

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

**WEDNESDAY, MAY 18, 2016**

**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, May 18, 2016, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

Managers Present: Lynch, Kloiber, and Peterson

Managers Absent: Twele and Segreto.

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

**Agenda**

Administrator Bigalke requested the addition of an item under New Business titled Annual Liability Waiver. Manager Pederson moved, seconded by Manager Lynch, 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 April 20, 2016. It was noted on the last page Manager Segreto was listed as Secretary but she was not present. Attorney Smith stated that the Secretary could still sign the minutes if confident from the other Managers that the minutes were accurate or advised that an Acting Secretary could be appointed.

Chair Kloiber moved, seconded by Manager Peterson, to appoint Manager Lynch as Acting Secretary. Upon a vote, the motion carried.

Manager Lynch asked if the newly appointed CAC members should be listed in the minutes.

Administrator Bigalke confirmed that staff could add the names.

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

## **Correspondence**

- MAWD Summer Tour Registration Information
- Letter from the City of Edina

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

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

### **A. CAC Appointments**

Education and Outreach Coordinator Sneigowski stated that there are two new CAC applications before the Board and if appointed would fulfill the attendance of the 12-person Committee Eric Strobel and James Muni. She believed that both applicants would be a good addition to the CAC.

Manager Lynch moved, seconded by Manager Pederson, to appoint Eric Strobel and James Muni to the CAC. Upon a vote, the motion carried.

### **B. Cost Share Grant Approval**

Education and Outreach Coordinator Sneigowski stated that an application from Oak Grove Presbyterian Church had been put on hold the previous month as the church was still deciding between some options. She stated that the church has made their decisions and is applying for \$25,000. She advised that this project will treat 5,000 gallons of water in a one-inch rain event, noting that the water drains directly into Nine Mile Creek. She stated that staff recommends approval of the request and noted that the funds would be moved from the chloride fund as that fund is no longer being used.

Manager Lynch moved, seconded by Manager Peterson, to approve the cost-share application from the Oak Grove Presbyterian Church. Upon a vote, the motion carried.

Education and Outreach Coordinator Sneigowski reported that the planning grant program has now been advertised and an application has been received from Good Samaritan Church in Edina, which has a property seven acres of size on Hawks Lake. She stated that the church has two Master Water Stewards who went through the program with Minnehaha Creek and another member that is going through the program with this District who plans to do her capstone project on the church property. She noted that the master plan for this property would be helpful because of the knowledge already in the church membership and the erosion and shoreline restoration opportunities on that property. She recommended approval of this application, noting that the applications will be reviewed on a rolling period reviewing applications as they are received rather than setting a deadline for applications.

Manager Pederson moved, seconded by Manager Lynch, to approve the planning grant program application from the Good Samaritan Church in Edina. Upon a vote, the motion carried.

### **C. General Education Program Update**

Education and Outreach Coordinator Sneigowski stated that the grand opening for the fiber art exhibit will be the following Tuesday, May 23<sup>rd</sup>, and will also feature a presentation on pollinators. She noted that the kayaking event will be held on June 12<sup>th</sup>.

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

There were none.

### **Consent Agenda**

- A. Permit #2016-43: Climatech Building Addition and Parking Lot Expansion – 6950 Washington Avenue; Grading and land alteration permit: Eden Prairie**
- B. Permit #2016-70: Cambria Building and Site Improvements – 11000 West 78<sup>th</sup> Street; Grading and land alteration permit: Eden Prairie**
- C. Permit #2016-71: Homewood Suites Hotel – S.W. Quadrant of West 66<sup>th</sup> Street and York Avenue; Grading and land alteration permit: Edina**
- D. Permit #2-16-72: Braemar Cold Storage Site Improvements – 7600 Braemar Boulevard; Grading and land alteration permit: Edina**
- E. Permit #2016-73: Home Reconstruction; 5516 Hillside Court; Grading and land alteration permit: Edina**
- F. Permit #2016-76: Home Construction – 5020 Skyline Drive; Grading and land alteration permit: Edina**
- G. Permit #2015-53: Three Rivers Park District Regional Trail Permit Extension Request**

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

### **Hearing of Permit Applications**

- A. Permit #2016-21: Tennis Court Construction – Creek Valley Elementary School – 6401 Gleason Road; Grading and land alteration permit: Edina**

Engineer Obermeyer recommended that this item be continued.

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

- B. Permit #2016-46: Edina Stream Stabilization Project; Grading and land alteration permit: Edina**

Engineer Obermeyer recommended that this item be continued until additional progress is made with the easement acquisition.

