

MINNEHAHA CREEK WATERSHED DISTRICT

Technical Advisory Committee

June 26th, 2008

3:00 pm

City of Minnetonka Community Center

14600 Minnetonka Blvd

Minnetonka, MN 55345

(952) 939-8390

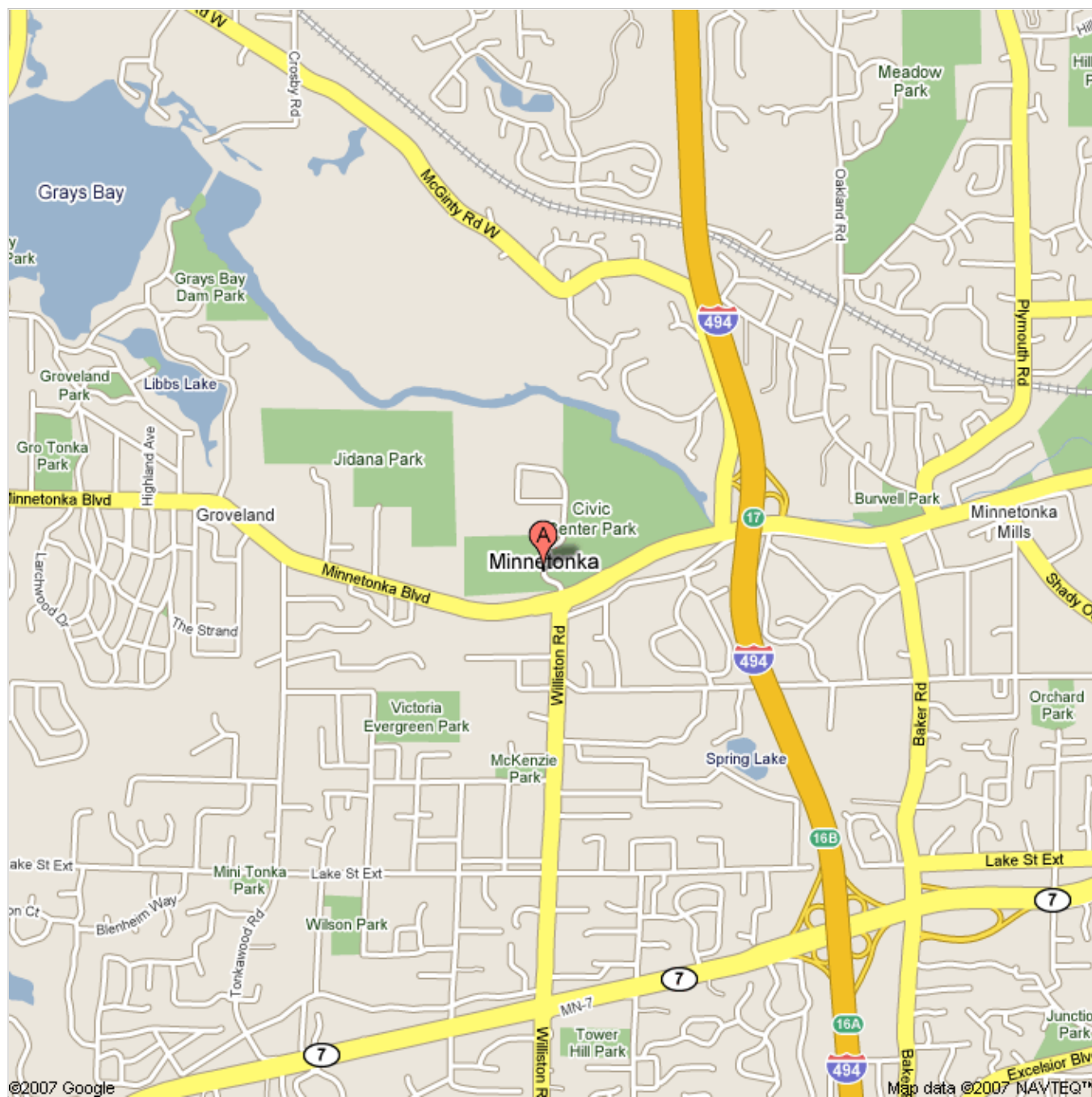
Shady Oak Room

AGENDA

- | | |
|---|---------|
| 1. Discuss Rule D: Wetland Protection Recommendations | ~90 min |
| 1. Buffer Vegetation Performance Standards: | 30 min |
| 2. Acceptable Wetland Buffer Vegetation: | |
| 3. Location of Required Wetland Mitigation: | 15 min |
| 4. Location of Wetland Banks for Mitigation: | 15 min |
| 5. Wetland Excavation: | 30 min |



Results 1-1 of about 1 for
**community center near
Minnetonka, MN**



- A. Minnetonka **Community Center**
14600 Minnetonka Blvd, Minnetonka, MN
(952) 939-8390

Memorandum

DATE: June 19th, 2008

TO: Rulemaking Technical Advisory Committee

FROM: James Wisker

RE: June 26th Technical Advisory Committee Meeting

During the May 2008 meeting, the Rulemaking Task Force discussed various facets of District Rule D: Wetland Protection. The discussion during the May meeting focused specifically on the following topics within Rule D:

1. Defining performance standards and maintenance obligations for acceptable wetland buffer vegetation.
2. Defining acceptable locations for wetland buffer mitigation and wetland banking.
3. Incorporating restoration standards into the section of Rule D that relates to wetland excavation.

Some minor changes were recommended, however the policy proposals were generally accepted by the Rulemaking Task Force.

The June 26th meeting of the Technical Advisory Committee will be dedicated to reviewing the Rule D: Wetland Protection policies and providing comment.

Contained within this packet you will find the Rule D policy recommendations that will be reviewed on June 26th.

MINNEHAHA CREEK WATERSHED DISTRICT

RULEMAKING TASK FORCE

Summary of May 22, 2008 Meeting

