

Resolutions Adopted by Commission

SHINGLE CREEK WATERSHED MANAGEMENT COMMISSION

RESOLUTION NO. 2005-01

Concerning a Variance to Project 2005-02

73rd Avenue Road and Bridge Improvements, Brooklyn Park, MN

WHEREAS, the Shingle Creek Watershed Management Commission did on March 8, 1990, adopt Resolution No. 90-1 and on May 13, 2004 adopt the Second Generation Watershed Management Plan which established management standards for new development, redevelopment, and additions to existing development and established requirements for non-conforming uses in the granting of variances, and

WHEREAS, the City of Brooklyn Park, Owner, has applied to this Commission for a variance to the management standards for proposed Road and Bridge Improvements on 73rd Avenue North between Boone and Winnetka Avenues North, Brooklyn Park, MN, and

WHEREAS, the purpose of the regulation is to establish a procedure to control the discharge of pollutants and volume and rate of surface water runoff in the manner which the Commission determines to be achievable through the application of the best available demonstrated control techniques, operating methods, and other alternatives including, where practicable, a standard permitting no discharge of pollutants, and

WHEREAS, the management standards and criteria for granting a variance require the City of Brooklyn Park to meet the standards established by the management plan and by Resolution No. 90-1 unless it obtains a variance, and

WHEREAS, a variance is to be granted only where a finding can be made by this Commission showing that all of the following conditions exist:

1. There are special circumstances or conditions affecting said property such that the strict application of the provision of these standards and criteria would deprive the applicant of the reasonable use of his land.
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
3. The Granting of the variance will not be detrimental to the public welfare or injurious to the other properties in the project vicinity.
4. The granting of the variance would not be contrary to the intent of taking all reasonable and practical steps to improve water quality within the watershed.

AND WHEREAS, the Commission's engineer has reviewed the variance application of the City of Brooklyn Park and has recommended to this Commission that the drainage improvements proposed as part of the 73rd Avenue Road and Bridge Improvements control the discharge of pollutants, rate



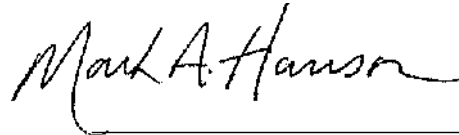
and volume of water to the maximum degree possible by measures which are reasonable and practical through available control techniques, operating methods, and other alternatives.

NOW, THEREFORE, BE IT RESOLVED by the Shingle Creek Watershed Management Commission as follows:


A variance to the management standards is hereby granted to the City of Brooklyn Park for the following reasons and subject to the Conditions hereinafter set forth:

1. The applicant proposes to construct a roadway and bridge over Shingle Creek and a large associated wetland complex and has proposed a design that minimizes wetland impacts.
2. The size of the detention and treatment pond proposed for rate control and water quality is limited by existing development, the proposed roadway and bridge, and the adjacent wetland. The elevation of the top of the berm between the pond and the wetland was established to minimize wetland impact and as a result the pond is not able to detain stormwater and provide rate control for rain events larger than the 10-year event.
3. The applicant has provided XPSWMM modeling that demonstrates that runoff and floodplain fill from the proposed project does not increase the 100-year stream elevation in the immediate reach downstream and that the 100-year downstream elevation, flow, and velocity are not changed.
4. Granting of the variance for the rate control requirements will not be contrary to the intent of taking all reasonable and practical steps to control rate and volume of water within the watershed and Conditions hereinafter stated will establish all available control measures.

This resolution was declared duly passed and adopted this 13th day of January 2005.



Chair



Executive Secretary



SHINGLE CREEK WATERSHED MANAGEMENT COMMISSION


RESOLUTION NO. 2005-01 2005-02

**Authorizing Commission to Enter into Contract with the Pollution Control Agency
to Complete Allocation Portion of TMDL Project
and Begin Implementation Plan Development.**

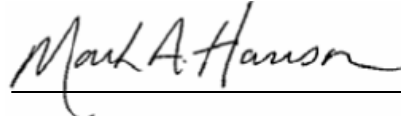
BE IT RESOLVED that the Shingle Creek Watershed Management Commission (Commission) desires to enter into a Professional/Technical Contract with the Minnesota Pollution Control Agency (MPCA) to complete the allocation portion the Shingle Creek Chloride TMDL Project and to begin development of an Implementation Plan (Project).

