

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

WEDNESDAY, APRIL 18, 2018

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 18, 2018, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

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

Managers Absent: None.

Advisors Present: Randy Anhorn, Michael Welch, Janna Kieffer, and Erica Sniegowski

Agenda

Administrator Anhorn requested to move Permit #2018-22 from Consent Agenda to Hearing of Permit Requests. He also requested to move the Administrator's Annual Review to after the Managers' Reports to ensure there is enough time to discuss all matters on the agenda.

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

Hennepin County Commissioner Jan Callison

Hennepin County Commissioner Jan Callison stated that she brought with her the 2018 County budget book for the Managers to review. She stated that Hennepin County is preparing for a change in the workforce due to the potential for a large number of upcoming retirements and provided a snapshot of the changes. She reviewed the legislative platforms and priorities, highlighting the county's regional medical examiner's facility, and the county's tentative plans to move the facility to the County Home School in the Nine Mile Creek watershed. She stated that the County is in need of a larger facility and State bonding has been requested for construction of that facility. She stated that opioids continue to be a problem not only in Hennepin County, but nationwide. She provided information on organics recycling, noting that the County continues to make a push on that area of recycling.

Chair Kloiber asked when the construction of the medical examiner's offer would occur, should the County secure the State bonding funds.

Commissioner Callison replied that the planning for the facility has begun but anticipated that the facility would take another two years to complete, should the funds be secured.

Chair Kloiber asked the plan if the funding is not secured.

Commissioner Callison replied that if the bonding is not secured, property tax funds would be used to construct the facility.

Administrator Anhorn asked if there were still plans for wetland restoration project meant to create a wetland banking on the medical examiners site.

Commissioner Callison replied that to her knowledge the county continues to plan to restore wetlands on the property and create wetland bank. She commended the Board for the excellent job the District does.

Attorney Welch noted that the District recently adopted a rule regarding chloride management and application and is the first in the State to implement that action.

Reading and Approval of Minutes

The Chair called for review of the minutes of the Regular Meeting of March 21, 2018. Administrator Anhorn noted that he received some small grammatical changes from Managers Peterson and Hunker that he will incorporate.

Manager Peterson moved, seconded by Manager Hunker, to approve the minutes with the corrections received by the Administrator. Upon a vote, the motion carried.

Correspondence

No comments.

Hearing and Discussion of Matters of General Public Interest

There were none.

Consent Agenda

- A. ~~Permit #2018-22: Edina Promenade Residences — 3650 Hazelton Road: Grading and land alteration permit: Edina~~**
- B. WCA No-Loss Determination: 5720 and 5724 View Lane Stormwater Outlet Maintenance: Edina**

Engineer Kieffer provided an updated draft notice of determination for Edina, noting that the city will need to confirm that the work did not cause any new or additional draining or filling of wetland.

Attorney Welch noted that this was an after the fact review. He stated that no-loss approvals such as this are among those that staff will propose for delegation to the administrator at an upcoming meeting.

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

Hearing of Permit Requests

**A. Permit #2018-22: Edina Promenade Residences – 3650 Hazelton Road:
Grading and land alteration permit: Edina**

Engineer Kieffer presented the permit and proposed project details and stated that the project would result in the retention of more stormwater volume on-site than is needed to meet the District's rule. She said that the applicant would like to deposit the excess stormwater volume infiltrated on-site to the District's volume bank.

Administrator Anhorn noted that the Board could direct the Administrator to work with the applicant on the stormwater volume credit banking credits.

Attorney Welch said that because some of the volume retention achieved is on the applicant's property and some is on city property, the applicant and the city will need to come to an agreement on how the excess volume credits will be allocated. He said that following that determination the work to set up the bank could be done administratively, with the Administrator simply providing the Board with an update.

Manager Hunker asked for details on how the credits could be used.

Engineer Kieffer explained that the applicant could choose to save the credits and use them on future projects or could sell the credits to another applicant.

Chair Kloiber said that the District had tried implement a stormwater volume reduction project in the area in the past but ran into contaminated soils. He asked the likelihood that there would be subsurface issues on this site as well.

