

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

WEDNESDAY, APRIL 19, 2017

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, April 19, 2017, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

Managers Present: Twele (arrived at 8:35 p.m.), Lynch, Kloiber, and Sheely

Managers Absent: Peterson.

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

Agenda

Administrator Anhorn requested to add two items under New Business titled Annual Liability Waiver and Citizens Assisted (lake) Monitoring Program (CAMP) Agreement.

Manager Lynch asked if the employee policy manual was going to be included on the agenda.

Administrator Anhorn noted that his intent was simply for the Board to review the document between now and the next meeting and he will bring the item back on the May agenda.

Manager Sheely 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 Special Meeting of March 2, 2017.

Manager Sheely moved, seconded by Manager Lynch, to approve the minutes as distributed. Upon a vote, the motion carried.

The Chair called for review of the minutes of the Regular Meeting of March 15, 2017. It was noted on page six, under permit extension authority, it should state, "...revised resolution as amended."

Manager Sheely moved, seconded by Manager Lynch, to approve the minutes with the noted corrections, including a minor non-material change to the resolution. Upon a vote, the motion carried.

The Chair called for review of the minutes of the Special Meeting of April 6, 2017.

Manager Lynch moved, seconded by Manager Sheely, to approve the minutes with the minor typo and grammatical revisions. Upon a vote, the motion carried.

Correspondence

- AIS Early Detector Program

Hearing and Discussion of Matters of General Public Interest

There were none.

Consent Agenda

- Permit #2017-08: Pump and Meter Building Addition – 11303 Excelsior Boulevard; Grading and land alteration permit: Hopkins**
- Permit #2017-12: Home Reconstruction – 6224 Parkwood Road; Grading and land alteration permit: Edina**
- Permit #2017-24: Birchcrest A Neighborhood and Countryside B Neighborhood Roadway and Utility Improvements; Grading and land alteration permit: Edina**
- Permit #2017-28: Hennepin County South Suburban Court – 1800 West Old Shakopee Road; Grading and land alteration permit: Bloomington**

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

Unfinished Business

- Hopkins ARTery Stormwater Volume Credit Retention Banking Application**

Administrator Anhorn noted that the linear project, which did not trigger the District's storm water rule, was approved at the last meeting. He noted that typically the project and banking requests would be reviewed at the same time but noted that additional stormwater information was needed to determine the excess volume retention achieved by the project

Engineer Obermeyer provided additional details on the series of underground treatment facilities, rain gardens, and tree trenches that would be used to treat the storm water and provide water quality improvements. He reviewed the calculations that were used to determine the amount of phosphorus that would be removed through this system. He stated that staff

recommends approval of the bank with a condition that the credits in the bank are not available until an as-built survey is provided and reviewed to ensure that the system installed is the same as the plans identify.

Attorney Smith noted that the credits should be identified in the motion.

Chair Kloiber asked and received confirmation that a maintenance declaration will be submitted.

Nate Stanley, City Engineer at Hopkins, stated that he is excited to be the first group to establish a privately held credit bank in the District. He noted that the credits will not be for sale on the open market, but would rather be used to encourage redevelopment in this corridor or for use by the city of Hopkins.

Mike Waltman, Bolton and Menk, provided additional details on the project, focusing on the 8th Avenue portion of the project. He provided additional details on the art features that will be built into the project.

Tim Olson, Bolton and Menk, displayed a layout with the five retention features that will be a part of the project. He noted that about 30,000 square feet of impervious surface will be redirected into the features for treatment. He explained the process that would be used by the City to track the credit information.

Administrator Anhorn noted that the District's rules specify that the District is responsible for the administration (including account tracking) of the volume credits, with use of and/or sale of credits tracked through the permit process (though the city would choose whether to 'sell' credits generated by its project to any particular property owner);

Manager Lynch stated that this is a very cool project and asked when it would be completed.

Mr. Stanley stated that the project is underway and estimated that it would be completed in November.

Manager Sheely asked if there were any suggestions from the applicants regarding the application, as this is the first credit bank request to come before the District.

Mr. Stanley noted that the application is very well laid out and did not have any suggestions.

Administrator Anhorn stated that the amount recommended by Engineer Obermeyer is slightly lower than the figure submitted by the applicant as slightly more calculations were done at that point.

Manager Lynch moved, seconded by Manager Sheely, to approve the establishment of the Hopkins ARTery bank in the preliminary amount of 2,327 cubic feet of stormwater

volume retention contingent upon the execution of a maintenance agreement and submission of as-built drawings and other documents or information required by the NMCWD engineer to confirm the final credit amount which will be recorded in the Nine Mile Creek Watershed District bank. Upon a vote, the motion carried.

Administrator Anhorn noted that while this is the first formal request for banking, it has come to light that there was a less formal request for banking excess volume credits, from another applicant, in the past. He noted that the as-built drawings for that project are not yet complete but noted that the applicant is filling out the banking application that will come before the Board in the near future.

