

**Prior Lake-Spring Lake Watershed District
Monthly Meeting
April 12, 2005**

Members Present: Bill Kallberg, Larry Mueller, Bill Schmokel, Roger Wahl

Members Absent: Craig Gontarek

Others Present: Kelly Murray, Nick Polta, Larry Poppler, Steve Albrecht, Susan Pace, Loren and Joyce Bartelt, John and Janet Witkowski, Harry Strobel, George Koblas, and Jeremy Duehr

Staff Present: Dean Gavin, District Attorney
Ed Matthiesen, District Engineer
Shannon Lotthammer, District Administrator
Jim Eggen, District Technician
Yolanda Coleman, Office Assistant

1. CALL TO ORDER: Meeting called to order by President Kallberg at 7:00 PM
2. PUBLIC COMMENT: President Kallberg asked if there were any public comments or questions regarding items not on the agenda for later in the meeting. There were none.
3. CONSENT AGENDA: Shannon Lotthammer advised the Board there was a revised Claims List handed out and explained items added to the first Claims List.

Motion by Roger Wahl to accept the revised Claims List into the Consent Agenda. Second by Bill Schmokel. Motion passed 4 ayes.

Motion by Larry Mueller to approve the Consent Agenda with the revised claims list. Second by Bill Schmokel. Motion passed 4 ayes.

4. ITEMS REMOVED FROM THE CONSENT AGENDA: There were none.
5. TECHNICIAN'S REPORT:

A) Permits:

Permit Application #04.11 Mass Grading – Jeffers Pond: Jim Eggen put up site maps and reviewed the project, citing the Staff review included in the packets. He said that due to the large size of the project Staff is recommending that the permitting be done in phases beginning with this grading permit application. He said the District Staff has coordinated with the City of Prior Lake and other involved entities. Manager Kallberg asked if this mass grading would apply to the entire project. Shannon Lotthammer explained the Staff recommendation. She said because of the size of the site

and the phased nature of the development, Staff is recommending that approvals be considered in steps. She said this first application before the Board is a request for a permit to mass grade the entire site, about 140 acres out of the total 336 acres. She said this will be followed up with subsequent individual permit requests to construct the storm water system and build out the site. She said approval of the mass grading permit application does not approve any of the storm water management components.

Manager Kallberg asked if all the grading would be done at one time. Shannon Lotthammer said that what is being proposed is to limit grading to about 40 acres at one time. Nick Polta of Pioneer Engineering explained that the phasing of the grading is based on the need to balance the site with cut and fill. He put up a map of the site that showed the grading in phases. He said the developer will have weekly meetings with the staffs of the City of Prior Lake and the District.

Manager Schmokel referred to the ridge on the southern portion of the site and asked how much of that would be open at one time. Nick Polta explained that the ridge has to come down uniformly in order to get the equipment in and move the dirt out. He explained that this would be done in increments and the intent is to keep the center of the roadway lower than the outside to capture drainage down to the stormwater pond. Manager Schmokel sought clarification on the City of Prior Lake's bluff requirements, and expressed concern about maintaining adequate erosion control on areas of steep slope that do not meet the definition of a bluff, both during mass grading and after houses are built. Steve Albrecht said the City has asked the developer to consider retaining walls and landing pads. Nick Polta explained how this could be incorporated in the design for individual residences and said that in the town house area retaining walls would be installed before building. He said that all slopes will be reinforced for erosion control by the developer with wire mesh or other best management practices. Manager Schmokel asked if the District determined by inspection that more erosion control is needed could they require it. Kelley Murray of Wensmann said there is extra money budgeted for erosion control and Steve Albrecht said there will be a full time City Inspector monitoring erosion control.

