

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

**WEDNESDAY, AUGUST 26, 2015**

**Call to Order**

Chair Kloiber called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, August 26, 2015, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

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

Managers Absent: None.

Advisors Present: Kevin Bigalke, Louis Smith, Robert Obermeyer, Erica Sniegowski, and Gael Zembal

**Agenda**

Administrator Bigalke stated that permit #2015-90 was inadvertently put on the Consent Agenda and should instead be considered under the permit section of the agenda. He advised that permit #2015-89 as placed on in the permit section and should instead be included on the Consent Agenda. He noted that an additional item, 10B, Presentation by Matt Kumka from Barr Engineering on the Planting Schematic should also be added to the agenda.

Manager Peterson stated that she does have some questions on permit #2015-89 and would like that item to remain under the permit section.

Manager Segreto 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 Regular Meeting of July 15, 2015. Manager Lynch 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**

The Chair called for the report of the Citizens Advisory Committee.

### **A. NEMO Update**

Education and Outreach Coordinator Sniegowski reported that the September 14<sup>th</sup> workshop has been canceled and the next program will be on October 7<sup>th</sup> and will focus on chloride and winter road management. She stated that they are hoping to hold another workshop in the future as the September workshop has been canceled.

### **B. Open House/Grand Opening Update**

Education and Outreach Coordinator Sniegowski reported that staff is working hard to prepare for the grand opening which will occur on September 24<sup>th</sup> from 4:30 to 7:30 p.m. She stated that invitations will be mailed the following week to the members of the neighborhood and email invitations will be sent to elected officials and other people the Watershed would like to invite. She stated that the Fresh Water Society will be in attendance to help recruit for the Master Water Stewards program and reviewed other activities for the events. She noted that staff also has a press release that will be published for the event. She provided additional information on the passport event that will be available for children.

Administrator Bigalke stated that staff will be speaking with the nearby church to possibly use that lot for parking and shuttle visitors by van between the two sites.

Education and Outreach Coordinator Sniegowski stated that Matt Kumka will be hosting guided tours of the facility and there will be two seminars as well in attempt to draw in adults. She advised of another partnership with Sea Life Minnesota, the aquarium at the Mall of America, to host a clean-up event at a local Bloomington park on September 9<sup>th</sup>. She noted that Sea Life Minnesota has a massive membership list that could be beneficial for the Watershed. She stated that after the clean-up Sea Life Minnesota will create a display at their location that will publicize the partnership and event.

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

There were none.

## **Consent Agenda**

- A. **Permit #2015-76: NAPA Auto Parts Addition – 1842 Main Street; Grading and land alteration permit: Hopkins**
- B. **Permit #2015-83: CenterPoint Energy Distribution Pipeline Installation – Valley View Road easterly to Holborn Avenue; Grading and land alteration permit: Edina**
- C. **Permit #2015-85: Pickleball Courts – Rosland Park; Grading and land alteration permit: Edina**
- D. **Permit #2015-88: Home Reconstruction – 408 Griffith Street; Grading and land alteration permit: Edina**

Manager Peterson referenced permit #2015-85 and asked for details on the depression area that will be used for storm water treatment.

Engineer Obermeyer explained that there is a natural depression that exists and provided additional details on the storm water treatment that will occur in that area, noting that things will not change from what currently exists.

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

**Hearing of Permit Applications**

- A. **Permit #2015-84: Hyland Hills Ski Jump Improvements – West 84<sup>th</sup> Street and East Bush Lake Road; 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. He noted that because of the site conditions the full one-inch infiltration cannot be provided on site and requested that the half-inch available in this location be used and credit the excess provided in the chalet area bank to offset the difference.

Manager Twele asked and received confirmation that when the bank was setup the applicant did not receive compensation.

Engineer Obermeyer stated that they had setup the bank in anticipation for situations such as this. He noted that surety would not be required because this is a public entity.

