

**MINUTES OF THE REGULAR MEETING
OF THE
BOARD OF MANAGERS
OF THE
NINE MILE CREEK WATERSHED DISTRICT**

WEDNESDAY, AUGUST 20, 2014

Call to Order

Chair Lynch called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 5:00 p.m., Wednesday, August 20, 2014, at the Nine Mile Creek Watershed District Office, 7710 Computer Avenue, Suite 135, Edina, MN 55435.

Managers Present: Twele, Lynch, Kloiber, Segreto and Peterson

Managers Absent: None.

Advisors Present: Kevin Bigalke, Louis Smith (arrived at 5:06 p.m.), Robert Obermeyer, and Erica Sneigowski

Agenda

Administrator Bigalke requested the addition of an item under the Hearing of Permit Applications titled Normandale Boulevard Storm Sewer Improvement. He referenced Item 8C, Permit #2014-85 and Item 8E, Permit #2014-16 and advised that those items will be continued.

Manager Segreto moved, seconded by Manager Kloiber, to approve the agenda as amended. Upon a vote, the motion carried.

Reading and Approval of Minutes

The Chair called for review of the minutes of the Special Meeting of June 3, 2014. Manager Peterson noted on page one, section one, the last paragraph, it should state, "...moved to approve the permit..." On page 1, the 1st paragraph, it should state, "...which with..." Chair Lynch noted on the last page it should state, "...how to approach the development..."

Manager Segreto moved, seconded by Manager Twele, to approve the minutes with the noted corrections. Upon a vote, the motion carried.

The Chair called for review of the minutes of the Regular Meeting of July 16, 2014. Manager Peterson noted under the minute approval, it should state, "...~~raised~~ razed..." On page four, Item A5, the third paragraph from bottom, it should state, "...planting would be perennials..." On page five, under the change order, it was noted that staff will amend the section to include specific detail on the change order items. On page five, the fourth paragraph, it should state, "...Board ~~does~~ believes...but ~~he~~ stressed...situation ~~from~~ arising..." On page

six, near the bottom, it should state, "...to make the decision on the wetland delineation report..."

Manager Segreto moved, seconded by Manager Peterson, to approve the minutes with the noted corrections. Upon a vote, the motion carried.

Correspondence

There was none.

Citizens Advisory Committee/Education & Outreach Report

A. Branding/Marketing Project Management RFP Update

Education and Outreach Coordinator Sniegowski advised that staff has contracted with a consultant for the branding and marketing project and provided additional information. She stated that the next step is developing an RFP for two services, the creation of a new logo and a branding and marketing plan. She believed that RFP would be released the following week. She advised that a focus group will be held on Tuesday, September 9th at the Centennial Lakes pavilion. She explained that the Board, CAC and other key stakeholders will be invited to provide input on the new logo and branding and marketing plan.

B. Calendar Design/Photo Contest Update

Education and Outreach Coordinator Sniegowski noted that the woman whom had completed the graphic design work for the calendar the past five years had passed away and therefore the District completed an RFP for those graphic design services. She stated that staff has entered a contract for those services and reported that the calendar will be complete prior to the MAWD meeting.

Manager Segreto suggested that a photograph of the new Water Resource Center be included in the calendar.

Hearing and Discussion of Matters of General Public Interest

There were none.

Consent Agenda

- A. Permit #2014-75: Yorktown Continental Gardens – 7151 York Avenue South; Grading and land alteration permit: Edina**
- B. Permit #2014-76: Parking Lot Construction – 9712 Humboldt Avenue and 9713 Irving Avenue; Grading and land alteration permit: Bloomington**
- C. Permit #2014-86: Home Construction – 7958 Shady Oak Road; Grading and land alteration permit: Minnetonka**

Manager Kloiber moved, seconded by Manager Segreto, to approve the Consent Agenda. Upon a vote, the motion carried.

Hearing of Permit Applications

A. Permit #2014-84: Home Construction – 8959 Mariabo Circle; Grading and land alteration permit: Bloomington

Engineer Obermeyer explained the permit and proposed plans. He stated that the applicant is requesting a variance from the volume reduction requirements because of the existing soils and the slope of the site. He noted that 60 percent of the site is within the drainage easement for the pond. He advised that there would be an additional excavation requirement as previously agreed upon during earlier construction of the subdivision. He explained that this is the last lot within the subdivision and the hardship was brought on by the landowner, noting that the homeowner did not create the situation. He advised that the excavation will assist in infiltration for the site. He stated that he did receive an email from the homeowners association, which includes support from five neighboring property owners. He recommended approval of the permit subject to general conditions including surety in the amount of \$5,000, submission and recording of a maintenance declaration for the storm water facilities, as-built drawings, and a payment to the District's wetland bank fund in the amount of \$3,287.

