

1 **DRAFT**

2 **MINUTES OF THE PLANNING AND POLICY COMMITTEE**

3 **June 25, 2015**

4 **CALL TO ORDER**

5 The Planning and Policy Committee was called to order by Committee Chair Calkins at 6:45
6 p.m. at the District offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota 55345.

7 **COMMITTEE MEMBERS PRESENT**

8 James Calkins, Richard Miller, and Brian Shekleton.

9 **NON-COMMITTEE MEMBERS PRESENT**

10 Sherry Davis White, Pamela Blixt, Bill Olson, Kurt Rogness

11 **OTHERS PRESENT**

12 Lars Erdahl, District Administrator; Becky Christopher, Senior Planner-Project Manager;
13 Tiffany Schaufler, Project and Land Manager; Mike Hayman, Planner and Project Manager;
14 Anna Brown Planner and Project Manager; James Wisker, Director of Planning and Projects;
15 Craig Dawson, Director of Monitoring and Research; and Chris Meehan, District Consulting
16 Engineer; Louis Smith, District Legal Counsel.

17 **APPROVAL OF AGENDA**

18 The agenda was approved without amendment.

19 **COMMITTEE MEETING**

20 **Comprehensive Plan Finance Discussion:**

21 Ms. Christopher reviewed the District's historic budget – levy ratios and how annual carryover
22 had been utilized in the past. She outlined that for the past several years, the District's levy was
23 approximately 50% of the proposed budget, due to the availability of carryover. It was noted
24 that the majority (approximately 67%) of annual carryover is assigned to debt service for the
25 land conservation program. Ms. Christopher highlighted that the remaining 33% of annual
26 carryover was distributed between (1) project and program carryover retained within that specific
27 fund; and (2) capital project or special project funds with excess carryover transferred for levy
28 reduction across programs

29 It was underscored that given the successful implementation and scale of projects anticipated
30 within focal geographies, the ability to manage levy spikes through the use of carryover would

47 be limited in the future. Ms. Christopher noted that, therefore, the purpose of the meeting was to
48 discuss available financial tools and to discuss possible guiding principles for how the tools at
49 the District's disposal may be used across programs and projects within the two-track approach
50 (focal vs. responsive)

51
52 Mr. Wisker reviewed that the District generally has at its disposal the use of levy authority,
53 grants, appropriations, partnerships, structured debt or special taxing districts as sources and
54 structures of financing for its projects and programs.

55
56 Mr. Wisker outlined the District's experience with debt through the land conservation program
57 and summarized how debt might be similarly used strategically to assist the District in
58 implementing its capital improvement plan. He noted that debt may be structured through AAA
59 rated agencies such as Hennepin County, as the District did with its land conservation program.
60 He then outlined that the District may also utilize bank notes, MCWD direct issuance, or
61 structure its debt through a municipal issuance as it did with the Taft-Legion capital
62 improvement. Manager Miller noted that the District should not restrict its analysis of AAA
63 rated debt to Hennepin County, and that given the focal geography of Six Mile Creek the District
64 should expand its thinking to include Carver County.

65
66 Mr. Wisker summarized the capital capacity that would be generated on 10 and 20 year terms
67 using between \$1,000,000 and \$2,000,000 of the District's annual capital levy for debt service.
68 He outlined that a 10 year term would support a range of \$5,000,000 - \$10,000,000 in capital
69 debt, while a 20 year term would support a range of \$10,000,000 - \$20,000,000. He noted that
70 allocating approximately 50% of the District's current capital levy to service debt would provide
71 a mechanism to fund the District's capital improvement plan while stabilizing its annual levy.
72 Acknowledging that such a program would take time to develop, he outlined the merits of using
73 bank notes in the short – mid-term. Mr. Wisker commented that such programs would be well
74 suited to supporting the District's focused geographic approach, while remaining capital and
75 financing projects through municipal issuance may allow the District to remain responsive, under
76 its "two-track" approach.

77
78 Mr. Wisker then reviewed the District's past thinking regarding special taxing district authority.
79 He noted that the Board had historically considered the use of special taxing district's for local
80 projects that solve local issues, juxtaposed against the use of ad-valorem funding for work at a
81 larger regional scale with regional benefit. However, he noted that the Board had also
82 historically determined that projects funded at a local scale through special taxing districts
83 represent an administrative burden. He concluded that the Board has traditionally opted against
84 the use of special taxing districts, but that this particular tool would remain available for use in
85 the future should the circumstance dictate.

