

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

**Draft  
November 3, 2005**

**CALL TO ORDER**

The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by President James Calkins on Thursday, November 3, 2005 at 6:55 p.m. at the District offices, 18202 Minnetonka Blvd., Deephaven, Minnesota.

**MANAGERS PRESENT**

James Calkins, Ethel Smith, Scott Thomas, Lance Fisher, Lee Keeley.

**MANAGERS ABSENT**

Pamela Blixt, Richard Miller.

**OTHERS PRESENT**

Eric Evenson, District Administrator; Michael Pressman, Land Conservation Specialist; Renae Clark, District Field Technician; Jane Byron, District Field Technician; James Wisker, District Compliance Officer; Michael Panzer, District Consulting Engineer; and Chuck Holtman, District Counsel.

**CITIZEN COMMENTS**

None.

**APPROVAL OF AGENDA**

**It was moved by Manager Fisher, seconded by Manager Thomas to approve the agenda with the deletion of Items 10.3, Asset Disposition Policy, and 10.5, Authorization to Provide Healthcare Benefits. Upon vote, the motion carried.**

**CONSENT AGENDA**

**It was moved by Manager Fisher, seconded by Manager Keeley to approve the Consent Agenda, consisting of Approval of Agreement for Audit and Authorization to Enter Into Cooperative Agreement with the City of Minnetonka for Headwaters Improvements. Upon vote, the motion carried.**

**REGULAR AGENDA**

Report of Violations Committee.

Permit 05-319, Bridgeland Development Company

Mr. Wisker presented to the Board the written findings of fact that he had prepared and distributed at the Violations Committee meeting. He stated that a permit has not yet been issued, due to the failure to provide all required submittals. He advised that on November 2, 2005, District staff issued a field order directing work to cease until a permit is issued. Conditions have now been met and the application is ready for approval. Mr. Wisker noted that in the course of review an issue has been identified involving high water level in a wetland that may threaten to flood nearby properties as a result of a discharge from site construction dewatering. Mr. Wisker recommends an option of pumping the water into a stormwater pond that discharges into Manor Pond within a City of Shorewood park, over an alternative that would involve pumping the water into a stormwater pipe adjacent to Amesbury Condominiums. Informal City approval would be needed to pursue this option. Mr. Wisker recommended that the Board issue an order directing that no work occur on site until the permit is approved and issued, and including the developer's obligation to pursue Option 1. Manager Thomas also recommended a condition requiring that the pumping be monitored and be stopped if any issues arise.

Dr. John Marty, president of the Amesbury Housing Association, appeared and stated that five homes are at risk. He stated that Option 1 will not address the risk of reoccurrence in the future. Mr. Wisker replied that the flooded wetland is 12 to 15 feet higher than the homes in question and that the concern relates to the design of the original development, which directs overflow to a drainage swale that is not properly designed. Ms. Clark clarified that under the District Rules, the acceptable wetland bounce for the development is six inches and that it will not be exceeded in this case. Ms. Clark clarified that the Board approved the permit a month ago, but that the permittee had yet to submit the required stormwater facility maintenance declaration.

**It was moved by Manager Fisher, seconded by Manager Thomas to adopt the staff findings and recommendations, with the addition of a condition requiring monitoring of the pumping, and cessation should excessive turbidity or other problems arise.**

Manager Thomas stated that the Violations Committee meeting included Managers Fisher and Keeley and himself, along with Mr. Wisker, Steve Nelson and Pete Knaeble representing Bridgeland Development, and Tom Maple, an interested party. Manager Fisher observed that neither Mr. Nelson or Mr. Knaeble were present at the hearing. He said that they had received a copy of Mr. Wisker's proposed written findings and did not contest any of the findings or Mr. Wisker's recommendation. **Upon vote, the motion carried.**

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Minikahda Club, Minneapolis

Mr. Wisker presented to the Board the written findings of fact that he had prepared and distributed at the Committee meeting. He stated that the matter in question involved limited work on a golf course. On September 28, 2005, District staff received a communication from the Minikahda Club about possible permit requirements. Correspondence followed and on October 26, 2005 staff found work occurring without a permit and issued a stop work order. Mr. Wisker stated that the work was limited in scope and environmental impact. Submittals for permit issuance are in order except that the Minikahda Club is concerned about the time needed for public notice. According to Mr. Wisker, Club representatives advised that when they received the city permit, they were not told about District permit requirements.

Manager Thomas further stated that the notice involves about 400 nearby property owners. The Club will follow the notice process, but would like to stabilize the structure against the weather in the meantime. He advised that erosion controls are in place and that no environmental damage is occurring. He reported the Committee recommendation to allow work to continue to the point of stabilizing and weatherproofing the structure and for all other work to cease until permit issuance. Manager Fisher suggested the additional condition of a \$1500 surety to ensure controls are maintained and no utilization of the property until compliance with the order is achieved.

