

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

MONDAY, MARCH 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 5:34 p.m., Monday, March 17, 2014, at the Nine Mile Creek Watershed District Office, 7710 Computer Avenue, Suite 135, Edina, MN 55435.

Managers Present: Twele, Lynch, Kloiber (arrived at 6:55 p.m.), and Peterson

Managers Absent: None.

Advisors Present: Kevin Bigalke, Michael Welch, Robert Obermeyer, and Erica Sneigowski

Agenda

Administrator Bigalke referenced the Consent Agenda and requested to pull Item E, Permit #2014-16, as the application is incomplete. He also referenced the Permit Hearings and requested to amend Item G to include the Wetland Delineation Report as well as consideration of the Permit #2014-07.

Attorney Welch referenced the Consent Agenda and noted that Items A, Permit #2014-04, and B, Permit #2014-09, have been amended by Engineer Obermeyer. He requested that Item B, Permit #2014-09, be pulled from the Consent Agenda to be considered separately.

Administrator Bigalke referenced the Permit Hearings and requested to add an item, Permit extension #2013-07.

Manager Peterson moved, seconded by Manager Twele 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 February 13, 2014. Administrator Bigalke noted that the meeting date on the minutes should be listed as Thursday, February 13th. Manager Peterson noted that it should also state that this was a special meeting opposed to regular meeting. Manager Twele moved, seconded by Manager Peterson, 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 February 19, 2014. Manager Twele moved, seconded by Manager Peterson, to approve the minutes as presented. Upon a vote, the motion carried.

The Chair called for review of the minutes of the Special Meeting of March 3, 2014. Chair Lynch noted that again the title should state special meeting as opposed to regular meeting. Manager Peterson moved, seconded by Manager Twele, to approve the minutes with the noted corrections. Upon a vote, the motion carried.

Correspondence

None.

Citizens Advisory Committee/Education & Outreach Report

The Chair called for the report of the Citizens Advisory Committee. Education and Outreach Coordinator Sniegowski reported that she has been busy preparing for several upcoming workshops, noting that a list of the events was included in the Board packet. She referenced the NEMO meetings and requested that Board members attend the workshops. She stated that she does have hardcopy invitations if the members of the Board would like to hand deliver invitations to any elected officials. She advised that the Water Resource Center Open House has been scheduled for Wednesday, April 2nd from 6:00 to 7:30 p.m. at Eden Prairie City Hall. She explained that the open house is meant to inform and update residents and confirmed that the neighborhood Advisory Board will be notified of the open house.

Hearing and Discussion of Matters of General Public Interest

There were none.

Consent Agenda

- A. **Permit #2014-04: Garage Addition – 7130 Willow Creek Road; Grading and land alteration permit: Eden Prairie**
- B. ~~Permit #2014-09: T.H. 169 Roadway Improvements from Valley View Road to North of T.H. 62; Grading and land alteration permit: Edina/Eden Prairie~~
- C. **Permit #2014-14: Red Haddox Concession Building – 360 East 90th Street; Grading and land alteration permit: Bloomington**
- D. **Permit #2014-15: Taco Bell Restaurant – 3210 Southdale Circle; Grading and land alteration permit: Edina**
- E. ~~Permit #2014-16: Hampton Inn – American Boulevard and West 82nd Street; Grading and land alteration permit: Bloomington~~

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

Hearing of Permit Applications

A. Permit #2014-09: T.H. 169 Roadway Improvements from Valley View Road to North of T.H. 62; Grading and land alteration permit: Edina/Eden Prairie

Engineer Obermeyer presented the permit request and proposed road improvement plans. He explained that the change in his letter was meant as clarification, noting that the letter from the State listed seven wetlands but only include six wetlands in the table. He referenced the seventh wetland and noted that wetland is located within City right-of-way and not MnDOT right-of-way, explaining that there would only be six wetlands included for this project. He advised that this project would require a variance as the minimum wetland buffer cannot be provided due to the roadway location. He recommended approval of the permit and variance request.

