

**Prior Lake-Spring Lake Watershed District
Monthly Meeting
September 10, 2002**

Members Present: Craig Gontarek, William Kallberg, David Moran, Larry Mueller, Roger Wahl

Staff Present: Bryce Huemoeller, District Attorney
Ed Matthiesen, Montgomery, Watson, Harza
Paul Nelson, District Administrator
Jim Eggen, District Technician
Yolanda Coleman, Office Assistant

Others Present: Michael Noonan, Kevin Lienau, Aaron Hemquist, Deb Ridgeway, Jason Wedel

1. CALL TO ORDER: Meeting called to order by President Gontarek at 7:00 PM. He then recessed regular meeting and opened the Public Hearing.
2. PUBLIC HEARING: Proposed Levy for 2003.

Paul Nelson gave a review of the Levy, explaining that this is the second of two hearings, with the first being held last month. He said the certified proposed levy would be submitted to the County on Monday September 16, 2002 and will have a hearing for the final levy on December 10, 2002 and certify that to the County by December 31, 2002. He said that the preliminary levy includes basically everything that is expected to be done in 2003, as of now. He said there may be things that do not get finished by the end of this year, and at the December 10th hearing the Board can consider removing some of those things. He said the final levy can be reduced in December, but it can not be increased. He said the bottom line on the levy is different from the budget as the budget includes some grant funds. He said also some projects for which money has been saved in the past, which is permitted under statute to accumulate money for projects. The General Fund will be about \$173,690.00 and the budget is about \$191,890.00. The difference is largely due to that if the Cates Lake project is done, \$22,000.00 of that will be used to repay the General Fund for expenses already expended on that project. He said that if the Cates Lake Project is not done, Staff would recommend that rather than reduce the levy by the entire \$50,000.00, at the December meeting we will move \$22,000.00 to the General Fund. Paul Nelson reviewed the budgets and levies for the Liability Insurance, 509 Implementation and Data Acquisition Fund. He compared this to the 2002 levy and said the bottom line is about a \$60,000.00 increase. He explained the impact on property owners based on the \$100,000.00 home would be \$37.30. He said that regarding the Cates Lake project, the Board had only agreed to consider participation and there would need to be a public hearing before finalizing for the levy. He explained that for the Data Acquisition Fund it can be levied by statute once every five years, not to exceed \$50,000.00. The last time it was done was five years ago so it is in the cycle to consider in 2003.

Paul Nelson said that by statute the District should update the CIP Levy every two years. He handed out copies of the Revised CIP Levy, September 2002. He reviewed the projects, project costs, projected existing funds as of 2002 and the five-year amounts to be levied. He said that the Board could take public comments now and the update CIP is also on the agenda later in the meeting for Board consideration. President Gontarek asked if there were any public comments. There were none.

3. PUBLIC COMMENT:

President Gontarek asked if there were any public comments regarding any general items as opposed to any items coming up later in the meeting. There were none.

4. ROUTINE BUSINESS:

A) Approve Monthly Minutes:

President Gontarek asked if there were any changes or corrections to the minutes for the August meeting. William Kallberg pointed out two missing or misspelled words.

Motion by William Kallberg to approve the August 2002 minutes with the above noted corrections. Second by Larry Mueller. Motion passed 5 ayes.

5. ATTORNEY'S REPORT:

Bryce Huemoeller stated he had nothing to report that would not be covered with other items on the agenda.

6. TECHNICIAN'S REPORT:

A) Permits:

Ridgewood at Savage Crossings Application #02.20 and Development of Part of Savage Crossings Application #02-21.

Jim Eggen displayed a map and pointed out the area of the Savage Crossings. He reminded the Board that at the last meeting they had approved the mass grading plan for all of the south half. He said subsequently he has received two applications for final construction as opposed to the mass grading. He pointed out on the map the areas covered by the two applications. He explained that the Ridgewood area is the area south of the proposed South Park Drive and that the other application is for the area north of and including South Park Drive. He said there has been a fair amount of discussion over the past several months with Staff, engineers and the City of Savage. He said that recently one of the applicants has withdrawn their request for a variance from the infiltration requirement and have designed infiltration around the northeast treatment pond, which obviates the need for a variance from the infiltration requirement. He said on the very south end of the site is the only other proposed treatment pond associated with site. He said that area is within the District, both hydrological and politically. He said Staff is comfortable with the proposed infiltration scheme, which is basically a "back pitched bench" around a good part of the periphery of the pond, and several sections of underground drain tile. He said the combination would provide adequate infiltration that is required based on District Rules and based on the area.