Engineer Kieffer stated that the issues that arose in the past were farther south. She stated there has been no indication of debris or contaminated soils in the proposed project area.

Attorney Welch stated that he spoke with Engineer Obermeyer and he did not foresee issues and did not see the need to require the applicant to provide a phase I environmental site assessment.

Engineer Kieffer continued to review the proposed project plans and highlighted that the low-floor elevation of the underground parking facility, which is proposed to be only about two feet above the detected groundwater level. She said that although no District rule requires a specific distance separation between the low-floor elevation of a structure and groundwater, the

engineer wants to be on record as advising the applicant about the potential for seepage in the event of a rise in the groundwater elevation.

Dave Bade of Westwood Professional Services, representing the applicant, stated that the applicant has been working with Braun on a design for the project that would ensure groundwater does not seep into the parking structure. He provided additional information on water-proofing design and pumping options that are being reviewed in the event of future groundwater level fluctuation.

Engineer Kieffer reviewed the proposed conditions of approval outlined in the engineer's report, including documentation of agreement between the city and site owner for the use of the public land for stormwater volume retention.

Manager Sheely asked for clarification on where the pumped water would go if a wet spring resulted in a rise in groundwater and the need for the applicant to pump water to keep the parking facility dry. She asked if it would go to the sanitary sewer or storm sewer.

Chair Kloiber noted that the pumped water could not be added to the sanitary sewer and therefore would probably be discharged to the storm water system.

Attorney Welch noted that NMCWD does not regulate discharge of pumped groundwater; rather that would be an item for the city.

Mr. Bade confirmed that the project received approval from the city the previous night.

Manager Sheely moved, seconded by Manager Twele, to approve the permit with the conditions presented in the engineer's report and to delegate the authority to the Administrator to work with the applicant to certify the deposit of stormwater volume credits. 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.

Staff Reports

A. Education and Outreach Coordinator

a) General Updates

Program and Project Manager Sniogowski stated that the Hopkins trash clean-up will occur on May 6th. She stated that she recently attended the State of the Waters Conference and

noted that Education and Outreach Coordinator Gael Zembal did a great job presenting. She confirmed that her own presentation on chlorides was well received as well. She stated that the watershed sandbox display is being delivered this week.

B. Program and Project Manager

No additional comments.

C. Administrator

Administrator Anhorn stated that the MAWD Summer Tour will be will be hosted by neighboring watersheds Riley Purgatory Bluff Creek and Lower Minnesota River on June 20th – 22nd. He stated that the University of Minnesota is researching stormwater ponds and the potential for internal phosphorus release within the ponds which results in increased phosphorus loads to downstream water resources. He noted that the District has been asked to participate in the process and the cost would be less than \$4,000. He provided additional details on another partnership opportunity among Freshwater Society, Hennepin County Emergency Management, Mississippi Watershed Management Organization, Lower Minnesota River Watershed District, Riley Purgatory Bluff Watershed District and the District on a study of bluff erosion and past landslides.

He stated that the request for proposals for professional services for NMCWD has been posted. He asked two Managers to form a subgroup to review some of the proposals and bring a recommendation back to the Board.

Chair Kloiber and Manager Peterson volunteered.

Attorney Welch suggested that perhaps Manager Twele, as treasurer, should be involved in reviewing the accounting proposals.

Manager Peterson stated that she could bow out if that is the case.

Manager Twele noted that it may be hard with her schedule, but agreed to work with the administrator to find a time that works.

Chair Kloiber stated that there is a canoe expedition on the Mississippi River this summer and noted that perhaps there would be an opportunity for Nine Mile to collaborate.

Program and Project Manager Sniegowski confirmed that she could follow up on that.

Unfinished Business

A. Normandale Lake Project

i. Engineer's Report

Administrator Anhorn provided background information on the study the District completed and the petition for the project that was received by the District from the City of Bloomington. He stated that the District is looking to develop a cooperative agreement with the city that would allow the project to be implemented.

Attorney Welch said the cooperative agreement will specify each party's responsibilities, rights and costs, and set forth the framework for collaboration. He explained that NMCWD designated in its 2017 plan that it would develop and order projects under the streamlined framework in Minnesota Statutes section 103B, and would agree with Bloomington in the agreement to the disposition under that framework on the city's 103D petition for a basic water management project. He stated that Bloomington has preliminarily agreed with this approach.

