

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

**WEDNESDAY, FEBRUARY 21, 2018**

**Call to Order**

Chair Kloiber called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:17 p.m., Wednesday, February 21, 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, Louis Smith, Bob Obermeyer, Janna Kieffer, Erica Sniegowski, and Gael Zembal

**Agenda**

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

**Reading and Approval of Minutes**

The Chair called for review of the minutes of the Regular Meeting of January 17, 2018. Attorney Smith distributed additional changes to the discussion of the rules. He noted that the changes were intended to make things clearer rather than change the substance of the minutes. He noted that there were a number of changes and therefore suggested deferring action on the minutes until the next meeting to allow the Managers additional time to review the proposed changes.

**Manager Hunker moved, seconded by Manager Peterson, to defer action on the minutes until the March meeting. Upon a vote, the motion carried.**

**Correspondence**

- Meeting notes from Hennepin County convened Water-Based Funding Program meeting
- BWSR notification on the proposed Riley Purgatory Bluff Creek Watershed District boundary change
- MAWD Legislative Day at the Capital program flyer

## **Hearing and Discussion of Matters of General Public Interest**

There were none.

### **Consent Agenda**

- A. Permit #2017-93A: Budget Truck/Car Rental – 305 American Boulevard; Grading and land alteration permit: Bloomington**
- B. Permit #2018-07: 9601 Penn Avenue Self Storage Facility; Grading and land alteration permit: Bloomington**
- C. Permit #2018-09: Drury Hotel – 3901 Minnesota Avenue; Grading and land alteration permit: Hopkins**
- D. WCA – No Loss Determination: Stauder Circle Outlet – Pipe and Rip-Rap Replacement: Edina**
- E. WCA – No Loss Determination: Biscayne Outlet – Sediment Removal: Edina**
- F. WCA – No Loss Determination: 431 Prairie Center Drive – Sanitary Sewer Repair: Eden Prairie**

Manager Peterson referenced Item C and the intent to reuse stormwater on a previous landfill site.

Engineer Obermeyer provided additional details noting that the stormwater would be placed in a tank and then reused. He stated that it is his understanding that a landfill area is different than the challenging Superfund site in Bloomington. He noted that this would be similar to Central Park in Hopkins.

Chair Kloiber stated that the goal is not to get water into the groundwater. He explained that water reuse is providing water for irrigation and not driving additional water into the groundwater or drinking water supply.

Manager Peterson stated that her concern was with contamination that could occur and possible health risk.

Chair Kloiber noted that this would capture surface water for reuse and the water would not be infiltrating through the subsurface landfill.

Attorney Smith asked if action is being taken on Permits A and B.

Engineer Obermeyer confirmed that Permits A and B were incomplete and therefore no action will be taken on those items.

Chair Kloiber stated that his understanding would be that anything on the Consent Agenda would be recommended for approval.

Attorney Smith asked if there is a time issue with the 60-day review period.

Engineer Obermeyer stated that a permit number has been assigned to the project because the signed applications have been received but it has been made clear that the applications were incomplete and therefore the 60-day review did not begin. He also confirmed that Item C is not yet ready for approval.

**Manager Peterson moved, seconded by Manager Sheely, to approve the Consent Agenda Items D, E, and F with conditions. Upon a vote, the motion carried.**

### **Hearing of Permit Applications**

**A. Permit #2017-128: Bridge Reconstruction – I-35 Over the Minnesota River; Grading and land alteration permit: Bloomington**

Engineer Obermeyer presented the permit request and proposed plans. He stated that this is considered a linear project from MnDOT and was a carryover from the previous month. He noted that the information provided would be consistent with the District's rules and recommended approval with the condition that the final erosion control plan would be needed.

Manager Sheely stated that this seems to be a spot that although it is technically within the boundaries of the District, it does not flow into the watershed.

Engineer Obermeyer confirmed that and noted that on occasion the District will run into similar situations where the watershed's legal boundaries are slightly different than its hydrologic boundary, where runoff may not actually enter the water's hydrologic boundary, but flow to another watershed..

