

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

WEDNESDAY, OCTOBER 19, 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, October 19, 2016, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

Managers Present: Twele, Lynch, Kloiber, and Peterson

Managers Absent: Segreto (expired term)

Advisors Present: Louis Smith, Bob Obermeyer, Randy Anhorn, and Erica Sniegowski

Agenda

Chair Kloiber noted that two items will be added to New Business titled, Request for Plan Extension and Update on the Meeting with Eden Prairie.

Manager Twele noted that one item was duplicated as Items A and B on the Consent Agenda. It was noted that the item should only appear once.

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

Oath of Office – Manager Steve Kloiber

Attorney Smith noted that the Secretary Pro-tem that was appointed at the last meeting will continue. He administered the Oath of Office to Manager Steve Kloiber.

Reading and Approval of Minutes

The Chair called for review of the minutes of the Regular Meeting of September 21, 2016. He noted on page three, the middle of the page, it should state, "...could ~~be used~~ use basal basin..." Attorney Smith noted on page 10, in the third paragraph, it should state, "...Fred Richards..." And on page ten, the last paragraph of the section, it should state, "...Wellerest Hillcrest, stated that they are redeveloping the 42-acre lake development site..." Manager Twele noted on that the sentences at the beginning of page seven were long and confusing. Following much discussion, the Board provided suggestions to the paragraph, but directed staff to review

and make sure it was more understandable. The Board's suggested edits were: "Chair Kloiber stated that the amendment provides that a watershed city in its local surface water management plan can ensure ~~achieve~~ the necessary consistency of regulatory standards and criteria by indicating that the city intends to exercise sole regulatory authority for rules within city authority. Also that the city commits and commit to ensuring that city ordinances are as or more protective than watershed rules, as may be updated from time to time from 2017 to 2028 and defer exercise of authority to regulate to protect water resources-protection regulation to NMCWD".

Additionally, Manager Lynch noted that on the middle of page 10, it should state, "...and propose ~~the cities with~~ that figure to the cities." She noted on page nine, the second paragraph, it should state, "...eight ~~tens~~ tenths..." Manager Twele noted on page 14, under the Engineer's Report (continued), it should state, "Interim Administrator Sniegowski stated that in sampling Lake Cornelia..." Manager Lynch noted on page 12, the second paragraph, it should state, "...Old Shady..." Manager Peterson noted on page seven, the bottom of the page, it should state, "...wetland credits for the replacement and therefore action ~~on the wetland~~ is necessary this fall. He hoped that staff could bring back the entire package at the October meeting but noted that the wetland item ~~for~~ would be on that agenda."

It was also the consensus of the Board, that the two parts of the Engineer's Report shall be combined into one section, even though an item was taken out of order and considered earlier in the meeting.

Administrator Anhorn stated that staff would work on the long and confusing sentences on the top of page seven and incorporate the Managers suggested changes and on the final version of the minutes.

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

Correspondence

- MAWD Annual Meeting Notice

Chair Kloiber stated that if Managers intend on going, reservations for the hotel should be made immediately.

Education & Outreach Program Report

The Chair called for the report of the Citizens Advisory Committee. Education and Outreach Program Manager Sniegowski noted that she will be giving a presentation, in coordination with Ramsey Washington Metro Watershed District regarding use of the site as a demonstration area. She noted that the summer education series is also up for an award.

A. Apparel

Education and Outreach Program Manager Sniegowski stated that she should have samples of polo shirts and fleece vests at the next workshop meeting for the Board to consider. She estimated that the costs would remain under \$1,000.

B. General Updates

Education and Outreach Program Manager Sniegowski stated that the Master Water Stewards tour occurred the previous week, noting that six stewards were appointed for this cohort. She reported that the CAC considered photo contest submissions for the photo calendar at their last meeting. She advised that there will be a buckthorn removal event at Discovery Point on October 29th from 9:00 a.m. to noon. She noted that they are using a smaller volunteer group in order to gain information on the process and determine the best method and size for volunteer events in the future. She noted that mainly hand tools will be used. She stated that as the restoration stages on the property continue, they would attempt to bring in more volunteers which will also help spread education. She advised of a Minnesota Naturalist conference that Education and Outreach Specialist Zembael will be attending. She also noted some winter maintenance workshops that the District has hosted and partnered on.

