

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

**TUESDAY, JULY 25, 2017**

**Call to Order**

Chair Kloiber called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 5:00 p.m., Tuesday, July 25, 2017, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

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

Managers Absent: None

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

**Agenda**

**Manager Twele moved, seconded by Manager Sheely, to approve the agenda. Upon a vote, the motion carried.**

**Informational Discussion on Permit #2017-61: Wentworth Storage Lot – 8824, 8860 and 8870 Wentworth Avenue; Grading and land alteration permit: Bloomington**

Administrator Anhorn stated that at the regular Board meeting the previous week, there was a continued discussion about potential infiltration on the Wentworth Avenue site. He stated that the additional information requested from the Board and staff was forwarded to the applicant and their consultants. He stated that as discussed at the regular Board meeting this was added to the agenda for tonight's meeting in order for the applicant's consultant to provide additional details to the Board.

Chair Kloiber noted that perhaps an abbreviated summary would be appropriate as Manager Lynch was not present at the last meeting.

Engineer Obermeyer identified the site and the known contamination in the area from previous industrial users. He stated that there are several sites in the area proposed for redevelopment but this project is the Wentworth Avenue area, which is owned by Luther Automotive Group. The proposed land use of the five acre site would be a paved area for automobile inventory storage. He stated that in order to meet the District's volume retention standards the applicant is proposing infiltration. The issue of concern raised is the potential impacts that infiltration would have on mobilizing existing contamination in the area that has

been identified as a Super Fund site by the MPCA. He stated that there have been several discussions with MPCA staff in an attempt to provide guidance to ensure that this project would not exacerbate the problem in this area. He stated that when it came to giving their opinion on allowing infiltration of stormwater in the area, the MPCA has stated that they are unlikely to affirm that infiltration on any particular site does not pose a risk to mobilizing contamination. He stated that staff has received information from the applicant and their consultant regarding using infiltration for volume retention and the impact on the site. He stated that the applicant has used the process and requirements in the MPCA's Minnesota Stormwater Manual to determine a location that would be in compliance for infiltration. He stated that staff has reviewed the information and has developed three additional items that they feel would be necessary to complete the review and make a recommendation.

Administrator Anhorn stated no action on the permit application was to be taken this evening, that the discussion is informational purposes, but the Board will need to be prepared to take action on the request at the regular August Board meeting.

Engineer Obermeyer noted that the applicant has not yet had time to respond to the memorandum from staff following the Board meeting the previous week.

Manager Lynch asked if staff agrees with the most recent letter from the applicant.

Engineer Obermeyer explained that staff required additional information from the applicant.

Manager Peterson referenced the past sources of contamination and asked if staff knows the degree of contamination and whether there were multiple sources.

Eric Lund stated that they reviewed the information provided to the Board from the applicant. He noted that these types of sites tend to have multiple sources of contamination and noted that it would be a hard question to answer as to the actual source of the contamination.

Ken Haberman, Landmark Environmental, stated that the designation of the site exists because of the MPCA's concerns with soil vapor. He stated that the status of the Hitchcock site began as a voluntary clean-up site and the MPCA has never taken action on the groundwater because it is not within a drinking water area but noted that it is a source of vapor. He identified fairly concentrated areas of contamination related to Hitchcock Industries and a former dry-cleaning business. He noted that the Luther site is fairly upgradient of the dry cleaner site. He clarified that there is no source of contamination on the Wentworth Avenue property. He stated that the groundwater that has been impacted in this area is related to offsite contamination from other sources. He explained the MPCA calculations that were used to determine the area of influence from the monitoring points where contamination has been identified. He stated that the site will not be used for maintenance or fueling of the vehicles and will only be used for vehicle storage.

Attorney Smith stated that as the Board weighs the risk of infiltration perhaps the Board would like to hear from the applicant how they have explored the alternatives to infiltration.

Sean Murphy, Landform Environmental, stated that in reality there aren't too many other options to retain water on site. He stated that one of the most common methods is water reuse but it would be incredibly difficult to reuse the water with the limited amount of greenspace on the site. He stated that there are not many methods that would efficiently discharge the water from the site either.