Manager Peterson questioned if the variance request from MnDOT is something that happens on a regular basis.

Administrator Bigalke confirmed that this situation does arise quite often for MnDOT road projects and explained that the District did not want to give MnDOT a free pass for wetland buffers and would rather MnDOT attempt to meet the requirement or apply for a variance on an as needed basis.

Manager Peterson questioned if additional measures could be required to make up for the wetland buffer not being met.

Attorney Welch stated that the Rules state that is a variance is requested the Managers can request additional measures for the applicant in order to offset the buffer requirement not being met. He stated that the extra measures must apply to the condition and did not believe that this was a situation in which extra conditions could be placed on approval.

Manager Peterson moved, seconded by Manager Twele, to approve the permit and variance request based on the findings identified by staff. Upon a vote, the motion carried.

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

Engineer Obermeyer explained the permit request. He noted that during the process petroleum product had been found in the area where infiltration was meant to occur. He explained that the application is now incomplete because of the additional information that will now be needed. He advised that staff will issue a letter to the applicant explaining that the application is now incomplete.

C. Permit #2014-13: Edina Sports Dome; Braemar Park Complex; Grading and land alteration permit: Edina

Engineer Obermeyer explained the permit and proposed plans. He stated that the City of Edina will likely come back to the Board with a request to bank the additional credits that will be provided on site through this project. He recommended approval of the permit subject to general conditions included in the Board packet including a signed document from the City taking responsibility for the ongoing maintenance of the onsite infiltration facilities.

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

D. Permit #2014-02: Hyland Hills and Ski Board Chalet Reconstruction and Parking Lot Expansion/Reconstruction; Grading and land alteration permit: Bloomington

Engineer Obermeyer presented the permit request and proposed plans. He advised that this request had been continued from the previous month because of additional information that was needed. He stated that Three Rivers Park District is requesting that the District consider two parcels as one in order to provide storm water treatment for the parcel as a whole rather than for each parcel specifically.

Attorney Welch explained that the exception would be to consider these two parcels as one parcel. He explained that if the parcels were considered separately the storm water management requirements would apply to each parcel. He advised that these two parcels are managed as similar land uses and are landlocked and therefore it would make sense to consider the two parcels as one parcel, noting that there is an overall water management plan for the area as a whole that has been approved by the DNR.

Engineer Obermeyer recommended approval of the permit subject to general conditions and with the exception he described earlier to consider the two parcels as one.

Manager Peterson moved, seconded by Manager Twele, to approve the permit with the exception outlined by staff. Upon a vote, the motion carried.

E. Permit #2014-12: Normandale Lake Parking Lot Expansion; Chalet Road and South of East Bush Lake Road; Grading and land alteration permit: Bloomington

Engineer Obermeyer explained the permit and proposed plans. He recommended approval of the permit subject to general conditions included in the packet with an additional condition that a phase one, or similar, assessment be provided to show there is no contamination.

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

F. Wetland Delineation Report and Incidental Wetland Determination – Southwest Light Rail Transit: Eden Prairie

Administrator Bigalke stated that he and staff from Barr Engineering have been attending the monthly Southwest LRT wetland meetings. He advised that the Wetland Delineation Report is now available and is presented for Board approval. He noted that some of the wetlands are considered incidental and explained that approval of the Report would also approve the finding of those identified wetlands to be considered as incidental. He confirmed that site evaluations were included in the lengthy process. He confirmed that the exact alignment has not been determined for the light rail.

Attorney Welch recommended delineating between the technical and LGU findings.

Administrator Bigalke confirmed that the Board would be accepting the recommendations of the TEP and would also be approving the incidental wetlands identified.

Manager Peterson moved, seconded by Manager Twele, to accept the Wetland Delineation Report and Incidental Wetland Determination for the Southwest Light Rail Transit. Upon a vote, the motion carried.