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

**C. Permit #2016-47: T.H. 169 Bridge Replacement from West 7<sup>th</sup> Street to Bren Road; Grading and land alteration permit: Hopkins/Edina**

Beth Kunkel, representing the applicant, stated that she is back to provide a brief overview of the project. She stated that the major part of the project is the replacement of the bridge over Nine Mile Creek as well as some mill and overlay work along T.H. 169. She noted that MnDOT staff are present as well to answer specific questions. She stated that the contractor will be selected by the end of July and the project will move forward at that time. She stated that there are design standards and regulations that the contractor must follow for the project, including following the rules of the District. She noted that the type of retaining wall and some of the minor stormwater details could be changed by the contractor as long as the rules of the District are still met. She reviewed some of the agencies that have reviewed and approved of the plans thus far. She reviewed some of the alternatives that were reviewed and the key points used in determining the best design options.

Sandra Raffine, representing the applicant, stated that some changes were made to the water treatment ponds after discussions with staff and highlighted some of those changes.

Manager Lynch referenced the deterioration of the bridge due to salt and asked for additional information on the use, and treatment, of salt.

Ms. Raffine replied that the water treatment ponds will be treating for phosphorus and suspended solids, noting that once salt is dissolved there is no way to specifically treat for it. She stated that the best method to treat for salt is to limit the use.

Engineer Obermeyer stated that staff has reviewed the application and is in agreement with the compensatory storage being provided with the proposed replacement of the 6x10 box and 9x6 box culverts. He stated that there will not be a net rise in the flood elevation. He stated that there is 1.96 acres of permanent wetland impacts which will be mitigated at a two to one ratio to meet the requirements of the District. He stated there will be 1.54 acres of new impervious area that will need to have stormwater management, noting that the capacity in the ponding basins does meet the one-inch retention requirement and also meets the 60 and 90 percent removal efficiency for phosphorus and suspended solids. He stated that rate control is also being maintained. He discussed the potential impacts downstream for more frequent storm events and noted that he has provided some options for MnDOT to review and believed a revised model would be returned.

Chair Kloiber asked if the design of the main culvert would need to be changed to hold back the lower flows.

Engineer Obermeyer stated that most likely a weir would be placed in front of the overflow culverts which would eliminate them from coming into play for the more frequent storm events.

Manager Lynch stated that if the bridge is projected to last 75 and just as traffic counts are planned to increase the odds are that frequent rain events would most likely increase as well.

Ms. Raffine agreed that the climate is changing with bigger storms and bigger rainfall and the project plans to account for that.

Engineer Obermeyer stated that he would recommend continuing action on the permit tonight until the additional modeling is provided. He noted that the item could be considered at the planning meeting that the Board will hold in early June as the other aspects of the permit have been addressed tonight. He noted that a variance for wetland buffers would be considered at that time as well, similar to other linear road projects.

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

**D. Permit #2016-74: Home Reconstruction – 5312 Forslin Drive; Grading and land alteration permit: Edina**

Engineer Obermeyer recommended that this item be continued as the project did not meet the two feet separation or include stormwater calculations.

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

**E. Permit #2016-75: CenterPointe Energy Gas Main Relocation through Bredesen Park; Grading and land alteration permit: Edina**

Engineer Obermeyer advised that representatives from CenterPointe Energy are present to answer any questions and noted that some portions of the project have been approved administratively, with the exception of this portion through Bredesen Park as there may be temporary wetland impacts. He explained the proposed project and plans, noting that a boundary determination would need to be accepted and reviewed the other elements of approval specific to this area. He recommended approval of the permit and wetland boundary determination.

Administrator Bigalke noted that the wetland boundary determination is on the agenda as Item H but recommended that the action be considered in one approval.

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

**F. Wetland Boundary Determination Approval – Creek Valley Elementary School: Edina**

Engineer Obermeyer reviewed the proposed wetland boundary determination and recommended that the Board accept the determination.

Manager Lynch moved, seconded by Manager Peterson, to accept the wetland boundary determination. Upon a vote, the motion carried.

**G. Wetland Permit Application/Wetland Replacement Plan Extension – Braemar Golf Course Reconstruction: Edina**

Engineer Obermeyer noted that this request is for an extension of the wetland replacement plan.

Manager Lynch moved, seconded by Manager Peterson, to approve the wetland replacement plan extension. Upon a vote, the motion carried.

**H. Wetland Boundary and No-Loss Wetland Determination: Center Pointe Energy – Gas Main Replacement through Bredesen Park: Edina**

Action was already taken on this item under a previous permit approval.

**Treasurer's Report**

Administrator Bigalke submitted the report.

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

**Unfinished Business**

**A. Discovery Point Entrance Sign**

Administrator Bigalke stated that the proposed design was presented at a previous meeting and noted that the preference of the Board was to use the natural wood background with colored lettering and logo, noting that choice does meet the City of Eden Prairie's sign ordinance. He stated that following the action tonight the District would submit an application for the sign to the City of Eden Prairie. He advised of the proposed cost and recommended that the Board approve the sign and installation as proposed.

Manager Peterson moved, seconded by Manager Lynch, to approve the Discovery Point entrance sign and installation as proposed. Upon a vote, the motion carried.

**B. Watershed Management Plan Update**

Administrator Bigalke stated that the next planning meeting will be held on June 8<sup>th</sup> rather than June 2<sup>nd</sup>.