Hearing of Permit Applications

A. Permit #2016-142: International Spanish Language Academy Parking Lot and Playground Additions – 5959 Shady Oak Road; Grading and land alteration permit: Minnetonka

Engineer Obermeyer presented the permit request and proposed plans. He noted that the system is larger than required to support a future phase of development. He noted that the approval would not include the construction of the future building as that would require another permit, but acknowledged that there will be excess capacity. He recommended approval of the permit contingent upon the general conditions, financial assurance in the amount of \$79,400, necessary maintenance agreements, as-built drawings and the necessary documentation showing the ponds are functioning.

Chair Kloiber asked if there will be sufficient documentation to show the excess capacity to support the future permit application when that is submitted.

Engineer Obermeyer noted that staff will attempt to make the documentation very thorough for consideration of the future development.

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

B. Permit #2017-16: Home Reconstruction – 6608-6612 Indian Hills Road; Grading and land alteration permit: Edina

Engineer Obermeyer presented the permit request and proposed plans. He recommended approval of the permit contingent upon the general conditions, financial assurance in the amount of \$14,400 and recording of the maintenance agreement on both lots. He provided additional information on the soil boring and noted that once the ponds are constructed they would like additional information on the ground water levels.

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

C. Permit #2017-40 and WCA No-Loss Determination: North Fork of Nine Mile Creek Restoration Project – Phase I; T.H. 169 to Soo Line Railroad; Grading and land alteration permit: Edina

Engineer Obermeyer presented the permit request and proposed plans. He noted that there are two variances proposed related to the slope of the banks and the length of stabilization in reach four of the project. He stated that total wetland impacts are 10.71 acres (9.52 acres of which is temporary). However, with respect to WCA, as recommended by the WCA TEP, the wetland impacts are considered “no-loss” for the project due to their temporary nature and habitat improvements. He provided additional information on the no-rise certifications, that have been requested by homeowners, indicating that the project would result in a zero-foot increase in the 1% annual chance FEMA floodplain base flood elevation. He noted that the wetland boundaries and types were already approved by the Board at a previous meeting. He stated that the buffer requirements would not apply because of the no-loss determination but noted that buffer plantings are proposed. He noted that buffer markers would be placed on all city-owned property. He stated that about 50 cubic yards of sediment will be removed as part of phase two and noted that there will be material removed at isolated outlets. He noted that a schedule is provided in the Board packet identifying dates for the various reaches of the project.

Engineer Weiss provided additional details on the proposed work for the different reaches of the project.

Manager Lynch asked if staff would be ready to advertise the project once the permits are received.

Chair Kloiber noted that the motions on the variance requests and the WCA no-loss determination would be needed prior to the motion on the permit.

Attorney Smith noted that later in the agenda the Board can authorize staff to advertise for bids.

Manager Lynch moved, seconded by Manager Sheely, to approve the WCA no-loss determination. Upon a vote, the motion carried.

Manager Sheely moved, seconded by Manager Lynch, to approve the two-to-one slope variance and the extension of riprap variance due to the unique conditions of the property, the hardship is not fault of the landowner, the project will not adversely affect the water resource, and there is no feasible alternative as detailed in the findings in section ten of the engineer’s report. Upon a vote, the motion carried.

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

D. Permit #2017-43: Parking Lot Expansion – Double Tree Hotel; 7800 Normandale Boulevard; Grading and land alteration permit: Bloomington

Engineer Obermeyer stated that the Board has previously approved a permit for this project, which was a single family home permit applied for jointly for the 7800 and 7808 Normandale Boulevard sites in 2015. He stated that upon the advice of the attorney, should the Board approve these separate permits, the previous permit should be revoked. He noted that these would now be two stand alone projects that meet the requirements of the District. He presented the permit request and proposed plans. He recommended approval of the permit contingent upon the general conditions, including financial assurance \$15,500 and submission of the maintenance agreement.

Attorney Smith asked if the original permit was issued. He stated that the original permit most likely expired but the Board could still revoke that permit just to ensure the applicant is clear that the old permit is no longer valid.

Manager Sheely moved, seconded by Manager Lynch, to revoke permit #2015-66. Upon a vote, the motion carried.

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

E. Permit #2017-45: Parking Lot Expansion – Former Alaskan Fur Site; 7808 Normandale Boulevard; Grading and land alteration permit: Bloomington

Engineer Obermeyer presented the permit request and proposed plans. He recommended approval of the permit contingent upon the general conditions, including financial assurance in the amount of \$87,400 and recording of a maintenance declaration.

Chair Kloiber stated that he often drives by this site and finds the parking lot to be largely oversized.

Mike Aaron, representing the Doubletree, stated that the City is requiring that level of parking.