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91 Mr. Wisker offered preliminary guidance on how the various financing tools may be used across
92 projects and programs under the proposed “two-track” approach.

93

- 94 • Program functions determined to be essential or core will be levy funded.
 - 95 ○ Essential functions require stability not offered through grant funding or
 - 96 partnerships, and are not suitable for financing via debt.
 - 97
- 98 • Program enhancements are optional and will be funded through the use of grants,
99 partnerships and appropriations.
 - 100 ○ Program enhancements should be reviewed annually during work planning and
 - 101 budgeting, prioritized and measured against each other, facilitating a decision on
 - 102 which enhancements are so important they may be levy funded versus grant or
 - 103 partnership dependent.
 - 104
- 105 • Structured debt will support the increased scale and cost of focal geography work.
 - 106 ○ Debt will manage annual levy spikes, and provide increased planning certainty.
 - 107
- 108 • Focal geography work will require an integrated investment plan, of which debt will be
109 only one component, identifying the use of grants, partnerships, appropriations, etc.
- 110
- 111 • Remaining capital funding not assigned to debt service can be used in conjunction with
112 municipal debt issuance to support responsive capital projects and programs.
 - 113 ○ Responsive track initiatives will be supplemented with outside funding through
 - 114 grants, partnerships and appropriations.
 - 115
- 116 • Special taxing districts will be used on a case specific basis.
- 117

118

119 Committee Chair Calkins concurred with the staff summary of special taxing districts and stated
120 his support for the District’s use of special taxing districts under specific project circumstances.

121 Manager Blixt commented that special taxing districts may be viewed as punitive to present land

122 owners who were not responsible for the genesis of a particular water resource issue. Manager

123 Shekleton stated that he was not in favor of using special taxing districts unless supported by the

124 people incurring the financial burden.

125

126 The Committee expressed its general support for the use of a capital improvement debt program,
127 similar to the one it used to facilitate the implementation of its land conservation program.

128 Committee Chair Calkins stated that it would be reasonable to incur debt to support the District’s
129 capital improvement program, but that he would recommend a policy cap be adopted to limit the
130 proportion of District levy used for debt service.

131

132 Manager Miller stated his support for the concept of using debt to support the District’s capital
133 improvement program, and noted that the use of debt provides additional scrutiny and
134 accountability regarding the value any investment will generate to both the built and natural
environments.

135 Mr. Smith reviewed watershed law with regards to the District's potential to incur debt to
136 support a capital improvement plan. He emphasized that the District does not have the authority
137 to tax until projects are formally ordered through the procedural requirements outlined in statute.
138 Therefore, he emphasized as a prerequisite the need for a strong planning foundation. Mr. Smith
139 compared this to the approach taken with the development of the land conservation program
140 which proceeded through multiple layers of process and planning to support the initiation of a
141 financing plan and agreement with Hennepin County.
142

143 Mr. Wisker summarized the Committee discussion noting the general support for exploring the
144 legal, planning and financial framework for a capital project debt program. He outlined that staff
145 would work with the District Administrator, legal counsel and its financial advisors to develop a
146 framework for Board consideration at a future meeting.
147

148 Manager Blixt offered that a similar framework for the District's use of grants may be useful.
149 She identified the financial and administrative burden that accompanies many grants and
150 commented that other agencies have policies in place limiting the pursuit of grants that do not
151 provide a desirable return on investment.
152

153 Manager Miller recommended that the District begin evaluating the suitability of District work
154 for funding through state bonding bills. He suggested that staff develop a framework and
155 strategy in parallel with the analysis of a capital debt program.
156

157 Painter Creek:

158 Mr. Wisker provided an introduction first noting that the Board of Managers had passed a
159 resolution in 2010 halting partnership with the United States Army Corps of Engineers (USACE)
160 for watershed restoration within the Painter Creek subwatershed. He identified that, following
161 with the previous discussion, the Board had recently outlined a need to diversify its funding
162 sources and financing plans moving forward. Therefore, in an effort to assess the viability of the
163 District's use of federal Section 206 funding, staff and legal counsel had reevaluated the risks
164 and rewards associated with a partnering with the USACE.
165