Engineer Obermeyer stated that he believed it would be beneficial for the applicant to present information as to what other options were evaluated. He stated that staff talked before about retention within underground tanks and he believed it would be beneficial for the Managers to know the size that would be necessary for underground tanks and the elements that would be involved with that. He noted that at least the Managers would have all the information then to determine if that is practical and feasible as an alternative option.

Linda McGinty, Luther Automotive Group, asked and confirmed that the Board has seen a site plan. She noted that there are no buildings on the site and therefore creating a structure just for water would make her hesitant. She stated that this is right on the railroad line and therefore it is not uncommon to have intruders on the property. She noted that there is a very limited amount of greenspace on the property and the neighboring properties are a business, apartment, and railroad, therefore it would be difficult to share the reuse water with those properties.

Engineer Obermeyer stated that the storage tanks would be underground. He stated that it would be helpful for the Managers to hear the details that would be involved to then make the determination that the various other options may not be feasible.

Chair Kloiber stated that if there is underground tank storage and you cannot discharge the water on site or reuse the water, the only option would be to discharge to sanitary sewer but noted that there would be a cost for that.

Administrator Anhorn stated that Barr Engineer will review the additional information the applicant submits and the Board will be prepared to take action at the August 16, 2017 regular Board meeting.

### **Hearing of Permit Requests**

#### **A. WCA Wetland Boundary Determination – 5901 Olinger Road in Edina (NMCWD Permit #2017-01)**

Engineer Obermeyer stated that the Board reviewed and approved a permit for the construction of a single-family home at 5901 Olinger Road. He stated that there is a wetland on the site and the District had a requirement for a wetland buffer to be provided. He noted that because it was winter, field determination could not be done. He stated that they used the information available to them to determine where the wetland boundary would be with the stipulation that the applicant could do a wetland boundary determination if they would like buffer to change. He noted that the originally approved buffer was marked with a pink line on the presented site plan, and now that the wetland determination has been completed, the newly

proposed line is marked in green. He stated that staff has field investigated the site and is in agreement with the boundary and therefore recommends that the Board accept the wetland boundary determination. He stated that it would be up to the developer whether they choose to amend the plans.

Chair Kloiber stated that representatives from the TEP reviewed this request.

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

**B. Permit #2017-43: DoubleTree Parking Lot Reconfiguration – Bloomington and #2017-45: Parking Lot Construction – Alaska Fur Site – Bloomington – Permit Modification**

Administrator Anhorn explained that the Board is being asked to consider modifications to the two permits. He stated that the Alaska Fur site is a small site that is encompassed by the DoubleTree site. He stated that there are different owners for the sites but they are reconfiguring their parking lot as directed by the City. He stated that in the past the application came forward jointly with plans for stormwater management to occur on the DoubleTree site to handle the runoff for both sites. He noted that the construction in 2015 never took place. He noted that in 2017 the applicants came forward separately with plans to provide stormwater management separately. He stated that now they would like to have a modification to have all the stormwater to again be taken care of on the DoubleTree site. He noted that the applicants wanted to have their modification requests heard at the meeting tonight, but there was not sufficient time for formal staff review of the information and the preparation and timely distribution of a review memo.

Engineer Obermeyer stated that the proposed modifications would be the same concept that the Board reviewed in 2015, with the water retention and quality provisions being provided on the DoubleTree site to account for both the DoubleTree and Alaska Fur sites. He stated that it would be very similar to the original proposal but this has just gone in a big circle in the past two years.

Manager Twele stated that if the Board approves this again, perhaps something should be recorded on the deeds for title.

Administrator Anhorn noted that one of the original stipulations was for a legally enforceable cooperative agreement between the two outlining stormwater management maintenance obligations and dedicating perpetual storm water flowage and management rights in the structure to be constructed on the DoubleTree property. He noted that DoubleTree has a recorded stormwater maintenance declaration as part of it current permit, 2017-43. He noted that it may need to be amended as the basin may be required to be larger.

