

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

**TUESDAY, JUNE 17, 2014**

**Call to Order**

Chair Lynch called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 5:02 p.m., Tuesday, June 17, 2014, at the Nine Mile Creek Watershed District Office, 7710 Computer Avenue, Suite 135, Edina, MN 55435.

Managers Present: Twele, Lynch, Kloiber, and Peterson

Managers Absent: Segreto.

Advisors Present: Kevin Bigalke, Louis Smith, and Robert Obermeyer

**Agenda**

Administrator Bigalke referenced two items included under the Consent Agenda and noted that the applicants for Item A, Permit #2014-53 and for Item D, Permit #2014-58, have requested to withdraw their applications and plan to resubmit in July.

The agenda was approved as amended.

**Reading and Approval of Minutes**

The Chair called for review of the minutes of the Regular Meeting of May 21, 2014. Attorney Smith stated that on page one, under the Agenda, it should state, "...agenda as amended." On page two, under Item A, the second paragraph, it should state, "...~~execute~~ authorize Administrator..." On page three, the first paragraph, it should state, "...additional in-kind staff service for the winter roads and parking lot maintenance program to ~~Ford~~ Fortin Consulting. On page four, under Permit #2014-36, the second to last sentence of the first paragraph, it should state, "He provided a new letter of recommendation ~~that includes the comments obtained by counsel~~ and noted that the minimal impact provision of the water body crossing rule is met by the existing plans." On page five, the second paragraph it should state, "Attorney Welch provided additional ~~legal~~ clarification and ease regarding TEP recommendations of wetland ~~delineations~~ type and boundary determination. He noted that the District cannot issue a variance ~~towards~~ from the Wetland Conservation Act (WCA) but could issue a variance for buffers, as the District requirement is more stringent than WCA He advised that an approved wetland ~~delineation~~ type and boundary determination would remain in effect..."

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

**Correspondence**

There was none.

**Citizens Advisory Committee/Education & Outreach Report**

The Chair called for the report of the Citizens Advisory Committee. Administrator Bigalke advised that the written report was included in the packet but noted that Education and Outreach Coordinator Sneigowski is currently at Bryant Lake Park preparing for the canoe event.

**Hearing and Discussion of Matters of General Public Interest**

There were none.

**Consent Agenda**

- A. ~~Permit #2014-53: Hillcrest Church Parking Lot Addition; 4300 West 98<sup>th</sup> Street; Grading and land alteration permit: Bloomington~~**
- B. Permit #2014-54: Culvert Replacement on the South Fork of Nine Mile Creek – Downstream of Washington Avenue and upstream of T.H. 169; Grading and land alteration permit: Edina**
- C. Permit #2014-55: Home Construction; 6816 Cheyenne Circle; Grading and land alteration permit: Edina**
- D. ~~Permit #2014-58: Alice Smith Elementary School Parking Lot Construction; 801 Minnetonka Mills Road; Grading and land alteration permit: Hopkins~~**
- E. Permit #2014-59: Normandale Hills Elementary School Improvements; 9501 Toledo Avenue; Grading and land alteration permit: Bloomington**
- F. Permit #2014-60 2014-71: Storm Sewer Replacement – Nine Mile Creek at 2501 Ivy Lane; Grading and land alteration permit: Bloomington**

Engineer Obermeyer provided additional details.

Administrator Bigalke noted that Item F should be retitled from Permit #2014-60 to #2014-71.

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

## Hearing of Permit Applications

### **A. Permit #2014-56: Friendship Village Dining Room Addition and Remodeling; Highwood Drive; Grading and land alteration permit: Bloomington**

Engineer Obermeyer presented the permit request and proposed plans. He recommended approval of the permit subject to general conditions and advised that the surety being held by the District would continue to be held. He advised that the permit had been given a new permit number because of the data aspects.

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

### **B. Permit #2014-57: Luther Hopkins Honda Building Expansion; 250 5<sup>th</sup> Avenue South; Grading and land alteration permit: Hopkins**

Engineer Obermeyer explained the permit and proposed plans. He provided additional information regarding additional information received from the applicant and the variance request.

Chair Lynch noted that findings of fact would be necessary in order to grant a variance.

Mike Boltman, Landform, was present to answer any questions.

