without advertising for bids (M.S. Chapter 103D.641).

Repairs and improvements exceeding normal maintenance require an engineer to prepare technical and cost specifications (M.S. Chapter 103D.635). A public hearing must be held before the work can be ordered. A single levy for the repair or improvement may not exceed the amount of the benefits originally determined.

Section 8. Storm water facilities/storm water utilities

M.S.103D.729 allows a **WD** to establish a WMD for the purpose of collecting revenue to pay the cost of projects, including storm water facilities. WMDs are established through revision of the **WD's** WMP. The amended plan must clearly identify the area to be included in the WMD, the amount of the necessary charges, the method used to determine charges, and the length of time the WMD will be used. M.S. Chapter 444.075, Subd. 2a and 2b permits **WDs** to collect the charges in any manner it chooses and allows certification to the county to collect the charges. (See Appendix E-06)

M.S. Chapter 103D.730 allows **WDs** to build, construct, reconstruct, repair, enlarge, improve, or in any other manner obtain storm water systems, including mains, holding areas and ponds, and related facilities for the collection and disposal of storm water. It also allows them to maintain and operate the facilities and acquire land and easements. Guidance for creating a WMD can be found here on the BWSR website.

Chapter 9. Drainage Law Funds

Section 1. Preliminary Fund

This fund is used for preliminary work on proposed projects of the **WD**. The fund must be established by the District Court. A fund can be established both for projects that are petitioned and for projects the managers initiate. The fund can be established both for projects that are to be paid for by assessment and for projects that are to be paid for by a combination of assessment and ad valorem, such as basic water management features of a project. When a project is ordered, the fund (i.e. county) must be repaid by assessment. If a project is not ordered, repayment could be made from ad valorem. (M.S. Chapter 103D.905, Subd. 6)

Section 2. Construction or Implementation Fund

A construction or implementation fund consists of (M.S. Chapter 103D.905, Subd. 5):

- proceeds of **WD** bonds or notes or of the sale of county bonds,
- construction or implementation loans or grants from the state or from any agency of the federal government, and
- special assessments, storm water charges, loan repayments, and ad valorem tax levies levied or to be levied to supply funds for the construction or implementation of the projects of the **WD** including reservoirs, ditches, dikes, canals, channels, storm water facilities, sewage treatment facilities, wells, and other works, and the expenses incident to and connected with the construction or implementation.

Construction or implementation loans or grants from the state or from an agency of the federal government may be repaid from the proceeds of **WD** bonds or notes or from the collections of storm water charges, loan repayments, ad valorem tax levies, or special assessments on properties benefited by the project.

Section 3. Repair and Maintenance Funds

The purpose of this fund is to provide money for maintaining the projects of a **WD** to ensure the projects will be effective. The cost of normal or routine maintenance of the projects and the cost of removing obstructions/foreign substances from a drainage system may be paid from the maintenance fund. (M.S. Chapter 103D.905, Subd. 2)

Managers may assess all the parcels of property and municipal corporations previously assessed for benefits at the time of construction. The assessment must be made pro rata according to benefits determined. The collection (or levy) resulting from an assessment may be made annually; however, the fund may not exceed 20 percent of the original cost of construction of the project. Before ordering the levy, the managers may give notice of a hearing on making the assessment and establishing the maintenance fund.

Section 4. Adoption and Certification of Assessment Levies

Assessment levies are used to collect funds for construction, maintenance, or other activities authorized by M.S. Chapter 103D.901 and ordered by the **WD**. They are costs that are apportioned based on benefit received. The procedure for assessment levies does vary between the different types of projects and activities.

The following funds are supplied through assessment levies: the Preliminary Fund, the Construction Fund, the Repair and Maintenance Fund, and the Emergency Projects for Benefited Property Fund.

These are the steps involved in the adoption and certification of assessment levies:

- Determination of benefits (M.S. Chapters 103D.715, 103D.721, and 103D.725). After receipt of a favorable engineer's report, the **WD** will have a determination of benefits and damages to property affected by the proposed project done. This determination can be made by the appointed appraisers or by the managers themselves. For construction or improvement of a ditch, stream, river, or watercourse, or structures for the control or alleviation of damages from flood waters, the appraisers need to comply with Minnesota Drainage Law in M.S. Chapters 103E.311, 103E.315, and 103E.321.
- Final hearings are required for projects constructed under the Watershed Law (M.S. Chapter 103D.745) and the Minnesota Drainage Law (M.S. Chapter 103E.335).
- Order establishing project. For projects constructed under either the Watershed Law (M.S. Chapter 103D.745) or the Drainage Law (M.S. Chapter 103E.335.341) the **WD** will by order establish the project.

An Assessment May Not Exceed Benefits

As assessment may not be levied against property or corporations under M.S. Chapter 103E.341 in excess of the amount of benefits received, as set by the order of the managers for the construction of the project.

Section 5. Funds Generated through Bond Sales

A **WD** may establish a Bond Fund consisting of the proceeds of special assessments, storm water charges, loan repayments, and ad valorem tax levies pledged by the **WD** for the payment of bonds or notes issued by the **WD**. The fund is to be used for the payment of the principal, premium, or administrative surcharge and the interest on the bonds and notes issued by the **WD** and for payments required to be made to the federal government. (M.S. Chapter 103D.905, Subd. 4)

Chapter 10. Drainage Systems and Projects

Construction of new drainage systems or improvements of existing drainage systems in the **WD** must be initiated by filing a petition with the managers. (M.S. Chapter 103D.625, Subd. 4) The proceedings for the construction or improvement of drainage systems in the **WD** must conform to chapter 103E, except for repairs and maintenance done pursuant to M.S. Chapter 103D.621, Subd. 4.

A county board or a joint county drainage authority may direct a **WD** to assume responsibility for a drainage system within the **WD** (M.S. Chapter 103D.625). After the transfer, any repairs, improvements, or construction must take place under Minnesota Drainage Law, M.S. Chapter 103E.

Pay special attention when using this fund to ensure that the work being performed is an actual repair and not an improvement under M.S. Chapter 103E. The term "repair" means to restore all or a part of a drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved, including re-sloping of ditches and leveling of spoil banks if necessary to prevent further deterioration, realignment to original construction if necessary to restore the effectiveness of the drainage system, and routine operations that may be required to remove obstructions and maintain the efficiency of the drainage system. "Repair" also includes:

1. incidental straightening of a tile system resulting from the tile-laying technology used to replace tiles, and
2. replacement of tiles with the next larger size that is readily available, if the original size is not readily available.

