

**Prior Lake-Spring Lake Watershed District
City of Prior Lake, City of Shakopee & Shakopee Mdewakanton Sioux
Community Special Meeting
Prior Lake City Hall- Parkview Room
Friday March 6, 2009
8:30- 10:30 AM**

**Prior Lake Outlet Channel
MOA Cooperators Present:**

Bruce Loney, City of Shakopee
Steve Albrecht, City of Prior Lake
Ross Bintner, City of Prior Lake
Steve Millar, City of Prior Lake
Stan Ellison, SMSC

PLSLWD Managers Present: William Kallberg

PLSLWD Staff:

Mike Kinney, District Administrator
Joshua Mankowski, District Technician
Stacy Sass, Water Resources Technician
Dean Gavin, District Attorney
Chris Schadow, District Accountant
Ed Matthiesen, District Engineer
Rebecca Kluckhohn, Wenck Associates

Others Present:

Peggy Moeller, HLB Tautges Redpath

1. CALL TO ORDER. Meeting called to order by Administrator of the Prior Lake-Spring Lake Watershed District, Mike Kinney at 8:40 am.
2. APPROVAL OF AGENDA
3. APPROVAL OF OCTOBER 7, 2008 MINUTES. Approval of October 7, 2008 minutes was tabled until the next meeting to allow adequate time to review.
4. REVIEW AND APPROVAL OF CHANNEL PROJECT COST.

Mr. Kinney introduced Chris Schadow, the District Accountant. Mr. Schadow presented to the cooperators the actual costs summary for 2008. He noted that there were a few areas that were over budget for 2008 and that per the MOA any overages in the budget need to be brought before the cooperators for approval. He noted that the overages in the accounting and audit budgets were due to an insufficient understanding of what actual costs would be at the time of budgeting. Mr. Schadow noted that in his regular accounting for the District, 25% of the cost is charged to the MOA account and that the 2009 budget for accounting and audit are adequate.

Mr. Kinney also noted that there was a high level of legal activity in 2008 due to the need to prepare and compile easement documents. Attorney Gavin spent significant time in 2008 doing leg work that he can build off of in 2009. Attorney Gavin stated that the 2009 budget is

sufficient for usual legal business but will need to be increased pending any litigation stemming from acquiring easements.

Mr. Kinney introduced Peggy Moeller, of HLB Tautges Redpath, who explained the overages in the 2008 audit. Ms. Moeller stated that overages were due to improper accounting of MOA transactions and procedures. The total cost of overages for the MOA was billed at \$3000.

Steve Albrecht stated that from the City of Prior Lake's perspective, they can understand the fluctuation in accounting and audit charges due to the irregularities of when the MOA was signed, nuances of the process still being worked out and budgeting issues the City had in 2008.

Mr. Kinney gave a 2008 summary and current status for each of the channel segments:

Segment 8- Obtained an easement from Met Council in exchange for a culvert replacement. There is no easement in the Fish and Wildlife property and we are not seeking one.

Segment 7b- An appraisal report was completed and presented to the Mobilhome Minnesota property owner. There had not yet been a response from the property owner. There will not be a need to obtain additional easement footage from Landey's RV, but rather a corrected easement.

Segment 7a- There are no easement issues in this segment. Work will continue with the City of Shakopee to obtain necessary rights of access for construction.

Segment 6- There was no activity in 2008 and nothing planned for 2009.

Segment 5a and 5c- The District continues to work with the City of Shakopee to obtain corrected easements. Bruce Loney noted that segment 5b is still in litigation between the City of Shakopee and the property owner.

Segment 4b- Many attempts have been made to work with the property owner to obtain a corrected easement. It appears this segment will require additional legal work, as due to the severity of erosion in this section, we need to complete work there regardless of property owner cooperation. Attorney Gavin stated that his recommendation is to go ahead with designs and construction and allow the property owner to take action as a good faith effort has been made to obtain a corrected easement.

Segment 4a- This segment looks good though we would like to have a wider easement in one spot.

Segment 3- The majority of segment 3 is now owned by SMSC and a corrected easement is nearly complete.

Segment 2- There are 5 property owners with easement, one being the City of Prior Lake. Mr. Kinney has been trying to work with the other 4 property owners to obtain corrected easements, but since the only work that is planned for this segment is within the City of Prior Lake's easement, there is no pressing need to correct those easements now.

Segment 1- There are no issues with segment 1 or its easements and it is anticipated that the rest of the area will continue to develop.

Mr. Loney asked if grant dollars can be used for easement work. Mr. Kinney stated that grant dollars are allowed to be spent on easement acquisition and legal expenses.

Mr. Kinney noted that another overage was the office expenses as is listed on the 2008 actual costs summary provided by Mr. Schadow.

Ross Bintner suggested budgeting extra for legal expenses in anticipation of difficulty with segment 4b. Options were discussed for proceeding with segment 4b construction and easement issues. Mr. Albrecht recommended sending a final letter to the property owner

stating the MOA cooperators plans and giving them opportunity to respond otherwise the cooperators will pursue legal action to obtain a declaratory judgment.

Mr. Kinney stated that at the next meeting they could make an amendment to the 2009 budget to include increased legal costs as well as discuss the 2010 budget.

Mr. Loney motioned to approve overages presented for 2008 as presented. Seconded by Stan Ellison. All ayes.

5. REVIEW AND APPROVAL OF TECHNICAL INFORMATION/CALCULATIONS.

Rebecca Kluckhohn presented the annual update for cost allocations for the MOA and JPA. She stated that these changes were made based on the construction schedule, changes in land ownership, and changes in development to areas that are tributary to the Outlet Channel. Ms. Kluckhohn explained that between the cooperators there was no development that occurred that exceeded the allowable runoff rates. There were two land ownership changes in 2008 with the SMSC purchasing one property in Shakopee and one in Prior Lake. Ms. Kluckhohn also stated that the numbers that have changed the most were due to changes in the construction schedule.

Each cooperator gave a summary of the development that occurred in the areas tributary to the Outlet Channel and none had any that were exceeding the allowable runoff rates.

Mr. Schadow verified that per the MOA, changes in land ownership need to be calculated retroactively. He will use the new figures to adjust the cost allocations retroactively and note those changes and their amounts on the invoices for 2009.

Mr. Bintner asked what the construction schedule looks like. Mr. Kinney stated that all currently planned work will be completed in 2009 during the late fall and winter, except segment 4b, which will likely be completed in 2010. He stated that 60% designs will be available at the next MOA meeting and that he hopes to open bids for the project by May.

Mr. Loney motioned to adjourn the meeting. Seconded by Mr. Kinney. Meeting adjourned at 9:55 AM.