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

- B. **Permit #2015-86: Glen Lake Senior Housing – 14301 Stewart Lane; Grading and land alteration permit: Minnetonka**

Engineer Obermeyer explained the permit and proposed plans. He recommended approval of the permit subject to general conditions including surety in the amount of \$32,100,

submission of a maintenance declaration for storm water management, and testing results showing that the underlying soils in the basins do not have contamination.

Manager Segreto stated that she was confused that Glen Lake is a protected body of water and therefore not subject to the District rules and asked for additional details.

Engineer Obermeyer stated that although the District buffer will not be required, there will be a natural buffer.

Administrator Bigalke stated that the District's wetland rules apply to wetlands under the Wetland Conservation Act or DNR public water-wetlands. He stated that the permit is subject to the District's rules but not the wetland buffer criteria.

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

**C. Permit #2015-87: Blake Woods – Evanswood Lane and Parkwood Road;  
Grading and land alteration permit: Edina**

Administrator Bigalke stated that this item would need to be continued to September as the applicant is still working out details with the City of Edina.

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

**E. Permit #2015-89: Nine Mile Creek Lower Valley Bank Stabilization;  
Grading and land alteration permit: Bloomington**

Engineer Obermeyer explained the permit and proposed plans. He stated that a variance would be required for this project because of the length of stabilization in the lower area. He noted that the total length is promoted by the DNR. He recommended approval of the permit noting that the stabilization aspects are the same as the original permit issued in the 1990's. He stated that there were two other projects that required maintenance of this nature and advised that it was anticipated that maintenance would be needed.

Manager Peterson asked if this update would make the project long-term or whether additional maintenance would be needed.

Engineer Obermeyer stated that it would depend on the flow characteristics and stated that it is likely that additional maintenance could be needed in the future.

Manager Segreto referenced signage that she has seen in other areas that explain the restoration that has occurred and believed that this would be a great example where signage could be installed post project to educate the public.

Attorney Smith stated that there is an agreement with the City of Bloomington generated in 1993 that specifies how maintenance will be handled, noting that extraordinary rainfall events do not qualify and would be handled under the normal protocol. He stated that the agreement also states that it should be reviewed and updated every 10 years, noting that should probably occur.

Manager Lynch asked for additional information on the funding.

Administrator Bigalke stated that the agreement specifies a 50/50 cost share between the city and Watershed. He stated that Bloomington is receiving FEMA funds and the remaining portion would be split between the city and Watershed. He stated that the repair and maintenance funds would be used for the District portion. He stated that the question Attorney Smith brings up is whether this is a maintenance or repair project and explained the difference in funding.

Chair Kloiber confirmed that the District portion would only be half of about \$57,000, which could easily come out of the funds.

Engineer Obermeyer stated that this would be a repair project rather than maintenance, noting that the cost share would remain the same while the funding would be the only difference.

Administrator Bigalke stated that the funding decision would not be made tonight, as staff would then advertise that this would be amended to be included in the capital improvement funds.

Manager Lynch, moved, seconded by Manager Peterson, to approve the variance from the maximum length of 175 feet as the finding of fact have been met because the situation is unique and was not created by the landowner and the project would not harm the water resource and there does not appear to be a feasible alternative. Upon a vote, the motion carried.

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

**D. Permit #2015-90: Home Reconstruction – 5516 Knoll Drive; Grading and land alteration permit: Edina**

Engineer Obermeyer explained the permit and proposed plans. He stated that the developer is requesting a variance regarding the buffer width.

Manager Peterson asked for additional information regarding ground water separation.

Engineer Obermeyer stated that the builder has stated that he has gone down further than needed with the foundation and has not encountered ground water and will provide that information to the District.

Manager Lynch asked if the retaining walls would be sufficient to defer from the rules.

Engineer Obermeyer stated that the natural grade would continue to the wall and the retaining wall would break up the slope.

