

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

Draft

January 12, 2006

CALL TO ORDER

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

MANAGERS PRESENT

James Calkins, Pamela Blixt, Richard Miller, Lance Fisher, Ethel Smith, Lee Keeley.

MANAGERS ABSENT

Scott Thomas.

OTHERS PRESENT

Eric Evenson, District Administrator; Michael Wyatt, District Planner; Renae Clark, District Technician; James Wisker, District Permit Officer; Michael Panzer, District Consulting Engineer; Chuck Holtman, District Counsel.

APPROVAL OF AGENDA

It was moved by Manager Fisher, seconded by Manager Calkins, to approve the agenda with the addition of consideration of a 60-day extension to review three City of Victoria permit applications. Upon vote, motion carried.

EXTENSION OF PERMIT REVIEW, CITY OF VICTORIA

Ms. Clark distributed a Request for Board Action requesting that the Board extend the District's time for review under Minnesota Statutes §15.99 due to the fact that three separate project alternatives have been proposed, the proposed work is complex and that there recently was a change in the District's understanding that the City only wished informal review at this time. The Board discussed that the work may involve dredging for culvert replacement. Ms. Clark advised that the City has not yet decided on the preferred culvert size, which will affect the amount of dredging. Mr. Panzer noted that all three alternatives are for easing navigational passage between Lake Minnetonka and Lake Virginia.

It was moved by Manager Fisher, seconded by Manager Smith to approve the RBA for the reasons stated by Ms. Clark. Upon vote, the motion carried.

The Board renewed its recent discussion as to how the District dredging rule applies to channels historically dredged but not recently maintained. There was further discussion about the City's submission of three separate alternatives and whether the District should review all three or request the City to present a preferred alternative. Mr. Evenson noted that the permit proposals will come before the Board for decision.

Manager Miller arrived at this time.

PLAN REVISION UPDATE

Ms. Clark laid out staff's intention for a rule revision process that would be coordinated with the Water Resources Management Plan development and approval. Staff plans to return to the Board within two to three months with proposed rulemaking revision concepts, in six months with proposed language and in a year with a draft rule and Statement of Need and Reasonableness. Staff would like the rulemaking process to be completed as closely as possible to plan adoption to allow cities the greatest opportunity to incorporate both the plan and the revised rules into their 2008 comprehensive land use plan revisions.

Mr. Wisker spoke to the goals identified in the WRMP and the extent to which the rules can assist in working toward those goals. He observed that District rules could assist in meeting infiltration and ecological integrity goals, as well as water quality and quantity goals.

Manager Smith departed at this time.

Mr. Wisker suggested that rules favoring bioengineering and natural stabilization methods also could assist the District in its goals for shoreline and streambank improvement. Mr. Panzer foresees a sequencing requirement favoring nonstructural stabilization methods. Manager Fisher questioned whether the District intended to offer cost sharing to promote nonstructural methods and whether the rule criteria would depend on whether cost share funds were available. Manager Calkins suggested that cost sharing could be focused on removing existing riprap. He also noted his historical concern that riprap does not count as flood plain fill under the District's floodplain management rule.

Mr. Wisker does not see substantial changes in District rules regarding navigability goals. Managers Blixt and Fisher noted that the District should not lose the opportunity to refine its dredging rule appropriately so that historical but unmaintained channels do not necessarily qualify for dredging. The Board discussed the "appropriate" level of navigation that the District's goals should embrace. Manager Fisher suggested a need to incorporate ecological sensitivity concerns into a more location-based dredging rule.

With respect to the Best Management Practices goal, Mr. Wisker suggested that BMP's could be required under rules other than the District stormwater management rule. Manager Fisher also suggested that it may be appropriate to require BMP's for smaller projects that do not otherwise trigger more substantial review.

Manager Miller departed at this time.

The Board discussed how compliance cost should be weighed. Manager Fisher emphasized that it should be a factor in how rule criteria are set. Manager Calkins urged that the rules focus on meeting the goal and provide for exceptions when necessary rather than being structured for the exceptions.

Mr. Wisker spoke to the District's wetland protection goal. He said that staff is examining rule changes to reflect the Board's interest in a stricter "no net loss" outcome. This could involve, for example, removing the *de minimus* exemption. Manager Calkins said that if the exemption is not eliminated, at least there should be a reporting mechanism to track its use. The Board asked staff to explore where the wetland impact rules could be made more restrictive, and also asked for incorporation of reporting requirements for purposes including apportioning the *de minimus* exemption among multiple property owners on a given wetland. Mr. Wisker said that the District also would incorporate into the rules regulatory standards based on the wetland classification scheme adopted in the District's Functional Assessment of Wetlands. Managers Calkins and Blixt ask that staff examine development of a non-degradation standard for wetlands.

Mr. Wisker suggested that no substantial changes to the District's floodplain preservation rule would be required toward the District's floodplain preservation goal. Manager Fisher asked that staff refine the existing exemption allowing fill based on the impact of equivalent fill on all riparian properties.

Mr. Wisker stated that the erosion control rule might see minor revisions for purposes of the District's erosion control goal, such as requiring soil ripping for infiltration. Manager Calkins also urged adding a requirement for mixing organic matter into managed soils. The Board discussed its interest in tightening the monitoring, enforcement and remediation of construction phase sedimentation. Mr. Panzer observed that cropped land and roads are the two biggest sediment contributors.

ASSESSMENT OF RULE EFFECTIVENESS

Mr. Panzer reviewed his January 3, 2006 memorandum assessing the effectiveness of the District's stormwater management rule to address receiving water nutrient goals. The memorandum shows how effective different nutrient control levels will be in reducing incremental nutrient loadings by water basin. He summarized that the "sensitivity" of a particular subwatershed to improvement from stricter nutrient retention standards is

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essentially a measure of how developed the drainage area is, in other words that the more development that has occurred in the drainage area, the less the gain to be achieved from a stricter regulatory standard. The Board urged that the District's regulation of redevelopment be closely examined to gain the water quality benefits that might be possible. Mr. Panzer concurred that this focus would make some of the existing developed areas more "sensitive." Questions discussed by the Board included whether the District's rule should be made uniformly more stringent, whether a variable standard should be driven by the water quality goal of the given subwatershed, whether regulations should be eliminated if not effective and how redevelopment should be regulated.

Mr. Panzer stated that in his view, revisions to the District's wetland protection rule should focus on no net loss of wetland function value, pretreatment of stormwater discharges into wetlands and adoption of the FAW wetland classification framework.

ADJOURNMENT

There being no further business, the workshop meeting of the Minnehaha Creek Watershed District Board of Managers was adjourned at 9:40 p.m.

Respectfully submitted,

Lee Keeley,
Secretary