Hearing and Discussion of Matters of General Public Interest

There were none.

Consent Agenda

- A. Permit #2016-100: Williston Woods West – Williston Road and Excelsior Boulevard; Grading and land alteration permit: Minnetonka**
- ~~B. Permit #2016-100: Williston Woods West – Williston Road and Excelsior Boulevard; Grading and land alteration permit: Minnetonka~~**
- C. Permit #2016-129: Carlson Print Parking Lot Expansion – 7490 Golden Triangle Drive; Grading and land alteration permit: Eden Prairie**
- D. Permit #2016-131: Single-Family Home Construction – 7612 South Bay Circle; Grading and land alteration permit: Bloomington**

Engineer Obermeyer referenced Items A and D, noting that he did increase the financial surety amount from what was shown in the packet and advised that a revised letter was included on the Manager's desk.

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

Hearing of Permit Applications

A. Permit #2016-88 and Request for WCA Sequencing, Replacement Plan and No-Loss Approval: Southwest Light Rail Transit; Grading and land alteration permit: Eden Prairie, Hopkins, Minnetonka

Engineer Obermeyer noted that this item includes two actions. He noted that a complete grading and land alteration permit application has been received but the 60-day review period will expire prior to the November Board meeting and therefore an extension of the 60-day review period will be necessary. He noted that information is still being received but a presentation will be ready for the November meeting. He stated that a letter has been received from the SWLRT asking that the Board take action on the wetland application. He reviewed the wetland information submitted and highlighted the permanent and temporary wetland impacts proposed with this project as well as proposed wetland replacement plan. He stated that the TEP recommends that the Board approve of the WCA sequencing, replacement plan and no-loss determination.

Manager Twele asked if someone from staff visited the site.

Engineer Obermeyer stated that Karen Wold from Barr Engineering visited the site and she and previous Administrator Bigalke also attended several of the TEP meetings. He reviewed the conditions including surety in the amount of \$15,000.

Manager Twele moved, seconded by Manager Peterson, to approve a 60-day extension to the review period for the permit. Upon a vote, the motion carried.

Manager Lynch moved, seconded by Manager Twele, to accept the Wetland Notice of Decision with the additional condition that the applicant must provide documentation to the District of acquisition of the necessary property rights on any particular property prior to disturbance of wetland on such property. Upon a vote, the motion carried.

B. WCA Wetland Boundary and Type Concurrence – Carlson Pond Embankment Repair; 6365 Carlson Drive: Eden Prairie

Engineer Obermeyer presented the permit request and proposed plans. He stated that ultimately this will be a no net loss project. He stated that Barr Engineering recommends acceptance of the boundary determination.

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

Treasurer’s Report

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

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. Fair Labor Standards Act – Non-Exempt Employee Federal Changes

Administrator Anhorn stated that there are some items such as the Fair Labor Standards Act (FLSA) and the difference between exempt and non-exempt employees that are not addressed in current District policies. He noted that while staff will work on drafting policies to address areas of more immediate concern (such as FLSA changes), that they will also work on developing a more comprehensive personnel and governance policy manual that will incorporate this and other needed policies. He stated that regarding overtime and the use of comp time for overtime hours, there will need to be further discussion as to the carryover length for comp time.

Chair Kloiber asked if this was based on a 40-hour work week or 80-hour pay period. He stated that it seems a bit restrictive, especially if staff is working on a big project. He thought perhaps one month should be provided for use of comp time and if it is not used within that time period the amount would simply be added to the third paycheck following accrual.

Administrator Anhorn stated that staff will work with JMSC on the tracking and details.