Repairs affecting public waters. Before a repair is ordered, the drainage authority must notify the commissioner if the repair may affect public waters.

After the construction of a drainage system has been completed, the drainage authority shall maintain the drainage system that is in its jurisdiction, including the permanent strips of perennial vegetation under M.S. Chapter 103E.021, and provide the repairs necessary to make the drainage system efficient. The drainage authority shall have the drainage system inspected on a regular basis by an inspection committee of the drainage authority or a drainage inspector appointed by the drainage authority. Open drainage ditches shall be inspected at a minimum of every five years when no violation is corrected. If a violation is found or it is deemed a repair is needed, it is the duty of the **WD** to enforce the violation, remedy, or to make the necessary and needed repairs.

A repair is designed to bring the drainage system back to its originally "as constructed" state, even if it was not originally constructed to the original engineer's designs and plans. The side slopes may be brought back, if needed to solve erosion problems, but the original ditch bottom cannot be widened or deepened. To do so would constitute an improvement to the original as-built drainage system.

An "improvement" means the tiling, enlarging, extending, straightening, or deepening of an established and constructed drainage system including construction of ditches to realign or replace tile and construction of tile to replace a ditch. An improvement requires that a petition process required by statute be followed and requires engineering reports and public hearings. Essentially, an improvement constitutes a hydrologic change to the function of an "as constructed" existing drainage system, whether by changing culver sizes, widening the ditch bottom, or deepening the ditch bottom.

Because of problems related to urban growth and development in the metro area, M.S. Chapter 103D.621 gives **metropolitan Watersheds** the authority to improve and repair any drainage system that has been transferred to the **WD** using special assessments, as long as the governing bodies of the cities and towns within the **WDs** agree. Therefore, **metropolitan Watersheds** may repair and improve drainage systems either with special assessments or through the procedures outlined in M.S. Chapter 103E.

These are the steps involved in the adoption and certification of assessment levies:

- Determination of benefits (M.S. Chapters 103D.715, 103D.721, and 103D.725). After receipt of a favorable engineer's report, the **WD** will have a determination of benefits and damages to property affected by the proposed project done. This determination can be made by the appointed appraisers or by the managers themselves. For construction or improvement of a ditch, stream, river, or watercourse, or structures for the control or alleviation of damages from flood waters, the appraisers need to comply with Minnesota Drainage Law in M.S. Chapters 103E.311, 103E.315, and 103E.321.
- Preliminary hearings. For projects constructed under the Drainage Law a preliminary hearing is required after the preliminary survey report is filed with the county auditor. (M.S. Chapter 103E.261)
- Final hearings. Final hearings are required for projects constructed under the Watershed Law (M.S. Chapter 103D.745) and the Minnesota Drainage Law (M.S. Chapter 103E.335).
- Order establishing project. For projects constructed under either the Watershed Law (M.S. Chapter 103D.745) or the Drainage Law (M.S. Chapter 103E.341) the **WD** will by order establish the project.
- Drainage lien statement. After the managers file an approved drainage lien statement listing the property and corporations benefited or damaged or otherwise affected by the project with the auditor of the affected county, the auditor will assess and collect the amount specified in the assessment statement against the property, municipalities, or other corporations. (M.S. Chapter 103E.601)
- County funding. After the drainage lien statement is filed with the auditor, the county board of

each affected county will provide funds to meet the proportionate share of the total cost of the project. The county may issue bonds to cover its proportionate share of the project. (M.S. Chapter 103E.641)

Two excellent publications exist that can be very useful for **WD** managers and staff in understanding their responsibilities under the drainage law (M.S. Chapter 103E) and the procedures it requires are found on the BWSR website: "Understanding Minnesota Public Drainage Law" and "Minnesota Public Drainage Manual". (See Appendix F-01, F-02, F-03, F-04, and F-05)

Chapter 11. Metro Watershed Projects and Funding

Section 1. Watershed Plans and Projects

M.S. Chapter 103B.251 gives authority to **metropolitan Watersheds** to levy an amount necessary to pay the increased costs to prepare a WMP and to implement projects identified in an approved and adopted WMP under M.S. Chapters 103B.231 and 103B.235 or for projects identified in an approved and adopted plan necessary to implement the purposes of M.S. Chapter 103B.201. A separate fund needs to be created and expended only for these purposes. Proceeds from this levy may also be accumulated as an alternative to issuing bonds to finance improvements. (M.S. 103B.241)

Section 2. Capital Improvements Fund

M.S. Chapter 103B.251 Subd. 6 gives authority to all **metropolitan Watersheds** to certify for payment by the county all or part of the cost of a capital improvement contained in a WMP approved and adopted under M.S. Chapter 103B.231. The authority provided to **WMOs** and **WDs** in this section is in addition to the authority provided in Chapter 103D. The ad valorem tax may be levied over the entire **metropolitan Watershed** or apportioned among one or more subwatershed units which would be established as tax districts. **metropolitan Watersheds** should submit their certifications for payment to the county as soon as possible, but no later than September 15, for payment to be made that year. For payments to be made each year, September 15 should be used as the absolute deadline instead of September 30 as stated in M.S. 103B.251, Subd. 6. A diagram of how CIP projects can be funded is found here on the BWSR website.

Section 3. Maintenance of Capital Improvement Funds

M.S. 103B.251, Subd. 6 gives authority to all **metropolitan Watersheds** to collect an ad valorem levy from all property located within the watershed or subwatershed unit for the purpose of creating a maintenance fund to be used for normal and routine maintenance of a work of improvement. The county must approve the fund. The improvement must have been constructed at least partially with money provided by the county under M.S. 103B.251, Subd. 6 and a separate account needs to be established.