Manager Peterson questioned if the tight soils exist throughout the development or simply this parcel.

Administrator Bigalke noted that the overall development was approved prior to the District's current set of rules therefore the same requirements did not apply at that time.

Manager Segreto stated that the other homeowners would also benefit from the excavation of the pond and confirmed that they will not be assessed for that service.

Bob and Julie Miller were present. Mr. Miller advised that the issue arose when they purchased the property. He explained that the original owner was in dispute with the homeowners association over the maintenance of the pond as he felt that the association should be responsible for keeping the pond clean. He stated that as part of their purchase agreement for the property he and his wife offered to fund the excavation of the pond this one time, noting that the association would then be responsible for keeping the pond clean.

Manager Kloiber moved, seconded by Manager Peterson, to approve the permit and variance from the volume reduction requirements noting that the conditions for the variance have been met as described in the letter provided by the applicant. Upon a vote, the motion carried.

B. Permit #2014-87: Pentagon South Demolition – S.W. Quadrant of West 77th Street and Computer Avenue; Grading and land alteration permit: Edina

Engineer Obermeyer explained the permit and proposed plans.

Administrator Bigalke advised that the applicant is preparing the site for redevelopment and this is an essential sediment and erosion control issue. He explained that there is no construction proposed at this time but the applicant wanted the District involved because of the magnitude of the project. He advised that the existing impervious surface condition will be considered in the future when a development proposal comes forward.

Scott Tankenoff stated that Pentagon South is attempting to determine what will be done with Pentagon Park. He advised that the site does not comply with a lot of items, such as water management and this process is an attempt to solve some of those issues in an innovative approach. He stated that there will be a lot of change coming forward and advised that the Preliminary Planned Unit Development has been approved by Edina and the next step will be to demolish the building. He explained that they will attempt to reclaim and reuse as much material as possible, including cement, in order to decrease the amount of material being trucked to the landfill. He provided additional information on the process that will be followed in order to test and dispose of contaminated materials.

Manager Kloiber moved, seconded by Manager Segreto, to approve the permit. Upon a vote, the motion carried.

**C. Permit #2014-88: Creek Stabilization – T.H. 212-Bryant Lake Road;
Grading and land alteration permit: Bloomington**

Engineer Obermeyer explained that staff received these plans approximately three hours ago. He stated that within the last year the City of Eden Prairie requested permission to repair a section of the culvert near Bryant Lake Drive. He explained that the project did not trigger the thresholds of the District therefore a permit was not necessary. He stated that there were temporary impacts to wetlands that were reviewed and met the de minimis requirements under the Wetland Conservation Act (WCA). He advised that the contractor completed additional work and did not restore the area. He explained that this permit has been requested to restore the channel and stabilize the creek. He stated that he has not had a chance to thoroughly review the plans but commented that the project appears to be something the District would approve. He reviewed conditions of restoration and believed that this project would be viable and meet those conditions. He recommended the permit for the project be approved with the condition that staff work with the City of Eden Prairie if additional details or items are required.

Administrator Bigalke advised that the project is located on MnDOT property and the District had been contacted by MnDOT to determine if work had occurred on the property. He stated that MnDOT is the Local Government Unit (LGU) under the WCA for this project and therefore will be reviewing the details further.

Chair Lynch noted that this process seems to go against the recently amended deadline for permit submittal.

Administrator Bigalke explained that this permit is more of an after the fact permit to correct work that was already done. He advised that approving this would ensure that the work could begin and correction could occur this year.

Manager Kloiber moved, seconded by Manager Peterson, to approve the permit. Upon a vote, the motion carried.

D. Permit #2014-74: Intermediate District 287 South Education Center Playfield – 7450 Penn Avenue South; Grading and land alteration permit: Richfield

Engineer Obermeyer advised that this request had been brought forward at the last meeting but was ruled as incomplete because the preliminary approvals were not obtained from the City of Richfield prior to the July Board meeting. He stated that the item has been recommended for approval by the Planning Commission and is on the agenda for the August 26th City Council meeting. He presented the permit request and proposed plans. He recommended approval of the permit and noted that no funds would be required because this request is from the School District. He advised that there would be an additional condition that work not begin until the Richfield City Council approves of the project.