B. Work of Class Compensation for Interim Administrator

Administrator Anhorn noted that there is not a policy to address this item either but per Board direction from the October Board meeting, he, Education and Outreach Program Manager Sniegowski, and Chair Kloiber worked together to determine fair compensation for the time Education and Outreach Program Manager Sniegowski acted as Interim Administrator. He explained the calculation that was used to determine the salary compensation of \$3,893.12 proposed.

Manager Twele commented that the assistance of Education and Outreach Program Manager Sniegowski has been priceless and hoped that this compensation would help to offset the countless hours she spent away from her family to help the District.

Manager Lynch stated that perhaps staff would like to review some of the job duties to determine if Education and Outreach Program Manager Sniegowski's job description should be updated and further salary adjustment could be done at that time.

Chair Kloiber agreed that could take place over the next year, determining if additional staff needs to be added and how existing resources could best be used. He thanked Education and Outreach Program Manager Sniegowski for her assistance.

Manager Peterson moved, seconded by Manager Twele, to approve a salary adjustment of \$3,893.12 for Education and Outreach Program Manager Sniegowski. Upon a vote, the motion carried.

Administrator Anhorn stated that the performance review for Education and Outreach Program Manager Sniegowski is scheduled to occur the next month. He noted that he has only been with the District for one month and therefore would appreciate the input of the Board, including future goals.

Chair Kloiber stated that perhaps previous Administrator Bigalke could be consulted for input.

C. Cell Phone Policy

Administrator Anhorn reviewed the three options detailed in the cell phone policy discussion memo he had included in the meeting packet. He asked for direction before crafting a policy to come forward to the Board in November.

Manager Twele stated that she prefers option three which would provide the applicable employees with the option to receive a stipend for use of their personal phone or a second District only phone.

Chair Kloiber stated that he likes the provision that employees that choose to use their personal phone for District business understand that their device could become subject to discovery if a public data request is received.

It was the consensus of the Board to choose option three, the hybrid option.

Attorney Smith agreed that the hybrid option would make the most sense in this situation and believed that the Hennepin County policy would meet the criteria.

Administrator Anhorn stated that he would work with Smith Partners to develop the draft policy and proposal to purchase staff phones for those that choose that option.

Manager Peterson moved, seconded by Manager Twele, to direct staff to develop a draft policy based upon option three and bring back a proposal at the November meeting. Upon a vote, the motion carried.

D. Office Furniture: Tables

Chair Kloiber stated that the cost came in higher than the estimate.

Manager Lynch moved, seconded by Manager Twele, to approve an amount no to exceed \$4,000 for the purchase of tables. Upon a vote, the motion carried.

E. Office Networking Update

Administrator Anhorn stated that the bugs are being worked out in the transition to the new IT provider.

Manager Twele asked and received confirmation that Imagine IT is working to resolve the issues.

Administrator Anhorn stated that there was a network server purchased from the last provider that has an open box and therefore is not returnable. He stated that the item is new and has a value of \$800 to \$1,200. He stated that the only recommendation that he has received is to attempt to sell the item on Craigslist.

Manager Lynch moved, seconded by Manager Twele, to direct staff to seek the best opportunity to sell the server with the open box. Upon a vote, the motion carried.

New Business

A. Minnesota Deferred Comp Plan (MNDCP)

Administrator Anhorn stated that as part of working for the State and working under their retirement system, there is an option where employers can offer employees the opportunity to use the State's retirement savings plan. He stated that the employer simply needs to sign off on the authorization to allow the employee to take part in that program.

Chair Kloiber stated that he would be in favor of adding this option, especially if it's only a matter of signing up.

Manager Lynch moved, seconded by Manager Twele, to approve participation in the Minnesota Deferred Compensation Plan. Upon a vote, the motion carried.

B. Financial Assurances

Administrator Anhorn stated that Education and Outreach Program Manager Sniegowski took the initiative to put the financial assurances under lock and key when she acted as Interim Administrator, as the financial assurances were not under lock and key previously. He stated that Smith Partners offers holding the financial assurances for some watersheds. He noted that another option would be to have a fireproof safe in the building bolted to the floor.

