

**MINUTES OF THE PUBLIC HEARING
OF THE
BOARD OF MANAGERS
OF THE
NINE MILE CREEK WATERSHED DISTRICT**

THURSDAY, DECEMBER 10, 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., Thursday, December 10, 2015, at the Edina Public Works Multipurpose Room, 7450 Metro Boulevard, Edina.

Managers Present: Twele, Lynch, Kloiber, and Peterson

Managers Absent: Segreto.

Advisors Present: Kevin Bigalke, Michael Welch, Robert Obermeyer

Introduction

Good evening, I am Steve Kloiber, the President of the Board of Managers of the Nine Mile Creek Watershed District. Tonight's public hearing is regarding the Edina Nine Mile Creek Streambank Stabilization Project. I would like to call the meeting to order and open the public hearing at this time. Let me introduce the other Managers present tonight: Jodi Peterson, Corrine Lynch, and Maressia Twele. Manager Louise Segreto is not able to attend tonight's public hearing. Also present is our District Administrator, Kevin Bigalke; the District Engineer, Robert Obermeyer; and our District Legal Counsel, Michael Welch.

The purpose of this evening's public hearing is for the Board of Managers to receive comments regarding the City of Edina's petition to undertake the Edina Nine Mile Creek Streambank Stabilization project. After receiving comments on the petition for the project, tonight, the Board will determine whether to confirm the Engineer's Report, order that the project be established and constructed, and authorize the Board President to enter into a Cooperative Agreement with the City of Edina.

The Board of Managers decided to complete a voluntary Environmental Assessment Worksheet (EAW) to gather information about the potential for environmental impacts from the Edina Nine Mile Creek Stabilization project. The EAW was completed in July 2015 and submitted for public comment in August 2015. The District received public comments on the EAW during a review period that ended on September 16, 2015. A finding of no significant impact was made by the Nine Mile Creek Watershed District Board of Managers on October 14, 2015.

The City of Edina filed a petition on August 13, 2009, with the District requesting that the District undertake a basic water management project to correct erosion along stretches of Nine Mile Creek and stabilize banks to prevent further erosion and sedimentation. The District accepted the City's petition and ordered the District Engineer to prepare a report evaluating the feasibility and estimating the costs of the proposed project. In August 2015, the Engineer completed his report, which was then submitted to the Director, Division of Waters & Ecological Resources, Minnesota Department of Natural Resources, and the Minnesota Board of Water and Soil Resources for review. No comments were received from the Department of Natural Resources. The Board of Water and Soil Resources provided comments stating that the project is a practical plan and appears to substantially fulfill the applicable requirements of Minnesota Statute Section 103d.711. Following the hearing this evening, the Board will decide whether to establish the Edina Nine Mile Creek Stabilization project and to order the project.

The Engineer's report recommends that the following works and improvements are necessary, feasible and consistent with the District's water-quality management goals, as articulated in the District's 2007 Watershed Management Plan, and the City of Edina's petition:

- Generally stabilize the streambank of multiple reaches of the north fork of Nine Mile Creek to address major erosion problems;
- Reshape, stabilize and revegetate the banks of the creek;
- Remove sediment deposits, regrade creek bank areas and areas adjacent to the creek;
- Shift sections of the creek to accommodate bank stabilization;
- Realign the creek bed to meandering patterns based to the greatest degree possible on historical information;
- Establish buffers and remove buckthorn, and;
- Improve cover to reduce the temperature of the creek, thereby improving fish habitat.

For the purpose of implementing the project, the Nine Mile Creek Watershed District may acquire temporary or permanent easements on the following properties, identified with owners of record:

31-117-21-31-0037	L David & Carol L Russell
31-117-21-31-0038	Michael & Patricia Hasselstrom, Trustee
05-116-21-44-0045	Leny K Wallen-Friedman & Margaret A Wallenfriedman
05-116-21-44-0041	Mark S & Usha M Abramovitz
05-116-21-44-0046	David R B Chin
05-116-21-44-0040	Margo & Kurt King
05-116-21-44-0055	Teresa L Nida & Gary Judson
05-116-21-44-0056	Roger B & Sandra M Oster
09-116-21-22-0020	Anh P Nguyen

09-116-21-22-0014	Judith Moran Martin
08-116-21-11-0001	Michael G Wolff
09-116-21-22-0019	Astrid Alexander
09-116-21-22-0028	Minnesota Wanner Company, C/O Sue Wanner
09-116-21-24-0016	One Corporate Center Fin, C/O Foresite Prop Services
09-116-21-24-0034	One Corporate Center Fin, C/O Foresite Prop Services
09-116-21-22-0027	M-M Bloomington Assoc. LLC,
09-116-21-22-0025	M-M Bloomington Assoc. LLC
09-116-21-23-0021	SFI Ltd Partnership 14
09-116-21-31-0012	Mr. Madhu Reddy C/O SV Center Inc.
09-116-21-31-0018	International Dairy Queen Inc.
31-117-21-42-0010	Mark H Haymaker
05-116-21-41-0070	James R Korin
05-116-21-44-0036	Christopher M O'Donnell
04-116-21-33-0063	Mark Allen & Martha Allen
09-116-21-21-0017	SFI Ltd Partnership 14

State Of Minnesota Department Of Transportation Highway 100 Right Of Way

The necessary easements have not yet been acquired by the District.