BE IT FURTHER RESOLVED that the Shingle Creek Watershed Management hereby authorizes Mark Hanson as its Project Representative, and that he is authorized to execute the Professional/Technical Contract for the above-mentioned Project on behalf of the Commission.

This resolution was declared duly passed and adopted this 10th day of March, 2005.



Recording Secretary



Chair

STATE OF MINNESOTA COUNTY OF HENNEPIN

I, Judie A. Anderson, do hereby certify that I am the custodian of the minutes of all proceedings had and held by the Board of the Shingle Creek Watershed Management Commission, that I have compared the above resolution with the original passed and adopted by the Board of said Commission at a regular meeting thereof held on the tenth day of March, 2005, at 12:45 p.m., that the above constitutes a true and correct copy thereof, that the same has not been amended or rescinded and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto placed my hand and signature this tenth day of March, 2005.



Judie A. Anderson
Recording Secretary



**SHINGLE CREEK WATERSHED MANAGEMENT COMMISSION
STATE OF MINNESOTA**

RESOLUTION NO. 2005-03

Amending Capital Improvement Program

WHEREAS, on May 13, 2004, the Shingle Creek Watershed Management Commission and the West Mississippi Watershed Management Commission jointly adopted the Shingle Creek and West Mississippi Second Generation Watershed Management Plan (the "Plan"); and

WHEREAS, the Plan includes a Capital Improvement Program ("CIP"); and

WHEREAS, the Commission has considered a proposed amendment to the Capital Improvement Program and Work Plan (Tables G-2 and G-3 of the Plan) to describe in greater detail the project referred to as Shingle Creek Greenway and Channel Improvements and to revise the Shingle Creek Commission's contribution to the project to the lesser of twenty-five percent (25%) of project cost or \$75,000 to be raised by an ad valorem tax levied by Hennepin County within the Shingle Creek watershed (the "Plan Amendment"); and

WHEREAS, the Plan Amendment has been reviewed in accordance with the requirements of Minnesota Statutes, § 103B.231; and

WHEREAS, the Commission has determined that it would be reasonable and appropriate and in the public interest to adopt the Plan Amendment; and

WHEREAS, ON August 2, 2005, following published and mailed notice in accordance with Minnesota Statutes § 103B.251, the Hennepin County Board conducted a public hearing on the Minor Plan Amendment, and on August 30, 2005, approved said amendment;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Shingle Creek Watershed Management Commission that:

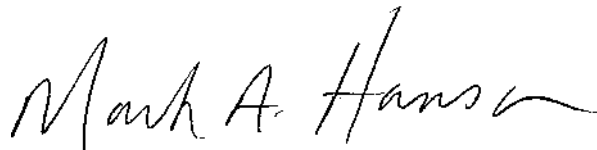
1. The Plan Amendment is approved and adopted.
2. Commission staff is directed to notify appropriate parties of the change to the Plan.
- 3.

Adopted by the Board of Commissioners of the Shingle Creek Watershed Management Commission this 8th day of September, 2005.

ATTEST:



Recording Secretary


Chair

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SHINGLE CREEK WATERSHED MANAGEMENT COMMISSION

RESOLUTION NO. 2005-04

**Ordering Shingle Creek Restoration Improvements,
Designating the City of Brooklyn Park as Member Responsible for Construction,
and Making Findings and Certifying Costs to Hennepin County
Pursuant to Minnesota Statutes, Section 103b.251**

WHEREAS, on September 8, 2005, the Shingle Creek Watershed Management Commission adopted an amendment to its *Shingle Creek and West Mississippi Second Generation Watershed Management Plan* (the "Minor Plan Amendment"); and

WHEREAS, the Minor Plan Amendment described a project for the restoration of Shingle Creek (the "Project") and specified a county tax levy under Minn. Stat. § 103B.251 as the source of the Commission's share of funding for the Project; and

WHEREAS, on July 14, 2005, following published and mailed notice in accordance with the Commission's Joint Powers Agreement and Minn. Stat. § 103B,251, the Commission conducted a public hearing on the Project; and

WHEREAS, ON August 2, 2005, following published and mailed notice in accordance with Minnesota Statutes § 103B.251, the Hennepin County Board conducted a public hearing on the Minor Plan Amendment, and on August 30, 2005, approved said amendment;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Shingle Creek Watershed Management Commission as follows:

1. The Project will be conducive to the public health and promote the general welfare and is in compliance with Minnesota Statutes 103B.205 to 103B.255 (the "Act") and with the Commission's surface water management plan as adopted and amended in accordance with the Act. The Project is hereby ordered.