**Manager Twele moved, seconded by Manager Hunker, to approve 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.

Engineer Obermeyer reviewed the Sunram pay request and confirmed that it is in order and that he recommended payment.

**Manager Twele moved, seconded by Manager Sheely, to approve the pay request to Sunram in the \$235,495.45. Upon a vote, the motion carried.**

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

## **Staff Report**

### **A. Education and Outreach Coordinator**

#### **a) General Updates**

Education and Outreach Coordinator Zembal stated that the CAC met earlier this month to discuss improving the volunteer program and experience. She stated that the CAC has a goal to be more involved in the education and outreach program. She provided documentation on the Metro Watershed Partners MN Program, noting that the organization has been providing high quality articles that the District is using in communication to residents. She stated that in 2018 staff looks forward to implementing the Adopt a Stormwater Drain Program metro wide. She stated that she has applied and been accepted to the Hamline Master's Program and hopes to graduate the accelerated course in 2019. She noted that she looks forward to bringing the information she learns back to the District to continue to improve the education and outreach program. She noted that she received an academic merit scholarship for the first year of the program. She stated that next year will be the District's 60<sup>th</sup> anniversary and welcomed input from the Managers on how the event should be recognized and celebrated.

### **B. Program and Project Manager**

#### **a) Discovery Point Restoration Update**

Program and Project Manager Sniegowski stated that the District received three quotes for the next phase of the Discovery Point Restoration project, reporting that the low quote from MN Native Landscapes came in at \$47,857.50 which was lower than the engineer's estimate. She stated that all necessary paperwork has been signed and the next step will be an onsite meeting.

#### **b) Normandale Project**

Program and Project Manager Sniegowski reported that staff and the City of Bloomington met with the DNR on January 31<sup>st</sup> to discuss permitting requirements. She noted that staff is still awaiting a response from the Army Corps of Engineers to determine if a permit modification on any of the proposed management alternatives would be necessary. She stated that staff met with the City of Bloomington staff to discuss a multi-faceted approach to education and outreach for those residents in the area. She stated that the DNR is not interested in completing the fisheries survey and therefore Barr Engineer has reached out to a consultant to determine the cost. She noted that staff reached out to another watershed district, that would have the ability to complete the survey, to determine if its schedule would allow for that activity. She highlighted the 2018 schedule and identified the items that will require Board action along the way.

Engineer Kieffer stated that they will begin preparation on the EAW and Engineer's Report in March and will present the documents to the Board for approval in April. She noted

that the documents would then be sent to the necessary agencies for comment and approval. She reviewed the other key elements and actions on the schedule.

Chair Kloiber noted that in the Anderson lakes drawdown there was a problem with turtles and acknowledged that is an issue to be considered.

Administrator Anhorn noted that one benefit is that this would not be a total drawdown, compared to Anderson lakes.

Program and Project Manager Sniegowski agreed that the turtles would be an element of consideration in this process. She stated that Barr Engineering will also complete a drawdown analysis.

Administrator Anhorn asked for input on the number of residents that attended the Anderson lakes public hearing.

Chair Kloiber provided additional input on the previous public hearing process. He suggested holding the public hearing in Bloomington at a facility that would comfortably hold a large number of people.

Engineer Kieffer suggested holding that public hearing a few weeks prior to the regular Board meeting for that month to allow the Managers additional time to digest that input prior to considering action at the regular meeting.

Chair Kloiber suggested posting signage along the walking paths that would provide notice of the project, as users of the path may not live within the boundaries where notice is being mailed.

Engineer Kieffer provided additional details on the drawdown process and explained that it will be important to set appropriate expectations to residents.

### **C. Administrator**

Administrator Anhorn advised the managers of an update to the IRS mileage reimbursement rate and noted that he will be on vacation the last week of March. He stated that his annual performance review will come due in March and discussed the process.