Paul Nelson also said that staff does feel comfortable recommending approval. He said that there does need to be some discussion regarding security. He said this overlaps somewhat with a previous permit, in terms of who the applicants are and who the security is for. He said the previous application by Ryan Construction had a security deposit of \$8,250.00. He said they are treating these two applications as new permits. He said they added some things about security, but it is open for discussion due to the existing security deposit from Ryan Construction. He said it is largely to cover erosion control and the temporary storm water ponds that they had for the mass grading. He said that one of the alternatives is for Ryan rather than deposit additional security of \$1,500.00, is to agree that part of the security they have of \$8,250.00 will carry over to this next permit for storm water ponds and facilities. Jim Eggen said they are also requesting \$1,500.00 security deposit for the northern areas of the site, and \$3,500.00 for the southern area, which is basically all of the Rottlund Homes project.

President Gontarek asked if there was any comment from the Public. A man asked how much of the water would eventually empty into Prior Lake. Jim Eggen said all of the area south and south west of the hydrologic boundary will drain into Prior Lake. Paul stated that the balance of the site will drain toward Twin Ponds and Credit River.

David Moran referred to the recommendation in both applications regarding approval on condition the applicant show adequate land rights for off-site flow, storage and treatment facilities. He asked if they had done so. Jim Eggen replied that they are in the process of doing so. He pointed out the ponds locations, and explained that the applicant would have to purchase the land or land rights. Jason Wedel of the City of Savage stated that they already have an easement for the pond on the northern end and they do not anticipate having to go beyond that easement area. He said the easement on the south end is yet to be negotiated.

Jim Eggen said that the project engineer, and the City of Savage agreed that, in the "worst case scenario", if water on Prior Lake got very high it would come under Highway 13, actually running backward into the project and into the pond. Ed Matthiesen explained that if a high snow melt and heavy rains follow the lake could reach the 912 foot elevation during a ten year event. He said his feeling that there should be an option for an outlet. Paul Nelson stated that if the boundary does not change, the area is still in the District's jurisdiction, but if the boundary does change then they will want to be sure of an easement. Dave Moran referred to the recommendation that the applicant "show" adequate land rights. After some discussion the staff recommendation on both applications was changed to "Approval, conditional on the applicant documenting adequate off site land rights" rather than "showing adequate land rights".

Motion by William Kallberg to approve Applications #02.20 Ridgewood at Savage Crossings based on Staff recommendation that the applicant document the adequate land rights for the off-site flow at the southwest corner of the site. Rottlund Homes to provide security of \$3,500.00 rather than the \$8,250.00 indicated on the Staff Review. Second by Roger Wahl. Motion passed 5 ayes.

Motion by Craig Gontarek to approve Application #02.21 conditional on the applicant documenting off-site land rights for the pond and stormwater treatment facilities. Second by William Kallberg. Motion passed 5 ayes.

Application #02.04 Timber Crest. Jim Eggen pointed to the area on the map and reminded the Board that this request had been tabled at the July 9, 2002 meeting due to some changes requested by the City of Prior Lake. He said those change have now been done and the City Council has approved the project. He pointed out the locations and explained the changes. Paul Nelson asked what the original staff recommendation had been and the amount of the security deposit. Jim Eggen referred to the review from the 7/9/2002 meeting. He said the security deposit was \$5,000.00 cash or letter of credit. He said that the developer is selling the project to Pulte Homes and Pulte Homes has submitted an application for transfer of the permit.

Motion by William Kallberg to approve Application 02.04 Timber Crest based on the recommendation and review dated July 3, 2002 with the modifications of the site as shown on their drawing dated September 5, 2002, received September 6, 2002 and the knowledge that the City of Prior Lake has approved the plan. Second by Dave Moran. Motion passed 5 ayes.

B) Outlet Operations:

Jim Eggen said that the outlet has been operating full bore, running wide open. He said he and Paul Nelson have been inspecting the channel daily since it was opened. He said everything is functioning well.

Ed Matthiesen asked for permission to order rock for the Kinney driveway if needed. He said this driveway gets rutted as the outlet overruns the road. The Board approved the purchase of the gravel or rock as needed.

President Gontarek stated the meeting would move forward to Item 8 A) at this time to accommodate the people waiting for the Boundary Revision Request portion of the meeting.