Scott Dahlke spoke on behalf of the application and provided additional details on the retaining walls, noting that there will be some terracing.

Manager Lynch suggested that perhaps the retaining walls be included as a condition.

Chair Kloiber agreed that the retaining walls would break up the flow and would be necessary.

Manager Segreto questioned why the home cannot be built further from the pond.

Chair Kloiber replied that the front setback would not allow.

Engineer Obermeyer recommended approval of the permit subject to general conditions including surety in the amount of \$25,700, submission of a maintenance declaration, documentation showing a three-foot separation between the ground water.

Manager Lynch moved, seconded by Manager Peterson, to approve the variance request based on the findings that the slope of the property is unique and was not caused by the applicant and the water resource would not be harmed. Upon a vote, the motion carried.

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

**E. Permit #2015-91: Home Reconstruction – 9243 Green Briar Road; Grading and land alteration permit: Bloomington**

Engineer Obermeyer stated that this is an after the fact permit, as this single family home has been reconstructed on the same foundation as the previous home. He noted that a retaining wall had been constructed in the buffer and the developer will be removing that wall and moving it outside of the buffer area. He noted that Bloomington is the LGU for this permit. He provided additional details on the permit and proposed plans.

Manager Peterson asked why a permit was not applied for prior to this.

Administrator Bigalke stated that there were a number of items that fell through the cracks with the City of Bloomington and once staff was brought into the discussion, they worked with the applicant to meet the necessary requirements for a District permit.

Manager Segreto asked if the District would have the authority to issue a fine.

Attorney Smith stated that the Watershed does not have the authority to issue a fine but can assess the cost of the investigation and enforcement process, noting that in this case that process was fairly efficient through Administrator Bigalke.

Chair Kloiber stated that the Board should consider that it is quite possible that the landowner was not aware they needed a permit and therefore does not have a lot of fault.

Manager Peterson stated that it seems that the City of Bloomington was more at fault.

Manager Pederson asked for additional information regarding the ongoing maintenance.

Administrator Bigalke stated that because this is in a publicly managed regional treatment facility the statement would be needed that the city would be willing to continue to maintain the pond.

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

**F. Permit #2015-92: Home Reconstruction – 5225 Schaeffer Road; Grading and land alteration permit: Edina**

Engineer Obermeyer stated that this item was on the agenda for the last meeting and listed an onsite wetland as incidental and the Board approved based on the recommendation of the TEP that the wetland was incidental. He reviewed the permit and proposed plans. He recommended approval based on the general conditions including surety in the amount of \$18,300, submission of a maintenance declaration for storm water management facilities on the site, and the pond would need to be raised or proof would need to be provided to ensure that groundwater is not encountered.

Manager Peterson asked that staff verify the financial figures as her calculations were slightly different.

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

**Treasurer's Report**

The Treasurer submitted the report. Manager Twele provided additional clarification on certain items.

Manager Lynch moved, seconded by Manager Segreto, to approve the pay request in the amount of \$81,000 to Veit for Phase A of the Hopkins project. Upon a vote, the motion carried.

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. Watershed District Office Update**

#### **1. Presentation from Matt Kumka of Barr Engineering Regarding Planting Schematic**

Matt Kumka, Barr Engineering, stated that he is present to offer background information on the landscaping plants used on the site. He stated that initially it was discussed that there were a number of demonstration areas on the site and the plantings would be arranged through different types and demonstrate a variety of native plants and cultivars along with non-native cultivars. He stated that ease of maintenance was considered near the front entrance area. He stated that they attempted to keep the plant pallet limited in the front and more complex towards the back through to full restoration in the very back. He stated that native plantings have their place but some are more expensive and harder to maintain. He stated that the goal of the front showcase area was to provide a mix of what could be found in a commercial or residential setting. He stated that the non-native plants were chosen because they were drought resistant and easy to maintain.

Manager Lynch commented that the plants look very nice and questioned how difficult it would be to have small signs installed.

