

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

**WEDNESDAY, OCTOBER 15, 2014**

**Call to Order**

Chair Lynch called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, October 15, 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, Robert Obermeyer, and Erica Sneigowski

**Agenda**

Administrator Bigalke requested the addition of an item to the agenda, Oath of Office for Managers Peterson and Lynch, which will take place after the approval of the agenda. He requested to add an item under New Business titled, Rule 8410 Updates and Discussion of Potential Comments, and under the Engineer's Report an item titled, Approval of Change Order No. 1 with Veit for Landscaping and Stormwater Management Plan. He referenced Item 8D, Permit #2014-107 and noted that item will be continued, as the City review process has not been completed.

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

**Oath of Office**

Attorney Smith administered the oath of office to Chair Lynch and Manager Peterson.

**Reading and Approval of Minutes**

The Chair called for review of the minutes of the Special Meeting of August 13, 2014. Manager Segreto referenced the third paragraph, it should state, "...increased..." Manager Peterson referenced page two, under the discussion of the fund levy, she noted that the dollar amount included an extra comma that should be removed. Manager Kloiber 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 September 17, 2014. Manager Segreto noted on page two, under branding, it should state, "...the MAWD Mod Group..." On page three, Permit 2014-96, it should state, "He explained the current permit application and proposed plans." On page five, the third paragraph from the bottom, it should state, "...~~different~~ difference..." Manager Peterson noted on page three, under Item A, the last paragraph, it should state, "...and there is ~~not~~ no feasible alternative..." Engineer Obermeyer referenced page six, the sixth paragraph, it should state, "...the existing home is already in the within the ~~floodplain~~ freeboard area..."

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

### **Correspondence**

- Brochure and packet for the Watershed District Annual Meeting December 4<sup>th</sup>- 6<sup>th</sup>

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

#### **A. Branding/Marketing Project Update**

Education and Outreach Coordinator Sneigowski stated that she met onsite with MOD to tour the new District office. She reported that MOD will be developing about ten black and white logos for the District to review and advised that staff will narrow those down to three logos, which will then be made into color logos for review. She stated that MOD will also provide about 15 to 20 possible names for the new facility which staff will narrow down to five. She stated that at that point the names will be checked for legal availability and a selection would then be made. She hoped that the process would move along with a final selections ready for approval at the November Board meeting.

Manager Segreto stated that perhaps the names should be checked for availability prior to staff selection.

#### **B. Calendar Design/Photo Contest Update**

Education and Outreach Coordinator Sneigowski reported that 18 photographers submitted over 400 photographs for the contest. She advised that the CAC met the previous week and narrowed the photographs down to 70. She stated that staff and some Managers met the previous week to choose the final 25 photographs for the calendar.

Administrator Bigalke noted that a special meeting may be needed for these items prior to the November meeting.

Education and Outreach Coordinator Sneigowski advised that the District also has two upcoming winter workshops and staff continues to work on packing to move to the new facility.

Manager Segreto stated that perhaps at the holiday party the District could have a tree and an activity could be to make holiday decorations for the tree.

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

Curt Fretham of Lake West Development, approached the Board regarding Permit #2013-60, which was renewed at the previous meeting. He asked for a partial reduction to the letter of credit, noting the progress that has been made. He stated that they are a small company and would like to request that the Board consider a partial reduction to the letter of credit based on the progress made at the next meeting.

Administrator Bigalke confirmed that the item could be considered at the November Board meeting.

**Consent Agenda**

- A. Permit #2014-108: Home Reconstruction – 5613 Gate Park Road; Grading and land alteration permit: Edina**
- B. Permit #2013-93: Transfer of Permit**

Administrator Bigalke referenced Item B, noting that the permit was applied for on behalf of the property owner by the contractor and the property owner has requested that the permit be transferred into their name rather than the contractor.

Attorney Smith stated that the contractor would be made aware of the transfer and a condition of approval could be that adequate surety remains with the permit.

Manager Segreto moved, seconded by Manager Twele, to approve the Consent Agenda, including the additional condition for Permit #2013-93. Upon a vote, the motion carried.