Administrator Bigalke stated that if the variance is granted and the permit approved by the Board of Managers, the applicant would make a payment to the District's Storm Water Facilities Fund in the amount of \$8,000 for the volume reduction requirements.

Manager Twele moved, seconded by Manager Kloiber, to approve the variance request based upon the contaminated soils found throughout the property, that the hardship was not created by the permit applicant, and that the onsite soil conditions are suitable to meet the District's volume retention requirements. Upon a vote, the motion carried.

Manager Kloiber moved, seconded by Manager Twele, to approve the permit, with the approved variance. Upon a vote, the motion carried.

### **C. OATi – Request for Existing Conditions Exception, Bloomington**

Administrator Bigalke noted that the applicant is requesting that the District grant an exception regarding to necessary rate control. He advised that the site was demoed last fall without a permit, noting that it is unknown whether demolition work would have exceeded the District's permit threshold requiring a permit for the work. He explained that the applicant is requesting that the pre-demolition conditions be considered as the existing conditions of the site as opposed to the current state of zero impervious surface. He referenced a previous project that received exception during redevelopment planning. He noted that the Board passed a Resolution

in 2011, which provided interpretation of the existing conditions provision. He explained that it is unknown whether the applicant should have made this request and requested a permit prior to demolition. He confirmed that the applicant had been informed to ask the District whether a permit would have been necessary but they did not actually do that. He advised that the District has made previous exceptions of this nature.

Manager Kloiber questioned if the full requirements would need to be met when this permit comes before the Board for consideration in the future.

Administrator Bigalke confirmed that when the permit for development is submit the full water quality treatment and storm water retention requirements would need to be met. He confirmed that staff has been in discussions with the applicant regarding a permit and believed that would come forward in the near future.

Manager Kloiber stated that while he would have preferred that this request came in before the demolition occurred, this request would fall in line with what has been allowed by the District in the past.

Manager Kloiber moved, seconded by Manager Peterson, to grant the existing conditions exception as requested by OATi. Upon a vote, the motion carried.

### **Treasurer's Report**

The Treasurer submitted the report. Administrator Bigalke provided additional clarification on certain items included on the report, noting that the payment to Eden Prairie in the amount of \$12,280 would pay the remaining amount necessary to acquire the necessary building permits.

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

### **Unfinished Business**

#### **A. Insurance Liability Coverage**

Administrator Bigalke noted that this waiver form is required on an annual basis, noting that the District would need to choose whether to waive or not waive the liability limits. He noted that staff continues to recommend that the limits not be waived.

Manager Peterson moved, seconded by Manager Kloiber, to not waive the tort liability limits. Upon a vote, the motion carried.

## **B. Water Resource Center Planning Update**

### **i. Permitting Update**

Administrator Bigalke noted that the remaining permit payments have been approved and with that, the project will be fully permitted. He noted that work has begun on the site and provided a brief update on the progress. He noted that there are a few change order requests before the Board tonight and anticipates additional structural change orders to come before the Board in the future. He noted that there may also be a change order coming forward in regard to the radiant heat used in the greenhouse.

### **ii. Driveway and Parking Lot Bid Authorization**

Administrator Bigalke noted that the District did request information on the driveway and parking lot changes and because of the price quoted by the contractor, a formal bidding process will occur. He noted that Barr Engineering is working to complete the bid package, which will go out for a public bid process.

### **iii. Change Order #1 – Conduit for Cable/Electronics**

Administrator Bigalke referenced change orders one and two and advised that staff anticipated that the work in these changes orders would be needed and explained that this change order amends the contract with Synergy in order for them to complete the necessary work. He believed that Synergy would most likely hire a subcontractor to complete the necessary work. Bigalke noted that no action would be necessary for Change Order #1 as he approved the change order #1 with the authority granted to him by the Board.

### **iv. Change Order #2 – Water Main and Electrical Feeder Wire**

Administrator Bigalke provided additional information in regard to change order two noting that while staff anticipated the additional cost for a portion of the request, the other portion of the change order was necessary in order to meet a requirement from the City of Eden Prairie. He recommended approval of the change order. He confirmed that the water main sizes listed are correct because the building is considered a public government office building.

Manager Kloiber stated that based upon the number of communications, and experience, with the City of Eden Prairie, he has not been satisfied with their process as a number of items have been changed by the City after the fact.