Chapter 12. Fiscal Management

Section 1. Budgeting

A **WD** must adopt and certify to the auditor of each county a budget on or before September 15 of each year and decide on the total amount necessary to be raised from ad valorem tax levies to meet the **WD's** budget. (M.S. Chapter 103D.911) (See Appendix D-04 and D-05)

A **WMO** is required to develop a work plan and budget for the current year specifying which activities will be undertaken. (MN Rules Chapter 8410.0150, Subp. 3. D)

The budget is likely the best policy tool available to the board because it is not a wish list, but rather a reflection of where the Watershed's priorities have been, are today, and will lead in the future. What's more, it is the law; once adopted it sets the legal guidelines for spending. (See Appendix D-08, D-09, D-10, and D-11)

The process of developing and monitoring the budget requires the cooperative effort of the board of managers or commissioners, as well as staff, advisory committees, and others who have a stake in the Watershed's activities.

Accounting Process

(Source: LMC Handbook for Cities www.lmnc.org)
Watersheds use a double-entry accounting system. Each account is divided into two parts, known as the debit side and the credit side. Every transaction is entered as credit in one account and as a debit in another account. For the bookkeeping system, the total of all debit balances in accounts must equal the total of all credit balances. This required balance provides a continuing accuracy check.

Every financial transaction involves two fundamental steps. First, the transaction must be entered into a journal or book of original entry showing financial transactions in their chronological order. Then, once entered in this book, each transaction should be posted to an appropriate account in a ledger or book of accounts. Each ledger account summarizes all the transactions for a particular purpose or of a particular nature. There are several software options available, such as Quicken, QuickBooks, Microsoft Money, etc.

Budgets are an added guarantee that expenditures will occur in accordance with the Watershed's intent and the organization of the accounts should facilitate the budgetary process.

A budget formulated to a definite work program and performance places emphasis on the amounts needed to perform services and activities. It also provides a concrete method to accurately relate costs to different levels or qualities of services on a regular basis.

Responsibility

It is the board members' responsibility to adopt a budget that allocates resources in response to the Watershed's goals. To do that, managers or commissioners need to understand the budget and how it relates to the Watershed's goals, review draft presentations, raise questions, and at times make changes.

Budget Structure

If the budget presented is only a ledger of revenues collected and dollars expended, the Watershed should consider an overhaul of the budget process. A good budget structure should include:

- A budget message that explains key changes from previous years and a summary of revenues and expenditures.
- Expenditure information that distinguishes between operating and capital expenditures. In some Watersheds, a separate long-range capital budget is approved by the Watershed on an annual basis. The current year portion of that budget is then incorporated into the annual budget.

At a minimum, the Watershed should structure budgeted and actual expenditures so that they include the following information:

- Watershed program or activity: i.e., maintenance, data acquisition, ditch X fund, special programs.
- Revenue by source: i.e., property taxes, special assessments, fees and charges, and other revenue and fund balances.
- Expenditures by activity: i.e., salaries and wages, professional services, travel, training, capital equipment, projects, debt service, etc.

Budget Cycle

The process the board goes through will determine the Watershed's success in achieving its goals, fulfilling its mission, and implementing the WMP. At a minimum, the board should consider the following:

- Setting budget goals: These should start with a review of the Watershed's statutory obligations, responsibilities, and WMP priorities. The board should review current water management programs, needs and priorities, considering how they relate to longer range goals of the Watershed. These goals require a cooperative effort between the board, staff, and other parties that have a stake in the goals.
- Translate goals to programs: Once the budget goals and plan priorities are set, someone needs to plan the details, such as how much it will cost to implement a water quality project, maintain the structure/ditch, what type of studies are necessary, and what actions and objectives need immediate attention and resources.

M.S. Chapter 103D indicates that **WDs** can implement the following programs:

- General: conducting the business of the **WD** (M.S. Chapter 103D.321, .325, .355, 501, .735, .901, .905, and .915)
- Regulation: administering the **WD's** rules and permits (M.S. Chapter 103D.341 and .345)
- Planning: administering the **WD's** WMP and budgets (M.S. Chapter 103D.351, .401, and .911)
- Maintenance (M.S. Chapter 103D.631 and .635)
- Capital Projects (M.S. Chapter 103D.501 and .621)
- Public Relations: administering the requirements of reporting to and notifying the public (M.S. Chapter 103D.531, .735, .745, and .911)

Joint powers agreements establishing a **WMO** or amending an existing agreement shall at a minimum include:

- procedures for annual establishment of a work plan and budget (MN Rules Chapter 8410.0020, Subp. 1.G),
- formula for determining the share of the annual operating budget for each of the organization's members or a description of revenue generating authorities the organization will utilize (MN Rules Chapter 8410.0030, Subp. 1.I), and
- a section specifying the compensation for members of a joint powers board (MN Rules Chapter 8410.0020, Subp. 1.L)

Adopting the Budget

WDs must publish a notice of a public hearing once a week for two successive weeks before the hearing. The budget and levy certification and certification by the county must be adopted on or before September 15th of each year. M.S. Chapter 103D.911 requires that the managers hold a public hearing before adopting a budget. If board members have done a good job in clarifying goals and describing how they will be achieved, then the board should be comfortable with the draft budget. When reviewing the draft budget, the board should consider whether it addresses the goals identified by the board. If cuts are needed, board members will weigh the importance of various services and goals and consider whether there may be more efficient ways of providing the services or tasks. Although this will involve trade-offs and tough choices, clear policies, and WMP priorities will make the work easier.

Implementing and Evaluating the Budget

For a budget to be helpful, the budget structure must be reflected in the Watershed's chart of accounts. This will allow the Watershed to use the budget to monitor expenditures, revenues, and performance. It is essential that actual accounting transactions affecting the budget be classified in a manner consistent with the budget structure.

In implementing the budget, the board needs to actively oversee the program implementation to determine if goals are being achieved. To do this, a system of periodic reports is necessary.

Section 2. Audit

The managers of a **WD** must have an annual audit completed of the books and accounts. The annual audit may be conducted by a public accountant or by the state auditor. An audit by the state auditor may be initiated by a petition from the resident owners of the **WD** or resolution of the managers. The petition must request an annual audit pursuant to the authority grant municipalities under M.S. Chapter 6.54 and 6.55. The **WD** must pay the state the total cost and expenses, including the salaries paid to the examiners while engaged in doing the examination. The managers must make and submit reports demanded by the state auditor. The managers shall submit the annual audit report to BWSR and the state auditor's office within 180 days of the end of the **WD's** fiscal year. (M.S. Chapters 103D.355)

If a public accountant in the process of auditing discovers evidence suggesting nonfeasance, misfeasance, or malfeasance by an employee or officer of the public entity, the public accountant needs to make a prompt report to the county and state auditor per M.S. Chapter 6.67. This is also covered under M.S. Chapter 609.456.