G. Permit #2014-07 and Wetland Delineation Report – T.H. 212 and Shady Oak Road Improvement: Eden Prairie

Administrator Bigalke explained that this request includes the Wetland Delineation Report and request for the actual permit request.

Engineer Obermeyer presented the permit request and proposed plans. He noted that MnDOT is the LGU for this project and therefore will be using credits from their wetland bank for this project. He stated that staff recommends that the Board consider that the District send a letter requesting MnDOT to include an additional 2,000 square feet into their proposal.

Administrator Bigalke explained an instance where the District had requested similar action, explaining that the LGU with the highest impact should take the lead. He confirmed that MnDOT agreed to accept that additional area. He noted that the Board would need to decide whether to issue the letter to MnDOT requesting that they be the lead LGU and then consider approval of the permit request. He noted that this project will also require a variance to the wetland buffer requirements, similar to the previous road project considered tonight.

Manager Twele moved, seconded by Manager Peterson to issue a letter to MnDOT as suggested by staff, to approve the permit with the variance request subject to the findings noted by staff, and to accept the Wetland Delineation Report for T.H. 212 and Shady Oak Road. Upon a vote, the motion carried.

H. Permit Extension #2013-07: Infinity of Bloomington

Administrator Bigalke noted that the permit had been approved the previous year but work did not move forward. He explained that the applicant is requesting an extension and noted that would extend the permit for one year.

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

Treasurer's Report

The Treasurer submitted the report. Administrator Bigalke provided clarification on specific items.

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. Centennial Lakes Volume Reduction Project Update

Administrator Bigalke stated that there has not been much progression since the February meeting. He explained that because the Byerly's project identified contamination, the City has completed six additional soil samplings within the project area to determine if there was contamination in that area. He reported that most of the soil samples show fill material, compared to the sand they believed existed. He advised that all of the soil samples had construction debris found and noted that hazardous waste has not been identified. He explained that the process now is to determine what that means in regard to moving forward on the project. He advised that staff met with the City and Barr Engineering the previous week to discuss the project and determined that the findings should not cause significant problems. He advised that the arsenic and heavy metals would be removed and rectified. He questioned the level of comfort the Board has to use the site for infiltration with the fill and construction materials that exist within the soils. He stated that Barr Engineering is comfortable infiltrating through the fill material, noting that the volume rates will be impacted. He noted that there will be additional aspects from the Byerly's site that may require adjustments in the future. He referenced the timeline and noted that because of the delay in the testing the 90 percent plans from Barr Engineering should be presented to the Board at the April meeting and advised that at the April meeting the final construction plans would be presented for authorization as well. He noted that the bid opening would be scheduled to occur on May 15th and the Board would review the bids at their regular May meeting.

Attorney Welch advised that additional analysis had been completed following the meeting with City staff the previous week, which resulted in positive results.

Manager Kloiber arrived.

Attorney Welch noted that there are tools that the District can use to mitigate liability and explained that in this project the District is removed and Edina would hold the liability. He explained that the decision for the Board would simply be to determine if this location is appropriate for infiltration. He explained that moving forward staff wants to ensure that the Board is comfortable moving ahead on the project without formal review by the PCA, again noting that the District is not liable for this project. He noted that the final plans would come back to the Board in April for review.

Administrator Bigalke confirmed that staff feels comfortable with the project moving forward. He advised that the District would still continue to cost share a portion of the project.

It was the consensus of the Board to allow the project to continue to move forward.

B. Watershed Plan Amendment Update

Administrator Bigalke noted that staff is going to submit the amendment to the Plan as a minor amendment.

C. Water Resource Center Planning Update

i. Environmental Abatement Contractor

Administrator Bigalke reported that the abatement work has been completed. He advised that the Board had previously approved an additional \$3,000 this work but explained that the cost exceeded that amount. He stated that he obtained the consult of Attorney Welch and Chair Lynch and it was determined to allow the work to continue. He advised that the final cost for the additional work was a total of \$3,800. He asked for a motion to approve the additional cost.