2. The cost of the Project is estimated to be \$546,700 for Segment I (Brooklyn Boulevard to Hampshire) and \$201,740 for Segment II (Hampshire to Candlewood).

3. The Commission's share of the cost of the Project (\$75,000) is hereby certified to Hennepin County in accordance with Minnesota Statutes, Section 103B.251 for payment by the County in accordance with Minnesota Statutes, Section 103B.251, Subd. 6 and the Commission's Joint Powers Agreement. The Commission understands that the County may pay such costs with taxes levied in 2005 and paid in 2006. The Secretary is directed to transmit a certified copy of this resolution to Hennepin County prior to October 1, 2005.

4. The Commission receives, accepts and approves the feasibility report for the Project prepared



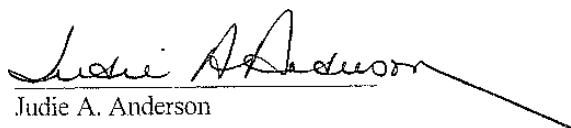
for the City of Brooklyn Park by Wenck Associates, Inc, The Project is described generally as greenway and channel improvements of Shingle Creek, Brooklyn Boulevard to Candlewood Drive in the City of Brooklyn Park.

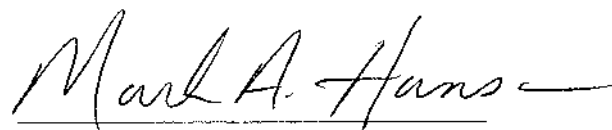
5. Up to \$75,000 of the costs of the Project will be paid by the Commission from proceeds received from Hennepin County pursuant to Minnesota Statutes, Section 103B,251. Additional costs will be paid by the City of Brooklyn Park, but no costs will be charged to other members of the Commission,

6. The City of Brooklyn Park is designated as the member responsible for contracting for the construction of the Project, and the engineer designated for preparation of plans and specifications is the Brooklyn Park City Engineer, or other substitute engineers selected and retained by the City of Brooklyn Park. Contracts for construction shall be let in accordance with the requirements of law applicable to the City of Brooklyn Park.

Adopted by the Board of Commissioners of the Shingle Creek Watershed Management Commission this 8th day of September, 2005.

ATTEST:

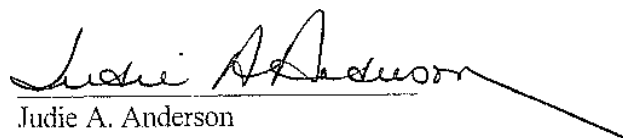

Judie A. Anderson
Recording Secretary


Chair

STATE OF MINNESOTA COUNTY OF HENNEPIN

I, Judie A. Anderson, do hereby certify that I am the custodian of the minutes of all proceedings had and held by the Board of the Shingle Creek Watershed Management Commission, that I have compared the above resolution with the original passed and adopted by the Board of said Commission at a regular meeting thereof held on the eighth day of September, 2005, at 12:45 p.m., that the above constitutes a true and correct copy thereof, that the same has not been amended or rescinded and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto placed my hand and signature this eighth day of September, 2005.


Judie A. Anderson
Recording Secretary

(NO SEAL)

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SHINGLE CREEK WATERSHED MANAGEMENT COMMISSION

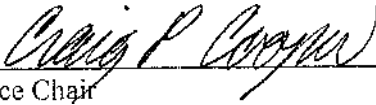
RESOLUTION NO. 2005-05

**Authorizing Commission to Enter into Contract with the Pollution Control Agency
for the Shingle Creek Watershed Lake TMDL Project Phase II**


BE IT RESOLVED that the Shingle Creek Watershed Management Commission (Commission) desires to enter into a Professional/Technical Contract with the Minnesota Pollution Control Agency (MPCA) to enter Phase II of the Lake TMDL project in order to complete nutrient TMDLs for the remaining eight lakes (Bass, Cedar Island, Eagle, Magda, Meadow, Pike, Pomerleau and Schmidt) in the project.