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

Chair Kloiber noted that the administratively approved permits were also listed in the Board packet for review.

Treasurer's Report

Administrator Anhorn submitted the report and provided details on specific items.

Engineer Obermeyer referenced a pay request from Black Stone Contractors in the amount of \$11,327. He noted that the original bid amount was \$9,940 but there was additional cost for the additional restoration area that was needed. He recommended approval of the pay request as submitted.

Manager Sheely moved, seconded by Manager Lynch, to approve the pay request to Black Stone Contractors in the amount of \$11,327. Upon a vote, the motion carried.

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

Education & Outreach Program Report

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

A. General Updates

Education and Outreach Program Manager Sniegowski presented the staff created summer education series flyers that will be made available in the office lobby. She noted that the District will also be involved in a clean-up event at Hopkins Valley Park on Saturday, May 7th from 1:00 to 4:00 p.m. She stated that there is a District kiosk at Hopkins Valley Park, which she believed was installed at the end of the Hopkins restoration project. She stated that the District contributed about \$10,000 towards the cost of the kiosk and they did approach Three Rivers Park District to determine if they would want to be a part of the kiosk but they did not. She stated that Three Rivers Park District now has decided that they need to install a kiosk and has asked if they could remove the District's kiosk to build a new one, noting that the District would still be allowed to have information in one side of the kiosk. She noted that the kiosk was an Eagle Scout project and the District did spend a fair amount of funds. She noted that she did consider removing the kiosk and relocating it but was unsure the time and funds that would be necessary to do that.

Chair Kloiber stated that seems like an opportunity as kiosks can become an eyesore if they are not maintained and if current information is not inside, the kiosk can also lose its value. He stated that if Three Rivers Park District is going to build a new kiosk and maintain it, and the District would be allowed to display information, that seems like a good opportunity.

Education and Outreach Program Manager Sniegowski noted that Three Rivers Park District would also cover the cost of printing for the District panels. She stated that the Park District would like an answer sooner rather than later, noting that installation would be late summer/early fall or spring 2018 at the latest. She agreed that this would be a good opportunity for Three Rivers Park District to take over the maintenance responsibilities.

Chair Kloiber stated that if the Three Rivers Park District is going to build the kiosk and take over the maintenance responsibility that would seem the most logical option. He stated that his only concern would be how the Eagle Scout feels that built the kiosk.

Education and Outreach Program Manager Sniegowski stated that she was not able to find the name of the Eagle Scout anywhere.

Chair Kloiber stated that it would be nice if the District could reach out and thank the Eagle Scout for building the kiosk and explain the situation. He stated that if there were a way to repurpose the kiosk that would be nice.

Education and Outreach Program Manager Sniegowski stated that would be preferred, she just is not sure how it could be repurposed.

It was the consensus of the Board to direct staff to move forward with Three Rivers Park District on the building of their new kiosk and attempt to notify the Eagle Scout that the kiosk is going to be removed.

B. Discovery Point Restoration Update

Education and Outreach Program Manager Sniegowski reported that everything continues to move along noting that split rail fences will be installed and weed control will continued. She noted that there was a change order on the outdoor seating area in the amount of \$750.36, which Administrator Anhorn had the authority to approve, and provided details.

Chair Kloiber referenced the openness of the area now that the restoration has moved forward. He asked and received confirmation that the Board has approved additional screening.

C. Planning Grant Discussion

Education and Outreach Program Manager Sniegowski provided details on how the planning grant program is setup, noting that originally the program was directed towards faith based organizations but was expanded to include non-profits. She noted that some townhome associations are non-profits and one townhome association has applied. She asked the Board for direction, noting that a townhome association is not a 501(c)3.

Chair Kloiber stated that he can only speak for himself but his intent was that the non-profits would only include 501(c)3 organizations and not all non-profits in general.

Attorney Smith stated that his recollection was that the intent in adding the non-profits was that they would also be publicly accessible places where there would be education opportunities, similar to faith based organizations. He stated that rather categorize the non-profits by 501(c)3 status he would state the non-profit is held by an organization that is open and accessible to the public.

Manager Sheely stated that a townhome association is often a group of homeowners that cannot seem to agree on landscaping and water features. She noted that non-residential non-profits could be used as a descriptor.

Chair Kloiber confirmed the consensus of the Board that the original intent of the program was to include civic organizations that are open and accessible to the public that would have opportunities for education and are larger sites. He stated that in the future there could be discussion of the pros and cons of expanding the program to include sites such as townhome associations.

Manager Lynch stated that if a townhome association program was going to be created the budget should be reduced for those types of applicants.

Education and Outreach Program Manager Sniegowski stated that this is still a pilot program and therefore once the pilot is complete they can discuss options to expand the program. She noted that the townhome association did submit a cost-share grant application that will soon come before the Board.