Manager Schmokel said he has reviewed the plans and asked the developer why the Board should approve mass grading for the entire site. Nick Polta said Phase I includes the extensions of Jeffers Path and Wilds Ridge to make the road connection to the south half of the site. He said the north half involves the extension of Jeffers Parkway to County Road 42 and out to Wilds Ridge. He said there would be two crews, one on the south half and one on the north half and explained how as grading is completed slopes can be seeded, mulched and secured. He explained how the work would be structured so as not to leave soil in an area that would then need to be hauled out over newly constructed roads. Manager Kallberg asked if soil would be moved from one area of the project to another. Mr. Polta said there would be some of that activity, for example, some of the soil from the south half will go to the school site, and the rest will have to be moved off-site.

Manager Schmokel referred to the recent article in the newspaper regarding legal challenges and asked what effect this might have on the project. Dean Gavin, attorney for the District, said the District is not involved in any legal action and must follow the District's rules in considering the application. Susan Pace, attorney for the City of Prior Lake said there was a hearing on the legal action regarding the EAW and the Court ordered the posting of a \$2.1 million bond by 4:00 PM on Friday April 15, 2005 or the lawsuit will be dismissed. She said that there is no reason this permit

application cannot be considered, regardless of whether or not the bond is posted. She said if the bond is posted the City is prepared to move forward to have the lawsuit dismissed.

The Board discussed the reported legal action between the heirs of the estate and the legal representative of the estate, and asked if this would affect the District Permit. Dean Gavin said that the focus of the Board must be on the application that has been presented and that must be approved or denied by the Board. He said that while what may happen with the heirs regarding the estate could affect the District in the future with respect to easements, at this time the District is not involved in any litigation and there is a permit application in front of the Board that requires action based upon the District Rules and normal practices of the Board.

The Board, Staff and City representatives discussed coordination of oversight efforts to ensure compliance is maintained at the project moves forward. Steve Albrecht noted there will be weekly meetings with the District and there will be a person addressing erosion control and will be in frequent contact with District Staff to maximize resources and cooperation.

Manager Mueller said he is concerned with the amount of the site open at one time with mass grading. Steve Albrecht said that the entire 40 acres may not all be open at one time, and if they are not using one area it can be temporarily seeded. Manager Kallberg said the limit of 40 acres is not included as one of the conditions listed in the permit application review recommendations. He said he would like to have it included. The other Board members agreed.

Motion by William Schmokel to approve Permit Application #04.11 Mass Grading – Jeffers Pond with the conditions listed in the 4/12/2005 staff report and the additional condition that not more than 40 acres be open to grading at one time. Second by Larry Mueller. Motion passed 4 ayes

Permit Application #05.06 2005 City Streets Reconstruction. Jim Eggen put up a map and reviewed the project. He summarized the improvements to be made and the request for a partial variance from the District's requirements. He said Larry Poppler, Assistant City Engineer for the City of Prior Lake, is in attendance at this meeting.

Manager Wahl asked why they are adding curb and gutter to all the areas. Larry Poplar said part of the project is for all the areas to meet City ordinances.

Manager Kallberg asked for an explanation of the requested variance. Jim Eggen explained the variance request outlined by the applicant and in the Staff report. Staff noted that while not all of the District's requirements would be met the end result of this project would be an improvement in storm water treatment. Manager Kallberg said the District rules define three things needed to grant a variance; harmony with the general purpose and intent of the rules, strict enforcement of the rules would cause undue hardship and the terms of the variance are consistent with the District's Water Resources Management Plan and Minnesota Statutes. He said these conditions have been met for this project and the hardship here is not a result of the applicant's actions. Manager Kallberg asked if there were any questions or comments from the public.

Janet Witkowski of 15365 Fish Point Road SE asked how stormwater is treated. Ed Matthiesen explained the path, capture and treatment of the stormwater. Mrs. Witkowski said part of their property is swamp and asked if the stormwater is now going to be treated before draining into that swamp. Ed Matthiesen said yes and explained how this would be accomplished.