Manager Peterson moved, seconded by Manager Twele, to approve the additional abatement cost of \$800 for a total of \$3,800. Upon a vote, the motion carried.

ii. Well Sealing

Administrator Bigalke did not have additional information to report.

iii. Technology

Administrator Bigalke stated that he is gathering additional information.

iv. Final Plat Development and Approval

Administrator Bigalke reported that this item and the vacation of easements are on the agenda for the City Council meeting the following night in Eden Prairie. He asked that the Board authorize up to \$5,000 to Xcel Energy to provide for the relocation of the power supply.

Manager Kloiber moved, seconded by Manager Twele, to authorize up to \$5,000 to Xcel Energy to relocate the utilities at the Water Resource Center location. Upon a vote, the motion carried.

v. Construction Documents/Bidding Update

Administrator Bigalke noted that there are two open house walk through opportunities for contractors, one of which occurred the previous week and the other will be held this week. He provided an update on the bid process and advised that multiple contractors have contacted LHB. He advised that the bid opening will occur on March 27th. He reported that the tree contractor has been busy and believed the work to be almost complete.

Attorney Welch stated that it may be helpful to authorize Administrator Bigalke to spend additional funds. He noted that during the process it would be helpful to provide Administrator Bigalke to spend up to \$25,000 on Water Resource Center items between regular Board meetings. He explained that this would allow flexibility for change orders to be approved between meetings and for the project to keep moving forward.

Manager Kloiber believed that had already been approved.

Administrator Bigalke advised that the discussion had occurred at the February meeting but the motion was not made to include that authorization.

The Board discussed the option to authorize up to 15 percent of the construction costs compared to a set amount.

Attorney Welch suggested that a set amount of \$20,000 be authorized for between now and the April meeting and noted that at the April meeting a structured system could be proposed.

Manager Kloiber moved, seconded by Manager Peterson, to authorize Administrator Bigalke to spend up \$25,000 between today and the April meeting for work needed to be completed on the Water Resource Center. Upon a vote, the motion carried.

New Business

A. 2014 Work Plan Approval

Administrator Bigalke briefly reviewed items included on the Work Plan, highlighting items, which will be a main focus for the year. He noted that the Centennial Lakes Project had not been included and will be added to the Plan. He recommended approval of the Plan with the added project. He confirmed that another item should be added to the list concerning adding additional staff/support, noting that he would not want to hire permanent staff until the District is settled in the new facility.

Manager Peterson moved, seconded by Manager Kloiber, to approve the 2014 Work Plan with the inclusion of the Centennial Lakes Project and staff planning items. Upon a vote, the motion carried.

Attorney Welch commented that the new Water Resource Center may attract a different pool of candidates because it will be a unique location, compared to the current location.

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. Atlas 14: Status Report**
- G. Wetlands Inventory: Status Report**
- F. Status of Construction Projects**

Engineer Obermeyer updated the Board on the above listed projects.

Attorney's Report

Attorney Welch had nothing further to report.

Administrator's Report

Administrator Bigalke stated that he will be at the Water Resource Center the following day for the contractor open house and will be in Saint Paul Wednesday and Thursday for the MAWD Legislative events. He noted that the beginning of next week he will be on vacation.

Managers' Report

The Chair called for reports.

Task Summary Report & Manager's Calendar

- A. MAWD Legislative Reception and Breakfast**

The Managers reviewed and updated the task report.

Adjournment

It was moved by Manager Kloiber, seconded by Manager Peterson, to adjourn the meeting at 7:50 p.m. Upon a vote, the motion carried.

Respectfully submitted,



Jodi Peterson, Secretary

ATTACHMENTS:
Treasurer's Report