Administrator Bigalke stated that he also been frustrated with the permitting process as District staff had met with Eden Prairie staff in person in December and received direction that the original plans were satisfactory, only to have the requirements changed at a later date.

Manager Kloiber moved, seconded by Manager Twele, to approve change order two in the amount of \$64,598 for the water main increase and the feeder wire increase. Upon a vote, the motion carried.

## **New Business**

### **A. Proposal for Contract Employee for WRC Marketing/Branding/Logo**

Administrator Bigalke stated that the Board discussed branding, marketing, and logo development at the special meeting, which occurred on June 3<sup>rd</sup>. He advised that the Board discussed the option of creating a contract position to coordinate the process, organize a group planning exercise, and development of an RFP for branding and marketing plan. He stated that staff has developed the contract position description, but noted that the amount would not be included in the job posting, as staff would like to see the cost and hours included in the quotes. He stated that if the Board is comfortable with the description they could authorize staff to obtain quotes.

Attorney Smith confirmed that quotes could be requested that with the referenced dollar amount discussed for the position.

Manager Peterson moved, seconded by Manager Twele, to approve the contract employee position description for WRC marketing/branding/logo and authorize staff to request proposals. Upon a vote, the motion carried.

### **B. Bush Lake Native Plant Management**

Administrator Bigalke advised that the District has been completing this work on a 50/50 cost share with the City of Bloomington for a number of years. He advised that the District received two proposals for this project, which would cover 2014-2016, one from Prairie Restoration in the amount of \$42,000 and from Minnesota Native Landscapes in the amount of \$35,590. He noted that the proposal from Minnesota Native Landscapes has a higher per unit cost than Prairie Restoration, with the exception of the June treatments. He advised that he did attempt to contact Minnesota Native Landscapes to question that difference in cost but did not receive a return call or response. He noted that the District has worked with Minnesota Native Landscapes in the past and has had positive experience. He advised that if there is a problem with the Minnesota Native Landscapes proposal and they choose to withdraw their bid, the District would then go with the second lowest bidder, Prairie Restoration.

Manager Kloiber moved, seconded by Manager Twele, to accept the bid from Minnesota Native Landscapes and enter into a contract with them for the Bush Lake native plant management in the amount of \$35,590. Upon a vote, the motion carried.

## **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 Southeast Anderson Lake project and advised that staff had previously reported no curly leaf pondweed and therefore has re-inspected. He advised that there were three isolated areas where curly leaf pondweed has been identified and could be treated. He noted that due to the late timing of the season staff did speak with the DNR to obtain a decision that the permit could be amended to allow the use of an alternate chemical. He noted that the cost to complete that work would be \$5,320, and advised that work could be amended into the ongoing agreement with the current contractor.

Administrator Bigalke advised that the work task would be amended to change the timing of the treatment and the chemical that would be used, noting that the work scheduled for May did not take place.

Manager Kloiber questioned the amount that had been budgeted for the work that was not completed in May.

Administrator Bigalke noted that the cost would have been around \$25,000 but confirmed again that would have been a whole lake treatment that was not applied.

Manager Kloiber moved, seconded by Manager Peterson, to approve the change order for the chemical treatment of curly leaf pondweed for Southeast Anderson Lake in the amount of \$5,320. Upon a vote, the motion carried.

## **Attorney's Report**

Attorney Smith had nothing further to report.

## **Administrator's Report**

Administrator Bigalke had nothing further to report.

## **Managers' Report**

The Chair called for reports. Chair Lynch thanked staff for the very nice ground breaking event that took place.

**Task Summary Report & Manager's Calendar**

The Managers reviewed and updated the task report. Chair Lynch confirmed that Manager Peterson will be representing the Board at the MAWD Summer Tour.

Administrator Bigalke noted that the canoe event tonight is at the boat landing and not the beach, for those planning to attend tonight. He noted that the next meeting would be held on July 16<sup>th</sup>.

Chair Lynch stated that she prefers the 5:00 p.m. start time for the summer meetings and confirmed the Board would be in agreement with that time for the July and August meetings.

**Adjournment**

It was moved by Manager Peterson, seconded by Manager Twele, to adjourn the meeting at 6:24 p.m. Upon a vote, the motion carried.

Respectfully submitted,

  
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Jodi Peterson, Secretary

ATTACHMENTS:  
Treasurer's Report