Mr. Kumka stated that idea has been brought up earlier and they are planning to have small signs, which identify the plant name and a special identifier for Minnesota natives.

Manager Lynch asked for input on installing some pollinator plants.

Mr. Kumka stated that they have chosen some of those plants, noting that he was recently the Chair of a pollinator convention.

Manager Lynch asked if there is a map of the landscaping plants.

Manager Twele stated that she tried to cross reference and suggested that there be an area that is totally native as that could be a great educational activity. She stated that she was unaware before this that there was a hybrid between native and cultivars.

Manager Pederson asked for more information on the pollinator summit, specifically in regard to non-native plants and the difficulty to pollinate those plants.

Mr. Kumka stated that they do not know at this time. He stated that while some native plants are chosen over non-natives for native pollinators they are unsure at this time whether non-native plants benefit pollinators.



Administrator Bigalke stated that the District is attempting to achieve multiple objectives targeted at multiple audiences on a broad scale. He stated that the property is a small area to attempt to make these items successful and the broad scope will never please everyone.

Manager Peterson agreed that what was done in terms of plantings was the right choice for the District.

Manager Segreto stated that perhaps the small signs would not provide enough information and noted that she sometimes finds the signs to be distracting.

Administrator Bigalke noted that there has been a lot of discussion regarding the signs. He stated that the thought process is to place a singular sign within a cluster of plantings to keep the distractions to a minimum while still providing education for those individuals that take self-guided tours of the property during the off-hours of the office.

Mr. Kumka stated that perhaps there would be another simple version of the planting plan that could be displayed inside that provides the names of plants and identifies whether those plants are native.

Manager Lynch referenced the issue of maintenance noting that she would like to ensure that the plants look just as good next year.

Mr. Kumka stated that the warranty period will run through next spring and then there will be a handoff where the District will take over the maintenance.

Manager Lynch asked if the deer are causing problems with some of the plants.

Administrator Bigalke stated that there have been problems with deer but the solution for that would be to install a seven-foot fence around the property, which would have a cost of \$30,000. He noted that it would be cheaper to replace plants. He stated that the deer may be attracted to the new plants because of the new variety that has been added, noting that there are two or three plant species that the deer have already decimated.

Manager Twele stated that those plants can also be replaced with more deer resistant species.

## **New Business**

### **A. City of Eden Prairie Water Management Plan Presentation – Leslie Stovring**

Administrator Bigalke stated that the City of Eden Prairie has their updated Water Management Plan out for review and Leslie Stovring is present to make a brief presentation.

Leslie Stovring, City of Eden Prairie, stated that she is present to speak about the water resources program in general and the Water Management Plan. She stated that the new permit requirements were coming through and that is why the Water Management Plan updates were

delayed. She briefly highlighted the aspects of the Plans and proposed changes as well as progress that Eden Prairie has made towards some of the items. She stated that the staff amendment section is included to highlight updates that come along as time moves forward, noting that significant updates would still go through the full review process. She advised that they are working on watershed modeling in order to determine the highest priority areas where maintenance will be the most effective, noting that they will begin in this Watershed in 2020. She stated that the Metropolitan Council commented that the Plan looks great and noted that another agency provided one comment that was simple to amend.

Manager Lynch asked if the light rail would cause special problems if it comes this way.

Ms. Stovring stated that it would be difficult to fit light rail into a built environment, noting that the impacts have greatly decreased with the amended route. She stated that it will be an interesting challenge.

Administrator Bigalke stated that the District is required to approve or not approve the Plan within 60 days of the receipt of the Plan. He noted that timeline will expire prior to the September Board meeting and therefore he will be submitting a letter requesting an extension for that period as the District will have a list of comments that will need to be discussed with the Board. He stated that staff is looking at how the Plan complies with the goals, objectives and policies of the District's Plan. He stated that staff will also need to determine if the Plan meets the rules and regulations of the District.