**It was moved by Manager Thomas, seconded by Manager Smith to issue an order with terms recommended by staff and further specification that framing may be finished to close the structure to the weather and stabilize it, that the structure will not be used until the order is complied with, and that a \$1500 surety will be posted with the District.**

Scott Newland, representing the Minikahda Club, stated that he does not dispute the violation, the need for a permit or the proposed conditions. Manager Fisher cautioned Mr. Newland that any further work was at the Club's own risk as to final permit conditions. **Upon vote, the motion carried.**

Permit 05-432, Olin 3 LLC, Minneapolis

Mr. Wisker presented written findings of fact that had been distributed at the Committee meeting. The project involves high density, multi-family residential developments in Minneapolis. According to Mr. Wisker, an incomplete application was submitted on September 13, 2005, and correspondence followed. On October 25, 2005, District staff found work occurring without a permit and issued a stop work order. Mr. Wisker recommends that an order be issued directing that work cease until the permit is approved, conditions for issuance are met and the permit is issued.

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Kevin Kupman, Schoen Mattson, appeared representing the applicant. He apologized to the Board and admitted the firm has past familiarity with District permitting. He stated that the unpermitted work occurred due to a miscommunication with the contractor. He stated that work had been occurring for about 10 days but that the owner was not aware the contractor had begun work.

**It was moved by Manager Thomas, seconded by Manager Keeley to issue an order in accordance with the staff recommendation.**

Bill Benson, Hiawatha Lane, Minneapolis stated that he received mailed notice of the permit application but construction already had started. He said that the project is large and it is hard to believe that the developer was not aware of the permit obligations. Jamie Nathwick and David Crockett also were present on behalf of the applicant.

**Upon vote, the motion carried.**

Permit 05-446, Loop Calhoun LLC, St. Louis Park

Mr. Wisker presented written findings of fact to the Board that had been distributed at the Committee meeting. The matter involves development in St. Louis Park subject to District erosion control and stormwater management rules. An incomplete permit application was received on September 15, 2005 and correspondence followed, resulting in a conditional approval letter on November 3, 2005. However, in the interim the applicant began work. Mr. Wisker recommends that the Board issue an order directing that work at the site cease until the required stormwater facility maintenance declaration is recorded and the other permit conditions are met. Manager Fisher noted that no representative of the applicant attended the Committee meeting or is present at the hearing. Ms. Clark stated that she had email communications and spoke with Aaron Hemquist, a representative of the applicant, today and he was aware of tonight's hearing. She said that work is still occurring. Ms. Clark further clarified that the project involves multi-family housing with a disturbed area exceeding five thousand square feet and that requires peak flow management and Best Management Practices under the District's stormwater rule.

**It was moved by Manager Smith, seconded by Manager Fisher to issue an order in accordance with staff recommendations. Upon vote, the motion carried.**

Permit 05-431, Bobby & Steve's Auto World, Minneapolis

Mr. Wisker presented the written findings of fact that were distributed at the Committee meeting. No representative of the applicant was present at the Committee meeting or the Board hearing. Mr. Wisker affirmed that the hearing was noticed on a stop-work order issued in-hand to the applicant's representative on October 25, 2005.

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Mr. Wisker described the work as involving a gas station and convenience store in South Minneapolis. An incomplete application was received on September 8, 2005, after which correspondence regarding additional information occurred. On October 25, 2005, staff visited the site and found work occurring despite the applicant's knowledge that a permit had not yet been issued. Mr. Wisker reported that all submittals now have been made, but recommended that the Board issue an order directing that work cease until all conditions for permit issuance have been met, including submission of a recorded stormwater facility maintenance agreement. Mr. Wisker advised that the work triggers permit requirements under the District's erosion control and stormwater management rules.

**It was moved by Manager Fisher, seconded by Manager Keeley to issue an order in accordance with the terms recommended by staff. Upon vote, the motion carried.**

**It was moved by Manager Calkins, seconded by Manager Smith to direct staff that the permit application is to be heard by the full Board. Upon vote, the motion carried.**

Permit 05-432, Olin 3 LLC, Erosion Control, Stormwater Management (Minneapolis).

Ms. Clark described the application, involving redevelopment of two adjoining parcels equaling about 0.5 acres for a multi-story condominium building. Oversized pipes are proposed to meet peak rate requirements and two sump catch basins will be installed to pre-treat stormwater for discharge. Staff recommends approval with requirements to reimburse mailing costs, pay Rule J fees and execute and record a maintenance agreement for the sump catch basins. Mr. Panzer noted that the site discharges to storm sewer that outlets directly into the Mississippi River. Bill Benson, a neighbor, registered his consternation that work already had begun without a permit. Ms. Clark reviewed for him the District's stormwater requirements and the analysis performed to determine that they would be met. Responding to Manager Thomas, Ms. Clark stated that the site impervious area will be increased from 0.38 acres to 0.49 acres. She advised that infiltration had not been explored.

