

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

WEDNESDAY, MAY 17, 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 May 17, 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:

Advisors Present: Randy Anhorn, Michael Welch, Bob Obermeyer, and Erica Sniegowski

Agenda

Administrator Anhorn stated that he sent out information on the Minnesota Stormwater Research Council and that could be added for discussion to the agenda.

Manager Sheely moved, seconded by Manager Twele, 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 19, 2017. Chair Kloiber noted on page five, under permit #2017-40, the first paragraph, the third sentence, it should state, "He stated that ~~the work is considered no loss for portions of the work and stated that there is a total wetland impact of 10.71 acres~~ total wetland impacts are 10.71 acres, however under the Wetland Conservation Act the impacts are considered no loss." On page five, the fourth paragraph, it should state, "Chair Kloiber noted that motions for the variance requests and the WCA no-loss determination would be needed before action could occur on the and permit would be needed." Attorney Welch noted on page one, under the reading and approval of minutes, the first motion should read, "...approve the minutes as ~~approved~~ distributed." On page two, the second motion, regarding the special meeting of April 6, 2017, it was noted that the noted corrections in the motion were simply minor typos and grammatical revisions. On page four, item A, the second paragraph, it should state, "...capacity available for to support the future permit application. On page four, under Item A, the third paragraph, it should state, "...through ~~to support~~ for consideration of the future development." On page nine, under Item A, the third paragraph, it should state, "... table in the amount of..."

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

Correspondence

- MAWD Summer Tour on June 21-23, 2017

Hearing and Discussion of Matters of General Public Interest

There were none.

Consent Agenda

- ~~A. Permit #2017-50: Home Reconstruction – 5630 Glen Avenue; Grading and land alteration permit: Minnetonka~~
- B. Permit #2017-60: Poplar Bridge Elementary School Mechanical Improvements – 8400 Palmer Avenue; Grading and land alteration permit: Bloomington
- ~~C. Permit #2017-62: Home Reconstruction – 6312 Post Lane; Grading and land alteration permit: Edina~~
- D. WCA De Minimis Exemption: Birchcrest A Neighborhood and Countryside B Neighborhood Roadway and Utility Improvements; Grading and land alteration permit: Edina

Engineer Obermeyer noted that items A and C are incomplete.

It was determined that Items A and C would be removed from the consent agenda to be consider under the hearing of permit applications.

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

- A. Permit #2017-50: Home Reconstruction – 5630 Glen Avenue; Grading and land alteration permit: Minnetonka

Engineer Obermeyer requested that the action be continued, noting that staff contacted the applicant to request additional information.

Manager Lynch moved, seconded by Manager Peterson, to continue permit #2017-50. Upon a vote, the motion carried.

- C. Permit #2017-62: Home Reconstruction – 6312 Post Lane; Grading and land alteration permit: Edina

Engineer Obermeyer requested that the action be continued, noting that staff provided the applicant with correspondence outlining the necessary information.

Manager Peterson moved, seconded by Manager Twele, to continue permit #2017-62. Upon a vote, the motion carried.

Hearing of Permit Applications

A. Permit #2017-11: RiZe at Opus – Bren Road and Blue Circle Drive; Grading and land alteration permit: Minnetonka

Engineer Obermeyer presented the permit request and proposed plans. He stated that a detailed pumping plan is requested for the irrigation to ensure that the timing will not result in runoff and the drawdown will occur in the necessary time frame. He recommended approval of the permit contingent upon the general conditions, financial assurance in the amount of \$622,000, recording of the maintenance declaration, and submission of a detailed irrigation plan approved by the Administrator.

Engineer Obermeyer further stated that the total surety may be reduced if 125% of the cost to construct the cistern and pumping system plus 10% contingencies and 30% administration is less than \$411,101 figured for the stormwater volume retention rule portion of the surety.

Chair Kloiber stated that he is not clear as to whether the DNR is requiring appropriation permits for the reuse of stormwater. He recognized that it would not impact the decision of the District and would instead be another action the applicant may need to investigate. He stated that perhaps staff could mention that to the applicant.