New Business

A. Cost-Share Grant Application

Education and Outreach Program Manager Sniegowski provided a table, that was included in the meeting packet, showing the 20 applications received, funding requests and funding recommendations. She stated that there are three grants that staff and the CAC believe need more information and noted that she will bring those requests back next month (applications 10, 14 and 20 shown in the table). She briefly reviewed the different grant applications and recommendations.

Manager Twele arrived.

Manager Lynch moved, seconded by Manager Sheely, to approve the cost-share grants as presented and recommended in the table, in the amount of \$81,808.89 and to authorize the Administrator to enter into the agreements. Upon a vote, the motion carried.

Unfinished Business (Continued)

B. Administrator's 6-Month Probationary Performance Review

Chair Kloiber noted that Manager Peterson had earlier compiled the responses each manager had prepared for the administrator's performance reviews and the administrator had provided information on the most recent MAWD salary survey and salary action chart.

Administrator Anhorn stated that the six-month review could be acted upon and the salary adjustment could occur at the May meeting.

Manager Sheely moved, seconded by Manager Twele, to approve of Administrator Anhorn's superior performance. Upon a vote, the motion carried.

New Business (Continued)

A. 2016 Annual Audit

Administrator Anhorn noted that the District received a clean 2016 audit and there are no significant findings. He noted that PERA requirements apply again this year.

Manager Lynch moved, seconded by Manager Twele, to accept the 2016 Annual Audit. Upon a vote, the motion carried.

B. 2016 Annual Report

Administrator Anhorn noted that the draft 2016 Annual Report was included in the packet and is required to be submitted to BWSR and other agencies by the end of the month, along with the 2016 audit and annual communications. He provided a brief summary of the information included in the annual report. He asked if the Managers had any questions or suggested changes. Other than a few typographical corrections, there were no changes suggested.

Manager Lynch moved, seconded by Manager Twele, to approve the 2016 Annual Report and direct staff to submit it to the required agencies, contingent upon the correction of any grammatical changes. Upon a vote, the motion carried.

C. Annual Liability Waiver

Administrator Anhorn stated that this is reviewed each year as part of the renewal with the League of Minnesota Cities. He stated that the District has always chosen not to waive the tort liability limits.

Attorney Smith provided additional details on the tort liability limits. He noted that most municipalities and Districts do not waive the liability limits.

Manager Lynch moved, seconded by Manager Twele, to approve the decision not to waive the tort liability limits and direct the Administrator to submit the renewal to the League of Minnesota Cities. Upon a vote, the motion carried.

D. Citizen Assisted Lake Monitoring

Administrator Anhorn stated that there are five lakes that will be included in the program with a cost of \$550 per lake. He noted that these lakes are included in the monitoring schedule and also have willing volunteers.

Manager Lynch moved, seconded by Manager Sheely, to authorize the Administrator to execute the CAMP agreement with the Metropolitan Council and authorize an expenditure of \$2,750. 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 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. Discovery Point Phase I Restoration**
- J. Stream Riffle Maintenance – North Form Upstream of Tracy Avenue: Edina**
- K. Bush Lake Shoreline Vegetation Management**

- L. Status of Construction Projects**

Engineer Obermeyer updated the Board on the above listed projects. He provided information on the three quotes received for the Bush Lake Outlet project. He recommended that the Board consider awarding the work to Wetland Habitat Restoration in the amount of \$23,850 for the years of 2017 through 2019.

Administrator Anhorn noted that this project would be cost-shared 50/50 between the District and the City of Bloomington. He noted that the District would pay the contractor and then would be reimbursed by the City of Bloomington for their percentage of the project.

Manager Lynch moved, seconded by Manager Sheely, to authorize staff to develop a 50/50 cost-share agreement with the City of Bloomington for the Bush Lake Outlet project, and upon execution of the agreement, award the project to Wetland Habitat Restoration in the amount of \$23,850. Upon a vote, the motion carried.

Manager Lynch moved, seconded by Manager Twele, to authorize staff to solicit bids the RFP for phase one of the Edina Streambank Project. Upon a vote, the motion carried.

Attorney's Report

Attorney Smith had nothing further to report.

Administrator's Report

Administrator Anhorn noted that as discussed at the Managers' April 6, 2017 special board meeting on the upcoming rule revision process, he was going to include a request to consider making single family home requests, without variances, able to be approved by administrative review on the May meeting agenda. He advised that Fortin Consulting has

received funds to conduct AIS early detector training monitoring and asked if the District would be interested. He stated that there are a few water bodies that the District has authorized for participation (Bryant and Bush lakes).

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 Lynch, seconded by Manager Twele, to adjourn the meeting at 9:35 p.m. Upon a vote, the motion carried.

Respectfully submitted,



Corrine Lynch, Secretary

ATTACHMENTS:
Treasurer's Report