The total estimated cost of the project is \$3,964,300, as set forth in the Engineer's report. In a moment, the District Engineer will review the cost estimates for each component of the project. The District will contribute 100% of the cost of the water quality components of the project. The City of Edina will contribute 75% of any costs of acquiring easements necessary for the project. The Managers intend to fund the District's portion of project cost by a tax levied by value on real property within the legal boundaries of the Watershed District.

As we proceed with the public hearing, I will first call on our Attorney and our District Administrator for brief comments, then the District Engineer will present his report and cost estimates. Following the Engineers report, I will call on the petitioner, City of Edina for their comments regarding the project. Then I will invite any other member of the public or interested person to appear and offer comments. The public hearing is being tape recorded to preserve our record. When recognized, please come forward and state your name and address for the record. We ask that you please limit your comments to five minutes.

Public Hearing

Attorney Welch stated that the project has been in the works for some time and noted that this is the time to accept public comment. He asked speakers to identify their name and address when speaking.

Administrator Bigalke reviewed the notification that was done for tonight's meeting including a posting in the *Sun Current*, a posting on the District website, and advertised with the City of Edina website and building meeting schedule. He advised that letters of notification were also mailed to property owners that the District requires easements from and any property owner adjacent to the creek where the District will be doing work. He noted that while there has been

communication with the direct property owners, there has not been much communication with adjacent property owners.

Engineer Obermeyer introduced Jeff Weiss and Janna Kiefer, who will be making the presentation of the engineering report, and noted that he would follow up with a few comments after the presentation.

Jeff Weiss, Barr Engineering, provided a brief overview of the engineer's report. He noted that there are a number of successful methods to stabilize banks and reviewed some of the options that would be available to provide stabilization. He stated that the overall stream project was split into about 15 different sub-reaches within Edina and identified the different areas on a map. He briefly highlighted some of the existing conditions within each reaches and the work and techniques that could be used to provide improvement. He explained that alternative options for stabilization were reviewed for each reach in order to find the best option for each area to provide increased stabilization. He displayed a photograph that identifies the parcels where easements would be need to reach and stabilize the creek, and highlighted parcels that would require permanent easements while the remaining parcels would only require temporary easements. He provided the estimated project cost, split into each reach of the creek. He noted that the project is 30 percent complete in design and advised the contingency is provided to allow for additional items that arise during the planning process. He noted that each individual site is also field fitted, as they will need to work with the existing features of the environment, such as water flow and reach. He explained how the phosphorus removal rate is determined on an annual basis.

Engineer Obermeyer referenced the net benefits of the project, noting that stabilizing has a tremendous phosphorus and suspended solid reduction. He stated that 350 pounds per year of phosphorus would be taken out of the system just from the stabilization of this creek and explained the calculation that he used to determine an annual cost of \$166,000 per year, which would equal \$475 per pound of phosphorus removed. He provided a comparison of the Tanner's Lake alum treatment plant, which is a very efficient system and injects the storm water with the alum chemical has a cost of \$1,600 per pound, and compared that benefit to the benefit that would be gained through this natural stabilization process. He also provided an example of the Centennial Lakes project runoff, which was up to almost \$8,000 per pound of phosphorus removal. He noted that this project would provide a tremendous benefit. He stated that the District is working on the Feasibility Engineer's Report for Normandale Lake, noting that the phosphorus from the creek channel is a significant input into the lake. He explained that the phosphorus that will be removed from the creek before it travels into the lake will reduce 63 percent of the phosphorus loading in the north fork which is going into Normandale Lake and ultimately to the Minnesota River. He stated that overall the stabilization would remove about 28 percent of the Watershed loading into Normandale Lake. He stated that stabilization projects are multi-functional in terms of the improvements, using the example of fish habitat. He referenced the Hopkins Creek project which the District completed a few years prior, noting that prior to the stabilization in June 2010 there were 55 different numbers of fish counted and after completion in 2014, there were 369 counted. He stated that the fish population has significantly increased from the stabilized channel and has also introduced pollution intolerant fish and warm water sport fish that have not been seen in that area before. He explained that stream

stabilization projects have a significant improvement to the overall ecological condition of the creek.