Attorney Smith stated that the permit should be approved as presented with the understanding that if any changes are made the permit would need to come back before the Board.

Administrator Bigalke questioned if there would be precedent set by approving this permit before the City Council approval is gained.

Attorney Smith stated that the requirement is that preliminary municipality approval is obtained prior to the District approval.

Administrator Bigalke noted that this is a unique situation because the Planning Commission meeting had been delayed and therefore the Council has not yet heard the request. He explained that this project would simply be given one approval through the City Council.

Attorney Smith stated that he would consider the approval of the Planning Commission as preliminary approval and did not believe that this approval would be out of sync with the municipality and their desired action.

Manager Peterson moved, seconded by Manager Kloiber, to approve the permit as presented, noting that if there are changes that are material to the Watershed Rules made the permit will need to come back before the District. Upon a vote, the motion carried.

E. Permit #2014-85: Sheraton Hotel Renovation – 5601 West 78th Street; Grading and land alteration permit: Bloomington

Administrator Bigalke stated that the applicant received information regarding the soils and have requested that the request be continued to the September meeting to allow additional time to address those issues.

Manager Kloiber moved, seconded by Manager Segreto, to continue the permit. Upon a vote, the motion carried.

F. Permit #2014-16: Hampton Inn – American Boulevard and West 82nd Street; Grading and land alteration permit: Bloomington

Administrator Bigalke advised that this item has been incomplete for a number of months. He stated that the applicant has submit their plans but have not provided a response action plan and therefore recommended that the request be continued to the September meeting.

Manager Peterson moved, seconded by Manager Segreto, to continue the permit. Upon a vote, the motion carried.

G. Permit #2014-89: 501 Main Street; Grading and land alteration permit: Hopkins

H. Permit #2014-90: 525 Main Street; Grading and land alteration permit: Hopkins

I. Permit #2014-91: 15 6th Avenue North; Grading and land alteration permit: Hopkins

Administrator Bigalke requested that Permit #2014-89, #2014-90 and #2014-91 be considered in one motion. He explained that the properties are adjacent and do not require any water activities. He advised that the City owns the properties and consider them to be blighted and are preparing the properties for redevelopment. He advised that the existing impervious surface will be considered at the time of future development under the District's current rules.

Manager Kloiber moved, seconded by Manager Segreto, to approve the permit for #2014-89, #2014-90, and #2014-91. Upon a vote, the motion carried.

J. Normandale Boulevard Storm Sewer Improvement

Engineer Obermeyer stated that this project does not require a permit and explained that the city of Edina has requested that the District review and make a recommendation on the project. He presented the proposed plans. He advised that the plans do meet the requirement of the District.

Administrator Bigalke stated that because a permit is not required, staff could draft a letter stating that a permit is not required but the project does meet the requirements of the District.

Manager Kloiber moved, seconded by Manager Segreto, to direct staff to draft a letter to the city of Edina noting that the project does not trigger a permit but does meet the requirements of the District. Upon a vote, the motion carried.

K. WCA Notice of Decision for Wetland Delineation – Braemar Golf Course: Edina

L. WCA Notice of Decision for Wetland Delineation – Three Rivers Park District Nine Mile Creek Regional Trail: Edina

Manager Kloiber moved, seconded by Manager Peterson, to accept the WCA Notice of Decision for the wetland delineation for the Braemar Golf Course and the Three Rivers Park District Nine Mile Creek Regional Trail. Upon a vote, the motion carried.

Treasurer’s Report

The Treasurer submitted the report. Administrator Bigalke provided additional information on the pay request to Synergy and the amount listed.

A. Pay Request #2 – Synergy Builders

Attorney Smith noted that LHB has reviewed the pay request and recommends approval.

Manager Twele moved, seconded by Manager Segreto, to approve the pay request to Synergy Builders in the amount of \$283,245.15. Upon a vote, the motion carried.

Manager Twele moved, seconded by Manager Segreto, to approve the Treasurer’s Report and pay the bills. Upon a vote, the motion carried.

Unfinished Business

A. Permit Submittal Deadline Modification

Administrator Bigalke explained that the Board has the ability to make an exception to the deadline, referencing the City of Eden Prairie project reviewed earlier tonight. He stated that staff would like to provide sufficient time to notice that the deadline has been revised and recommended that the first month act as a grace period. He advised that the new deadline will take effect September 4th, the day following the current deadline for the September meeting. He advised that September 17th will be the deadline for the October meeting. He stated that if staff finds information missing in the review of an application a letter will be issued providing the applicant with a one-week deadline to provide the necessary information. He stated that if that information is not provided within the specified period the application will be ruled incomplete and will not be considered until the meeting the following month. He advised that the member cities have been communicating the deadline change to developers as they bring plans forward to the city.

