



524 4th St South
Sauk Centre, MN 56378
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Visit us online at: www.srwdmn.org

Rules Public Hearing 1-26-10

Public Hearing
7:00 p.m. Melrose City Center
January 26th, 2010

Managers Present:	Dan Coughlin,, Vernon Vangness, Jim Kral, Larry Kuseske, Jason Scherping, Virgil Rettig and Jim Rothstein.
Staff Present:	Holly Kovarik- Administrator, Mike Hayman- Ditch/Permit Coordinator, John Kolb- Attorney, Chris Meehan- District Engineer
Guests Present:	See Attached List
Manager's Absent:	Richard Raeker, Bob Mostad

1. **President Kral called the hearing to order at 7:00p.m. and the Pledge of Allegiance was recited.**
2. Holly Kovarik welcomed the public to the public hearing for the purpose of taking public comments and discussed a brief overview of the rules process.
3. Mike Hayman gave a short presentation on the proposed administrative rules.
4. John Kolb gave a short summary to the Board on written comments that had been received and reviewed prior to the hearing. Summaries included written comment from; Board of Water and Soil Resources, Stearns County Environmental Services, Stearns County Soil and Water conservation District, Westwood Professional Services, and the Central Minnesota Builders Association.
5. President Kral opened the public comment period on the proposed draft rules.
 - A. **QUESTION/COMMENT #1:** A Stearns County resident raised the question the following question. "Will there be one permit or will someone be required to obtain a permit from both Stearns County and the SRWD?" He also stated that this could be problematic and that he would prefer a one stop shop.

RESPONSE TO QUESTION/COMMENT #1: Attorney Kolb responded that the intent is if a permit is required from another authority or municipality that a permit would not be required from the SRWD. This would work through the issuance of a general permit, requiring the standards of other issued permits to be followed. Attorney Kolb stated that although not always unavoidable, the District does not intend to duplicate permits.

QUESTION/COMMENT #2: The Stearns County resident then asked for an example of when two permits would be required.

RESPONSE TO QUESTION/COMMENT #2: Administrator Kovarik assured the resident that we are working with other agencies to streamline the process and avoid duplication.

Attorney Kolb gave the following example: the installation of a sewage treatment system within 500' of a waterbody, watercourse or wetland. A project such as this would require a permit from the county for construction/installation, and a permit from the District assuring erosion control BMPs during installation. The District has found that it is the cumulative effect of small projects that are much more detrimental to water quality than the large projects. This is also a posture for when TMDL implementation takes place in the future. Attorney Kolb also stated that the District does not know how these rules will go once they are in place. The District may find a tidal wave of issues and may make amendments to reflect that. Attorney Kolb stated that part of his recommendation to the District Board is to see how the rules work, and if issues arise that the rules can be amended.



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- B. **QUESTION/COMMENT #3:** Stearns County Commissioner Don Otte reviewed the conclusions of the written comments submitted by Stearns County Environmental Services in further detail.

RESPONSE TO QUESTION/COMMENT #3: Attorney Kolb addressed each point of interest announced by Commissioner Otte:

- Erosion and stormwater standards were based on Stearns County standards.
- In the Drainage and Water Use section of the rules, The District has reviewed the Wetland Conservation Act (WCA) and DNR rules. The District's past experiences with inundation projects has created impacts on adjacent properties.
- The District has delegated primary responsibility to Mike Hayman as the Permit Coordinator.
- Resort language from the rules is taken directly from Stearns County Ordinance.
- The District is more inclusive in the wetlands definition. The reason is that the District did not want to draw distinction in rules between WCA and public waters wetlands. As far as the District is concerned these are all water resources that are distinct from a waterbody.
- The shoreland definition mirrors what is in the rules, but the District allows it to apply to other water resources.
- Permit cost: It is the District's intent to adopt a fee schedule for inspection fees. This will be done adjacent to adoption of the rules.
- Permit application: The fee is ten dollars; as described in statute, which is the maximum allowed. This draws a distinction between the application fee and inspection fee.
- Included is direct language out of M.S. 5099 with regards to 60 day agency action or government approval action. The District want to assure that the District Board has taken proper action under our rules, regardless of what the county or other agencies need for time.
- Variance in subdivision 10: The courts talk about practical difficulties as their description of hardship. The District has pulled actual language from M.S. 7462.357 (recited). The District is not bound to give exemptions, but the Managers felt it was reasonable to work with applicants in order to accommodate practical difficulty or hardship on projects unable to comply strictly with these rules.
- A comment was made in regards to the difference in the 1000' and 300' shoreland differences and how it relates to these rules that are at 500'. The District is more interested in a project as it works towards the waterbody. 500' is not a prohibition but simply triggers a permit. There is a specific exemption for farming and gardening activities.
- In drainage rules, the District actually articulates statute of the reasonable use rule. This is that you can reasonable dispose of water from your property.

- C. **QUESTION/COMMENT #4:** Will Huston, Westwood and CMBA, requested the opportunity to view all comments and responses from the District.

RESPONSE TO QUESTION/COMMENT #4: Attorney Kolb stated that the comments and responses will be compiled and posted for viewing on the District's website. Also, to address the issue of surety; if a surety is required by a different jurisdiction, the District will evaluate if the surety is sufficient enough to cover the activity for which the District has permitted.

QUESTION/COMMENT #5: Will Huston states that he would have liked more one-on-one input due to some concerns not only with the rules themselves, but also the timing. Rather than case-by-case, it appears this will be an every case basis, and when rules are vague they are open to interpretation. He would like to firm up the rules so that if someone else moves in they do not interpret differently.



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RESPONSE TO QUESTION/COMMENT #5: Attorney Kolb suggested that one solution for the Board would be to leave the open comment opportunity for a period of time to address additional concerns.

Administrator Kovarik notes that the District has had request for, and has participated in one-on-one meetings.

- D. **QUESTION/COMMENT #6:** Tracy Ekola requested that the presentation as well as written report and spoken comment be posted on the website. Ekola also commented on the definition of redevelopment and whether it is included in the rules. Ekola also concerned with open interpretation and that the rules may be taken “beyond the letter.”

RESPONSE TO QUESTION/COMMENT #6: Attorney Kolb stated that redevelopment is defined in the rules (recited). Kolb gave a brief synopsis as to the application of redevelopment in the stormwater section. The need exists for oversight when properties redevelop a site that currently exceeds impervious limits. There must be oversight these properties are retrofitted with proper controls to conform to present standards.

6. John Kolb directed the Board that if there is no further comment, the Board can entertain a motion to close public comment, yet leave the period for written comment open in order to address additional concerns.

Manager Coughlin recommends to fellow members that the process not be rushed and afford opportunity for everybody to see the changes made. In order for a process to gain maximum public support and endorsement it is suggested continuing public comment after changes have been made.

Manager Rothstein stated that he cannot see any reason to drag this process out. Rothstein noted that it is a total disservice to the public that we cannot come to a decision and finish this.

President Kral commented that if this had been done 50 years ago we would not have the same issues present today. Due to past practice, we will all need to pay now.

Manager Coughlin made a motion to continue the hearing while leaving open public written and verbal comment to the February 16th regular Board meeting. This is also to include that the staff transmit an updated draft, or at minimum highlight changes being made to the rules and include all information on the website. Manager Rothstein seconded the motion. The motion passed with all in favor.

Administrator Kovarik announced that the next meeting will be February 16th and will include continuation of the rules public hearing on the agenda at 7:15pm.

7. President Kral recessed the hearing until February 16th.

Secretary, Virgil Rettig
Recording Secretary, Mike Hayman

Jim Kral

Date



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Chub Hensley

Date

Sharen Kutter

Date

Virgil Rettig

Date

Bob Mostad

Date

Larry Kuseske

Date

Richard Raeker

Date

Jim Rothstein

Date

Dan Coughlin

Date