Requirements for an Audit

Audits provide valuable information that helps managers make important policy decisions. Key questions should be asked of an auditor (Source: LMC Handbook for Cities)

- How is our Watershed doing financially? The answer will be based on how close the fund balances are to the amounts planned in the budget.
- Are financial statements consistent with the adopted budget? Significant variations should be identified and the reasons for the variations discussed.
- What steps can our Watershed take to improve financial operations and our financial health? Auditors may have suggestions for internal controls and should be asked to comment on actions taken during the last fiscal year to address concerns raised in prior audits.
- Are revenues generated by enterprise funds adequate to cover expenses and debt service requirements? If not, a rate adjustment may be needed.
- Is the Watershed using revenues from one fund to subsidize another? The extent and rationale for the subsidy should be examined.
- Is the Watershed relying on a revenue source that may be susceptible to change?
- Are there any lawsuits or other contingencies that could affect Watershed finances?

Federal Audit Requirements

Federal law requires states and all LGUs that receive more than $100,000 per year in federal funds to obtain a single, independent, organization-wide audit of their operations. Federal financial assistance includes cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, and direct appropriations.

Procedure for State Audit of a WMO

BWSR is required to use a procedure described in MN Rules Chapter 8410.0150, Subp. 4 to determine whether to order a state financial or performance audit of an organization. This is done when a complaint is filed with the BWSR Executive Director requesting the board order a state audit. Valid grounds for requesting a state audit include the mishandling or misuse of public funds or documented failure to implement an approved WMP.

Section 3. Treasury

Treasury management is the process of managing the monies of the Watershed to obtain the maximum cash availability and maximum yield on invested cash while ensuring that the amount of principal is protected from loss and invested in accordance with the laws of Minnesota. It represents an important component of financial management for the Watershed.

Section 4. Banking

A Watershed can use a single bank account except for funds which must be kept, by law, in a separate account. Despite this integration, there must be separate bookkeeping accounts for each fund.

Section 5. Debt and Borrowing

Managers may borrow funds from an agency of the federal government, a state agency, a county where the Watershed is located or a financial institution authorized under M.S. Chapter 47 to do business in the state. A county board may lend the amount requested by the **WD**. A **WD** may not have more than $2,000,000 in loans from counties and financial institutions at any time. (M.S. Chapter 103D.335, Subd. 17)

Chapter 13. Water Management Districts and Water Management Charge Systems

Section 1. Water Management Districts

A Water Management District (WMD) is a means to plan, organize, manage, and finance a response to the growing problem of stormwater and surface water runoff caused by human influence on the landscape including both agricultural and urban development. (See Appendix E-06)

In the past, **WDs** were able to put stormwater management issues on the bottom of the stack of things needing their attention. In recent years, however, greater development of agricultural lands, increased urbanization, and tougher environmental regulations have increased the need for stormwater management. Current stormwater problems need to be addressed, and long-range plans need to be developed to minimize future problems.

Stormwater management can no longer be addressed solely by building bigger ditches, pipes, and drains to get rid of stormwater. Stormwater management needs to be looked at from a total water resources point of view. All properties, regardless of their location in a watershed, have an impact on water resources. Rain that used to be absorbed into the ground must go somewhere. A properly designed stormwater management system can prevent flooding and environmental degradation and improve living conditions within the watershed. More information can be found here on the BWSR website.

Section 2. Funding Stormwater Management

Increased demand for stormwater improvements, coupled with federal and state water quality standards, require that the amount of revenue devoted to stormwater management be increased.

In the past, stormwater management was funded primarily through the general fund, that is, by property taxes or through special assessments. Funding by property taxes is inequitable because: 1) tax-exempt properties generate stormwater but do not contribute revenue toward stormwater management; and 2) the assessed value of a property, which determines its property tax, is not always proportional to the property's relative contribution to or use of a stormwater system.

Funding by special assessments does not address watershed-wide stormwater management needs. However, by creating a WMD, a **WD** can, through the collection of a water management charge system, establish a major source of dedicated revenue that will adequately support stormwater management through a fair and equitable billing system.

Section 3. Generation of Revenue

Whether referring to a water management charge or a stormwater utility fee, in all cases revenue is generated by collecting a fee or charge that is assigned to each parcel of land within the WMD. The amount of the charge or fee, per M.S. Chapter 444.075, Subd. 2a, will generally be based on the quantity, pollution qualities, and difficulty of disposal of stormwater produced.

There are numerous methods that can be used to develop the rate structure or runoff coefficients that are used to calculate a parcel's stormwater charge. One common method is the Equivalent Hydraulic Acre (EHA) method. This method charges all parcels (including undeveloped) a fee based on their relative contribution of stormwater runoff to the stormwater system, referred to as EHA. The number of EHAs is determined by multiplying the impervious area of a parcel by an impervious runoff factor and multiplying the parcel's pervious area by a pervious runoff factor and totaling the results. This total is then multiplied by a water quality factor. To increase efficiency, flat rates will often be developed for typical or similar parcels, such as residential lots.

Section 4. Watershed District Authority

WDs can build, construct, reconstruct, repair, enlarge, improve, or in another manner obtain stormwater systems, including mains, holding areas and ponds, and other appurtenances and related facilities for the collection and disposal of stormwater. Under authority granted by M.S. Chapter 103D.729, **WDs** may establish a WMD for the purpose of collecting revenues and paying the costs of projects initiated under M.S. Chapter 103B.231, 103D.701, or 103D.730.

Section 5. Defining Stormwater Systems

In many local ordinances "stormwater system or systems" is defined as: all rivers, streams, tributaries, and lakes within the boundary of the LGU and all LGU-owned storm sewers, culverts, curbs, gutters, streets, retention and detention facilities, lift stations, and all other appurtenances now and hereafter existing, used, or useful, in connection with the collection, control, transportation, treatment, or discharge of stormwater.

This broadly accepted definition of stormwater systems should provide **WDs** with a great deal of flexibility in defining what constitutes the stormwater system within its jurisdiction and the projects and/or programs that can be funded with a stormwater utility.

