

**MINUTES OF THE WORKSHOP MEETING OF
THE MINNEHAHA CREEK WATERSHED DISTRICT
BOARD OF MANAGERS**

April 10, 2008

CALL TO ORDER

The workshop meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by Vice President Pamela Blixt at 6:50 p.m. at the District offices, 18202 Minnetonka Boulevard, Deephaven, Minnesota.

MANAGERS PRESENT

James Calkins, Pamela Blixt, Lee Keeley, Jeffrey Casale, Mike Klingelhutz, Brian Shekleton.

MANAGERS ABSENT

Richard Miller.

OTHERS PRESENT

Eric Evenson, District Administrator; Mike Wyatt, District Environmental Planner, Mark Ten Eyck, District Land Conservation Program Manager; Ellen Heine, District Land Conservation Specialist; Michael Panzer, District Consulting Engineer; Chuck Holtman, District Counsel.

PUBLIC HEARING AND ORDERING, CHUTE PROPERTY ACQUISITION, MINNETRISTA

Mr. Ten Eyck described the matter before the Board, which concerns a request to Hennepin County for land acquisition financing under the November 11, 2006 Master Loan Agreement executed between the County and the District. The financing is for the fee acquisition of the Chute property on County Road 26 in Minnetrista, with closing scheduled for April 15, 2008.

Manager Klingelhutz asked about the District policy for signing Internal Revenue Service Form 8283. Mr. Holtman explained that the Board previously adopted a written policy governing the signing of Form 8283. Under IRS rules, the signature of the District, as the conservation organization, is to confirm the transaction and does not constitute a representation by the District as to the relation of the appraised value stated by the property owner to the actual value of the land rights conveyed. The District policy recognizes that the District should not sign a form where there are strong indicia that the representation of value is fraudulent or unfounded, to protect the integrity of the District and the federal program for conservation tax benefits.

Manager Blixt opened the public hearing. No comments were offered. Manager Blixt closed the public hearing.

It was moved by Manager Keeley, seconded by Manager Casale to find that the acquisition is conducive to public health and promotes the general welfare and is in compliance with Minnesota Statutes §§103B.205 to 103B.255 and the District watershed plan, and to authorize certification of an ad valorem levy on property within the watershed as necessary to repay the County pursuant to the financing arrangement. Upon vote, the motion carried 4-0-1 (Manager Klingelutz abstaining).

Mr. Ten Eyck updated the Board on the District's present arrangement with the sellers. The District had intended to continue allow the stables to operate for a period of time, but the sellers are looking to bring the business to a close. The District inspector found the septic system to be non-compliant and also identified necessary house repairs. A purchase price reduction has been negotiated to cover necessary septic repairs by the District if it does not raze the house. A portion of the purchase price will continue to be held in escrow until the District determines that the seller has properly completed the repairs.

Manager Blixt stated that she would like the Board to have a broader discussion of septic issues in the watershed. Mr. Evenson noted that Hennepin County is not stepping forward with respect to the septic non-compliance issues in the Rolling Hills subdivision, and that the District could discuss options for providing for more active administration of septic programs. Manager Casale urged that this discussion include exploration of the District's assuming responsibility for some or all of the County program.

Manager Shekleton arrived at this time.

Responding to Manager Casale, Mr. Ten Eyck stated that staff is reviewing options for resale and that the Board will have full discretion in deciding how to proceed. Manager Blixt asked whether money should be spent on repairs if the house may be razed. Mr. Evenson replied that the repairs concern the integrity of the structure, which should be preserved until the District decides whether or not the house will remain.

CONDEMNATION PRESENTATION

Mr. Holtman made a presentation on the authority of watershed districts to exercise eminent domain to acquire land or easements for projects, statutory procedures for eminent domain and policy considerations as to when the use of eminent domain may be appropriate. The presentation was requested by the Board in light of an ambitious 10-year capital improvement program and the Board's desire to understand all of its tools. Mr. Holtman noted that the District has not used eminent domain since the mid-1990's.

He noted that the primary disadvantages of eminent domain are, first that the District will tend to pay a premium for the rights it acquires and, second, the use of eminent domain may be adversely perceived by property owners, district constituents and/or units of local government, and thus may interfere with the District's relationships. The two primary benefits of eminent domain are, first, that the District can be certain of the property rights it needs for a project and, second, that by using the "quick-take" procedure, a date certain can be established for the right to enter a property and begin work, which is important for project planning and contracting purposes.