166 Ms. Schaufler outlined the procedural progression of partnership development with the USACE,
167 the risk associated with each step, and proposed risk mitigation strategies. She outlined that
168 reinitiating partnership with the USACE in Painter Creek involved first submitting a non-binding
169 Letter of Intent to advance the project into queue for potential funding. Following notice of the
170 project being approved, the District would then negotiate a Project Partnership Agreement (PPA)
171 with the USACE. Ms. Schaufler outlined that the PPA provides the legally binding framework
172 between local sponsors and the USACE, and that the principal risk following execution of the
173 PPA was the need to financially reimburse for feasibility studies completed to date. Ms.
174 Schaufler identified that following PPA execution the District and USACE would enter the
175 design phase, where risk could be mitigated through phasing and/or the District assuming some
176 level of control over the actual design process. Throughout design the District would be exposed
177 to environmental and cultural review processes which would be handled by the USACE as part
178 of project development, and were generally posited as low risk given the physical environment in

179 which the project would be constructed. Ms. Schaulfer then noted that the significant issue
180 associated with the required fee acquisition of real estate had been mitigated by an internal
181 policy change at the USACE. Therefore, aside from the procedural and financial risks identified
182 thus far she noted that the principal risk associated with a USACE partnership would be found
183 during construction. Ms. Schaulfer outlined that a robust, written construction management plan
184 would help mitigate potential problems, but that construction always posed risks. Finally she
185 outlined that since this project would be constructed by the USACE, the project could not be
186 turned over as complete to the local sponsor until the District was satisfied, which would provide
187 opportunities for curative measures should they be needed.

188
189 Mr. Smith summarized his involvement in developing the risk assessment framework and stated
190 his support for the thoughtful manner in which the Board was considering the opportunity to
191 reengage with the USACE. He offered strong skepticism regarding the potential benefits of
192 working with the USACE when measured against the risk. He stated that while he was confident
193 in the framework staff had developed, he was also confident that problems would be
194 encountered. Mr. Smith then summarized areas in which the risk of working with the USACE in
195 Painter may be less than on previous MCWD-USACE projects. He noted that in Painter Creek
196 the two agencies would not be working in alongside each other, but that the agencies would be
197 advancing the same project in partnership. He noted that the physical environment posed less
198 risk and that the District has the experience of having worked with the USACE in the past. He
199 noted that it would be unlikely that there would be environmental or cultural permitting issues
200 since these processes would be largely managed by the USACE, in contrast to previous projects.
201 Mr. Smith also noted that it was unlikely given the incremental nature of the work that the two
202 agencies would arrive with divergent viewpoints on the design. However, the foundation of the
203 PPA was highlighted as still offering reasons for legal concern. Mr. Smith outlined opportunities
204 following the submittal of a letter of intent for the PPA to be revised, although he believed the
205 USACE would be generally resistant to large scale change to the document.

206
207 The Committee discussed the risk assessment and management framework. Manager Blixt noted
208 that the Board needed to determine whether the potential to access federal money through section
209 206 was worth the potential risk of working with the USACE again. Manager Shekleton
210 responded that the District's project management capabilities have increased over time due to its
211 exposure to larger more complicated projects. Manager Miller agreed that the District had more
212 internal capacity than it did during previous joint ventures with the USACE. Manager Calkins
213 commented that while the pain of past problems with the USACE had not yet faded, that Painter
214 Creek represented a new project under a new framework that offered the chance to incrementally
215 address risk and concern along the way. Manager Rogness identified that it seemed the
216 relationship with the USACE had evolved since previous encounters.

217
218 Following discussion ***Manager Miller motioned, seconded by Manager Shekleton, to***
219 ***recommend to the Board of Managers that the District issue a letter of intent to the United***
220 ***States Army Corps of Engineers regarding work in the Painter Creek subwatershed. Upon***
221 ***vote, the motion passed 3-0.***
222

Planning & Policy Committee Meeting
Minnehaha Creek Watershed District
Board of Managers
6-25-2015

223 Greenway Updates:

224 Michael Hayman and James Wisker provided a series of updates on planning and construction
225 within the Minnehaha Creek Greenway.

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228 The Committee Meeting adjourned at 9:50 p.m.

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230 Respectfully submitted,

231

232 James Wisker

233 Director of Planning and Projects

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