

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

July 6, 2006

CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by President James Calkins at 7:03 p.m. on Thursday, July 6, 2006 at the MWCD offices, 18202 Minnetonka Boulevard, in Deephaven, Minnesota 55391.

MANAGERS PRESENT

James Calkins, Pamela Blixt, Lee Keeley, Richard Miller, Ethel Smith, and Jeff Casale.

MANAGER ABSENT

Lance Fisher.

OTHERS PRESENT

Eric Evenson, District Administrator; James Wisker, District Field Technician; Charly Wojtysiak, Compliance Officer; Michael Pressman, Land Conservation Manager; Michael Panzer, District Consulting Engineer; Louis Smith, District Counsel.

CITIZEN COMMENTS

None.

APPROVAL OF AGENDA

Mr. Evenson requested that a discussion of the 2006 Budget process be inserted as Item 12.1 for the agenda. Ms. Wojtysiak requested that Item 9.1 be pulled from the agenda as the violation has been resolved, and that Item 9.3 be pulled from the agenda and postponed to a future meeting. *It was moved by Manager Smith, seconded by Manager Keeley to approve the agenda as distributed with these changes. Upon vote, the motion carried.*

CONSENT AGENDA

Manager Keeley requested pulling Items 7.1 and 7.2 from the Consent Agenda. *It was moved by Manager Miller, seconded by Manager Keeley to approve the remaining items on the Consent Agenda. Upon vote, the motion carried.*

BOARD ACTIONS ON VIOLATIONS COMMITTEE RECOMMENDATIONS

Warner Homes, Victoria

Manager Calkins reported on the Violations Committee's hearing concerning construction activity without a Rule B erosion control permit, with multiple violations by Warner Homes. Ms. Charly Wojtysiak added that the Violations Committee recommended that the Warner Homes be required to post a surety in the amount of \$1,500 for its projects requiring District permits for a period of one year. Mr. Nathan Schneider was present and stated that he lacked knowledge of the specific facts in issue, and further stated that the City of Victoria does not advise of watershed district permit requirements to contractors seeking building permits at the City. Manager Calkins asked Mr. Evenson whether the City has been informed of District permit requirements, and Mr. Evenson stated that these requirements have been discussed with City officials and a brochure describing watershed district requirements is available. ***Following discussion, it was moved by Manager Keeley, seconded by Manager Smith to uphold the recommendation of the Violations Committee, adopting Findings of Fact, Conclusions of Law, and Order requiring that Warner Homes submit a \$1,500 surety as a part of every MCWD Rule B permit application that it makes for one year. Upon vote, the motion carried.***

Manager Calkins also requested that Mr. Evenson send a letter to the City of Victoria as a reminder about watershed district permit requirements.

PERMITS REQUIRING A VARIANCE OR BOARD DISCUSSION

04-615, Cyndy Hedburg

Mr. James Wisker described the application as set forth in the staff report noting that the project involved construction of a six-unit single-family home subdivision on five acres in the City of Plymouth. Manager Keeley asked, given the frequency of anticipated maintenance of the stormwater ponds, how the modeling numbers compare if the pond is half full of sediment. Mr. Panzer explained that once the pond is 50% full of sediment it still operates at near capacity and has no effect on the rate control aspect of stormwater management, which is controlled by the size of the outlet pipe.

Manager Miller inquired how subsequent property owners receive notice of stormwater maintenance obligations. Mr. Smith explained that the maintenance obligations are recorded on the title to the property. Manager Calkins inquired whether there was a legal basis to require that the outlet of the wetland be lowered consistent with the earlier approval of the City of Plymouth in 1984. Mr. Smith said he was not aware of such a legal basis, and Mr. Panzer noted that there is no established ordinary high water level for this wetland.

Ms. Jane Kaufman, a neighboring resident, appeared before the Board of Managers to request a clarification of the grading plan for the project. Ms. Lisa Lange, a neighboring resident, requested clarification on the retaining walls and buffer restrictions, and asked who would enforce these restrictions. Mr. Wisker stated that the restrictions would be on a declaration recorded on the title of the property and enforceable by the MWCD. He noted further that the City will track the buffer activities in the City's database. Ms. Kaufman inquired if there are silt fence violations during construction who should be contacted. Mr. Wisker stated that both the Watershed District and the City should be contacted. ***Following discussion it was moved by Manager Keeley, seconded by Manager Smith to approve the permit application as recommended and with conditions noted by staff. Upon vote, the motion carried.***

Minneapolis Park and Recreation Board Interactive Kiosk

Manager Blixt asked about the number and location of the multilingual interactive kiosks for placement in Minneapolis Park and Recreation Board recreation centers. Ms. Julie Westerlund explained that there would be a single kiosk that would rotate at various locations within the Minnehaha Creek Watershed. ***Following discussion, it was moved by Manager Blixt, seconded by Manager Smith to approve the request to purchase the kiosk. Upon vote, the motion carried.***

Authorization to Retain Faegre & Benson to Negotiate Hennepin County Contract to Finance Land Conservation

Manager Miller reviewed the recent history of developing an agreement with Hennepin County to finance the District's Land Conservation Program with a concept to acquire conservation areas now and finance these acquisitions through a bonded indebtedness program in which both current and future beneficiaries will pay for these costs. Manager Miller noted that Mr. Craig Shaver, a watershed resident, has been particularly supportive in advocating for this program. Manager Miller further stated that Hennepin County is in a better position to issue the debt at a lower cost of issuance.