**It was moved by Manager Fisher, seconded by Manager Thomas to approve the permit in accordance with staff recommendations.** Manager Fisher asked as to how Best Management Practices alternatives were reviewed. Ms. Clark responded that the original Best Management Practices proposal involved a grass strip and one sump catch basin, with the proposal further modified in discussion with District staff. Mr. Evenson observed that almost all of the stormwater runoff here will be roof runoff. **Upon vote, the motion carried.**

Permit 05-495, Donnay Homes, Erosion Control (Minnetrista).

Ms. Byron described the proposed single-family home construction within the Hunter's Crest subdivision. Responding to Manager Thomas, Ms. Byron reported that the site

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protection conditions at Hunter's Crest are greatly improved and that Donnay Homes is doing much better work in this regard. **It was moved by Manager Thomas, seconded by Manager Smith to approve the permit in accordance with staff recommendations.** Manager Thomas asked that Mr. Wisker report to the Board at its next meeting as to whether Donnay Homes still should need to come to the Board for its permits. **Upon vote, the motion carried.**

05-498, Donnay Homes, Erosion Control (Minnetrista).

Ms. Byron described the single-family home construction within the Hunter's Crest subdivision, it was moved by Manager Fisher, seconded by Manager Smith to approve the permit in accordance with staff recommendations. Upon vote, the motion carried.

The Board asked staff to develop a policy on a standard timeline for temporary and permanent stabilization of building sites.

Permit 05-317, Halley's Custom Homes, Erosion Control, Wetland Protection, Stormwater Management (Hopkins).

Ms. Clark reviewed the project, which involves construction of multi-unit housing on a 1.9-acre site in the City of Hopkins. Site conditions require the intrusion of the building, driveway and a rock infiltration trench on 2,230 square feet of wetland buffer. The applicant is requesting a variance based on the size and shape of the parcel.

Tom Goodrum, Schoell & Madsen, appeared representing the applicant. He presented a site plan showing the small site, an outlot for a city well house and limitations caused by an earlier expansion of the adjacent wetland basin for stormwater purposes. He stated that the applicant's proposal to provide 5,900 square feet of replacement buffer will offer better wetland treatment than the rules require, due to the location of the proposed buffer along the road entrance and golf course. He also noted that the rock trench will serve the same purpose as the buffer by limiting and treating flows before they reach the wetland.

Manager Calkins observed that the application may qualify for an exception rather than a variance. Ms. Clark concurred that the proposal would offer more protection than compliance with the rule and therefore does qualify for an exception. Manager Calkins asked as to infiltration trench maintenance. Mr. Panzer responded that there is a need to monitor and maintain the trench, but that eventually there will be a need for removal of leaves, debris and sediments. **It was moved by Manager Fisher, seconded by Manager Smith to approve the permit in accordance with staff recommendations as an exception under Rule I rather than a variance. Upon vote, the motion carried.**

Manager Calkins asked that staff consider how to track *de minimus* wetland impacts and how those methods might be incorporated in the District's revised plan or its regulatory process. Responding to Manager Calkin's question, Mr. Holtman advised that the District does have authority to put into place means to track *de minimus* wetland fill.

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Authorization for Big Island Conservation Easement Purchase.

Mr. Pressman reviewed the Request for Board Action, including the conservation merits of the acquisition, the basis for value determination and the contingencies that remain to be fulfilled before the District would be obligated to purchase the easement. He noted that the RBA incorporates an additional clause clarifying that the intent of the management plan is to provide detailed limits on the City's discretion in managing the property, but not to involve the District in management decisions. He reported that the City Council has approved the purchase agreement with the authority to make minor changes. He noted that Mayor Gabriel Jabbour and Jim Murphy are present on behalf of the City. Mr. Murphy stated that the City hopes to close the transaction by mid-December.

**It was moved by Manager Fisher, seconded by Manager Keeley to approve resolution 060-05, incorporating the additional change noted by Mr. Pressman. Upon vote, the motion carried.**

Accept Quote for Minnehaha Creek Streambed Vegetation.

Mr. Evenson noted that at the last meeting the Board had authorized staff to obtain quotes. The low quote of three obtained is Minnesota Native Landscapes in the amount of \$13,651.50. The work would start next month with live staking.

**It was moved by Manager Smith, seconded by Manager Thomas to accept the staff recommendation and approve Resolution 062-05 directing the award of the contract to Minnesota Native Landscapes. Upon vote, the motion carried.**

Appointment of MAWD Delegates.

**By unanimous consent, Managers Calkins and Blixt were designated as the District's delegates. No alternate delegates were named.**

**ADJOURNMENT**

There being no further business, the regular meeting of the Board of Managers was adjourned at 10:05 p.m.

Respectively submitted,

Scott Thomas  
Secretary