



Working together, restoring the river

James W. Ridgway, P.E.
Executive Director

EXECUTIVE COMMITTEE MEETING SUMMARY DRAFT

June 6, 2008

City of Livonia DPW Office, 12973 Farmington Road
1:30 p.m. ~ 3:30 p.m.

Allen Park
Auburn Hills
Beverly Hills
Bingham Farms
Birmingham
Bloomfield Hills
Bloomfield Twp.
Canton Twp.
Commerce Twp.
Dearborn
Dearborn Heights
Farmington
Farmington Hills
Franklin
Garden City
Inkster
Lathrup Village
Livonia
Melvindale
Northville
Northville Twp.
Novi
Oakland County
Oak Park
Orchard Lake
Plymouth
Plymouth Twp.
Pontiac
Redford Twp.
Rochester Hills
Romulus
Southfield
Superior Twp.
Troy
Van Buren Twp.
Walled Lake
Washtenaw County
Wayne
Wayne County
Wayne County Airport
Authority
West Bloomfield Twp.
Westland
Wixom
Ypsilanti Twp.

1. Welcome – Tim Faas, Treasurer

2. Roll Call of Members

ECT took roll call of members and others present. A quorum was present.

In Attendance:

Upper-Rep.	Tom Biasell	Farmington Hills
Washtenaw County-Alt.	Michelle Bononi	WCDC
Oakland County –Rep.	Joseph Colaianne	
Oakland County-Rep.	Phil Sanzica	OCDC
Lower 2-Rep.	Ramzi El-Gharib	Wayne
Treasurer	Tim Faas	Canton Twp.
Wayne County –Rep.	Kurt Heise	
Wayne County-Alt.	Kelly Cave	WCDOE
Main 1-2 Rep.	Jennifer Lawson	Troy
Middle 1-Rep.	Jill Rickard	Northville Twp.
Executive Director	Jim Ridgway	ECT
Upper-Alt.	Jim Zoumbaris	Livonia

Not In Attendance:

Middle 3-Rep.	Jack Barnes	Garden City
Main 1-2-Alt.	Meghan Bonfiglio	Bloomfield Twp.
Past Vice-Chair	Wayne Domine	Bloomfield Twp.
Oakland County-Rep.	John McCulloch	OCDC
Vice-Chair	Gary Mekjian	Southfield
Middle 1-Alt.	Aaron Staup	Novi
Lower 1 - Rep	Bob Belair	Canton Twp.
Lower 1-Alt.	Dan Swallow	Van Buren Twp.
Lower 2-Alt.	Tom Wilson	Romulus
Main 3-4-Rep.	TBD	
Main 3-4-Alt.	TBD	

Others Present: Gary Zorza, Vice-Chair – Technical Committee; Jim Wineka, OCDC; Sean Woznicki, Troy; Tom MacDonald, Wayne; Charles Dunn, OCDC; Dana

Calhoun HRC; Patrick Hogan, Livonia; Brandy Siedlaczek, Southfield; Jim Murray, Dearborn, and Zachare Ball – ECT

3. Summary of April 24, 2008, Executive Committee Meeting

A motion was made by M. Bononi to accept the April 24, 2008, meeting summary. The motion was seconded by K. Heise. Motion passed.

4. Additions or Changes to Draft Agenda

There were no additions or changes to the agenda.

5. Executive Director Report (Ridgway)

a. Phase II Permit Update and Application Alternatives

J. Ridgway reported that the permit was issued on May 22, 2008 and it still contained some prescriptive requirements but included the option of alternatives. He said the communities' concern is that the permit reviewers have not shown flexibility in the past and it is unlikely that they will show more in the future.

Thus the communities should consider the following alternatives:

1. Apply for and sign the new permit;
2. Contest the permit and simultaneously begin negotiating the alternative approach available in the existing permit;
3. Apply for and sign the new jurisdictional permit, or,
4. Seek an individual (non-general) permit (similar to MDOT).

He noted that the ARC would like to know what the individual communities chose to do. He advised that if a community chose the alternative approach, even if they anticipate signing the watershed permit, then they should seek a contested case hearing.

For other communities that chose to pursue a hearing in court, they too should consider seeking a contested case hearing; it is likely that the judge will ask if you have exhausted your administrative options.

He said if many communities choose to go to court, they should consider consolidating their efforts. He said there is a possibility that the three counties will go in similar but different directions and the communities would do well to figure out what their respective counties are doing.

Member communities within a TMDL area have to consider what is required to comply with TMDLs, because other costly requirements would likely be triggered on a recurring basis. The worst case scenario in that regard, he said, is that if a community had an E.coli TMDL, it would be required to sample for E. coli and if the count was over the state standard of 130 ppm the permit as written would suggest that community would have to report on their progress every nine months.

J. Colaianne asked if the ARC had a copy of the MDOT permit. He said he thought it would be helpful for all communities to see what a negotiated permit looks like. J. Ridgway said he could forward one to members. He said that for instance, the Wayne County Airport Authority has two storm water permits: a general permit for airport operations and a general watershed permit for the ancillary drainage areas. This, in his opinion was a very unique way of looking at the Federal permit requirements but is an example of the MDEQ's unique and often aggressive reading of the federal requirements.