Section 6. Benefits to a Watershed

Fees charged to property owners are based on the actual characteristics of stormwater, such as quality or quantity, generated by each parcel. During development of a stormwater utility, hydrologic calculations and/or water quality models are used to determine the amount of runoff or pollutants each parcel or type of land use is contributing to the stormwater system being addressed.

The amount of runoff or the amount of pollutants becomes the basis for determining how much each parcel will be charged. The utility then becomes based on the premise of "users pay."

Through the installation of BMPs, such as ponding or water quality buffer strips, property owners can be credited for these improvements and have their fee reduced. This allows the **WD** to "reward" property owners for implementing water quantity and quality practices on their property.

The most common method of financing currently used by the **WD** is special assessments. This method has worked well for traditional drainage and flood control projects where the determination of direct benefit to a parcel of land is straight forward. However, special assessments do not work well when a **WD** is attempting to undertake water quality projects or manage stormwater conveyance systems, due to the difficulty in assessing a direct benefit attributed to water quality and to the many small parcels that occur in urbanized areas. Properties such as schools, churches, and government buildings, which are generally large producers of runoff, can be included in a stormwater utility fee.

Section 7. Steps Necessary to Establish a WMD and Water Management Charge System

Based on a review of the statutory requirements relating to establishment of a WMD by a **WD**, the following steps have been identified as necessary to establish a WMD, which is the first phase of developing a stormwater utility.

Step 1: Amend WMP to create a WMD

Amendment must include:

- A description of the area to be included in the WMD.
- The amount to be raised by charges (total amount is necessary if fixed time for WMD to be in force, otherwise annual maximum (cap) amount if WMD is established in perpetuity).
- The method that will be used to determine the charges.
- The length of time the WMD will be in force (perpetuity is acceptable).

Step 2: Approval of WMP amendment

- Revised WMP, or petition and amendment, sent to BWSR. (M.S. Chapter 103D.401 and/or M.S. Chapter 103D.405)
- Managers give legal notice and holds a hearing if necessary.
- BWSR approves the revised WMP or amendment.
- Managers notify counties, cities, and SWCDs.
- **WD** maintains file of all properties within the WMD.

Step 3: **WD** establishes project(s) in the WMD

- Projects implemented must be ordered by the **WD**.
- Order for "Project" must specify funding method(s).
- **WD** must notify counties, cities, and towns within the affected area at least 10 days prior to a hearing or decision on "Projects" implemented under this section of statute.

Step 4: **WD** refines methodology for computing charges based on final "Project" scope

Step 5: **WD** determines and sets charges

- For all properties within the WMD after identifying scope of "Project" and deciding method(s) of funding "Project."

Step 6: **WD** develops collection mechanism

- Request county to collect. Contract with private vendor (e.g., electric cooperative).
- Billing and collection by **WD**.

Step 7: **WD** establishes a separate revenue fund

- for proceeds collected from the fee or stormwater utility charges.

Step 8: Resolution of Disputes

- Local governments may request BWSR to resolve disputes pursuant to M.S. Chapter 103D.729, Subd. 4, except a local appeal process must be completed first for disputes involving WMDs established in perpetuity.

Section 8. Charge Collection

Several options exist for the collection of stormwater utility charges, including:

- The county can collect the charge in any manner it determines, including collecting as part of

the property tax.
- Contracting with a private vendor, such as an electric cooperative, and
- Billing and collecting by the **WD** itself.

In all cases the costs to do the billing and collection can be paid for as an administrative expense of the stormwater utility program.

See BWSR website for addition information.

Chapter 14. Personnel Management

(Resources: LMC and the Rice Creek Watershed District)

Section 1. Administrative Staff

Developing Personnel Records

The Watershed board and Administrator should be aware of legal requirements regarding personnel management, such as: minimum wage laws and anti-discrimination. Watersheds must comply with the Minnesota Government Data Practices Act, which states that all data on personnel is private, unless classified by law as public.

The Department of Administration provides accounting, budgeting, and human resources services to the state's small agencies, boards, and councils through its Small Agency Resource Team, also known as the SmART program. For more information, contact SmART.

Federal and state laws require that employers keep personnel data when a person is employed, was employed, or applied for employment with the Watershed. Information on a person who volunteers for the Watershed or is a member of an advisory board or commission may also be considered personnel data.

An employee or personnel file should include the employee's application, resume, an offer of employment, performance evaluations, training records, and discipline records. It should contain a Watershed employment history including compensation, positions held, promotions, and attendance. Upon request, an individual may review their own personnel file.

A separate file should be created for employee medical information. It contains medical-benefit enrollment forms, emergency contacts, workers' compensation claim information, sick-leave forms, physician's notes, prescription information, and any documents relating to the Americans with Disabilities Act and the Family and Medical Leave Act.

Effective January 1, 2024, Minnesota's earned sick and safe time law requires employers to provide paid leave to employees who work in the state. Sick and safe time is paid leave employers must provide to employees in Minnesota that can be used for certain reasons, including when an employee is sick, to care for a sick family member, or to seek assistance if an employee or their family member has experienced domestic abuse. (See Appendix A-18) See Appendix A-19 for an example policy.

Minnesota Paid Leave is a new program for Minnesotans that begins on January 1, 2026. It provides paid time off when a serious health condition prevents you from working, when you need time to care for a family member or a new child, for certain military-related events, or for certain personal safety issues.

There are two main types of leave.
- Family Leave to care for a family member with a serious health condition, or if you're bonding with a new baby or child in your family.
- Medical Leave when your own serious health condition prevents you from working.

A comparison of Earned Sick and Safe Time and Paid Leave can be found here.

A payroll file could be created which is used for storing pay-related information, including attendance records, time sheets, Form W-4, and any forms authorizing payroll deductions.

The employee is responsible for providing the Watershed with current personal contact information (name, address, telephone, fax, e-mail), required tax information on a W-2 form, insurance beneficiaries and emergency contacts as well as other information deemed necessary. (See Appendix A-15 for an Example Personnel Manual)

Section 2. Personnel Management Structures

The Watershed's board and Administrator should define personnel management objectives and roles. Personnel management requires cooperation in developing objectives and defining management roles. To meet those objectives, the personnel structure should include the following: a classification and pay plan, job descriptions, performance appraisals, comprehensive personnel policies and procedures, an efficient documentation procedure, and a record-keeping system.