Administrator Anhorn indicated that the goal for this evening is to have the Board accept the engineer's report and authorize staff to issue the environmental assessment work for review and comment.

Engineer Kieffer displayed the five management options that were reviewed as part of the Engineer's Report: lake drawdown, herbicide treatment, in-lake alum application, plant harvesting and aeration. She provided details on the lake drawdown, which would be followed by an herbicide treatment and in-lake alum treatment. She stated that the herbicide treatment of curly-leaf pondweed would likely need to be repeated for two to five years to be successful. She noted that the remaining options, including plant harvesting and aeration, would follow the first three options depending on results through an adaptive management approach.

Chair Kloiber stated that because of the late ice and snow cover on the lake, the amount of curly-leaf pondweed may be significantly decreased this year.

Engineer Kieffer provided additional details on the goals of the drawdown. She stated that the goal of having the drawdown largely completed by September 15 will drive the schedule. She reviewed the options that could be implemented to achieve the drawdown and discussed the costs and likelihood that each would achieve the desired results. She mentioned that while the use of the existing outlet pipe and a 10 cfs pump would have similar results to the construction of a new, larger outlet pipe, the permanent replacement of the existing outlet with a larger pipe would provide a long-term management option by facilitating future drawdowns. She said while the construction of a new larger outlet pipe would be cheaper, the need for a Army Corps of Engineers permit would make it difficult to timely complete the drawdown this fall using only this method. Therefore, the engineer is recommending a hybrid approach, whereby the existing outlet and pump would be used until the new outlet is installed, at which point the new outlet would be used to complete drawdown of the lake.

Manager Peterson asked if it is important for the drawdown to occur this year as the option of installing the new outlet and using that long-term is attractive.

Mike Berndt, resident, stated that he recently met with staff and passed the information onto residents around the lake that he is in contact with and will advise them of the available

options and timeline. He noted that he did not receive any negative comments on the timing for the project, should it take more than one year.

Engineer Kieffer stated that the use of the existing outlet pipe and a 10 cfs pump would be the best option for achieving the drawdown this year, but left a bit to be desired because it is not a permanent solution. She stated because of the desire to implement the drawdown this fall and to look for a long-term solution that could be used for future drawdowns as a continued management method, a hybrid option was developed which would allow the project to move forward this year.

Chair Kloiber asked if the Corps permit would be received to coordinate with the pipe installation this fall.

Engineer Kieffer stated that she would hope that the timing would align.

Administrator Anhorn noted that the timeline was discussed with Corps staff. He noted that the hybrid option provides the ability to install the pipe, complete the drawdown this year and have the pipe installed, allowing for it to be used for possible future drawdowns.

Manager Peterson asked if there is any advantage to waiting an additional year.

Chair Kloiber stated that this is in the territory of a research project/adaptive management approach.

Engineer Kieffer stated that the goal is to encourage native plants with the attempted elimination of the curly leaf. She said that a critical goal of the project is to support a strong aquatic plant community in the lake.

Manager Peterson asked if there has been education to the lakeshore residents about the drawdown.

Program and Project Manager Sniegowski provided additional details on the public education and outreach efforts that staff is planning in anticipation of this project. She stated that managing expectations will be an important element of the project.

Manager Sheely asked whether the pumping would be noisy, such that nearby residents should be alerted, and asked if there will be impacts to wildlife.

Engineer Kieffer stated that there would be inlet protection to the pipe to try to minimize wildlife impacts. She stated that there will be noise, but the pump could be housed in something to lessen the noise impacts.

Steve Gurney, City of Bloomington, stated that Bloomington has a noise ordinance, and this would require a variance. He stated that the city has pumped out other ponds and has been successful with plywood housing to shield the noise. He stated that because this will occur during the cooler months, the impacts should be lessened.

Chair Kloiber noted that the District has experience with pumped drawdowns and has learned from those experiences.

Manager Sheely asked what would happen if the District would miss the DNR requirement of having the drawdown completed by September 15th for turtle protection.