Administrator Anhorn noted that perhaps a sentence could be added to the District permit application stating that the District permit does not mean that the applicant does not need permits from other agencies.

Attorney Welch noted that the applicant could submit documentation that would support a lesser financial assurance and therefore the specific amount should not be listed in the approval.

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

B. Permit #2017-61: Wentworth Storage Lot – 8824, 8860, and 8870 Wentworth Avenue; Grading and land alteration permit: Bloomington

Engineer Obermeyer recommended that this application be continued. He provided an update on the proposed project noting that contamination has been found on the project site from a previous manufacturing facility.

Administrator Anhorn provided additional details on the information about the contamination that has been found in different areas of the project. He stated that staff has been working with the City of Bloomington to determine what information will be necessary to determine if infiltration can occur in the different areas.

Attorney Welch asked if the water quality treatment rule could be met.

Engineer Obermeyer replied that water quality treatment could be met using a pond with a lined bottom.

Chair Kloiber asked if the developer has an incentive to avoid meeting the infiltration standard because of the legal risks.

Attorney Welch stated that Engineer Obermeyer would provide his opinion on whether the infiltration would be beneficial or whether it would be too risky.

Manager Sheely expressed concern with the long-term implications that could result if this area continues to be redeveloped without infiltration being allowed.

Attorney Welch noted that this is another example of how regional solutions could be beneficial.

Manager Lynch moved, seconded by Manager Sheely, to continue the permit. 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 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 provided information on the mobile cart being designed for the District. She stated that the District has been working with two artists to develop the design. She also provided an update on the recent clean-up event.

B. Adopt a Stormdrain Update

Education and Outreach Program Manager Sniegowski stated that she has been working with Hamline to define the program responsibilities and deliverables. She stated that there is now a reduced refined budget, which includes a cost-share from the City of Bloomington. She stated that the District is going to pay the whole fee upfront and then be reimbursed by the City of Bloomington for their share.

Attorney Welch noted that the original budget amount would not be exceeded during the project and therefore the Board could simply recognize the full amount and then make a motion to authorize the Administrator to execute the agreement.

Chair Kloiber stated that he believes the Board should authorize the full amount and confirmed the consensus of the Board.

Manager Lynch moved, seconded by Manager Twele, to approve a not to exceed amount of \$11,000 and authorize the Administrator to execute the cooperative agreement with Hamline and the City of Bloomington. Upon a vote, the motion carried.

C. Discovery Point Restoration Update

Education and Outreach Program Manager Sniegowski stated that a memorandum was included in the packet regarding a phase one change order. She noted that the change order addresses the screening plants but does not require Board action. She noted that the volunteer planting event has been rescheduled due to the rainy conditions.

D. Cost-Share Grant Updates

• Cost Share Grant Applications (Continued from April meeting)

Education and Outreach Program Manager Sniegowski stated that these are the three cost-share grants applications that were mentioned the previous month as needing additional information to properly evaluate. She stated that she did receive the additional requested information on all three applications and recommended approval.

Manager Sheely moved, seconded by Manager Lynch, to approve the three cost-share applications in the total amount of \$32,288.50 and authorize staff to enter into the agreements with the recommended maintenance periods. Upon a vote, the motion carried.

Administrator Anhorn noted that there will be one more cost-share application coming forward at the next meeting. He stated that the City of Edina is interested doing some infrastructure and stream stabilization upstream of where Nine Mile Creek passes underneath Gleason Road, just north of Glacier Place. He stated that the District will be doing stream stabilization immediately downstream of the culvert as part of the Edina Stream Stabilization Project. He explained that rather than try to fit this into the Nine Mile Creek project, this will instead come in as a municipal cost-share grant. He noted that there are available funds in the budget for 2017.