**Hearing of Permit Applications**

- A. Permit #2014-106: Walser Chrysler/Jeep Building Expansion – 314 Main Street; Grading and land alteration permit: Hopkins**

Engineer Obermeyer explained the permit and proposed plans. He noted that a Phase 2 assessment was referenced which was actually for an adjacent property to the west that Walser owns, which is outside of the limits for this particular area. He recommended that soil boring information be supplied to determine if there is a possibility for contamination in the infiltration area. He recommended approval of the permit subject to general conditions including surety in the amount of \$10,600, submission of a maintenance declaration, and a phase one assessment to show there is no contamination.

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

**B. Permit #2014-40: Walser Buick Parking Lot Permit Modification Request**

Engineer Obermeyer explained the permit and proposed request. He explained that Walser has been working with the City of Bloomington to expand their right to expand their parking facility. He advised that the project was approved by the District in June 2014 and work has begun. He noted that poor soils have been found and the applicant is requesting a modification to the District approval. He explained that the previous approval included an underground facility and noted that because of the soil conditions that cost would be greater than the cost of the entire construction. He stated that the applicant is requesting to reduce the size of the system and pay the remaining balance into the District Stormwater Facilities Fund.

The applicant explained that the cost for the system would be over \$110,000, which would exceed the cost of the half acre expansion. He confirmed that this method would lower the cost to make the project feasible.

Attorney Smith advised that the soil information has been received and recorded.

Manager Kloiber moved, seconded by Manager Peterson, to approve the permit modification with a payment of \$8,494 into the District Stormwater Facilities Fund. Upon a vote, the motion carried.

**C. Permit #2014-98: Margaret A. Cargill Philanthropies Building Expansion – 6889 Rowland Road; Grading and land alteration permit: Eden Prairie**

Engineer Obermeyer presented the permit request and proposed plans. He discussed the wetlands onsite and the wetland buffer requirements. He stated that an additional 4,000 square feet of additional wetland buffer will be provided. He described the geothermal system, which is proposed that will have a temporary impact of .889 of an acre of wetland and a permanent impact of 16.5 square feet. He stated that the applicant has requested that the 16.5 feet be allowed under the de minimis of WCA and the temporary impacts be considered incidental. He advised that the TEP has reviewed the request and recommends approval contingent upon surety of \$43,900 for the wetland aspects.

Administrator Bigalke confirmed that surety would be in addition to the surety recommended for the project.

Manager Segreto asked for additional clarification regarding the geothermal system.

Engineer Obermeyer provided additional detail on the system.

Administrator Bigalke provided additional detail on the process staff has been involved in during review of this permit and additional explanation regarding long-term monitoring that would be necessary. He confirmed that the geothermal system is part of the green technology that the building would like to implement. He noted that surety would be held until restoration is

completed. He advised that a variance to the low floor elevation is being requested because of the pavers requested for the parking area.

Manager Kloiber asked for additional information on the water that will be discharged.

Engineer Obermeyer stated that this application includes the following requests for action including the grading and land alteration permit and two notice of decision requests, the de minimis and incidental impacts.

Chair Lynch suggested that the wetland rulings be considered first.

Engineer Obermeyer reminded the Board that the surety for the wetland aspects would be \$43,900.

Attorney Smith confirmed that the notice of decisions could be approved first and the additional surety could be included in the permit approval.

Administrator Bigalke reviewed the conditions of approval recommended for the permit.

Manager Kloiber moved, seconded by Manager Twele, to approve the WCA Notice of Decision accepting the TEP recommendations finding of no loss under de minimis for the permanent impact and a no loss for the temporary impacts. Upon a vote, the motion carried.

Engineer Obermeyer recommended approval of the permit subject to general conditions including surety in the amount of \$112,500, with additional surety in the amount of \$43,900, submission of documentation showing that the two parcels have been consolidated, submission of a maintenance declaration for the wetland buffer areas and stormwater management facilities, information regarding elevations included in the project, and a Phase 1 assessment to show there is no contamination.

The Board and staff discussed whether a variance would be necessary for the low floor elevation of the parking garage.

Manager Kloiber moved, seconded by Manager Segreto, to approve the permit with the conditions described by the Engineer including the financial surety in the amount of \$112,500 plus \$43,900 for the wetland aspects and also including a variance from the low floor elevation for the parking garage. Upon a vote, the motion carried.