Manager Twele stated that she would prefer the option of a fireproof safe.

Manager Lynch agreed that logistically it would be helpful to have it on site and agreed with the fireproof safe option.

Administrator Anhorn stated that he would research the item and bring proposals back to the next meeting. He noted that staff is attempting to develop a spreadsheet that can be used for tracking financial assurances, as there previously was not a system in place for tracking.

C. Signatures to Change Contact Information on Various Accounts

- **Wells Fargo Visa**
- **BCBS Health**

Administrator Anhorn stated that he would need signatures from the Board in order to change the name on the Wells Fargo Visa from previous Administrator Bigalke to himself and then a signature from the Chair to appoint Administrator Anhorn as the contact person for BCBS.

D. Request for Plan Extension

Chair Kloiber noted that at the workshop it was discussed to request an extension for the submission of the Plan.

Administrator Anhorn stated that the process fell behind a bit with the transition of leadership. He recommended requesting an extension through December 31, 2017.

Manager Lynch moved, seconded by Manager Peterson, to direct staff to request an extension from BWSR on the submission of the District's Plan to December 31, 2017. Upon a vote, the motion carried.

E. Update on Meeting with Eden Prairie

Administrator Anhorn stated that the city requested a meeting with Barr Engineering to determine what could be done to improve the flooding conditions over Old Shady Oak Road. He stated that Engineer Kieffer met with the Eden Prairie staff and provided a brief update.

Engineer Obermeyer stated that there have been some new development activities in that area since the last rendition of the model was completed for that area.

Administrator Anhorn stated that the District could also benefit from updating the model in addition to the member city. He stated that the options would be to update the model and run that for the city to provide various options.

Engineer Obermeyer stated that Eden Prairie did some infrastructure work and restricted some of the pipes. He stated that there are some loose ends in terms of what Eden Prairie is looking for but noted that if the District is interested he would recommend a cost not to exceed \$10,000.

Administrator Anhorn stated that the updating of the model is the biggest portion of the cost.

Manager Lynch asked whether this would be a cost-share or whether this would be solely the District's cost.

Attorney Smith stated that this could also be the sole cost of Eden Prairie.

Engineer Obermeyer stated that the District has done this on a smaller scale but never on this large of an area.

Chair Kloiber stated that this is something that the Watershed could do to garner goodwill with the cities. He asked if the Board should consider this from a policy standpoint, specifically under what circumstances the District would financially participate. He stated that he would support the cost for modeling to some extent but was not sure where the line would be drawn.

Manager Lynch noted that perhaps it is a 50/50 cost-share.

Manager Peterson stated that she does not like the idea of paying outright because of the precedent that could set.

Chair Kloiber stated that perhaps a policy guideline be developed that states that the District will complete modeling to a cost of \$3,000 and anything over that amount must be cost-shared.

Administrator Anhorn stated that these policy discussions will become a part of the Plan update process as the requests continue to come forward.

Engineer Obermeyer stated that the requests could be limited to one per year per municipality as well.

Chair Kloiber stated that perhaps this request be proposed as a 50/50 cost-share.

Engineer's Report

- A. Bush Lake Outlet Project: Status Report**
- B. Eden Prairie Lakes Water Quality Improvement Project: Status Report**
- C. Edina 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. Lower Valley: Status Report**
- G. Pentagon Park Storm Water Management**
- H. Lake Cornelia**
- I. Status of Construction Projects**

Engineer Obermeyer updated the Board on the above listed projects.

Administrator Anhorn stated that following the direction of the Board at the last meeting, staff sat down with staff from Edina and Bloomington to discuss the storm water management for Pentagon Park and developed a calculation for determining the cost-share ratio.

Attorney Smith asked if the Hillcrest development would be interested in cost-sharing this as well or whether it should be solely the public entities. He noted that another option would be to allow Hillcrest to buy into the benefit after the fact.

Chair Kloiber stated that Hillcrest stands to potentially benefit and therefore believed it would be appropriate to engage that conversation.