- **Bloomington Reimbursement Request**

Education and Outreach Program Manager Sniegowski stated that the City of Bloomington was awarded several cost-share grants for street improvement rain gardens. She noted that the City has not submitted requests for reimbursement. She stated that the City is now requesting reimbursement for their 2009 through 2013 grants, noting that the memorandum identifies the grant amounts. She stated that the reimbursement requests are often lower than the grant award amount. She noted that the total amount would be a not to exceed amount of \$109,746.42. She stated that the City would be required to submit the required final reports. She noted that the City would also be required to stay up to date on reimbursement requests. She stated that a deadline for reimbursement should be identified in future contracts. She noted that this is a unique situation that the District does not experience with other grant recipients.

Manager Lynch asked if the projects were completed and whether the final reports were received within 30 days.

Education and Outreach Program Manager Sniegowski replied that the final reports were not received. She stated that the City has been a good partner and these are good projects in visible areas.

Chair Kloiber stated that he would support paying the reimbursement, but then adding a requirement to submit the necessary information within the deadline for future grant contracts.

Manager Twele noted that the funds are in the budget and have been appropriated. She suggested that ongoing a spreadsheet is developed to track the cost-share applications. She noted that would help track the past grants, and assess the District's liability.

Education and Outreach Program Manager Sniegowski stated that she has been tracking information on her end since she began with the District.

Manager Twele stated that this would be a great project for a summer intern.

Chair Kloiber stated that it would be nice to have an end term for the reimbursement and to track the past liabilities.

Manager Lynch stated that she would not oppose this request but going forward the application should clearly identify a timeline for reimbursement.

Administrator Anhorn agreed that it would be helpful to have a tracking tool.

The Board provided direction to staff to accept the reimbursement requests from the City of Bloomington in this instance, once the necessary final reports are received; and to include language on future applications that state reimbursement must be requested within one year.

Unfinished Business

A. Employee Policy Manual

Administrator Anhorn noted that the Board has reviewed the draft policy on multiple occasions and noted that the changes were included on the draft provided to the Board on April 19, 2017. He highlighted additional language that was added as directed.

The Board provided some additional suggested changes and small grammatical changes that will be incorporated.

Chair Kloiber read aloud the proposed resolution.

Manager Lynch moved, seconded by Manager Peterson, to adopt resolution #2017-03 adopting NWCWD Employee Policy Manual and delegating human resources administration to the administrator. Upon a roll call vote, all voted in favor and the motion carried.

B. Project Maintenance and Repair 5225 Baker Road

Administrator Anhorn stated that as part of the Minnetonka Lakes Water Quality Improvement Project there were stormwater pond and culvert connections created. He noted that one culvert is out of the ground and therefore not functioning. He stated that engineering staff has been researching a solution and staff is asking for authorization to go out for quotes.

Engineer Obermeyer provided additional details on the proposed solution which would involve anchoring.

Manager Lynch thought that the District had made the decision in the past to hold the cities responsible for ongoing maintenance.

The Board provided direction to staff to seek bids.

C. Water Management Plan Update Comments

Administrator Anhorn noted that the District received comments from 14 organizations/agencies/municipalities/citizens. He distributed a compiled list of the comments and stated that perhaps the Board could review those comments and hold a special meeting on Thursday, June 1st. He stated that staff will compile a list of responses to the necessary comments for the Board to review at the special meeting.

Attorney Welch noted that at first glance he thought that there were not unexpected comments that raised new issues that the Board had not already discussed topics at length previously.

Administrator Anhorn reviewed the tentative timeline for the process.

D. Administrator’s 6-Month Probationary Performance Review

Chair Kloiber stated that the Board had already reached consensus that Administrator Anhorn’s performance is good but the salary adjustment had not been determined. He stated that typically a salary adjustment is done on the anniversary of the hire date and therefore if an adjustment is made at this time that could result in two adjustments. He stated that the adjustment date could be amended to match this date if an adjustment is made at this time.

It was confirmed that the salary adjustment would occur at this time, and be retroactive to March 26, 2017 and then future performance reviews and potential salary adjustments would occur annually to match the six-month review date; meaning the next performance review would be in March of 2018.

Manager Peterson noted that the salary steps identified three to five percent adjustment for outstanding performance.