Manager Peterson moved, seconded by Manager Kloiber, to approve the resolution #2014-01 modifying the permit submittal deadline.

A roll call vote was taken:

Kloiber – aye
Lynch - aye

Segreto - aye
Peterson - aye
Twele - aye

The motion carried.

B. Water Resources Center Planning Update

i. Driveway and Parking Lot Bid Approval

Administrator Bigalke advised that three bids were received by the District.

Engineer Obermeyer provided a summary of the three bids and stated that staff determined the Veit is the low bidder in the amount of \$555,000 and recommends that the Board accept the bids and award the bid to Veit. He noted that there are some aspects of the project that could be tweaked from the bid that would provide cost savings.

Chair Lynch stated that she is disappointed that the low bid is still higher than expected even though there are cost savings identified by Engineer Obermeyer.

Engineer Obermeyer advised that the bid would be approved as received. He explained that the discussion with the contractor would come during the value engineering review and if the contractor is not willing to amend those items, the Board could eliminate those items from the contract.

Administrator Bigalke noted that it was difficult to obtain bids for this work because contractors do not have the time to complete this work within the timeline necessary, which is reflected in the higher pricing. He advised that the amount, even with the cost increase, will not interfere with the budgeted amount.

Manager Kloiber moved, seconded by Manager Twele, to accept the bids for the driveway and parking lot improvements and award the bid to Veit in the amount of \$555,000. Upon a vote, the motion carried.

ii. Interior Materials Review

Administrator Bigalke stated that the District is within a tight timeline to approve paint, carpet and tile decisions. He advised that the majority would need to be determined prior to September 4th or 5th. He stated that staff has requested larger material samples and provided some smaller samples. He stated that staff will continue to work with the subcommittee when necessary to determine colors in order to meet the deadline.

New Business

There was none.

Engineer's Report

- A. Bush Lake Outlet Project: Status Report**
- B. Eden Prairie Lakes Water Quality Improvement Project: Status Report**
- C. Hopkins Creek Stabilization Project: Status Report**
- D. Southeast Anderson Lake Water Quality Improvement Project: Status Report**
- E. Normandale Lake Water Quality Improvement Project: Status Report**
- F. Wetlands Inventory: Status Report**
- G. Status of Construction Projects**

Engineer Obermeyer updated the Board on the above listed projects and the recent storm activity. He referenced the Eden Prairie project and advised that Rachel has completed the work and has requested that the project be closed out and that the retainage in the amount of \$38,289.60 be released.

Manager Segreto moved, seconded by Manager Peterson, to close the Eden Prairie project with Rachel and release the retainage in the amount of \$38,289.60 as recommended by Engineer Obermeyer. Upon a vote, the motion carried.

Attorney's Report

Attorney Smith had nothing further to report.

Administrator's Report

A. 2015 Budget Hearing Update

Administrator Bigalke reported that the budget public hearing notice and change of address public notice will soon be published. He advised that the meeting will occur on September 10th at 5:30 p.m. at the District office.

B. Other

Chair Lynch asked Administrator Bigalke for an update regarding his interview with the Lessard Sams Outdoor Heritage Council.

Administrator Bigalke stated that he has not received a response yet regarding the final interview date with the Lessard Sams Outdoor Heritage Council and will update the Board once he receives notice.

Managers' Report

The Chair called for reports. Manager Kloiber asked for additional information regarding Managers with terms expiring.

Chair Lynch stated that her original thought had been that the County did not want to reappoint Managers that have been on the Board for many years so she was not going to reapply. She stated that she spoke with the County Clerk and was advised that no applications have been received so she has reapplied for her position on the Board.

Manager Peterson stated that she will also be reapplying for her position.

Manager Kloiber stated that usually there is an annual tour that occurs around September but recognized that the District is probably too busy to conduct that event this year.

Administrator Bigalke noted that the third NEMO session of the year will occur around that time and will include a land-based tour. He confirmed that there will be open house events at the new Water Resource Center this winter.

Task Summary Report & Manager's Calendar

The Managers reviewed and updated the task report.

Adjournment

It was moved by Manager Segreto, seconded by Manager Twele, to adjourn the meeting at 6:59 p.m. Upon a vote, the motion carried.

Respectfully submitted,



Jodi Peterson, Secretary

ATTACHMENTS:
Treasurer's Report