**D. Permit #2014-101: 5108 Edina Industrial Boulevard Building Reconstruction; Grading and land alteration permit: Edina**

Engineer Obermeyer explained the permit and proposed plans. He noted that the poor soils will be replaced with suitable soils. He recommended approval of the permit subject to general conditions including surety in the amount of \$14,800, submission of a maintenance declaration, and a Phase 1 assessment to show there is no contamination.

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

**E. Braemar Golf Course Incidental Wetland Determination: Edina**

Engineer Obermeyer stated that the applicant's consultant believed that more wetlands should be considered incidental. He recommended that the Board approve of the Notice of Decision based on the recommendation of the TEP.

Manager Peterson moved, seconded by Manager Segreto, to accept the WCA Notice of Decision based on the recommendation of the TEP. Upon a vote, the motion carried.

**F. Permit #2014-107: 7690 France Avenue Retail Building and Associated Parking; Grading and land alteration permit: Edina**

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

**Treasurer's Report**

The Treasurer submitted the report. Administrator Bigalke briefly highlighted aspects of the report. He referenced the furniture cost and noted that he would simply be asking for approval of that amount and advised that he is unsure if he would be paying the full amount to one vendor or whether separate checks would be necessary. He also confirmed that the property tax payment is included in the bill list, noting that tax exempt status has been applied for but has not yet been approved.

**A. Pay Request #4 – Synergy Builders**

Manager Kloiber moved, seconded by Manager Twele, to approve pay request #4 to Synergy Builders/Northern Escrow in the amount of \$200,014.62. Upon a vote, the motion carried.

Manager Peterson moved, seconded by Manager Segreto, to approve payment in the amount of \$17,355.70 to either Commercial Furniture Services or individual vendors. Upon a vote, the motion carried.

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

## **Unfinished Business**

### **A. Water Resource Center Planning Update** **i. Furniture Planning Update**

Administrator Bigalke reported that things are moving along rapidly in regard to construction of the building, noting that the District must vacate the current office location by October 30<sup>th</sup>. He stated that he will be hiring a moving company to transport the equipment from the current office to new facility. He provided an update on items that have been installed and are being installed to finish the process. He stated that the final inspection with the City of Eden Prairie is scheduled for the following week, contingent upon Comcast and gas installation. He reported that the furniture has been ordered which in total equaled \$34,711.39. He advised that Comcast will provide two fax lines, internet and basic cable. He advised that will be a 36 month contract, which will be installed within the next week.

### **ii. Technology Update**

Administrator Bigalke reviewed the services that would be needed, noting that the current phone numbers would be transferred in addition to the two new phone lines that would be installed. He stated that staff would like all the phone systems integrated so that calls can be transferred. He reported that Nortek Communications has the best pricing which has an outright purchase option of \$6,600, which did not include maintenance. He advised that the leasing option which be for a 60 month lease and would include maintenance and upkeep at a cost of \$179 per month.

Manager Segreto moved, seconded by Manager Peterson, to approve the lease agreement with Nortek Communications for 60 months for the phone system at a cost of \$179 per month. Upon a vote, the motion carried.

Administrator Bigalke stated that he has been working with a contractor regarding the audio visual system and displays. He stated that he has received an estimated cost of \$38,400. He stated that in speaking with other Watershed Districts he has been advised to watch sales for discounted equipment. He advised that component can be considered at a future time. He stated that there will also need to be an integrated internet and file sharing system considered in the future. He stated that he will send out an email in the near future where the Board could attend a walkthrough of the new facility.

### **B. Centennial Lake Volume Project**

Administrator Bigalke reported that Barr Engineering presented the Board with an update at the last meeting regarding the conditions of the site. He stated that he has since met with staff from Edina to determine whether this would move forward and it has been determined that the project will be abandoned because the cost/benefit ratio is too unknown. He asked that the Board authorize Chair Lynch to enter a written agreement with the City of Edina that would provide for the City to reimburse the District for 50 percent of the design cost to date, as expressed in the Cooperative Agreement, after which the Cooperative Agreement will be

terminated. He stated that staff would like to continue to identify areas in the District where future cooperative projects could be considered.