BE IT FURTHER RESOLVED that the Shingle Creek Watershed Management hereby authorizes Mark Hanson, its Chair, to act as its Project Representative, and that Craig Cooper, Vice Chair, is authorized to execute the Professional/Technical Contract for the above-mentioned Project on behalf of the Commission.

This resolution was declared duly passed and adopted this 14th day of July, 2005.



Vice Chair



Recording Secretary

STATE OF MINNESOTA COUNTY OF HENNEPIN

I, Judie A. Anderson, do hereby certify that I am the custodian of the minutes of all proceedings had and held by the Board of the Shingle Creek Watershed Management Commission, that I have compared the above resolution with the original passed and adopted by the Board of said Commission at a regular meeting thereof held on the fourteenth day of July, 2005, at 12:45 p.m., that the above constitutes a true and correct copy thereof, that the same has not been amended or rescinded and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto placed my hand and signature this fourteenth day of July, 2005.

Judie A. Anderson
Recording Secretary
(NO SEAL)



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SHINGLE CREEK WATERSHED MANAGEMENT COMMISSION

**Resolution No. 2005-06
Accepting the Shingle Creek Corridor Study
and Adopting the Shingle Creek Corridor Management Standards**

WHEREAS, the Shingle Creek Watershed Management Commission, with advice and assistance from its Technical Advisory Committee of representatives from its member cities and from the Metropolitan Council, state review agencies, and the Board of Water and Soil Resources, has undertaken a comprehensive assessment of Shingle Creek and some of its tributaries and prepared a Shingle Creek Corridor Study for the purpose of establishing a coordinated vision for the future of Shingle Creek and its tributaries; and

WHEREAS, that vision includes the long term ecological restoration of the creek channel and proactive management of the riparian zone as well as continuation of improvements within the watershed; and

WHEREAS, the Study does not include a prescriptive Capital Improvement Program but rather establishes design and management standards for the restoration of water quality and ecological integrity to be used as projects and redevelopment provide opportunity for implementation, said standards having been set forth in a document entitled Shingle Creek Corridor Management Standards; and

WHEREAS, the design and management standards are advisory but are integral to the Commission's vision and goals for the Creek.

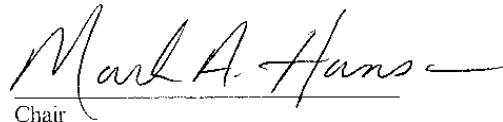
NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Shingle Creek Corridor Study is hereby received and accepted.
2. The Shingle Creek Corridor Management Standards are hereby adopted.
3. The Shingle Creek Watershed Management Commission strongly encourages member cities and other interested parties to use these standards to manage and improve the corridors of Shingle Creek and its tributaries. Executive Secretary

This resolution was declared duly passed and adopted this 11th day of August 2005.



Executive Secretary



Chair

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SHINGLE CREEK WATERSHED MANAGEMENT COMMISSION

Resolution No. 2005-07 Concerning a Variance to Project 2005-11 Village Creek Redevelopment, Brooklyn Park, MN

WHEREAS, the Shingle Creek Watershed Management Commission did on March 8, 1990, adopt Resolution No. 90-1 and on June 13, 2002 adopt Rules and Standards that established management standards for new development, redevelopment, and additions to existing development and established requirements for non-conforming uses in the granting of variances, said Rules and Standards being subsequently incorporated into the Second Generation Watershed Management Plan, adopted May 13, 2004, and

WHEREAS, Brooklyn Park Main Street, Developer, has applied to this Commission for a variance to the management standards for proposed mixed use development and Shingle Creek improvements south of Brooklyn Boulevard between Zane and Regent Avenues North, Brooklyn Park, MN, and

WHEREAS, the purpose of the regulation is to establish a procedure to control the discharge of pollutants and volume and rate of surface water runoff in the manner which the Commission determines to be achievable through the application of the best available demonstrated control techniques, operating methods, and other alternatives including, where practicable, a standard permitting no discharge of pollutants, and