Attorney Smith empathized with the place the City operates from because of the permit requirements of the MPCA and the obligation that the Plan comply with the District's rules as well. He stated that they have worked for the past two years to determine how those two agencies could work better together because it is challenging. He stated that the District's experience of working with the City has been that the best outcomes arrive through a cooperative approach. He stated that personally Ms. Stovring is also very committed to that outcome. He stated that the real challenge is whether the City Council will attempt to assume official permitting authority. He stated that the permitting program could be assumed by the City but there are specific requirements for that. He noted that his biggest concern is that the Plan as drafted does not address the role in the permitting process and believed that the best outcome would be for the City to make their role clear in great detail. He stated that there is a fair amount of upfront work on both sides in order to transfer the permitting. He suggested that the dialogue occur upfront as the plan needs to describe the standards and controls that will be in place to take over the permitting of the District. He stated that is a lot of work to do.

Chair Kloiber agreed that is a significant area that he noticed as well. He stated that the City could potentially say that they are not ready to take that role on at this time but could study that further and amend the Plan in the future.

Attorney Smith agreed that there is a way to spell out that intention but the key decision for the Board to approve the Plan would be whether that language is clearly laid out.

Chair Kloiber asked if the 8410 rules change the timing. He stated that the District will start updating their Plan soon and asked if the cities would have to then revise their plans.

Administrator Bigalke agreed that updates would need to be made after the District Plan is updated. He stated that when the District adopts their new Plan the cities would have a timeline for when their updates need to be made.

Attorney Smith stated that the rules do not provide for a process for requesting an extension and explained that the rules specify that the District has 60 days to respond. He stated therefore a motion could be made that the District is unable to approve the Plan at this time and requests additional time to review the Plan.

Administrator Bigalke stated that there will be a special meeting on September 9<sup>th</sup> and the Board could make a motion at that time.

Ms. Stovring stated that she would be more than willing to grant the District additional time if needed.

### **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. Edina Stream Bank Stabilization Project: Status Report**
- G. Atlas 14: Status Report**
- H. Lower Valley – Bloomington: Status Report**
- I. Status of Construction Projects**

Engineer Obermeyer stated that there has been no new activities associated with the Normandale Lake project in the past month, noting that staff will sit down with City staff to develop a plan for improvement of the water quality. He stated that three options are available, which would all require review and approval.

Administrator Bigalke stated that staff has met several times with the City this summer to discuss the possible options. He noted that once an option is selected they will make the details of the project public and anticipated that the project would begin next fall.

Michael Berndt, 8701 Sandro Road in Bloomington, asked if there is a way for a citizen to look at the engineering plans for the options proposed. He noted that they could be emailed or he could come into the office to make a copy.

Engineer Obermeyer provided a brief update on the Edina Stream Bank Stabilization project, noting that the deadline for comments expires prior to the September Board meeting.

Administrator Bigalke stated that he continues to communicate with the necessary property owners to obtain the easements and access agreements necessary to begin the project.

Engineer Obermeyer stated that he had received comments from Manager Segreto regarding the activity at Braemar Golf Course and stated that staff continues to review the activity. He noted that while there is some impact to the wetlands during construction there are mitigation efforts listed in the permit as well to offset the activity.

Administrator Bigalke noted that the new wetlands will exceed the quality of the previous condition of the wetlands once the project is completed.

### **Unfinished Business (Continued)**

#### **B. Watershed Rules Amendment**

Administrator Bigalke stated that the Board needs to authorize the release of the rules for the public review and comment period and noted that the Board can further review the information at the next meeting when the public hearing is held. He provided additional background on the discussions that staff has had regarding the rule amendment, noting that ultimately a minor amendment is proposed to the rules and briefly highlighted the amended rule language.

Manager Lynch moved, seconded by Manager Peterson, to authorize the release of the draft rules for public review and comment and establish that a public hearing will be held at the September 16<sup>th</sup> meeting. Upon a vote, the motion carried.