8. OTHER/OLD NEW BUSINESS:

A) Boundary Revision Request:

Paul Nelson referred to the discussion at the last meeting regarding the request to consider a boundary change in the area of Savage Crossings. He said there is now more detailed topographic information showing the actual hydrologic boundaries are not the same as the political boundaries. He said at the last meeting the Board had directed Staff to draft a motion for consideration. He said there is a copy in the packets and he handed out copies to those present for this portion of the meeting. He said that a boundary change is not approved by the District, it is approved by the Board of Water and Soil Resources. He said the District, or 50 citizens, or a majority of the cities within the Watershed can petition BWSR for a boundary change. He reviewed the resolution proposed for the boundary change for submission to BWSR. Bill Kallberg asked if the proposed boundary would become the new hydrologic boundary as well. Paul Nelson said that it is correct with some small variations so that buildings do not end up in both jurisdictions. He reviewed the topographic survey showing the natural overflow from Prior Lake. Paul Nelson referred to the paragraph relating to the overflow elevation of 915.5 and pointed it out on the attachment. He reviewed the attachment that shows the proposed development for Ridgewood will maintain an overflow path for Prior Lake at 914. Mr. Nelson reviewed the attachments that indicate the City of Savage supporting the change. Also the City of Savage studied the stormwater needs of the drainage area going the other way and assures there will not be a negative impact downstream. He said the development of Savage Crossings and Ridgewood areas to be relinquished do meet District controls. He reviewed the resolution statement and the conditions; that the area relinquished by the District be accepted the Scott Watershed Management Organization and the developer and City of Savage provide an easement for perpetual flowage rights. He said that if the District gives up the political jurisdiction they would not have the right to the future flowpath without the easement.

Paul Nelson said that other parties had approached the District regarding boundary changes in that area and he suggested that the Board may want to consider the change for the whole area, not just development by development. Mr. Nelson said that a better way to address the whole question, and would advance District goals and concurrently advance the City of Savage goals and how the Watershed Act is supposed to be implemented, would be to have the discussion concurrently with the evaluation of the equivalency of the City's rules..

President Gontarek pointed out that one requirement of the change is that there be a public benefit and he does not feel that there is public benefit as long as the Savage rules are less restrictive than the District Rules. Paul Nelson said that the aim of the Watershed Act is for the District to set standards and ultimately transfer functions to other political subdivisions. He said that in the process of evaluating whether the City of Savage approach is equivalent and permitting can be turned over to them, the District should make a determination whether their rate control method they use of .1CFS accomplishes the same thing, or more, as the infiltration the District uses for the setting on Credit River.

William Kallberg asked if the City of Savage approach is more restrictive or proposed to be more restrictive. Paul Nelson said they think it is more restrictive in rate control, but the volume still goes through. Paul Nelson said the County is also starting to recognize their approach, and that it makes sense to him except the District has never had the formal mechanism to make that decision and compare them. He said the District approach of volume management started with the 509 Plan in 1999, and since that there has been no assessment if the City's approach still matches both the rate

control and volume control, or if the rate control is the appropriate thing for the Credit River drainage. He said the District Engineer did a calculation that shows the water on the pond on the east side is held back basically ten times longer using the City of Savage's approach than it would have been using the District rate control standard. He said the water still discharges but the water is soaking into the ground using the longer flow path. He said there are things their method does better and things the District method does better. He said when water goes into the lakes it stays for weeks so the District tries to control volume. He said the Credit River is a peak flow situation and the City is trying to get the ten times longer storage so they can get the water out of town before more water comes down from the upper watershed.

Paul Nelson said another way to approach this, rather than requesting a boundary change through BWSR, is to evaluate equivalency.

Jason Wedel of the City of Savage said they feel their method is of public benefit. He explained that adjacent property owners would face loss of developable land if they have to meet the District's infiltration rule.

The Board, staff and City representatives discussed the time frame that might be required for the equivalency comparison versus the time it might take BWSR to arrive at a decision. President Gontarek said the information presented so far does not really indicate what the public benefit would be derived. Paul Nelson pointed out that the current boundary change request only involves the Savage Crossings property and would not resolve the problem for other property owners. He suggested letting the boundaries stand, start benchmarking the equivalency approaches, so that within a reasonable time a presentation can be made to the Board and the City of Savage about what changes can or should be made to either or both approaches.

President Gontarek said the Board does not feel that now is the right time to pass the resolution. He directed Staff to further investigate. Attorney Huemoeller interpreted this as: investigate the full extent of the impact of the difference between the legal and hydrologic boundaries in this section of the District and coordinate with the City to come back with a recommendation that deals with that and the equivalency issue.

7. ENGINEER'S REPORT:

A) Outlet Channel Project:

Ed Matthiesen explained that he is finishing the draft report. He said he will meet with Paul Nelson and Peter MacDonagh to review information already submitted. He said the calibration model should be completed by Wednesday.

