

MEETING DATE: September 13, 2018

TITLE: Authorization to release administration of WCA for the portion of Shorewood outside the District boundary

RESOLUTION NUMBER: 18-090

PREPARED BY: Elizabeth Showalter

E-MAIL: eshowalter@minnehahacreek.org

TELEPHONE: 952-641-4518

REVIEWED BY: Administrator Counsel Program Mgr. (Name): Tom Dietrich
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date):_____	<input type="checkbox"/> Refer to taskforce or committee (date):_____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other (specify): Approval at September 13, 2018 Meeting	

PURPOSE or ACTION REQUESTED:

Release administration of the Wetland Conservation Act (WCA) in the portion of Shorewood outside of the Minnehaha Creek Watershed District legal boundary and acknowledge the termination of a Joint Powers Agreement (JPA) between the City of Shorewood and the MCWD relating to the administration of WCA and issuance of permits under a General Permit from the Minnesota Department of Natural Resources (DNR).

PROJECT/PROGRAM LOCATION:

City of Shorewood

PROJECT TIMELINE:

- March 28, 2008 – MCWD executed a joint powers agreement with the City of Shorewood for MCWD to act as the WCA Local Government Unit (LGU) for the entire City, including the area within Riley-Purgatory-Bluff Creek Watershed District (RPBCWD)
- April 20, 2018 - The City of Shorewood and RPBCWD requested WCA authority be returned to RPBCWD for the area outside of the MCWD legal boundary
- August 27, 2018 – City of Shorewood passed Resolution 18-082, delegating WCA to RPBCWD for the portion of the City within the RPBCWD boundary

PROJECT/PROGRAM COST:

Implementation of the WCA is primarily done by staff. Costs incurred through the use of consultants are reimbursed by applicants. The proposed change will reduce the area the District is responsible for the implementation of the WCA and therefore, will not increase the staff time dedicated to the WCA.

PAST BOARD ACTION:

No previous Board action.

SUMMARY:

RPBCWD ceased implementation of a regulatory program, including administration of the WCA effective December 31, 2007. As the majority of the City is within the MCWD boundary, the District accepted administration of WCA for the entire City through a Joint Powers Agreement. Under the JPA, the district also agreed to issue permits under a General Permit from the DNR for shoreline protection, dredging, and waterbody crossings and structures.

RPBCWD reinstated a regulatory program January 1, 2015. RPBCWD and the City of Shorewood requested that full regulatory authority, including WCA and work covered under General Permits from the DNR, be returned to RPBCWD. The Joint Powers Agreement states that it may be terminated by either party upon providing 90 days advance notice in writing. That notice was provided April 20, 2018, and the desire of all parties was to terminate the JPA upon approval of the three governing bodies.

The City of Shorewood passed a resolution August 27, 2018 delegating WCA to RPBCWD for the portion of the City outside of MCWD. RPBCWD passed a resolution accepting responsibility for WCA administration on September 5, 2018 on the condition that MCWD adopt a resolution releasing administration of WCA from that portion of the City. The attached resolution would release WCA authority for the portion of the City outside the MCWD legal boundary and would acknowledge the termination of the joint powers agreement.

RESOLUTION

RESOLUTION NUMBER: 18-090

TITLE: **Authorization to release administration of WCA for the portion of Shorewood outside the District boundary**

WHEREAS, the state Wetland Conservation Act of 1991 (WCA) is implemented through the adoption by local government units (LGUs) of the rules duly adopted by the Board of Water and Soil Resources (BWSR) under Minnesota Statutes chapter 14 pertaining to wetland draining, filling and excavation, codified at Minnesota Rules chapter 8420; and

WHEREAS, Minnesota Rules 8420.0200, subpart 1E, allows a city to designate another local unit of government as the entity responsible for administration and implementation of WCA through the passage of resolutions by both entities; and

WHEREAS, in 2008 the District executed a Joint Powers Agreement with the City of Shorewood to extend administration of the WCA and the effectiveness of MCWD permits consistent with the General Permit issued by the Department of Natural Resources to the entire City of Shorewood, including the portion outside of the District Boundary; and

WHEREAS, the City of Shorewood, the Riley-Purgatory-Bluff Creek Watershed District; and the MCWD find it mutually beneficial to return administration of WCA and exercise of regulatory authority to RPBCWD in that portion of Shorewood within RPBCWD's jurisdiction; and

WHEREAS, the City of Shorewood provided written notice to MCWD of its desire to terminate the Joint Powers Agreement on April 20, 2018; and

WHEREAS, the City of Shorewood, by its resolution no. 18-082, adopted August 27, 2018, designated Riley-Purgatory-Bluff Creek Watershed District (RPBCWD) as the LGU implementing WCA for those portions of Shorewood within RPBCWD; and

WHEREAS, the Riley-Purgatory-Bluff Creek Watershed District; by its resolution no. 2018-08, adopted September 5 2018, accepted WCA administration for those portions of Shorewood within RPBCWD on condition of MCWD's releasing such responsibility.

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers releases administration of the Wetland Conservation Act in the portion of Shorewood outside the District boundary;

BE IT FURTHER RESOLVED that the Minnehaha Creek Watershed District acknowledges the termination of the Joint Powers Agreement between the City of Shorewood and the Minnehaha Creek Watershed District executed on March 24, 2008.

Resolution Number 18-090 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

_____ Date: _____
Secretary