Manager Miller stated that it would be in the District's interest to retain bond counsel to assist in developing this agreement. Manager Miller stated he is personally well acquainted with Mr. Steven Rosholt at Faegre & Benson and believes that he has an outstanding reputation and expertise to address these issues. ***It was moved by Manager Keeley, seconded by Manager Casale to authorize the District Administrator to enter into a contract with Faegre & Benson for these purposes.*** Manager Calkins stated that he felt there should be some cap on the legal fees, given the hourly rates of \$435 per hour. He asked Mr. Evenson if there was some expected limit to these fees. Mr. Evenson stated that he is working to develop a scope of services and expects that the scope will likely be less than \$15,000. Manager Miller stated that this legal work is

intended to create a simple framework for financing the Land Preservation Program. Mr. Evenson stated that they would use the past agreement for financing the Minneapolis Chain of Lakes project with Hennepin County as a model. Manager Calkins stated that he was concerned with the hourly rate and that for a simple framework agreement, \$15,000 seems excessive. Manager Miller stated that he would be very surprised if the legal fees exceeded \$5,000, but would volunteer to raise any additional funds if necessary. ***Following discussion, Managers Keeley and Casale stated that they would agree to amend their motion to provide for a fee cap at \$5,000. Upon vote, the motion carried with a vote of 4-2, with Manager Blixt and Casale voting against the motion.***

Outdoor Interpretive Signage

Ms. Westerlund reviewed the request to execute a contract for the design, manufacture, and installation of 14 outdoor interpretive signs at 3 locations in the watershed, at Minnehaha Creek headwaters, Gideon Glen, and Downtown Mound. Manager Blixt asked whether it would be possible for the Board of Managers to review the content of these signs. ***It was moved by Manager Blixt, seconded by Manager Miller to approve the request as recommended by staff, with the additional condition that the Board review the content of the interpretive signs before production. Upon vote, the motion carried.***

Authorization for Engineering Services for the Stubbs Bay Water Quality Improvement Project

Mr. Mike Wyatt reviewed the request as set forth in the staff report. Manager Blixt asked why only one bid had been received for this project. Mr. Evenson noted that the District was hoping for more bids, and accordingly revised the Request for Board Action to provide for proceeding with a not-to-exceed scope without naming the firm selected so that other proposals may be solicited. ***It was moved by Manager Blixt, seconded by Manager Miller to adopt Resolution 06-034, authorizing staff to contract engineering services for the Stubbs Bay feasibility study in an amount not to exceed \$25,000, with the engineering consultant chosen at the discretion of the District Administrator. Upon vote, the motion carried.***

Minnehaha Creek Improvement Project – Reach 8

Mr. Wyatt described the Request for Board Action, seeking approval of a funding agreement to formalize the roles of the District, City of Minneapolis, and the Minneapolis Park and Recreation Board to construct a series of stabilization measures on Reach 8 of Minnehaha Creek, and a canoe landing within the City of Minneapolis. Manager Miller asked whether the City of Minneapolis or the Minneapolis Park and Recreation Board are making any financial contributions to the project. Mr. Evenson stated that no such contributions are contemplated, but that these parties are making in-kind contributions

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through their collaborative efforts. *Following discussion, it was moved by Manager Keeley, seconded by Manager Miller to adopt Resolution 06-33, authorizing the execution of the cooperative funding agreement. Upon vote, the motion carried.*

Six Mile Creek Riparian Buffer and Habitat Restoration Agreement

Mr. Pressman reviewed the Request for Board Action seeking authorization to enter into an agreement with Robert and Sue Downs to establish 5.7 acres of wetland and riparian buffers. *It was moved by Manager Miller, seconded by Manager Blixt to approve Resolution 06-022 authorizing the District Administrator upon review of counsel as to form and execution to enter into an agreement with Mr. and Mrs. Downs to implement this buffer project and to make payments pursuant to the contract terms upon satisfactory completion of the annual certifications called for in each contract. Upon vote, the motion carried.*

2007 Budget Process

Mr. Evenson recommended that the Board of Managers establish a Finance Committee to work on the 2007 budget recommendations. Managers Blixt, Miller, and Smith were designated to serve on this Committee and bring budget recommendations to the Board of Managers prior to September 15.

Closed Session to Discuss Potential Terms of Real Estate Proposal

Mr. Pressman requested that the Board of Managers adjourn to a closed session to discuss the potential terms of land conservation transactions concerning 7475 Farmhill Drive, Minnetrista and 1570 Sixth Ave. N., Orono.

ADJOURNMENT

There being no further business, the regular meeting of the Minnehaha Creek Watershed District Board of Managers was adjourned at 10:15 pm.

Respectfully submitted,

Lee Keeley, Secretary