**C. Office Networking Update**

Administrator Bigalke stated that the District will receive a small credit back for some of the software that was purchased that the District will not be using and noted that he will now go back out for RFP.

**D. Eden Prairie Local Water Management Plan**

Administrator Bigalke stated that he may ask Attorney Smith to provide guidance on this as well. He stated that he looked at the Eden Prairie Plan to determine if they met the items the District recommended during the last review, noting that the City did meet some of the requirements but not all of them. He stated that the language is still not clear in the Plan whether the City or the District will do the stormwater permitting. He noted that there is also some contradictory language and not all aspects were addressed. He stated that staff came to the conclusion that in order to keep the ball rolling, the District should approve the Plan with the three conditions listed in the Board packet. He noted that the City would need to submit a revised Plan showing that the conditions had been met.

Attorney Smith stated that from the cover letter it appears that the City did not want to be in a direct regulatory roll but the Plan language was not clear. He agreed that approving the Plan with the three conditions would be the best route.

Chair Kloiber asked and received confirmation that the Plan would not be approved until the revisions are made to address the three conditions.

Manager Lynch moved, seconded by Manager Peterson, to approve the Eden Prairie Local Water Management Plan subject to the three conditions as recommended by staff. Upon a vote, the motion carried.

**New Business**

**A. Approval of Professional Services**

Chair Kloiber stated that this item seems clear as there was only one proposal received for each of the consulting services.

Administrator Bigalke agreed and stated that staff recommends approval as presented.

**i. Engineering**

Manager Peterson moved, seconded by Manager Lynch, to approve Barr Engineering for engineering consulting services. Upon a vote, the motion carried.

**ii. Legal**

Manager Peterson moved, seconded by Manager Lynch, to approve Smith Partners for legal consulting services. Upon a vote, the motion carried.

**iii. Accounting**

Manager Peterson moved, seconded by Manager Lynch, to approve JMSC Futurity for accounting consulting services. Upon a vote, the motion carried.

**iv. Audit**

Manager Peterson moved, seconded by Manager Lynch, to approve Redpath and Company for audit consulting services. Upon a vote, the motion carried.

**B. City of Edina/Atlas 14 Request**

Chair Kloiber referenced the letter that was sent from the City of Edina and asked for additional information on what is being requested.

Administrator Bigalke stated that the District has provided the City with a Creek Atlas 14 model and noted that when the creek is at a 100-year water elevation that water backs up into other areas. He believed that the City wanted to ensure that the elevations away from the creek are accurate in order to ensure that their storm sewer and infrastructure are accurately sized. He stated that some of the cities are looking for guidance in areas that are fully developed. He stated that this is perhaps this item is asking for a sense of direction from the Board to have staff further analyze the Atlas 14 model and build that out a little further to take into account the development areas within the City of Edina.

Chair Kloiber asked the level of staff time that would be required.

Administrator Bigalke noted that Barr Engineering would conduct the modeling and advised that there would then be meetings between the City, District and developer.

Chair Kloiber asked if this would be covered under the current engineering budget.

Administrator Bigalke stated that he believed the work would be included in the current budget or contingency and would be a service to the member city.

Chair Kloiber asked if the models as a whole should be updated.

Administrator Bigalke stated that this could be the beginning, noting that Edina has two areas of concern which would be a good start. He noted that other areas could be prioritized after that in terms of updating the models.

Chair Kloiber confirmed the consensus of the Board to direct staff to proceed with updating the models.



Attorney Smith stated that his interpretation was that the City was asking for assurances and he wanted to ensure that the District is careful in its response.

Administrator Bigalke confirmed that assurances would not be given as this would be similar to any other modeling.

**C. Annual Liability Waiver**

Administrator Bigalke stated that this item is reviewed each year, specifically the decision whether or not to waive the tort liability limits. He noted that the District always chooses not to waive the tort liability limits.

Manager Lynch moved, seconded by Manager Peterson, to not waive the tort liability limits. 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. Edina Streambank 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. Lower Valley – Bloomington: Status Report**
- H. Status of Construction Projects**

Engineer Obermeyer updated the Board on the above listed projects and the recent storm activity.

Chair Kloiber noted that perhaps when information is placed on the District website, Barr Engineering could work with the Education and Outreach staff in order to come up with language that is easier to understand for the layperson.

Administrator Bigalke provided additional information on how the information will be displayed and linked on the website.

**Attorney's Report**

Attorney Smith had nothing further to report.

**Administrator's Report**

Administrator Bigalke had nothing further to report.

**Managers' Report**

The Chair called for reports.

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

The Managers reviewed and updated the task report.

**Adjournment**

It was moved by Manager Peterson, seconded by Manager Lynch, to adjourn the meeting at 8:33 p.m. Upon a vote, the motion carried.

Respectfully submitted,

  
\_\_\_\_\_  
Corinne Lynch, Acting Secretary

ATTACHMENTS:  
Treasurer's Report