Section 3. Recruitment and Termination of Public Employees

Recruitment

The Federal Fair Labor Standards Act (FLSA) provides for minimum wage, overtime compensation, and record-keeping. Minnesota also has a fair labor standards law that sets minimum wage and overtime compensation requirements for employees (M.S. Chapter 177.21 to 177.35)

Watersheds must post a summary of FLSA in a "conspicuous and accessible place in or about the employee work premises."

FLSA requires Watersheds to pay at least the federal minimum wage to all non-exempt employees, pay at least one and one-half times the employee's regular rate of pay for all hours worked over 40 in the workweek, or grant compensatory time off at the rate of one and one-half hours off for each hour worked over 40 in the work week; pay overtime wages on the regular payday for the pay period in which the wages were earned; comply with the child labor standards; and comply with recordkeeping requirements.

Employee Versus Independent Contractor

For federal income tax purposes, the Internal Revenue Service (IRS) has criteria which determine whether federal income tax should be withheld. The Department of Labor (DOL) has similar criteria. The IRS test involves whether the work is continual and whether workers are required to work a specific number of hours. Under the DOL's test, the determining factor is the amount of control the employer has over "when and how long a worker works" and "over how the worker accomplishes the assigned tasks."

Searching for Employees

Watersheds may place ads in local and regional newspapers and on various governmental websites. Minnesota's Job Bank is an internet-based self-service system where member employers can place ads by themselves. Membership is free. Call 952-346-4330 for instructions. Information is also available at www.mnworkforcecenter.org. Watershed Administrators are encouraged to contact people they know at agencies such as the MPCA, MDNR, and the MDA. The BWSR sends notices to SWCDs, Watersheds, and county water planners. The Minnesota Department of Employee Relations has a website for job openings. The University of Minnesota's Water Resource Center will send the job opening to its list of water resource science graduate students. Send an e-mail with the job announcement requesting the notice be sent water resource science graduate students to: wrs@umn.edu.

The LMC publishes job openings on their website and in their publication called the "Bulletin," for a small fee for non-members. Contact the League at 651-215-4030.

Minnesota Watersheds lists job openings on its website at: https://www.mnwatersheds.com/job-opportunities.

Word-of-mouth is one of the most successful ways to identify potential employees. Watershed Administrators are encouraged to contact Minnesota Watersheds, other Watershed Administrators, as well as contacts in cities and counties within their Watersheds.

Section 4. Compensation

Pay Equity

The Local Government Pay Equity Act (Comparable Worth) requires the adoption of job evaluation systems. They establish equitable compensation relationships between classes of employees. It defines an equitable compensation relationship as one where "the compensation for female-dominated classes is not consistently below the compensation for male-dominated classes of comparable work value." In addition, it indicates that the Act does not affect the requirement that employers and employees must bargain in good faith. Local governments are required to have a job evaluation system to determine the "comparable work value of the work performed by each class of employees." Local governments can use the state job match, use, or modify systems used by other public employers, design their own system, or purchase a privately-owned (consultant's) system. Local governments that employ one or more people must file a report with the state every five years. The information in the report is public information under the MGDPA.

Pay Equity Implementation Report

Watersheds with one or more employees must file a pay equity implementation report every three years as required by the department. Per MN Statutes 179A.03, subdivision 14: Generally, an employee is one who works an average of at least 14 hours per week or 35 percent of the normal work week and 67 working days per calendar year; or one who works in a position filled for more than 67 working days in a calendar year. See Minnesota Statutes for further information on temporary, seasonal, and student employees. The information in the report is public data governed by Chapter 13D. The form which Watersheds must use is provided by the department. Based on the pay equity implementation report and any other information requested by the department, several tests are used to analyze the information submitted and determine compliance/noncompliance. Detailed information on testing methods is available in MN Rules Chapter 3920.0400.

The Federal Equal Pay Act prohibits employers from discriminating based on sex by paying one sex differently than the other for equal work on jobs that requires equal effort and responsibility, which are performed under similar working conditions.

Section 5. Working Conditions for Public Employees

Workers' Compensation

Watersheds must pay workers' compensation benefits to their employees for all injuries from accidents arising out of and during their employment with the Watershed. All Watersheds meeting statutory requirements must post information regarding workers' compensation employee coverage in a conspicuous place, such as: rights and obligations under the law, assistance available, and the name and address of the workers' compensation insurance carrier. (M.S. Chapter 176)

Occupational Safety and Health Act

The Minnesota Occupational Safety and Health Act (OSHA) was enacted to reduce the number of safety and health hazards at work. Employers are required to post notices that inform employees of their rights and obligations under OSHA and to contact the Watershed or the DOL for assistance and information. Employers are required to post an annual summary of any occupational injuries or illnesses as well. (M.S. Chapter 182.653)

OSHA standards are established by the State of Minnesota through rules in MN Rules Chapter 5210. They are as effective or could be more effective than those promulgated by the federal government.

Hazardous Substances

Watersheds must provide working conditions and places of employment that protect employees from hazards likely to cause death, serious injury, or harm their employees. Safety information and training must be provided for employees routinely exposed to hazardous substances or harmful physical agents.

Right to Refuse to Work

If employees feel they are endangered due to exposure to hazardous materials or substances or if the employer has not provided training and information, employees can refuse to work with that substance or agent. If the employer does not reassign that employee to another area, the employee may refuse to work and still be paid.

Inspection

The commissioner or a representative of the DOL regulates inspections and can inspect the Watershed office and off-site premises. Watersheds must assist the DOL by supplying information and providing the necessary personnel or inspection aids. Employers or associations of employers can assist in the development of safety standards with the department.

Employees or their representatives can request inspections if they have reason to believe that a violation of safety or health standards exists. The Watershed needs to be notified of the inspection. If the DOL finds a violation, the commissioner must issue a citation within six months. An order can be issued to require the employer to remedy the situation. The order cannot be for more than three days. Employers can contest citations.

Penalties

Fines for willfully and knowingly violating any standard, rule, or order can be subject to a fine of not more than $70,000 for each violation. In addition, there are other penalties, including $7000 for violation of posting requirements, $7000 for violating citations, and up to $7000 per day for continuing violations. False statements and knowing and willful violations are subject to criminal penalties. Employees can request a hearing if they feel they have been dismissed or discriminated against because of exercising their rights under the Act. The DOL can order employers to cease and desist, rehire or reinstate the employee, and provide financial support to which the employee is entitled.