Task Force Members Present: Ginny Black, Tom Cesare, Carole Toohey, Jim Johnston, Jacob Westman, Hal Ulvestad, Steve Mohn, Ethel Smith, Tony Goldstein, Duncan Steinman, Tom Bakritges.

MCWD Managers Present: Jim Calkins, Jeff Casale.

Citizens Present: Jill Crafton, Mark Kjolhaug.

MCWD Staff Present: James Wisker, Louis Smith.

Review of March 27, 2008 Meeting Summary

The Task Force reviewed the summary of the March 27, 2008 meeting and approved it as distributed.

Discussion of Rule D – Wetland Protection

The Task Force reviewed policy issues arising under Rule D, including Buffer Vegetation Performance Standards, Acceptable Wetland Buffer Vegetation, Location of Required Wetland Mitigation, Location of Wetland Banks for Mitigation, and Wetland Excavation. The Task Force generally supported the proposed policies as distributed in the staff report dated May 22, 2008.

Mr. Wisker reported that a proposed approach to a wetland buffer formula – matrix would be presented to the Task Force at the next meeting.

Rulemaking Task Force Rule D Considerations and Recommendations 5-22-08

Policy Considerations: Rule D – Wetland Protection

During the May 22nd, meeting of the Citizen Rulemaking Task Force the policies outlined below were discussed commented on.

1. Buffer Vegetation Performance Standards:

Existing Rule: Under the existing rule, no ongoing monitoring or maintenance is required of applicants who establish native vegetation within required wetland buffers.

Problem: Recently graded/created wetland buffers require ongoing maintenance in order to achieve a level of well established native vegetation. If not properly maintained wetland buffers are subject to strong competition from invasive species which greatly reduces the function of a wetland buffer. Native vegetation promotes greater levels of suspended solids filtration as well as infiltration due to a larger biomass below the surface. The longer more aggressive tap roots of native species serve to de-compact soil and provide channels for the infiltration of runoff.

Solution: Similar to the requirements imposed under the Wetland Conservation Act, MCWD could require a post construction monitoring/maintenance period. During this time, vegetation is surveyed annually and maintained as needed to achieve a specified percentage of native species and biodiversity.

2. Wetland Buffer Vegetation:

Existing Rule: Wetland buffers are frequently required on projects with existing vegetation adjacent to the wetland. Only in instances where that vegetation is impacted due to grading activities does the District require the establishment of a native plant community.

Problem: Areas of sod, Kentucky Bluegrass or invasive species offer reduced protection for the wetland, provide little to no habitat benefit and limit infiltration capacity within the buffer.

Solution: Vegetation surveys could be required for projects required to establish permanent wetland buffers. Poor existing vegetation would require the creation of a native buffer.

Proposed Standards to Address Policies 1 & 2:

1. Acceptable wetland buffers shall have the following qualities:
 - a. A continuous dense layer of native perennial grasses that have been uncultivated or unbroken for at least ten consecutive years, or
 - b. At least eighty percent canopy closure of native trees and/or shrubs that have been uncultivated or unbroken for at least ten consecutive years
 - c. A mixture of plant communities described in a. and b. which have been uncultivated or unbroken for at least ten consecutive years.
 - a. **The Task Force generally agreed with the standard for ‘acceptable wetland buffer vegetation’**
2. Unacceptable wetland buffers have the following qualities, including but not limited to:
 - a. Has vegetation composed of more than twenty five percent of undesirable plant species, including but not limited to reed canary grass, common buckthorn, purple loosestrife, bull thistle and other noxious weeds, or
 - b. Topography which tends to channelize the flow of surface runoff, or
 - c. Consists of more than ten percent bare soil or turf grass where not covered by tree or shrub canopy.
 - a. **The Task Force generally agreed with the standard for ‘unacceptable wetland buffer vegetation’**
3. Existing wetland buffer vegetation that is determined by the District to be unacceptable, must be restored to a condition consistent with ‘acceptable wetland buffers’ defined above. A restoration plan must be submitted to the District which meets the following criteria:
 - a. Wetland buffers shall be planted with a seed mix containing one hundred percent perennial native plant species.
 - b. The proposed seed mix shall consist of at least twelve pounds pure live seed (PLS) per acre of native prairie grass seed and five pounds per acre of native forbs. Native prairie grass and native forb mixes shall contain no fewer than four and five species respectively. Native shrubs and or trees may be used in addition to accepted seed mixes.
 - a. **The Rulemaking Task Force recommended that the District require a specific seed mix (BWSR or MNDOT) rather than a specific weight of pure live seed.**
 - c. All seeded areas shall receive appropriate erosion control immediately. This can include erosion control blanket, disc anchored straw mulch or hydro-seed.
 - d. All seeded buffer areas shall receive appropriate sediment control immediately, in the form of silt fence between exposed soils and the seeded buffer. Sediment controls shall remain in place until the buffer vegetation is established.

4. The District may allow the disturbance of an existing acceptable wetland buffer during the course of construction activity. This disturbance shall be kept to a minimum and will be permitted primarily in instances where wetland buffer disturbance is critical to completing the project. Following wetland buffer disturbance, the area must be de-compacted to a level that will accommodate root growth and the wetland buffer must be established as required in section 3.
5. The District may require a period of wetland buffer maintenance following the completion of the project. Where required, the affected property owner or homeowners association that is responsible for the maintenance must:

 - a. Submit an annual vegetation monitoring report which shall include:

 - i. A map of plant communities within the wetland buffer
 - ii. The relative dominance of native plant species to invasive undesirable species.
 - iii. A maintenance plan for the following year to achieve no greater than twenty five percent dominance of invasive or undesirable plant species.
 - b. Maintain and repair damage to wetland buffer areas from such activities as mowing, cutting, grading or other prohibited activities.
 - c. Maintain the permitted native vegetation in the wetland buffer area.
 - d. Remove invasive and noxious plant species until
 - e. Ensure that all soil surfaces within the wetland buffer are planted with native vegetation and that there is no open soil surface that may result in erosion.
 - f. Once a wetland buffer has reached at least seventy five percent dominance of native plant species, the affected property owner or homeowners association may cease the submittal of annual monitoring reports upon written approval from the District.

 - i. **The Rulemaking Task Force generally accepted the buffer maintenance criteria.**

3. Location of Required Wetland Mitigation:

Proposed Policy: The Minnehaha Creek Watershed District shall require that all wetland mitigation be located as close to the wetland impact as possible with mitigation not to occur outside the same sub-watershed as the impact.

The Rulemaking Task Force recommended that this requirement be structured in a manner that required sequencing of the mitigation location. For example, an application would first be required to pursue mitigation on site, then within the same sub-watershed, then same watershed.

4. Location of Allowable Wetland Banks to Meet Mitigation Requirements:

Proposed Policy: The Minnehaha Creek Watershed District shall require that all wetland banking credits used to offset wetland impacts be located as close to the wetland impact as possible with banks to not extend outside the same sub-watershed as the impact.

The Rulemaking Task Force recommended that the banking requirement be structured in a manner consistent with

5. Wetland Excavation not Regulated by the Wetland Conservation Act:

Existing Rule: The Minnehaha Creek Watershed District currently regulates excavation in wetlands not subject to regulation under the State Wetland Conservation Act. In these instances the District requires that excavation area be mitigated for at a ratio of 1:1. Wetland excavation can be deemed self mitigating if the wetland in question is determined to be degraded and the proposed excavation would result in an increase in the function and values of the wetland.

Problem: The intent of this rule is to allow certain wetland excavation that would enhance or restore function and values of the wetland. Applications are received each year for excavation within seasonally saturated Type 1 or Type 2 wetlands with the intent to provide an open water system. Many of these applications are driven by the desire to have an open water wetland.

Using the MNRAM assessment tool, applicants are able to justify an increase in function and value based on the change in habitat type from shallow, seasonally saturated basins to open water systems. In addition, function and values are often not likely to be preserved in these instances because there are rarely comprehensive, post construction monitoring activities to ensure continued function and value.

The District would like to limit these projects to those whose purpose is wetland conservation, restoration, enhancement, preservation or management of wetlands.

Proposed Policy/Standards: Excavation shall be deemed self replacing if an applicant demonstrates that the wetland to be excavated is degraded; the proposed activity is part of a restoration project that generally meets the following conditions, and the proposed activity would increase the function and value as determined using the current version of the Minnesota Routine Assessment Method or other approved method by the District, and the enhanced wetland function and value are likely to be preserved.

Wetland excavation for purposes of restoration will be generally subject to the following requirements:

- i. Site conditions exhibit impacts to topography, soils, native vegetation or hydrology that have degraded the wetland and are potentially reversible.
- ii. The project involves removing non desirable vegetation or post European settlement deposition, including shallow scrapes or interconnected open water areas.
- iii. A comprehensive post construction management and monitoring plan is submitted that details what efforts will be taken to preserve the function and value for at least 3 years following project completion.
- iv. A monitoring report shall be submitted to the District annually. The purpose of the annual report is to describe the wetland restoration activities completed in the past year, activities planned for the upcoming year and the information outlined below:
 1. A description of the project location, size and current wetland type and desired wetland type.
 2. A comparison of the as-built specifications versus the design specifications (first annual plan only) and a rationale for any significant changes.
 3. Hydrology measurements: seasonal water level elevations or areal coverage measurements during the period April through October.
 4. A map of plant communities within the boundaries of the restoration site, including hydrologic indicators observed; and
 - a. Color photographs of the project area taken during the growing seasons.

The Rulemaking Task Force generally accepted the additional standard for wetland excavation not regulated under the Wetland Conservation Act.