Manager Peterson moved, seconded by Manager Kloiber, to authorize Chair Lynch to enter into a written agreement with the City of Edina that would provide for the City of Edina to reimburse the District for 50 percent of the design costs to date for the Centennial Lake Volume project, as expressed in the Cooperative Agreement and after which the Cooperative Agreement will be terminated. Upon a vote, the motion carried.

### **New Business**

#### **A. Rule 8410 Updates and Discussion of Potential Comments**

Attorney Smith referenced the law adopted in 1982, which requires the Metro area to be a part of a water organization and requires a Plan to be adopted. He provided additional background information regarding Rule 8410 and noted that the Board of Water and Soil Resources (BWSR) is about ten years late in their rule development. He advised that the draft rules have now been submitted and written comments are being requested. He stated that staff quickly drafted comments in response to the proposed rules. He confirmed that the Board would authorize staff and Manager Kloiber to confirm the District comments to the proposed rules.

Administrator Bigalke noted that any additional comments could be sent to him.

Manager Peterson moved, seconded by Manager Segreto, to direct staff, Chair Lynch, and Manager Kloiber to propose any comments to the 8410 Rule updates and authorize Administrator Bigalke to send in any comments. 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. Atlas 14: Status Report**
- G. Wetlands Inventory: Status Report**
- H. Status of Construction Projects**
- I. Approval of Change Order No. 1 with Veit for Landscaping and Stormwater Management Plan**

Engineer Obermeyer updated the Board on the above listed projects and the recent storm activity. He provided additional information on the change order proposed by Veit and recommended approval.



Manager Segreto moved, seconded by Manager Twele, to approve Change Order No. 1 with Veit in the amount of \$1,175 for the Landscaping and Stormwater Management Plan. Upon a vote, the motion carried.

**Attorney's Report**

Attorney Smith had nothing further to report.

**Administrator's Report**

**A. Education/Outreach Coordinator Annual Review**

Administrator Bigalke stated that he conducted the annual review of Education and Outreach Coordinator Sneigowski in an expedited format because of the moving transition. He advised that most of his comments exceed expectations and some were outstanding. He recommended that this item move forward prior to her November hiring date anniversary. He noted that Education and Outreach Coordinator Sneigowski has been outstanding with the water resource items and recommended a salary adjustment of 3.5 percent, with continued benefits at 100 percent employee coverage and 75 percent family coverage. He also recommended five additional vacation days, for a total of 15 per year. He stated that once staff is moved into the resource center they could consider a transition of job position description into a supervisory position. He also discussed training that could occur, specifically regarding supervisor duties and field work.

Chair Lynch thanked Education and Outreach Coordinator Sneigowski for her contribution to the District and stated that they are lucky to have her as a part of the staff.

Manager Kloiber moved, seconded by Manager Twele, to approve the annual review of Education and Outreach Coordinator Sneigowski and award a salary adjustment of 3.5 percent and five additional vacation days, with continued benefit levels. Upon a vote, the motion carried.

**B. Annual Meeting**

Administrator Bigalke referenced the Annual Meeting, which will take place in Alexandria in December and asked that any interested Managers advise him if they would like to attend, as a quorum would need to be noticed. He advised that any interested Managers should also book hotel accommodations as soon as possible as the rooms fill quickly. He noted that he and other staff members will be assisting in the Manager training, rather than BWSR staff.

**Managers' Report**

The Chair called for reports. Chair Lynch noted that the Board would still need to complete the review process for Administrator Bigalke prior to the November Board meeting. She noted that she will be in Florida at the time of the November Board meeting.

Administrator Bigalke stated that the November Board meeting will not be at this location and the new facility will not yet be ready either. He stated that he will most likely book a room at a member City Hall and will advise the Board of the location once determined.

Manager Kloiber stated that he would be interested in office furniture that the District will no longer need.

Manager Segreto stated that she would not be able to attend the November meeting on the scheduled date either.

Administrator Bigalke noted that he would keep the same date as long as the other Managers can attend but noted that if the date needs to be moved it could be held on the 20<sup>th</sup>.

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

The Managers reviewed and updated the task report.

**Adjournment**

It was moved by Manager Kloiber, seconded by Manager Twele, to adjourn the meeting at 9:26 p.m. Upon a vote, the motion carried.

Respectfully submitted,

  
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Jodi Peterson, Secretary

ATTACHMENTS:  
Treasurer's Report