Section 6. Retirement

In general, the federal Age Discrimination in Employment Act prohibits local governments from establishing mandatory retirement ages for any employee or type of employee. The Age Discrimination in Employment Act and Minnesota Statutes allows cities to establish mandatory retirement ages for police and fire personnel. (M.S. Chapters 353 and 471)

Continued Payment of Health Care Benefits

State law authorizes employer payments of premiums for group insurance coverage of retired employees. An employer is not obligated to fund all or part of the cost of health care benefits for a former employee beyond the termination of the contract or personnel policy.

Consolidated Omnibus Budget Reconciliation Act

Congress passed the Consolidated Omnibus Budget Reconciliation Act (COBRA) health benefit provisions in 1986. The law amends the Employee Retirement Income Security Act, the Internal Revenue Code, and the Public Health Service Act to provide continuation of group health coverage that otherwise might be terminated.

COBRA provides certain former employees, retirees, spouses, former spouses, and dependent children the right to temporary continuation of health coverage at group rates. This coverage, however, is only available when coverage is lost due to certain specific events. Group health coverage for COBRA participants is usually more expensive than health coverage for active employees, since usually the employer pays a part of the premium for active employees while COBRA participants generally pay the entire premium themselves. It is ordinarily less expensive, though, than individual health coverage.

There are three elements to qualifying for COBRA benefits. COBRA establishes specific criteria for plans, qualified beneficiaries, and qualifying events. The law generally covers health plans maintained by private-sector employers with 20 or more employees, employee organizations, or state or local governments.

Qualified beneficiaries must be given an election period during which each qualified beneficiary may choose whether to elect COBRA coverage. Each qualified beneficiary may independently elect COBRA coverage. A covered employee or the covered employee's spouse may elect COBRA coverage on behalf of all other qualified beneficiaries. A parent or legal guardian may elect on behalf of a minor child. Qualified beneficiaries must be given at least 60 days for the election.

Under COBRA, participants, covered spouses, and dependent children may continue their plan coverage for a limited time when they would otherwise lose coverage due to a particular event, such as divorce or legal separation. A covered employee's spouse who would lose coverage due to a divorce may elect continuation coverage under the plan for a maximum of 36 months. Beneficiaries may be required to pay for COBRA coverage.

Section 7. Tennessen Warning Notice

What is a Tennessen warning notice?

The government must give individuals notice when collecting private or confidential information from them. This is referred to as a "Tennessen warning notice." Government may also call it a "privacy notice," a "notice of collection of private/confidential data," or something similar. The purpose of the notice is to enable people to make informed decisions about whether to give information about themselves to the government. (See M.S. Chapter 13.04 Subd. 2) (See Appendix A-15)

What must the notice include?

- The reason government is collecting the data,
- how government plans to use the data,
- whether the person is legally required to provide the data or may refuse to do so,
- consequences if the person provides the data,
- consequences if the person does not provide the data, and
- the identities of people and entities that have access to the data by law. (For example, all notices should include that data may be shared upon court order or provided to the state or legislative auditor.
- Note regarding private data on minors: Entities must provide minors with notice that they have the right to request that parental access to private data be denied. Entities may consider including this notice in the Tennessen Warning notice when collecting the data (See Minnesota Rules 1205.0500).

When does a government entity not have to give a Tennessen warning notice?

- The individual volunteers the data - the entity did not ask for it;
- The data are not about the individual being asked;
- The data about the individual are public; or
- The individual is asked to provide criminal investigative data to a law enforcement officer under Minnesota Statutes, section 13.82.

What happens if the government does not provide the notice?
With limited exceptions, a government entity may not collect, store, use, or disseminate private or confidential data for any purpose other than those specified in the Tennessen warning notice, or per Minnesota Statutes section 13.05, subdivision 4. (Advisory Opinion 95-028) If an entity fails to give the Tennessen warning notice, the entity may not use or store the information received for any purpose or must obtain informed consent.

Other Considerations

- A government entity should seek legal advice when developing Tennessen warning notices.
- A government entity should not try to develop an all-purpose Tennessen warning notice; each notice should be tailored for the specific program or reason for collecting the data.
- Notices do not need to be in writing. However, the government should ask the individual to sign and date the notice and give her/him a copy as a best practice. (An e-form could provide a way for the recipients to indicate that they have read and understood the notice.)
- "Reverse Tennessen warning." While the government does not need to give notice when collecting public data, it might consider doing so in some circumstances. For example, data about a member of the public requesting access to public data are public and an entity could explain that to a data requester.
- Government entities may only collect data on individuals if it is necessary to administer a program specifically authorized or required by law (see Minnesota Statutes, section 13.05, subdivision 3).
- Government entities must give a Garrity warning notice when conducting some personnel investigation interviews. This may be combined with a Tennessen warning notice.

Chapter 15. Records Management

Records management is the systematic care of records throughout their lifecycle—ensuring they are created to meet legal and administrative needs, retained, and disposed of based on analysis of their function and value, and preserved properly while remaining accessible.

Managing the records of Watersheds is important and essential work. Not only do records help conduct operations, but they also preserve the organization's memory and document their activities. When organized and maintained properly, they can be an organization's greatest asset. (See Appendix B-16)

Section 1. Financial Records

Watersheds should have the following suggested records:

- Books of original entry. This should include the general journal, a cash receipts ledger, a voucher or check register, a payroll register, and a bond and interest register.
- Ledgers or books of account. This should include the general ledger, revenue ledger, expenditure ledger and other subsidiary ledgers.

The Watershed should maintain a separate accounting for each separate fund.

At periodic intervals, preferably at the end of each month, an accounting report called a "financial statement" should be prepared for each individual fund and for the Watershed as a whole. The report should show the financial condition of each fund at that time.

Financial statements are one of the most important instruments of administrative control. In addition to checking the accuracy of the accounting records, financial statements help keep the managers and commissioners aware of the Watershed's financial condition and the way the budget is being executed. Financial statements should supplement, not replace, other periodic reports dealing specifically with the execution of the budget.