Engineer Kieffer stated that there is no DNR timing requirement, but the agency has requested significant progress on the drawdown by September 15 to encourage the turtles to winter elsewhere.

Moving to the cost analysis, Engineer Kieffer displayed a comparison of the different options. She stated that the hybrid option assumes that the District would be pumping for two months; the cost could be lower if a shorter pumping period was needed. She stated that the pumping cost is approximately \$40,000 per month and therefore the cost could be lower if the permit for the pipe installation is received earlier or the cost could increase if the permit is not received for an additional month.

Chair Kloiber stated that it does not appear that the cost difference between the options is terribly significant.

Chair Kloiber stated that if they can logistically do the project this year, he believes that it would make sense to move ahead with the hybrid option this year.

Manager Sheely asked what would occur if the permits are not obtained in the necessary timeline. She asked if the project would then be paused until the next year.

Manager Twele asked if the permits would still be good if the project were delayed to the next year.

Attorney Welch suggested that staff should proceed with the immediate next steps, then advise the managers further on timing and permitting considerations in mid-summer, when more is known.

Administrator Anhorn said that in addition to approving the draft engineer's report and authorizing release of the EAW, the Managers also should provide direction to staff on the preferred option for the drawdown.

Manager Peterson noted that if the project is delayed one year, there would still be additional time for public outreach and education.

Chair Kloiber stated that he would feel comfortable moving forward with the hybrid option as there will be further opportunity for the Board to receive updates. He asked for input from the Managers on their preferred option for the drawdown.

Chair Kloiber confirmed the consensus of the Board with the hybrid option.

Manager Sheely asked if there would be a benefit to leaving the existing pipe in addition to the new pipe.

Mr. Gurney stated that his best guess is the side gate would have to be removed, then it would be a matter of what could be done to replace that. He stated that if a new pipe is being put in, the old one might as well be abandoned.

Engineer Kieffer noted that the existing pipe would be left in to assist with the drawdown and would then be abandoned. She provided additional details on the timing for the Corps permit review period. She reviewed the proposed project schedule.

Manager Hunker asked if the District could advertise for bids before the Corps permit is received.

Attorney Welch noted that could be done but he would not necessarily recommend that.

It was the consensus of the Board to hold the public hearing for this action separate from the regular Board meeting.

Manager Peterson moved, seconded by Manager Hunker, to accept the Engineer's Report. Upon a vote, the motion carried.

ii. Environmental Assessment Worksheet (EAW)

Engineer Kieffer stated that there have been some minor modifications based on the comments received from legal counsel. She explain that a temporary weir is planned at the inlet to the lake to maintain water levels in the upgradient wetland, which would keep the wetland from being drawn into the scope of the project and associated permitting.

Chair Kloiber asked if a vegetation survey has been done on the wetland. He noted that those could be sources of curly leaf as well. The engineer agreed to include assessment of the vegetation in the wetland in an upcoming site visit.

Manager Sheely noted that it would be helpful to have photographs for presentations.

Manager Hunker moved, seconded by Manager Peterson, to authorize staff to issue the EAW for comment. Upon a vote, the motion carried.

New Business

**A. Bloomington Comprehensive Water Resources Management Plan
(Resolution #18-05)**

Administrator Anhorn stated that the comment period ended on Monday, but the District had requested an extension. He noted that the plan was reviewed by the engineers, legal and the Administrator. He said that while the plan meets the general requirements of Minnesota Rule 8410 and states that the City will continue to act as the Wetland Conservation Act Local

Government Unit, it is lacking in the fact that it does not either specifically defer regulatory authority to the District or describe the necessary changes to the City's official controls and processes if not deferring regulatory authority to the District.

He stated that Bloomington wants to NMCWD to continue to serve as the regulatory authority and Bloomington is willing to state that more specifically in its plan. He noted that Bloomington is comfortable with conditional approval from the District, contingent upon that language being added.

Manager Sheely moved, seconded by Manager Hunker, to adopt Resolution #18-05 conditionally approving the Bloomington Comprehensive Water Resources Management Plan.

Administrator Anhorn conducted a roll call vote:

Manager Hunker	aye
Manger Kloiber	aye
Manager Peterson	aye
Manager Sheely	aye
Chair Twele	aye

The motion carried.