Harry Strobel of 15228 Fish Point Road stated that he and neighbors do not want the road widened as it will attract more traffic and encourage higher speeds. Steve Albrecht of the City of Prior Lake said the actual driving surface width of the road will not increase. The increase in width will be the addition of curb and gutter at the side of the road. Mr. Strobel asked how many additional feet will be required for the curb and gutter. Larry Poppler explained it can vary from 1 or 2 feet to 5 or 6 feet depending on the slope of the property to the street, grading required, etc.

John Witkowski asked if the level of water in their swamp will increase with the addition of the new catch basin. Larry Poppler said it would not as the drainage area will remain the same.

Motion by William Schmokel to approve Permit Application #05.06 2005 City Streets Reconstruction from the City of Prior Lake with the recommendation of Staff to meet the conditions on pages 3 and 4. Second by Larry Mueller. Motion passed 4 ayes.

B) Permit Modifications

Permit Application #04.01m Keen Valley. Jim Eggen said the permit was originally approved in May of 2004. He described the site and said the project included an infiltration basin which was constructed but does not operate as intended. He said the applicant applied for a permit modification to leave the infiltration basin as is and was denied by the Board, and the applicant was advised to explore other options and come back with an alternative. Mr. Eggen said this new modification request is to convert the infiltration basin to a wetland/rain garden. He said this would be accomplished by the addition of drain tile to the base of the basin, filling the basin with soil and planting and seeding with plants suitable to the site and climate.

Manager Kallberg noted that the Letter of Credit for this project expires on 5/19/05 and asked if there is enough time to make the modification and evaluate the result. He asked if part of this request is to extend the LOC or will they have to approve that at a subsequent meeting. Shannon Lotthammer said one of the recommended requirements if the application is approved is to extend the LOC for one year.

Motion by William Schmokel to approve Permit Application #04.01m Keen Valley including the conditions recommended by staff. Second by Roger Wahl. Motion passed 4 ayes.

Shepherd's Path Permit Modification (01.24). Jim Eggen referred to the memo in the packets. He explained the applicant is requesting to delay the construction of an infiltration basin that was included in the original project. He said the applicant is working with the DNR to purchase additional land and has identified a new location for the infiltration basin. Shannon Lotthammer said the applicant is aware that they still need to construct that basin and that any additional storm water treatment needed for further development of the site is in addition to that infiltration basin. She said staff recommendation is to approve delay of the construction of the basin.

Manager Kallberg asked if there is any reason to believe the additional land may not be acquired and if it is not, is there a Plan B. Shannon Lotthammer said if the additional land is not acquired, the applicant will be required to construct the basin at the original planned site. Manager Kallberg asked if they should put a time limit on when this construction must be done, either on the additional land when purchased or on the original site. He asked how long overdue this is at this time. Shannon Lotthammer said she suggests giving the applicant until the end of the year so the applicant will have the opportunity to go into construction in the fall. The Board discussed this suggestion, and other options for addressing this request and any future site development.

Motion by William Kallberg for Board to approve the Permit Modification to either construct the infiltration basin in 2005 on the additional land if purchased, or to build the infiltration basin on the original site. Second by William Schmokel. Motion passed 4 ayes.

6. ENGINEER'S REPORT.

A) Outlet system Model Evaluation. Ed Matthiesen summarized the March 17, 2005 meeting on the JPA. He described the discussions held based on the outputs of the models, drainage area and rate control goals. He said that at the meeting Staff agreed on an approach for determining cost-share for capital costs and maintenance. He noted there will be another meeting on Friday 4/15/2005.

B) Segment 5 Channel Design. Ed Matthiesen referred to the proposal in the Board packet. Shannon Lotthammer said she thinks they are getting close to a determination of the alignment for the channel, particularly through the Noecker and Leisener property. She said once the alignment is determined the District can get into design. She said during this period it will be helpful to have assistance from Ed Matthiesen and Peter MacDonagh so they can react to some of the developer's proposals. She said the City of Shakopee also wants to have the channel constructed the same time as development happens. She said this is also an incentive for completion of the JPA.