Section 2. Taxes

Watersheds must file federal and state payroll returns either monthly or quarterly, as well as sales and use tax reports. Since there are no legal requirements for retention, record keeping should follow your Records Retention Schedule (See Appendix B-16) and applicable adopted policies.

Section 3. Government Records

Access to Minnesota government records is guaranteed and regulated by M.S. Chapter 13 and MN Rules Chapter 1205.

State law (M.S. Chapter 15.17) requires all LGUs, including Watersheds, to "make and preserve all records necessary for a full and accurate knowledge of their official activities." Minnesota statutes further state that the chief administrative officer of the office or agency is responsible for creating and preserving government records. It follows in the normal course of doing business that all staff members share this responsibility by following the Watershed's policies and procedures.

Government data refers to all data collected, created, received, maintained, or disseminated by a government agency regardless of its physical form, storage media, or conditions of use. Government records can include correspondence, maps, memoranda, papers, photographs, reports, writings, recordings, e-mail, and other documentary material. Records can be stored on paper, microform, audio and video tape, photographic materials, and electronic files. For purposes of illustration, an e-mail message is often considered a record based on the content of the message while the format (electronic) makes no difference. More information about record management can be found on the Minnesota Department of Administration website.

Section 4. Minnesota Government Data Practices Act

All Watersheds must comply with the MGDPA. This means Watersheds need to designate a responsibility authority and a data practices compliance official (they may be the same person) and establish specific data practices policies and procedures. Part of establishing procedures is to identify all types of data maintained by the Watershed, determine what data are private, organize and maintain it in an easily accessible manner, and develop public-access procedures. The responsible party must respond to questions from persons attempting to access data under the MGDPA.

The basic tenet of MGDPA is that government records are presumed to be public and open to everyone unless the data in the records are classified as not public. A basic summary of the classifications is as follows:

Data on Individuals	Meaning of Classification	Data not on Individuals
Public	Available to anyone for any reason	Public
Private	Available only to the data subject and to anyone authorized by the data subject or by	Nonpublic

	law to see it	
Confidential	Not available to the public or to the data subject	Protected Nonpublic

Some of the items to note under MGDPA include:

- Government agencies must allow public records to be viewed for free.
- Government agencies may charge for photocopies of records if the fee does not exceed the actual costs of searching for, retrieving, or making copies of the requested data.
- Citizens and researchers do not need to identify them or give reasons for viewing public records.
- Government agencies that maintain public data in a computer storage medium are required to provide copies, upon request, in electronic form if copies can be reasonably made.

Entities holding and managing government records can be sued for improperly releasing information protected under the MGDPA; however, withholding records that are open to the public can be embarrassing for the Watershed.

A model policy document created by the Minnesota Department of Administration, Information Policy Analysis Division entitled Model Policy: Public Access to Government Data and Rights of Subjects of Data is a useful publication. No one set of policy and procedures works for all agencies. Each Watershed will need to design their own procedures, keeping in mind the services provided and the accessibility and security of collections.

Section 5. Records Inventory

It is important to have a written list or inventory of the records held by any Watershed. Not only does this provide a finding aid for anyone requesting information, but it is also the basis for ensuring the records retention schedule covers all records. These inventories can appear in many forms, including handwritten lists, online catalogs, card catalogs, online databases, etc. In order to have an official record added to the retention schedule or to determine when an official record not on the schedule must be destroyed, entities must get the approval of the Record Disposition Panel. (See also, Minnesota Statutes, section 138.225, "Prohibition against unauthorized disposal of records; penalty.")

Section 6. Records Retention

Watersheds have many records that have significant historical value. When the records listed below no longer have administrative value to the Watershed offices, they may be eligible for transfer to the State Archives at the Minnesota Historical Society. Those records with potential historical value include:

- minutes
- organization records
- agenda packets
- annual reports, comprehensive plans, water management plans and work plans
- annual budgets
- reports and studies
- engineer reports
- project files
- subject files

A records retention schedule, such as the one found in Appendix B-16, lists an organization's major record categories along with how long those records should be kept. The major record categories are usually referred to as a record series, which is a set of records grouped together because they serve a common purpose or function or results from the same activity, and the group is then destroyed or archived as a unit.

When determining retention periods for records, consideration should be given to a record's legal/fiscal, administrative, and historical value. Each of these values may be different, and determining an organization's policy will be a balancing act between the risks of destroying records too soon with the risks associated with keeping records too long. After identifying a record series' legal/fiscal, administrative, and historical value, the longest retention is usually applied to the series. This does not mean that the record needs to be maintained in active storage for its entire life. Best practices usually involve moving records to inactive storage once their reference rate has dropped below a certain point.

More information on government records value, appraisal, description and storage issues can be found in Managing Your Government Records: Guidelines for Archives and Agencies available at: http://www.mnhs.org/preserve/records/recordsguidelines/guidelines.html .

A blank form for compiling a retention schedule, including a records inventory, is available on the MHS site at: http://www.mnhs.org/preserve/records/recser.html#info .

Section 7. Managing Active Paper and Electronic Records

Board Meetings

For example, items making up a meeting agenda packet might include an agenda done in Word, a report sent from an outside party, background data gathered from the web, etc. The entire agenda packet could be maintained in paper format as the official record of that meeting. In some cases, however, the agenda items might be scanned and e-mailed to attendees as a PDF attachment before the meeting. In this case, the electronic PDF version might be maintained as the official record of that meeting. Each Watershed should choose which format is considered official and then stick with that format consistently, even if one record series is paper and one is electronic.

Retrieval of records should be quick and easy. To facilitate this, the following recommendations are provided:

- Establish dedicated folders and computer directories for record keeping.
- Develop and agree upon common naming conventions. The vocabulary (or record series) used in the records retention schedule is a good model. More information on describing government records can be found in Managing Your Government Records: Guidelines for Archives and Agencies.
- Document the Watershed's record keeping procedures.
- Train everyone on how the filing system works.
- Make duplicate copies of vital records and store them off site. Backups are meant for system recovery only, not for a record keeping archive.
- Follow the approved records retention schedule (Appendix B-16) and maintain lists of what records are destroyed when and by whom. Keep in mind that final disposition may mean converting some records to an archival storage medium, such as microfilm, or transferring records to the State Archives.

For more information on managing electronic records, see Electronic Records Management Guidelines available from the Minnesota Historical Society.