B) Interceptor Repair:

Ed Matthiesen said they had advised Sunram not to expect to work on it until sometime in mid-October due to time required to lower the lake level. He said that after the interceptor repair they also want to make a repair near Jeffers lower pond. He said there is a wash out there and they want to put some rock there to make sure the flow is going into the pipe and not creating its own channel path.

Ed Matthiesen reviewed his memo regarding the Construction Management Services for the Gabion drop structure and bank repair near the ADC building. This memo proposes that MWH work with the District Technician Jim Eggen and outlines the goal and objectives of the project. He recommended the Board approve a cost of \$3,900.00 for this work.

Motion by William Kallberg to approve the Construction Management Services proposal as described in the memorandum from Montgomery Watson Harza dated September 3, 2002 in

the amount of \$3,900.00 for the Gabion Drop Structure and Bank Repair Project. Second by Larry Mueller. Motion passed 5 ayes.

Bryce Huemoeller said that he has spoken to ADC and their attorneys had some specialized language they want in the access agreement. He said he expects to hear further from them within the next few days.

Paul Nelson said the City of Shakopee would have a reimbursement answer by the middle of the month.

C) Panama Avenue Wetland:

Ed Matthiesen said they held a meeting and now have enough information to speak to the land appraiser Dave Swenson from Evergreen and give him the information. He said the outlet structure is modeled. Paul Nelson said he spoke to the DNR to see if they had any analyses on the range of cost of per acre-foot of lake flood storage. He said they gave him a couple of names of economists.

8. OTHER OLD/NEW BUSINESS:

B) Rules Revisions:

Paul Nelson said there are three topics; one is response to the City of Savage and City of Prior Lake regarding their buffer programs. The second is reviewing the rules workshop and the third would be responses to comments received on the proposed rules changes.

The City of Savage presented their wetland buffer program. He said he felt that it was equivalent and maybe a little more advanced than the District's with the exception that they do not require a Conservation Easement. He recommended sending a letter to the City of Savage that the program has been reviewed and the only thing found would be their consideration of conservation easements. He said it is relatively easy to get conservation easements shown on plats. He said Jason Wedel from the City of Savage seemed interested because they would also like to find a method for that because they have been trying to get conservation easements around some wooded areas.

He said the City of Prior Lake presented their program and their rule is identical to the District, except for the conservation easement, and we should recommend that they should consider that as well, particularly now that there is relatively easy way to record them on plats.

Paul Nelson reviewed the memorandum regarding the summary of the Rules Workshop. He said he felt that in terms of equivalency the Board was in agreement that they do not want to wait for a whole new local water plan to be written, which would be at least three and maybe four years from now. He said the District plan says they would consider turning over permitting to local jurisdictions once they have approved local plans, adoption of ordinances, etc. He said he asked BWSR that if they wanted to do it before a local plan is in place, would the District have to do a plan amendment. He said BWSR replied "no" and said what could be done that as part of equivalency the District could say that the packaging of rules, staffing and policies are what would be expected as part of their local plan.

Paul Nelson said that for the next meeting he would like to take information from the work shop and write it in terms of policy that can then be given to the Cities of Savage and Prior Lake, and submit at the next meeting for consideration for the Board to adopt as policy.

Paul Nelson said they received comments on the rules revisions from the Builders Association, Scott County and the Pollution Control Agency. He said he has started letters of response to each of them going through them point by point. He asked the Board if they wanted to go through them or leave it to him and legal. He also asked if the Board wanted them to come back with the letters for the next meeting or finish them and schedule the hearing for the next meeting.

Paul Nelson reviewed a lot of the proposed changes and a discussion of the buffer strip requirements followed. President Gontarek said this needed some discussion by the Board, and put on the agenda for the next meeting. Paul Nelson asked the Board if they felt it would be beneficial to have an expert come in and explain the pros and cons of different buffer strip requirements. President Gontarek said to put it on agenda for next meeting.

C) CIP Review:

Paul Nelson reviewed the Revised 5-Year CIP Levy. He said the Board did not have to approve tonight. The Board noted that it was all items they had reviewed previously. Larry Mueller asked if it can be changed if necessary. Paul Nelson explained how and why it can be changed.

Motion by Craig Gontarek to adopt the Revised 5-Year CIP Levy as presented at the monthly meeting on September 10, 2002. Second by Larry Mueller. Motion passed 5 ayes.

D) Certification of Proposed Levy:

Paul Nelson reviewed the proposed Resolution 02-280 Certifying the Proposed Administrative and Metropolitan Water Management Tax Levy for 2003. He said the proposed levy must be certified by Monday September 16, 2002. One typographical error was pointed out by William Kallberg.