#### **A. Watershed District Office Update (Continued)**

##### **2. Office Networking/Technology Proposal**

Administrator Bigalke stated that a proposal was included in the Board packet to network the office so that staff can share files and information when they are out of the office through a shared file. He stated that a cloud server and onsite server were both options reviewed and noted that the proposal includes a hybrid of those options, which would allow the sharing of files for staff but would also have a firewall, which would prevent access from unauthorized individuals. He stated that there would be a cost of \$14,480 for the hardware with an additional cost for the software, noting that the software would be charged in an annual fee, which would allow the District to receive the necessary updates to the software. He stated that professional services or management for the services is also included in the proposal, explaining that if there are issues that arise the professional services firm will correct the problem. He stated that the cost for the equipment, installation, and software would be \$23,500 with managed serviced charged monthly at a rate of \$506 per month. He noted that the entire lump sum for the installation could be paid up front or there is also a monthly installation plan. He stated that staff did receive a similar quote from another firm but that did not include management services, which the District would need.

Manager Twele stated that the District is not really earning much interest and recommended that the lump sum be paid up front in order to save the financing charges. She stated that the monthly managed services will be so helpful when issues arise.

Manager Segreto stated that this is a three-year contract and questioned what would happen if the District is unhappy with the service provided.

Administrator Bigalke stated that he could look into that option. He noted that the final numbers and a more detailed contract will be sent once the decision is made.

Manager Lynch stated that she was a bit confused that if the District paid the cost up front there would still be a monthly charge.

Administrator Bigalke stated that the monthly charge is for management services that he would need for the office.

Chair Kloiber agreed that with the cost for the technology service that would be well worth the money as that charge could be equal to just a few hours of contracted time. He stated that he would like clarity with the ongoing costs, as they appear to exceed \$506 per month. He stated that the software updates will have an additional cost as well and he would like to see the costs spelled out a little more in detail. He questioned the expected lifetime of a server, which he believed to be about five years.

Administrator Bigalke stated that he asked that question and because the District is a smaller organization the lifespan is estimated at four to five years.

Manager Lynch moved, seconded by Manager Segreto, to direct staff to proceed with the proposal for technology services and enter into a contract with Mytech Partners not to exceed \$26,000, with an additional cost for the monthly managed services, contingent upon review and acceptance of the contract terms by Attorney Smith. Upon a vote, the motion carried.

**C. Edina Stream Bank Stabilization Project Update**

No additional comments.

**D. Website RFP Update**

Administrator Bigalke stated that the Board will have an RFP to review at the September meeting.

**New Business (Continued)**

**B. Board of Managers Tables**

Administrator Bigalke had nothing further to report at this time.

**Attorney's Report**

Attorney Smith had nothing further to report.

**Administrator's Report**

**A. 2016 Budget Development**

**1. Budget Hearing**

Administrator Bigalke stated that the budget hearing will take place at 7:00 p.m. on September 9<sup>th</sup>.

**Managers' Report**

The Chair called for reports. Manager Lynch noted that she will not be able to attend the regular September meeting.

Manager Segreto stated that she will also be unable to attend the September meeting.

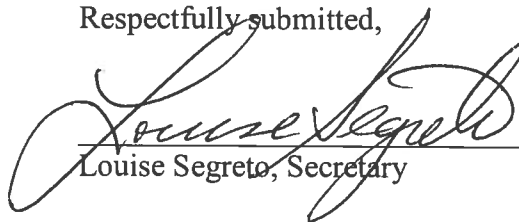
**Task Summary Report & Manager's Calendar**

The Managers reviewed and updated the task report.

**Adjournment**

It was moved by Manager Segreto, seconded by Manager Peterson, to adjourn the meeting at 9:44 p.m. Upon a vote, the motion carried.

Respectfully submitted,



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Louise Segreto, Secretary

ATTACHMENTS:  
Treasurer's Report