B. Cost-Share Grant Applications

Program and Project Manager Sniegowski stated that the proposed projects and funding were included in the Board packet.

Manager Peterson stated that there seems to be a lot of buckthorn removal projects.

Program and Project Manager Sniegowski stated that these projects do meet the current goals of the District regarding native habitat. She noted that topic was discussed and reviewed some alternative options that may be considered in the future for cost-share projects. She stated that the CAC will meet again to discuss buckthorn removal projects. She noted that will bring back a memorandum and recommendation on how those projects are handled in the future. She welcomed any Managers that may be interested to attend the CAC meeting.

Manager Sheely moved, seconded by Manager Twele, to authorize the District Administrator to enter cost-share agreements with advice of counsel per the discretion of the Administrator in accordance with this table in an amount not to exceed \$96,774.11. Upon a vote, the motion carried.

C. 2017 Annual Report and 2017 Annual Audit

Administrator Anhorn stated that he sent the draft 2017 Annual Report and the 2017 annual audit. He stated that the District received one finding on the annual audit regarding

timely submission of deferred comp plan payments. He provided additional details on the finding and corrections. He noted that the issue was fixed prior to the audit.

Manager Twele moved, seconded by Manager Hunker, to accept the 2017 annual audit and authorize the Administrator to work with the auditor to finalize the audit. Upon a vote, the motion carried.

Administrator Anhorn moved to the draft Annual Report. He noted that he can incorporate the minor grammatical changes from the Managers. He noted that the intent of the Annual Report is to provide a highlight of the activities accomplished within the past year. He provided a brief summary of the items included in the report.

Manager Sheely moved, seconded by Manager Peterson, to accept the Annual Report and direct staff to issue the Annual Report. Upon a vote, the motion carried.

~~D. Administrator's Annual Performance Review~~

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. Normandale Lake Water Quality Improvement Project: Status Report**
- E. Pentagon Park Storm Water Management**
- F. Lake Cornelia: Status Report**
- G. Regional Stormwater Volume Reduction Opportunity Study: Status Report**
- H. Status of Construction Projects**

Engineer Kieffer had nothing further to report.

Attorney's Report

Attorney Welch stated that there was discussion at Metro MAWD regarding House file 3805. He noted that the file missed all the deadlines, but the developer is meeting with MAWD staff and MAWD staff will keep their eyes on the file.

Chair Kloiber asked the status of the chloride legislation.

Manager Sheely stated that she did not believe that it looked good.

Managers' Report

- A. Administrator's Annual Performance Review**

Attorney Welch stated that review of the performance of an employee can be held in closed session, but Administrator Anhorn has stated his preference for having the discussion in open session. Administrator Anhorn concurred.

Manager Peterson stated that Administrator Anhorn is doing an excellent job and is at an outstanding/exceeds expectations status. She stated that salary compensation was reviewed with a consultant and the recommendation for increase is five percent.

Chair Kloiber concurred with the comments.

Administrator Anhorn stated that he appreciates the positive feedback very much. He stated that he appreciates being able to see the constructive comments and identify issues that he can work on moving forward. He agreed that it may be time for the District to conduct a salary survey, as recommended by the consultant. He stated that he enjoys working at the District.

Manager Sheely noted that there has been a lot of work this past year with the plan, rules, and employee manual updates. She stated that there may be additional time in the next year for the Administrator to explore other opportunities.

Manager Peterson stated that perhaps the District would explore alternative options for the Board packet, such as having iPads available for Managers at the meeting.

Manager Sheely moved, seconded by Manager Twele, to accept the performance review of the Administrator and approve a salary adjustment of five percent, retroactive to March 26, 2018. Upon a vote, the motion carried.

Manager Sheely thanked Manager Peterson for her leadership in the process.

Task Summary Report & Manager's Calendar

The Managers reviewed and updated the task report.

Adjournment

It was moved by Manager Peterson, seconded by Manager Sheely, to adjourn the meeting at 9:35 p.m. Upon a vote, the motion carried.

Respectfully submitted,



Grace Sheely, Secretary

ATTACHMENTS:
Treasurer's Report