Motion by Dave Moran to adopt Resolution 02-280 Certifying the Proposed Administrative Metropolitan Water Management Tax Levy for 2003. Second by Larry Mueller. Roll call vote: Craig Gontarek – aye, Dave Moran – aye, Larry Mueller – aye, William Kallberg – aye, Roger Wahl – aye. Motion passed 5 ayes.

E) Land management Program:

Paul Nelson stated this should not have been on the agenda.

F) Grants:

Paul Nelson said the Clean Water Partnership Grant applications are due October 11, 2002. He said the District has applied the last two years and did not receive a grant. He said applying is a lot of work and he is not sure whether to apply. He explained that legislation had applied money for this year to two large applications that had not been accepted last year, so there is very little money available this year. He said there is some money available from the EPA 319 Program, but that might have to be allocated to projects that have to do with specific studies and demonstration projects. He asked for some more time to research and said he has a meeting on Thursday and then can maybe decide if it is worthwhile to apply. He said if they do apply, it would be better to apply for small amounts.

Paul Nelson said there is also a Met Council Grant, but he is not inclined to apply as the District has already received three from them. He said the grant is running low on funds and they might not be favorable to the District, as they might want to spread the money out more. He said there is also a grant through the DNR for shoreline restoration. He said he is not inclined to apply for this either, as the District is not a shoreline landowner. He said he did give it to Lynn Cyrus to mail to some of the participants in the Lake Friendly project.

Paul Nelson said BWSR will have some Challenge Grant money and will be accepting grant applications in December or January. He said the District should apply for another year or two of the CurlyLeaf control. He said that is where the District is already receiving money for this and it would be logical for them to continue. He said that last week he talked to Steve McComas, who has completed the aquatic plant surveys.

G) Producers Workshop:

Paul Nelson said they met with about a half-dozen of the major farm producers in the Watershed District and asked their advice about promoting BMPs or grants. He said they seemed to think it would make sense to create some more drainage storage at Sutton Lake. He said Pete Beckius also thought it would be a good idea to have Sutton Lake a little deeper and hold more water. He said Jim Dubee had considered creating a large stormwater pond on his property near Lydia and taking the excavation to build up some of his sod areas, but someone told him he could not as it was a wetland area. Pete Beckius told him it should no longer be considered wetland due to the length of time sod had been grown. Paul Nelson suggested sending Jim Dubee a letter advising him that if he is still interested the District might consider asking Pete Beckius and the District Engineer take a look at the property to see what possibilities would be.

Paul Nelson said he is sending a note to the attendees from the workshop, asking them to rank the grants that the District might apply for, assessing them for the ones they felt would be most worthwhile.

H) Community Festival:

Paul Nelson said the festival would be Monday evening September 16th, and that the District will have a booth. He said Lynn Cyrus will assist with the booth that the District will set up with the Prior Lake Association.

9. ADMINISTRATIVE:

A) Review Claims:

Paul Nelson reviewed some of the claims that are somewhat different; Noah & Associates for the human resource position descriptions, and invoice from Chuck Johnson for the monitoring assistance, Anthony Robling for the balance of his CREP payment, the League of Minnesota Cities for membership dues, reimbursement to Paul for copies and the balance of the catering for the volunteer picnic.

Paul Nelson said that the Montgomery Watson invoice for \$1,425.84 for permit assistance puts them over what was authorized for the year of \$10,000.00. He recommended that the Board authorize an additional \$5,000.00 for permit assistance to get through the end of the year. He said the Montgomery Watson invoice for \$7,259.65 for outlet assistance puts them quite a bit over the authorized amount. He is suggesting the Board hold this invoice until he and Ed Matthiesen can review it further.

Motion by Craig Gontarek to authorize an additional \$5,000.00 for permit assistance by Montgomery Watson Harza. Second by Larry Mueller. Motion passed 5 ayes.

Motion by Dave Moran Claims 02-242 through 02-273, excluding 02-246. Second by Larry Mueller. Motion passed 5 ayes.

B) Financial Report:

Paul Nelson reviewed the Financial Report. Paul Nelson said that the income side has not changed much from last month. He said there was a little more interest income, and he did receive notice from the Spring Lake Association that they will be sending the \$5,000.00 for their share of the pond weed control. He reviewed the expense side and explained some differences between budget and expenditure in the General Fund, Data Acquisition, etc.

10. EXECUTIVE SESSION: Cancelled

11: ADJOURN

Motion to adjourn by William Kallberg. Second by Larry Mueller. Motion passed 5 ayes.

Craig Gontarek, President

William Kallberg, Secretary