Mr. Weiss stated that a phase one environmental assessment was done to ensure the District would not be surprised by anything within the soils. He stated that the DNR did not provide any comments and are waiting for the final plans before issuing permits. He stated that the Army Corps of Engineers has provided some comments which Barr Engineering replied to. He hoped that a permit would be issued in January, but noted that would be dependent on the schedule of the Corps. He noted that if the project is approved to move forward, they would begin with some of the construction this winter with the remainder of work to begin in summer and fall.

Administrator Bigalke stated that the City of Edina does not have a representative present tonight but reported that the Edina City Council has approved and authorized the Cooperative Agreement and supports the project.

Chair Kloiber opened the floor to members of the public to provide input, noting that Manager discussion and questions can occur after the public comment is received.

Russ Nelson stated that he owns a vacant lot along reach two and noted that nothing has been mentioned about the survivability of this work in a 100 year storm event or with a large volume of water. He asked if the District would be able to guarantee the work if a large water event were to occur.

Mr. Weiss stated that there is no guarantee but advised that the project does take into account a 100 year event. He stated that they do not always design to the full 100 year event mark but noted that there are other measures you can do to provide additional stability to the creek and banks. He stated that ideally you would want, annually, to see the creek spill over the banks slightly into the floodplain in order to release some of the energy and erosive pressure.

Chair Kloiber stated that the District has completed other stabilization projects along stretches of the creek and stated that the Watershed plans for, and commits to, continued maintenance to fix damage that may occur during large storms.

Administrator Bigalke referenced the stabilization project the District completed in Hopkins in the winter of 2013; noting that following summer there were two or three, four to six inch rain events and the creek help up very well. He explained that in the cases where permanent easements are required, that will provide the District with the necessary access to provide continued maintenance. He noted that if the easements are not provided, the burden of maintenance will fall upon the property owner. He explained that the easement area would be strictly used to provide maintenance access and would still be privately owned by the property owner and would not provide public access in those locations.

Engineer Obermeyer stated that the purpose of the project is to provide a stable channel through the regular flow events, noting that the project would not diminish or reduce the existing floodstorage.

Mr. Nelson referenced the fill that would be taken from reach two and asked where that would be put.

Mr. Weiss stated that the banks in that area are higher than they are in other areas and identified areas where the floodplain could be cut down by a foot or two to make it more consistent with the other areas of the creek, and better able to relieve the erosive pressure. He noted that while some of the removed fill will be used to fill in the channel, some dirt would be removed from the site.

Administrator Bigalke confirmed that the fill would not be used to build up the ground and would only be used to fill in the existing path of the channel.

Engineer Obermeyer stated that through mitigation efforts the old channel would be reestablished as wetland in order to have no net loss of wetland.

Attorney Welch stated that the project is at 30 percent of the design process, noting that the next step the Managers must proceed with is necessary for the project to move further into the design phase. He noted that the District does not have all the answers tonight and the intent of tonight's meeting is to gain input from the public that can help staff finalize the design.

Nancy Spannaus, 5720 Tucker Lane, stated that the projected project cost has been provided and it was noted that a levy would fund the District's portion of the project. She asked if the levy impact could be translated into the approximate cost for individual homeowners.

Chair Kloiber stated that the District maintains an annual budget which projects into the future to fund future projects. He noted that a portion of the costs have already been accumulated by the District. He reported that the levy amount the previous year was \$70 per home value of \$450,000. He stated that there should not be an increase to the levy for this project as the funds have already accumulated.

Administrator Bigalke stated that the funds for the District are generated through the property taxes of all the households throughout the six member cities. He explained that the property owners adjacent to a project area do not pay more than the other residents in the District as the cost is spread equally across the District. He stated that if you were to levy the entire cost of the project in one year there would be an impact of \$77 per home value of \$360,000.

Ms. Spannaus asked and received confirmation that she should not notice an increase in her property taxes because of this project.

Attorney Welch stated that the District does not, and has not, used assessments to fund a project as the resource is a regional asset and therefore the projects provide regional benefit.

Roy Earl, 5161 Abercrombie Drive, referenced reach 12, noting that the several inch rains that are received every year or two cause the creek to flood into everyone's yard around that area. He noted that the City storm drain also empties into that area. He noted that it appears

that the creek is going to move closer to their property line and was concerned that flooding could occur in their walkout basement, and those of their neighbors. He identified his property on the map.

Engineer Obermeyer stated that the flood elevations will not change and the frequency will not change. He explained that the creek channel itself will move laterally but the floodplain area will not change. He stated that the culvert under 70th Street regulates that area and is not going to be reduced in size.

Administrator Bigalke explained how the floodplain area is designed to work with the creek, noting that the culvert acts as the restriction and the elevation and topography will lead the water to the floodplain areas.