Mr. Holtman noted three situations in which the use of eminent domain may be most appropriate: (a) the Board finds that a project is of such value for District purposes that it should be pursued, even where it requires use of private property and whether or not the property owner chooses to cooperate; (b) easements must be acquired on a number of adjoining properties and a structured eminent domain process is desirable to prevent strategic concession-seeking by property owners or prevent a holdout from frustrating the District's investment in project development or completed transactions with other property owners; (c) a project is subject to critical timing considerations.

Mr. Holtman explained that the District can use eminent domain to acquire a fee interest or an easement, and for either a temporary or a perpetual easement. Mr. Evenson clarified for the audience that the Board requested the presentation for informational purposes and that there is presently no District intent to exercise eminent domain.

CONSERVATION DISTRICT PROGRAM

Mr. Evenson introduced Mark Zabel and Mike Wanus. Mr. Zabel is on the Board of the Carver County Soil and Water Conservation District (CCSWCD), is a hydrologist at the Minnesota Department of Agriculture and is the present chair of the Metropolitan Association of Soil and Water Conservation Districts. Mr. Wanus is the manager of the CCSWCD. Mr. Evenson also introduced Joel Settles, Hennepin County Department of Environmental Services (HCES), and noted that Mr. Wyatt, also present, is a member of the Hennepin Conservation District (HCD) Board.

Mr. Wanus reviewed the CCSWCD mission statement. He noted that the CCSWCD was formed in 1946. It has no enforcement authority or taxing authority, but operates from Carver County appropriations and some state and federal funding. CCSWCD is governed by a five-member elected board. Mr. Wanus noted that soil and water conservation districts differ from many other governmental agencies in that they focus on private land.

Mr. Wanus reviewed CCSWCD programs, with a focus on its agricultural land programs. He noted that there is extensive coordination with the Natural Resources Conservation

Service. Mr. Wanus identified three primary federal programs in which the CCSWCD is involved: the Environmental Quality Incentives Program for cost-sharing in sustainable agricultural practices; the Conservation Reserve Program providing for term easements in buffer strips and wetland/upland restoration; and the Wetland Reserve Program.

Manager Blixt asked what limits producer participation in these programs. Mr. Wanus replied that in part it is a limit on County funds, but also that many of the incentives require a producer cost-share that reduces interest. Also, when crop prices are high producers have less interest in taking land out of production. Mr. Wyatt noted that due to higher crop prices, about 850,000 acres of producer conservation land are expected to come to come out of conservation programs in Minnesota.

Mr. Wanus discussed CCSWCD involvement in promoting buffer stripes, rock inlets to tile drainage systems and wetland restoration. He described CCSWCD educational programs, with a focus on a Clean Water Legacy grant that the CCSWCD is using to go door-to-door within three identified subwatersheds to market Best Management Practices to producers.

Manager Klingelhutz asked which programs are most cost effective. Mr. Wanus replied that buffers on ditches and rock inlets on open intakes, to his mind, have the best impact on reducing ag pollution for the expense. He referred to a CCSWCD program to provide a cost incentive for upgrading straight-pipe septic systems, but noted that even with incentives, the upgrade cost is substantial. He noted that the County has moved toward a more aggressive program that offers assistance and incentives but then requires corrections more aggressively if property owners do not address non-compliance.

Mr. Wyatt said that the HCD gets involved generally in the same programs as the CCSWCD, expect that HCD programs have more of a balance between farmland and urban/suburban practices. Mr. Settles noted the Natural Resources Incentive for Critical Habitat (NRICH) program recently started by HCES.

Mr. Evenson raised a question of cross-boundary collaboration between the two conservation districts. Mr. Zabel and Mr. Settles both stated that they would be favorably inclined toward exploring collaboration with the District.

Mr. Evenson prompted a discussion of possibilities for improving manure management practices on hobby farms. Mr. Settles spoke to some of these challenges, including poor composition balances for on-site composting and transportation cost for centralized composting. There also was discussion of reforestation for water resource benefit. Mr. Settle referenced Hennepin County's new collaboration with the Tree Trust to promote forestation for carbon sequestration, but noted the program is small.

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The Board directed staff to have further discussions with the CCSWCD and the HCD and to come back to the Board with a more refined set of ideas. Mr. Evenson noted that the 2009 budgeting process will begin soon and several months are available for staff and the Board to explore and possibly identify programs for 2009 funding. The Board thanked all of the guests for attending and participating in the conversation.

ADJOURNMENT

There being no further business, the workshop meeting of the Minnehaha Creek Watershed District Board of Managers was adjourned at 9:35 p.m.

Respectfully submitted,

Lee Keeley, Secretary