Administrator Anhorn said that because of the applicants wish to get the project started sooner rather than later, they have indicated that they were going to request a special meeting with the Board as early as the next week, so their modification request could be heard. He stated that while the administrator has the authority for minor permit modifications, because this

request is more complicated and would require a variance on the Alaska Fur permit he determined that the board should be involved. He said that he had discussions with legal counsel on options for handling the permit modification requests due to the board's history of the approving the permits and the time and cost saving benefits of not holding a special meeting for one permit. He stated that because the board had previously reviewed and approved a similar variance request in July of 2015 for a permit 2015-66, perhaps the Board would be comfortable delegating administrative approval authority, in consultation with the District engineer, for these modifications requiring an additional special meeting.

Administrator Anhorn stated that if the board did delegate the administrator the authority to potentially approve the modifications and variance, it would be just for permit 2017-43 and 2017-45 and the board of managers would retain exclusive authority to approve variances from District regulatory standards and requirements.

Manager Lynch stated that seems reasonable to her as long as staff determines if the maintenance agreement would need to be amended.

Administrator Anhorn stated that the stormwater management features may not be the exact same as were approved in 2015, provide the example that perhaps instead of a large raingarden there may be a raingarden and swale to provide the necessary treatment. He noted that the maintenance agreement would also likely need to be amended to provide the additional details.

Manager Sheely asked that a report still be given at the regular meeting from Engineer Obermeyer.

**Manager Sheely moved, seconded by Manager Lynch, to delegate the Administrator the authority to take final District action on Permit #2017-43 and/or #2017-45 including action on a variance, that in the Administrator's judgement and the judgement of the Engineer is substantially consistent with the variance previously approved for the same underlying work, with the stipulation that an Engineer's Report be provided. Upon a vote, the motion carried.**

The Board took a short recess.

Chair Kloiber reconvened the meeting.

### **2018 Budget Workshop**

Administrator Anhorn stated that the first attempt at a proposed budget was included in the Board packet noting a preliminary review was done with staff and two Managers. He noted that there is a slight increase proposed in the levy. He highlighted increases in personnel and capital improvements. He stated that the potential impact to homeowners for the levy would actually be lower, even with the proposed two percent increase in the levy, because of the increased tax capacity. He highlighted some of the changes in the proposed budget from the 2017 budget. He noted that staff and Manager Twele reviewed the past budgets and levies in

attempt to gain additional information on past levies, budgets and reserves. He stated that the Board will need to determine what a healthy reserve fund amount would be.

The Board discussed what a healthy reserve level would be for each aspect.

Administrator Anhorn stated that the District is in the process of completing the first phase of site restoration for Discovery Point and asked if the Board would like to increase the budget to begin phase two or whether they would like to wait for the first phase to be fully completed before budgeting for phase two.

Education and Outreach Program Manager Sniegowski provided additional details on the elements of first phase of the site restoration that will be completed. She reviewed what would happen if the District does not move forward with phase two this year and the additional budget that would be requested in order to move forward on phase two.

It was the consensus of the Board to increase the budget, using reserve funds, to continue with the momentum and move forward on phase two.

The Board continued to discuss elements of the proposed budget, providing direction to staff.

Education and Outreach Program Manager Sniegowski stated that staff is looking for more interested people that would like to join the Master Water Stewards program and encouraged the Board to refer anyone that might be interested. It was also noted that the District is looking for more interested individuals that may like to join the Board.

Administrator Anhorn noted that staff will make the suggested changes and bring this back to the August meeting. He noted that a public hearing would then be scheduled for 5:00 on September 7, 2017.

### **Adjournment**

**It was moved by Manager Lynch, seconded by Manager Peterson, to adjourn the meeting at 7:05 p.m. Upon a vote, the motion carried.**

Respectfully submitted,

  
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Corrine Lynch, Secretary

ATTACHMENTS:  
Treasurer's Report