Engineer Obermeyer explained how the floodplain functions, noting that the area is functioning as designed as it was created for floodplain purposes. He explained that whether the creek is closer to City property or private property, the volume of water going into or out of the site will not change. He stated that staff can provide cross sections of the area which show that the private property will not be impacted.

Mr. Earls asked if the District would remove silt that builds up over time.

Engineer Obermeyer explained that the project is intended to reduce the amount of silt that collects but noted that the District is also committed to completing the necessary continued maintenance which could include silt removal.

Mr. Weiss explained that the project is intended to assist the water and silt in continuing to flow down the path of the creek.

Administrator Bigalke provided examples of materials that would be removed, such as silt, and others, such as woody debris, that would not.

Mark Abramovitz, 6804 Brook Drive, asked if the District has determined all of the properties that would need permanent or temporary easements.

Administrator Bigalke stated that staff has identified the properties that would need permanent and temporary easements, noting that the list of temporary easements is being narrowed down as the best access points are determined.

Mr. Abramovitz asked where the regional trail would travel through reach ten.

Mr. Weiss identified the path the regional trail would travel along the railroad tracks.

Chair Kloiber asked if any others had comments, and seeing none, he stated that as there are no other comments that will conclude the public comment on the Edina Nine Mile Creek Streambank Stabilization project. At this time, the Board of Managers will close the record of public comments on the petition of the City of Edina and process to deliberate whether to

confirm the Engineer's Report, confirm that the necessary easements will be acquired by the District, and order that the project be established and constructed. The Board may authorize the construction of the project as a whole, or authorize various parts of the project separately.

Board Discussion

Manager Lynch stated that a great deal of study has occurred and information provided, not just tonight but throughout this process. She stated that although the cost is not a small amount of money, the project will provide a great impact and is feasible because the cost is spread throughout the District and has/will be collected over a number of years. She stated that she would support moving ahead on this project.

Manager Twele referenced the list of permanent easements that still need to be obtained and hoped the District would not have too much trouble obtaining those easements.

Administrator Bigalke stated that negotiations are ongoing, noting that roughly half to almost two thirds of the property owners have had communication regarding the easements and project. He advised that there are also properties that have had no contact despite numerous attempts throughout various methods of communication. He stated that if this winter the easements have not been put in place the District will begin the work on the public portions of the project. He stated that progress is being made, although it is very slow.

Attorney Welch stated that the City has approved the Cooperative Agreement, which provides the rights to access the City property, which is the only public property that is needed, other than one portion of MnDOT property that will require an easement.

Chair Kloiber asked and received confirmation that the City property encompasses 70 to 80 percent of the project area.

Manager Peterson had no additional comments.

Chair Kloiber stated that this project has been a long time coming and staff has done an excellent job collecting and presenting this information. He commended staff for their proactive measures with the EAW, using the experience from the Hopkins project.

Vote on Resolution

Chair Kloiber stated that Attorney Welch has prepared a draft resolution. The resolution is to grant the petition of the City of Edina, confirm the Engineer's Report and order the Edina Nine Mile Creek Stabilization project, and authorize the Board President to enter into a Cooperative Agreement with the City of Edina for the project. A motion would be in order to adopt the proposed resolution.

Administrator Bigalke stated that the petition has already been accepted and approved and explained that this resolution would authorize the District to confirm the Engineer's Report,

order the project, and enter into the Cooperative Agreement with the City of Edina. He read the resolution aloud.

Attorney Welch suggested that an amended resolution be brought back at the regular December meeting which acknowledges that the City has already signed the resolution.

Chair Kloiber referenced some grammatical changes that should be made to the resolution. He noted that the motion will be made tonight with the direction for amendment and a formally amended resolution will be presented at the next regular meeting of the board of managers.

Manager Lynch moved the resolution as amended by the Managers, seconded by Manager Twele. A roll call vote was taken by the Administrator:

Lynch	aye
Kloiber	aye
Peterson	aye
Twele	aye
Segreto	absent

The motion carried.

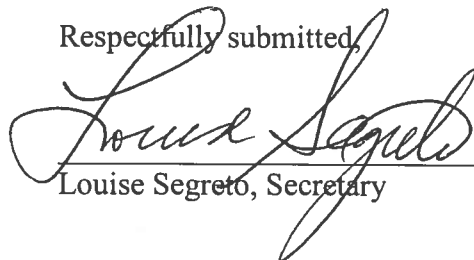
Adjournment

Having adopted the resolution, a motion is in order to adjourn this hearing.

It is so moved by Manager Peterson, seconded by Manager Twele. Upon a vote, the motion carried.

The hearing is adjourned.

Respectfully submitted,



Louise Segreto, Secretary

ATTACHMENTS:

