

MINNEHAHA CREEK WATERSHED DISTRICT

RULEMAKING TASK FORCE

Summary of July 26, 2007 Meeting

Task Force Members Present: Tom Aasen, Melissa Barrett, Ginny Black, William Bushnell, Tom Casey, Nate Duoss, Tony Goldstein, Stephen Jenkins, Jim Johnston, David Newman, Ethel Smith, Tim Smith, Duncan Steinman, Donna Woodruff.

Citizens Present: Tom Cesare, Carole Toohey.

MCWD Managers Present: Jeff Casale

MCWD Staff Present: James Wisker, Louis Smith.

Review of June 28 Meeting Summary

The Task Force reviewed the summary of the June 28 meeting concerning floodplain alteration. Mr. Wisker noted that the discussion of the May 24 summary should be corrected to read that “The District should develop a requirement to prevent or minimize soil compaction and provide de-compaction where necessary and feasible, . . .”

Tom Casey referred to Item #4 concerning floodplain alteration policy recommendations, and stated that he recalled that while the Task Force preferred that mitigation of historical losses of floodplain volume be pursued through incentives and District projects, we did not want to rule out the possibility of regulatory requirements to achieve this goal if necessary. Other Task Force members stated that while the District can always review its regulatory options, the Task Force preference for voluntary incentives and District projects is clear. Following discussion, the Task Force members agreed to revise Item #4 as follows: “The goal of mitigating historical losses in floodplain volume and promoting the conservation and restoration of floodplain habitat where feasible as stated in the Water Resource Management Plan ~~may best~~ should first be pursued through incentives and District projects. If, on subsequent review, these incentives and projects are found to be insufficient, then the Task Force and Technical Advisory Committee will consider rather than through regulatory requirements.”

Mr. Wisker also advised that the Board of Managers had reviewed the recommendations from the June 28 Task Force meeting, and also wanted the Task Force to consider that the current provision of Rule C providing that a “Fast Track permit may be issued for 1" or less of fill in preparation for sodding or seeding” be amended to require that the 1” fill be organic material and must be incorporated into the soil. The Task Force members had no objection to this proposal.

Discussion of Water Body Crossings & Structures

Mr. Wisker provided an overview of Rule G, the Waterbody Crossings rule, and identified concerns with the interpretation and implementation of the current rule. Also identified were potential solutions to these issues and concerns. The Task Force discussed these issues and potential solutions, and made the following recommendations on waterbody crossings policy:

1. Certain small scale projects, such as projects that involve small crossings on non-public waters, should be permitted by staff without requiring a demonstration of public benefit. All crossings of Minnehaha Creek and other important public waters should demonstrate a public benefit.
2. Including the specific design parameters for directional boring projects would serve to provide applicants with increased direction and improve consistency within the District. Specifically, requiring a minimum depth of the boring below the bed of the waterbody, including consideration of allowable dredging depths, and a preliminary soils analysis would be useful.
3. Requiring no net increase in the flood stage for a waterbody will ensure adequate hydraulic capacity while minimizing incremental flood stage increases. This is particularly important on moving bodies of water such as Minnehaha Creek.
4. Including the DNR general permit standards and applying them District-wide to all waterbodies will ensure the consistent application for all relevant waterbody crossings within the District regardless of DNR classification. For bridges over public watercourses, three feet over the calculated 50 year flood will ordinarily satisfy navigational requirements. For bridges over public waters and wetlands (either public waters wetlands or WCA wetlands where some navigation or related recreational activity occurs), three feet over the ordinary high water elevation will ordinarily satisfy navigational requirements.
5. The performance standard approach in the current rule concerning wildlife passage is a sound method to consider the needs of particular wildlife in a given crossing. It is also important for District rules and policies to increase awareness, improved design for wildlife passage, and the preservation and enhancement of ecological integrity. Larger roadway projects involving culverts and public right of way can lend themselves to opportunities not just to maintain, but to *improve* wildlife passage and habitat, due to their proximity to natural corridors, and the District rules should provide for these opportunities to be identified and reasonably pursued.

The Task Force discussed the diversity of perspectives and policy preferences that arise in the discussion of District rules; some of this discussion centers on the goal of preserving the environmental 'status quo' in the watershed, compared to the goal of improving environmental conditions through either voluntary incentives or more stringent regulatory requirements. The Task Force members agreed that while in general

a consensus on policy recommendations is preferred, all points of view should be reported to the Board of Managers.