Attorney Smith provided additional input, noting that ultimately Hillcrest should bear the cost for their development but should also have the ability to contribute to the larger solution.

Chair Kloiber stated that it would be good to know whether or not Hillcrest would like to contribute.

Engineer Obermeyer noted that this area and the Penn-American Air area were problem flood areas that the Board has been aware of and discussed for some time. He explained that this would allow a more regional approach to be taken rather than on a site by site basis. He stated that Hillcrest is a viable player, noting that their percentage of ownership is probably less than 20 percent within the watershed area. He stated that Hillcrest is very interested and that's why they sent a representative to the last meeting, noting that they would like guidance on how this ties together. He stated that the City of Edina has hired a consultant for the Fred Richards Golf Course that will also tie into this. He stated that time is of essence. He stated that it was his understanding that the two cities and watershed would be the driving force to tell the developer their role in this overall effort.

Chair Kloiber stated that in the grand scheme of things the cost is not that high to develop the plan and therefore did not believe the process should be delayed in attempt to secure funds from a private developer. He stated that the planning process must have an approach to engage the private property owners to ensure that the plan will work.

Engineer Obermeyer likened this to the Centennial Lakes regional project. He noted that the District has collected funds over the years through the stormwater utilities fund that can be used for this type of project.

Manager Peterson asked if it would then make more sense to just include the District and two member cities at this point, noting that private property owners could be engaged later in the process.

Chair Kloiber agreed that the best course of action would be to partner with the two cities and then engage private property owners further along in the process.

Manager Lynch moved, seconded by Manager Peterson, to authorize Administrator Anhorn to execute an agreement between the cities of Bloomington and Edina to evaluate regional flood and Stormwater management options for the Pentagon Park/Border Basin for an amount not to exceed \$35,000 for the District's share of the study cost. Upon a vote, the motion carried.

Engineer Obermeyer stated that residents along Normandale Lake have expressed concerns regarding the aquatic plant activity in the past several years. He stated that an ecological approach was provided in the Board packet, along with a cost estimate. He stated that staff believes that this would be the best approach to assess the internal loading. He stated that the Board can either consider action now or postpone action to the next meeting. He noted that the cost presented would be \$48,000, noting that funds have been allocated previously and in the next year's budget for Normandale Lake.

Manager Peterson stated that the modeling seems like a good solution.

Engineer Obermeyer further described the process that would be followed and when stakeholders would be brought into the discussion.

Manager Peterson asked if information from the upstream contributors could be gathered during this process.

Engineer Obermeyer stated that the goal and objective is for stream stabilization and then look at the other contributors upstream. He stated that the model would provide an amount of nutrient loading coming from outside of the watershed and into the lake.

Manager Twele stated that this would be a good starting point that would provide a lot of information.

Administrator Anhorn noted that this would also provide a lot of educational information to residents, explaining why certain projects are chosen.

Engineer Obermeyer agreed that there is a big educational component to the study.

Chair Kloiber and the Managers stated that they would like some additional time to digest the information and therefore bring the item forward at the November meeting.

Attorney's Report

Attorney Smith had nothing further to report.

Administrator's Report

Administrator Anhorn stated that there has been concern from citizen on Valley Creek ponds and the ponds being too low and provided an update. He noted that he will be meeting one on one with Managers to get to know each other and discuss items of note within the watershed. He provided an update on recent meetings he has attended and upcoming meetings.

Managers' Report

The Chair called for reports. It was determined that the next Board workshop will take place on November 2nd at 5:30 p.m.

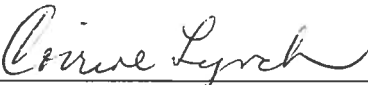
Task Summary Report & Manager's Calendar

The Managers reviewed and updated the task report.

Adjournment

It was moved by Manager Lynch, seconded by Manager Twele, to adjourn the meeting at 9:08 p.m. Upon a vote, the motion carried.

Respectfully submitted,



Corrine Lynch, Secretary

ATTACHMENTS:
Treasurer's Report