He said because of the Supreme Court rulings on wetlands, there has been an effort to negotiate removing the term "navigable waters" from the Clean Water Act – which would raise the question about whether the MDEQ had the right to permit storm water going into road ditches. He said even a community was very pro-environment and very pro-watershed, they may want to push back on signing the permit.

J. Murray asked if there are watershed and county protests about the permit, would the old permit stay in effect. The group answered yes as long as the community sought a contested case hearing within the 60 day timeframe.

J. Colaianne said that the fact that the MDEQ Director participated in the negotiations over the new permit means communities may be able to bypass a contested case hearing and go right to an administrative hearing. He said if the director participated, he has already reached a decision and therefore that the administrative remedy is exhausted for the communities. Then, he said, communities could go straight to court. C. Dunn, an attorney with Plunkett and Cooney, said it would be an aggressive play, and that anyone not prepared to sign the permit should file a contested case. He said there is no downside for filing a contested case and it would give communities time to decide what to do.

J. Ridgway asked the Executive Committee members to consider what the next step is. He suggested a follow-up meeting that may be more attorney driven for anyone thinking of asking for a contested case hearing. J. Murray asked if there is an alternative within the existing permit. J. Colaianne said that is why communities should file a contested case hearing, because the way the new permit is written, any alternative does not have to be approved by MDEQ until a year after the permit is signed. C. Dunn added if the communities don't know what the alternative is why should they sign the permit?

K. Heise said Wayne County also has to consider its downriver communities. At a minimum, he said, Wayne County will file for a contested case hearing. He said the county would create a template and provide information to communities to file their own contested cases. He said he thought MDEQ would immediately consolidate all the Wayne County contested cases. He said the other card Wayne County could play is going to Judge John Feikens, who has been involved in Rouge River matters. He said if Wayne County goes to court, they would ask to

add the Alliance of Rouge Communities and the Alliance of Downriver Watersheds as plaintiffs. He said similarly, the ARC might want Oakland County to go to court. Whatever is done, he said, needs to be done in rapid order. T. Faas said that the strategy K. Heise outlined will take some time and the communities will react to what the county does.

K. Heise said Wayne County would have a meeting of attorneys and lay out a strategy. He said that strategy is still being formulated, but the cities should follow the same course.

C. Dunn said that the problem for MDEQ is it will have to reach agreement separately with each entity –otherwise they may set precedent. K. Heise said if the ARC goes to Judge Feikens it will show the communities have exhausted all remedies. The question with going to Feikens, is when.

T. Biasell asked if Oakland County has a strategy. J. Colaianne said Oakland County is still having internal discussions. He said they can pursue a contested case hearing and other remedies, but most likely they would file in Oakland County Circuit Court and they haven't ruled out going to Judge Feikens.

K. Heise said Wayne County is trying to simplify it by providing a template for communities which will be developed by Wayne County attorneys. He said the state could consolidate all the cases and send them to Ingham County. P. Hogan asked what would be the timeframe to resolve a court case. J. Ridgway said it would take about a year. (meaning the communities could operate under the existing permit during that time.)

T. Faas suggested the following activities to advance the discussion:

- J. Ridgway will distribute the MDOT permit
- An attorney meeting be held, date TBD
- Determine whether or not to go to Judge Feikens.
- Redistribute to members the alternative permit advanced by the ARC

K. Heise asked what role SEMCOG would take. J. Murray suggested the ARC take a resolution saying it was opposed to the new permit to the General Assembly. Kurt H. said SEMCOG knows where the ARC, Wayne County and Oakland County stand. J. Murray said he would look into communicating with SEMCOG.

J. Ridgway took a poll of what the communities/counties present were going to do:

Dearborn:	Contest
Farmington Hills:	Contest (probably)
Oakland County:	Contest
Wayne:	Contest
Livonia:	Contest

Washtenaw County: No strategy yet
Southfield: Contest (maybe)
Troy: Sign (probably)
Northville Twp. Jurisdictional permit
Canton Twp. Contest (maybe)

Jim Murray proposed that a group of ARC members meet to decide what the proposal to the MDEQ will be.

- b. Nominations of officers/succession planning
The schedule for nominations was distributed. The Executive Director will advise ARC members who the nominating committee is and that nominations will be taken for officers for 2008-09.

6. Summary of Executive Committee Actions

- Approval of 4/24/08 Executive Committee Meeting Summary.
- List of items regarding the permit discussion.
- Executive Director will advise ARC members who the nominations committee is and that nominations for officers is open.

7. Upcoming Meeting(s)

- SWAG Meetings:
 1. Wednesday July 2nd 9:30am @ Northville Twp (Middle 1/Lower 1)
 2. Wednesday July 2nd 1:30pm @ Livonia DPW (combined Middle 3/Lower 2 and Main 3-4)
 3. Tuesday July 8th 1:30pm @ Farmington Community Library (combined Main 1-2 and Upper)
- Technical Committee: City of Farmington Hills, June 18th at 1:30 p.m.
- PIE Committee Meeting, Howard Knorr's House, Beverly Hills, July 10, 2008 at noon.
- Public Participation Meetings
 1. June 12, 2008 6:30 p.m. Riverside Middle School, Dearborn Heights
 2. June 23, 2008 6:30 p.m. Plymouth Township Hall, Plymouth Township
 3. June 24, 2008 6:30 p.m. Costick Center, Farmington Hills

8. Adjourn

The motion to adjourn the meeting was made by K. Heise. Seconded by J. Zoumbaris, motion passed.