



MEMORANDUM

To: MCWD Board of Managers
From: Renae Clark, Planner and Project Manager
Date: April 11, 2016
Re: Painter Marsh Easements and Cattle Crossing Repair

Purpose:

On April 14, staff will present a briefing on an Agreement for repair of a crossing in Painter Creek and conveyance of easements over Painter Marsh.

Background:

Subwatershed Background

The Painter Creek Subwatershed is approximately 13.5 square miles in the western portion of MCWD. Painter Creek, an altered natural watercourse and a public drainage system constructed in 1908, drains from the headwaters at Lake Katrina (Baker Park Reserve), through Painter Marsh to Jennings Bay on Lake Minnetonka. Jennings Bay is currently on the State Impaired Waters List. In 2004, MCWD undertook a Painter Creek Feasibility Study to assess the methods available to restore water quality to Jennings Bay and its tributary area. In 2009 the U.S. Army Corps of Engineers (USACE) completed a Draft Feasibility Study for the Painter Creek subwatershed which identified several areas of wetland restoration to improve wildlife habitat. Further, the District has implemented several land conservation and restoration projects within the subwatershed in recent years. Most recently the Board of Managers authorized an agreement for the conveyance of easements from nine land owners to the District in exchange for the District replacing culverts at 4650 and 4680 Creekwood Trail in Orono in the area of Katrina Marsh – one of the USACE study areas. An overview and briefing on past projects and current initiatives in the Painter Creek Subwatershed was provided by staff at the December 17, 2016 Planning and Policy Committee meeting and will be reviewed again on April 14.

Johnson MOU

Painter Marsh – also a USACE study area – occupies an area of about 350 acres between Co. Rd. 6 and 26 in the City of Independence. The marsh lies on portions of approximately 16 parcels. Nine of the parcels are owned by members of an extended family. In July 2015 the MCWD Board of Managers approved a memorandum of understanding with members of the Johnson family which outlines the following general areas of collaboration:

1. Physical assessment of the hydrologic, hydraulic and ecological conditions of Painter Marsh and the potential for a beneficial restoration and conservation plan.
2. Cooperation in review of Owners' intentions for maintenance, use and development of their properties and the compatibility of Owners' intentions with preservation and ecological improvement of Painter Marsh. At Owners' request, the District may assist in reviewing the regulatory context under WCA and District rules and in consulting with the City of Independence with respect to city land use plans, ordinances and controls.

4. Cooperation in the development of the terms of easements that would protect the water quality, flood management and ecological features of Painter Marsh and allow the District to undertake projects to preserve and enhance those features

3. The District, in consultation with Owners, will prepare for a reconstructed crossing. For this purpose, the District would take steps to seek to secure FEMA funding and applicable permits and would authorize the District engineer to prepare a design in accordance with legal constraints.

Crossing Repair and Conveyance of Easements

A cattle crossing over Painter Creek where it enters the northern edge of the Marsh, on the property of Dean and Dawn Mooney, was repaired by the District in 2008, in its role as drainage authority. The crossing is primarily utilized by Marvin Johnson who leases the land. As part of discussions with members of the Johnson family regarding the disrepair of the crossing, due in part to the 2014 high water, the District and members of the Johnson family negotiated the above referenced memorandum of understanding to explore conservation and restoration planning for the Marsh, including easements to facilitate future restoration of Painter Marsh, while developing a repair plan for the crossing.

Because the existing crossing is in disrepair due in some measure to 2014 flooding, its repair is eligible for Federal Emergency Management Agency (FEMA) funding which is being coordinated by the District. The crossing is of use to owners for cattle access to pasture, woodlot access and other purposes. Project easements for the crossing repair and to facilitate future restoration within Painter Marsh are proposed in coordination with the repair plan for the crossing and will be presented on April 14, 2016.

Next Steps:

April 28, 2016

Request for Board action to approve Agreement and easements for cattle crossing repair.