WHEREAS, the management standards and criteria for granting a variance require the Developer to meet the standards established by the management plan unless it obtains a variance, and

WHEREAS, a variance is to be granted only where a finding can be made by this Commission showing that all of the following conditions exist:

1. There are special circumstances or conditions affecting said property such that the strict application of the provision of these standards and criteria would deprive the applicant of the reasonable use of his land.
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
3. The granting of the variance will not be detrimental to the public welfare or injurious to the other properties in the project vicinity.
4. The granting of the variance would not be contrary to the intent of taking all reasonable and practical steps to improve water quality within the watershed,



AND WHEREAS, the Commission's engineer has reviewed the application of the Developer and has recommended to this Commission that the drainage improvements proposed as part of the Village Creek Redevelopment control the discharge of pollutants, rate and volume of water to the maximum degree possible by measures which are reasonable and practical through available control techniques, operating methods, and other alternatives.

NOW, THEREFORE, BE IT RESOLVED by the Shingle Creek Watershed Management Commission as follows:

A variance to the management standards is hereby granted to the Developer for the following reasons:

1. The applicant proposes to construct a mixed use residential/commercial development and improvements to the Shingle Creek channel and corridor on a redevelopment site that was formerly high density commercial.

2. The Developer has been able to design that part of the redevelopment south of Shingle Creek such that the Commission's infiltration requirement is met, but that part of the redevelopment on the north side does not provide for the infiltration of 0,5" runoff. The plan for the north area set forth by the Developer reduces the amount of impervious surface from about 89 percent prior to redevelopment to about 78 percent after redevelopment, an improvement over existing conditions. Limited opportunities are available for additional infiltration and it is unlikely the developer could meet the infiltration requirement for the north side without significant alteration to the redevelopment plan.

3. The Commission's Rules and Standards require a minimum 20 foot vegetated buffer be established adjacent to all wetlands and watercourses upon development or redevelopment. The development straddles Shingle Creek, and the corridor currently is densely wooded with minimal woody and herbaceous understory and groundcover and eroding banks. The Developer proposes improvements to the creek channel and corridor consistent with the Shingle Creek Corridor Management Standards including removing a concrete drop structure and replacing it with rock structures designed to provide stream aeration, reshaping the channel, regrading the streambanks to reduce steep slopes, planting native vegetation on the streambanks, and providing a soil management plan that allows a plant rooting depth of at least 20 inches for all vegetated areas. The development also includes walking paths, footbridges, and viewing plazas.

4. The buffers provided in the plan are generally 10-20 feet wide, although in some locations the buffers are 40-50 feet wide or more. While the plan does not meet the minimum 20 foot buffer requirement, the Commission finds that the applicant has made a good faith effort to maximize buffer width while still providing public amenities and that the development would be a significant improvement over existing conditions.

5. Granting of the variance for the infiltration and buffer requirements will not be contrary to the intent of taking all reasonable and practical steps to control rate and volume of water within the watershed.



This resolution was declared duly passed and adopted this 11th day of August 2005.

Mark A. Hanson

Chair

Judi A. Anderson

Executive Secretary

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SHINGLE CREEK. WATERSHED MANAGEMENT COMMISSION

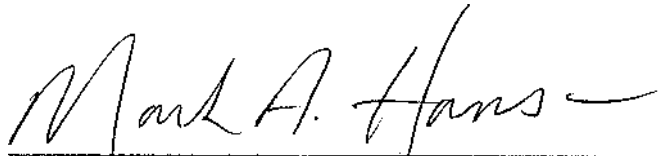
**Resolution No. 2005-08
Adopting Administrative Fee Schedule**

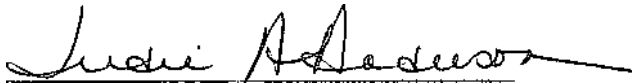
WHEREAS, the Shingle Creek Watershed Management Commission incurs expenses in connection with project reviews and administration of its Rules and Standards; and

WHEREAS, the Commission has determined that it is reasonable and prudent to recover a portion of such costs as administrative fees.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Shingle Creek Watershed Management Commission that the fee schedule attached hereto as Exhibit A is adopted, effective January 1, 2006:

This resolution was declared duly passed and adopted this 8th day of September, 2005.


Chair


Recording Secretary