Manager Lynch moved, seconded by Manager Sheely, to approve a salary adjustment of \$5,000 annually, based on the prior review of the Board. Upon a vote, the motion carried.

New Business

A. Delegate Authorization of Single Family Homes (not requiring a variance) Permit Approval to Administrator

Administrator Anhorn noted that the Board previously discussed this topic. He noted that the process would be more efficient and faster if it could be handled administratively. He noted that the requests would still need to meet the requirements of the District, it simply would become more efficient.

Chair Kloiber agreed that this would also free up time the Board typically spends on this request.

Administrator Anhorn noted that the resolution also identifies cases that would need to come before the Board.

Chair Kloiber read the proposed resolution aloud.

Manager Lynch moved, seconded by Manager Twele, to approve resolution #17-04 delegating authority to approve permits for work on single-family home properties to the administrator. Upon a roll call vote, all voted in favor and the motion carried.

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>
Kloiber	X		
Lynch	X		

Peterson	X
Sheely	X
Twele	X

B. Edina Streambank Stabilization Project – Reach 5 Work

Administrator Anhorn noted that the District just sent out a request for bids for the Nine Mile Creek Restoration Project that very day. He further stated that due to timing and logistics for construction on both the Three Rivers Park District’s (TRPD) Nine Mile Creek Regional Trail project (currently under way) and the Nine Mile Creek Stabilization Project, staff has looked into the possibility of using the contractor doing the work on the Regional Trail to complete the portion of the creek stabilization project in Reach 5 of District’s creek stabilization project. The TRPD contractor already has the site prepped with jersey barriers set up on Hwy 62 to control traffic and allow for construction access for trail bridge construction over Hwy 62 and once completed, the new raised boardwalk will block off the access area the District had hoped proposed using for its restoration work.

He stated that because the contractor is there, and there would be problems with future access, staff has talked about potentially using the contractor to do the work on the stream stabilization propose in reach five. He noted that the engineer’s estimate for the work was under the \$25,000 threshold where a requirement to get quotes for the work would have been needed.

Manager Lynch moved, seconded by Manager Twele, to authorize the Administrator to enter into a contract with Blackstone Contractors in an amount not to exceed \$25,000 and provided the Administrator with the authority to authorize change orders in an aggregate amount of 10 percent of the contract total. Upon a vote, the motion carried.

C. Summer Intern

Administrator Anhorn stated that staff could use some help and because they cannot hire a staff person at the moment perhaps a summer intern would be helpful. He stated that the proposed rate would be \$14 per hour. He noted that the District is a little late in the process as some interns have already begun working for other Districts.

Manager Sheely moved, seconded by Manager Lynch, to create a position for a temporary non-benefit earning intern position and authorize staff to post for the position of summer intern at \$14 per hour, with a not to exceed cost of \$10,000. Upon a vote, the motion carried.

D. Minnesota Stormwater Research Council

Chair Kloiber stated that this is a pilot program which allows organizations to pool funds for stormwater research project. He noted that the time for funding requests has expired.

Administrator Anhorn noted that the Board could discuss budgeting for research funds in the budget for next year. He stated that although the time to donate funds has expired this year, there may be an opportunity for the District to participate and contribute next year if this continues.

Chair Kloiber stated that he likes the idea of pooling funds in order to gather further benefit. He noted that NMCWD is a smaller organization that could benefit from pooling funds for research. He stated that this will allow the District to see the results of the pilot.

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 Site Restoration**
- J. Bush Lake Shoreline Vegetation Management**
- K. Status of Construction Projects**

Engineer Obermeyer updated the Board on the above listed projects.

Attorney's Report

Attorney Welch provided an update on legislative activity regarding open meeting law and requirements for email retention.

Administrator's Report

Administrator Anhorn stated that staff has been working on changes to the job descriptions to better define responsibilities.

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 Sheely, seconded by Manager Lynch, to adjourn the meeting at 9:01 p.m. Upon a vote, the motion carried.

Respectfully submitted,



Corrine Lynch, Secretary

ATTACHMENTS:
Treasurer's Report