Motion by Larry Mueller to approve up to \$2,800.00 for the Kestrel Design Group and up to \$4,600.00 for Wenck Associates, Inc. for the Outlet Channel; Segment 5 Bioengineering Bank Stabilization and Planning Coordination. Second by William Schmokel. Motion passed 4 ayes.

President Kallberg called for a break at 9:00 PM. Meeting resumed at 9:10 PM.

7) OTHER OLD/NEW BUSINESS:

A) Status of Segment 4B Project. Shannon Lotthammer referred to the letter that Attorney Gavin sent to the attorney for the Muhlenhardts. She said there have been several more attempts made to contact them with no response, and at this point she feels this issue is dead. Manager Kallberg asked if there is a possibility of a future transfer of ownership and development. She said she has discussed this with the District's Attorneys and they all agree that there is a strong probability of development in that area in a few years and that the District can address the channel needs at that time under more favorable conditions. Shannon said she did discuss this with the grant manager at Met Council and asked if they could move the grant funds from the Muhlenhardt stretch to the

Jeffers stretch. She said Met Council would prefer the funds be used as originally intended, but may be willing to move the funds if the District shows it has done all it can with the Muhlenhardts. Attorney Gavin asked the Board if they feel it would be worthwhile to spend possibly several thousand dollars to pursue this issue through the courts. The Board said they would rather try for approval to move the grant funds to another location and directed Shannon to contact the Met Council.

B) Jeffers, Morlock Easements. Shannon said Attorney Huemoeller has finished the Jeffers easement and sent it to Mr. Oberg for his review and signature. She said this easement needs to be signed before the conservation easement can be recorded and the plat filed.

Shannon said the latest draft of the Morlock easement is being reviewed by herself, Ed Matthiesen, Manager Schmokel and Mr. Morlock. She described the components of the easement.

C) Pike Lake Easements. Shannon referred to the letter in the packets and the approved amended permit from the Minnesota Department of Natural Resources authorizing the reconstruction of the Prior Lake control structure and the channel restoration/enhancement. She said the District will still need to submit detailed plans for each phase of the Channel Project for review and approval, but the overall concept including the reconstruction of the outlet box itself has been approved by the DNR. She said the amended permit also approves the revised Management Policy and Operating Procedures, which references the capacity of the pipe and the channel rather than the 50cfs that was identified in the original permit. She said with this permit the District can now move forward with the project, including looking at acquiring downstream easements. She said that preliminary work by Evergreen Land Services indicated it would cost about \$200,000.00 to acquire the Pike Lake easements, plus additional costs for channel easements. She explained why the lake and channel easements are required and asked for the Board's direction for proceeding. The Board discussed and directed Staff to proceed with acquiring the Pike Lake easements.

D) Proposed Rule Revisions. Shannon said she is working with the Attorneys on the rule language and said she feels there should be another Board Workshop. She said she would like to schedule this for the week of April 25, 2005, or as soon as possible after that. She said the workshop would be about the rules and also the Water Resources Management Plan amendment. The Board discussed and decided on Wednesday May 4, 2005 with Tuesday May 3, 2005 as an alternate. This will be confirmed and notices send out.

E) Proposed Carp Survey Proposal. Shannon referred to the memo in the packets and the proposal from Steve McComas regarding carp population estimates and capture and removal. She said she also consulted with Paul Nelson of HDR and one of his colleagues who said the only reliable method of population count is mark-recapture. The Board agreed that the survey would be of limited value as they already know the carp are there. A guest at the meeting, Jeremy Duehr, summarized scientific literature regarding carp spawning for the Board. Mr. Duehr, Board Members and Staff discussed different methods they had heard or read about. Shannon suggested doing some observation this year for where the carp spawn and then try to develop a plan for removal next year. The Board discussed further and agreed.

F) 2005 Monitoring Plan. Shannon referred to the memo in the packets. She said the District will again sponsor the Metropolitan Council's Citizen Assisted Monitoring Program (CAMP) on the six largest lakes in the District. She said the District has also contracted with Three Rivers Park District for in-depth monitoring of Spring, Fish and Upper Prior Lakes. Shannon said Staff will establish flow monitoring stations along County Ditch 13, and the outflows of Spring and Prior Lakes. She said Jim Eggen is working on the ferric chloride treatment system and should have it operating soon. She said two potential monitoring sites for the Prior Lake Outlet Channel are being investigated, and likely won't be installed this year. She said the District has contracted with Steve McComas to complete the plant surveys on Spring and Fish Lakes. She said staff is also developing a monitoring strategy to lay out what monitoring will be done each year.

G) Survey of Prior Lake Outlet Elevation. Manager Schmokel referred to his handouts. He said questions arose while he, Ed Matthiesen and Bryce Huemoeller were reading the orders that established 904 ft. as the OHW for Prior Lake. He said they were all dated in the 1940's and all referred to the 1912 adjustment. He said the 1912 was really a river adjustment that the Corps of Engineers set as a bench level to control the swing dams on the river. He said there was also a 1929 adjustment along Highway 13. He said he asked Pat Lynch at the DNR how it was determined to use the 1912 adjustment. He said he was advised that it was based on a dam that was placed in Candy Cove in 1941 with a disc that said it was 901.91 and every one assumed it was based on the 1912 adjustment. He said the question then was "does the gauge on the bridge match the openings on the outlet or does it match the elevation of the disc". He said this spring the Scott County Surveyor's Office conducted a survey, which generated the data contained in his handouts. He reviewed and explained this data, and said it shows that what the District has done so far is correct. He also recommended that before the outlet structure is replaced, the District should make a temporary transfer to a fixed object, such as a tree, and then put a disc in the new structure. He said he will give all this material to Ed Matthiesen for his use. Shannon Lotthammer said she will summarize all this information and send a report to the DNR.

H) Monthly Board Meeting Location. Shannon Lotthammer said the City of Prior Lake has offered to allow the Board of Managers to hold its regular monthly meeting in the City Council Chambers at the Fire Station. Shannon and the Board discussed the benefits.

Motion by William Kallberg to approve changing the monthly meeting location on a trial basis to the City of Prior Lake at County Road 21 and Fish Lake Road. Second by William Schmokel. Motion passed 4 ayes.

I) Updates/Scheduling: Plan Amendment Workshop. Shannon passed around a notice of the quarterly meeting of MAWD for the Board Members if they are interested. She said to advise her if anyone plans to attend.

8. ADMINISTRATIVE

A) Insurance Coverage. Shannon Lotthammer said she is in the process of renewing the District's Workmen's Compensation Insurance and noted that there is an option to provide coverage for District volunteers. She said currently volunteers are not covered through the District except through liability insurance. She said for \$150.00 per year the District could provide accident

insurance that would cover disability for a period of time. The District could also add \$1,000.00 in medical costs coverage for another \$68.00 per year. She said her recommendation is for the Board to add the disability insurance at \$150.00 per year so there is some protection for the citizens when they are doing volunteer activities for the District.

Motion by Roger Wahl to approve adding the basic premium for providing Disability coverage for volunteers while doing volunteer activities for the District. Second by Larry Mueller. Motion passed 4 ayes.

B) Financial Report. Shannon Lotthammer reviewed the Financial Report. She noted the bank account opened for Permit Escrow/Security. Manager Schmokel asked if there will be a way to track liabilities through this account. Shannon said details will tracked through an Excel spreadsheet. Shannon said that on a quarterly basis funds will be transferred from the escrow account into the regular checking account to cover costs incurred for permits.

Motion by William Schmokel to accept the Financial Report. Second by Roger Wahl. Motion passed 4 ayes.

Motion by Roger Wahl to adjourn. Second by William Schmokel. Motion passed 4 ayes.

William Kallberg, President

Larry D. Mueller, Secretary