Chair Kloiber suggested that the Managers prepare their individual reviews completed by the March meeting. He stated that the two-person group could then meet to tabulate the results.

Managers Peterson and Sheely volunteered to be the two-person review group.

Administrator Anhorn advised of an upcoming meeting for the watershed-based funding through BWSR. He provided additional details on the options that could arise and would depend upon whether consensus is reached between the entities involved. He further stated that as directed, he would continue to attend the meetings and keep the board updated.

## **Unfinished Business**

### **A. Pentagon Park/Border Basin Study**

Administrator Anhorn stated that the study has been completed and Engineer Kieffer will provide additional details on the results.

Engineer Kieffer provided background information on the collaborative study that involved the District, Edina, and Bloomington. She provided background information on the study area and also provided information on the areas that would be inundated under different storm events. She stated that there is a lot of stormwater that drains to a low area with a severely restricted outlet.

Chair Kloiber asked the typical depth to groundwater in this area.

Engineer Kieffer replied that it is variable throughout the study area, but some areas are less than three feet from the ground's surface. She reviewed a list of stormwater management possibilities that were reviewed as options to reducing the area's flooding issues, and explained why certain elements would not provide a feasible solution. She stated that there really was not a good "silver-bullet" solution and therefore the recommendation from the flood risk analysis was to look at expanded storage within the Fred Richards golf course. She noted that other flood storage options were not enough to provide a measurable difference and therefore would possibly be options for mitigation. She stated that the study also looked at redevelopment and the amount of water that the parcels would need to store in the future.

Manager Hunker asked and received confirmation that there is not a regional plan for redevelopment of this area.

Administrator Anhorn explained that the District helped to complete this study and to provide some tools that the cities/property owners could use. He noted that the cities do not seem interested in developing a regional development plan for this area.

Engineer Kieffer provided information on the soil types that exist in this area.

Chair Kloiber stated that it would be an idea for the upstream areas with good infiltration to provide a bank of credits that could be used for development downstream.

Engineer Kieffer agreed that perhaps that would allow for volume control to be met but noted that would not solve the flooding issue. She stated that volume retention may be especially challenging for some of these parcels, given the soil conditions and flood storage requirements, and therefore they looked to determine if a regional solution may be available. She noted that tradeoffs were considered, explaining that perhaps if the parcel cannot retain volume, the parcel could instead increase rate control above and beyond the District standard. She reviewed the alternative approaches and provided additional details. She provided additional details on regional ponding options, explaining that the city would need to purchase

two properties and could then create a pond that could be used to provide credits to the redeveloping parcels.

Manager Sheely stated that she is concerned with the continued number of variances that could come forward as the area redevelops.

Administrator Anhorn noted that any redevelopment will be an improvement because it will provide a benefit over the current conditions.

Chair Kloiber stated that it seems that the flood issue in the area is nearly intractable. He said that while there may be a few things that could potentially be done that would make a marginal difference to the flooding issue in the area, it does seem like we can get some water quality and rate control benefits as the area redevelops. He further stated it looks to be more efficient to look for a regional solution for the flooding as opposed to parcel by parcel as permit applications come in

Manager Peterson asked if this information is changing property owner or developers mind about redevelopment.

Administrator Anhorn stated that city staff seemed to appreciate the information but did not believe that they felt that their City Council views this as a priority.

Engineer Kieffer stated that there will be property owners that are very interested in this information but is not sure how those owners would be able to coordinate on their own.

Chair Kloiber stated that the District is in no obligation to issue a variance, even if the criteria are met by the request. He said that the place where he thinks it has been tough are the variance requests for wetland buffers, because they can actually fill wetlands to create a buffer, but in this case if they say that they cannot meet our infiltration or freeboard requirements we do not have to grant a variance.

Manager Peterson said that she thinks that this project should address the potential variance issues upfront.

Attorney Smith stated that the point of the map is showing that the problem is caused by the water and not the watershed district. He stated that there are a number of properties that have serious flooding issues that, prior to Atlas 14, they would not have acknowledged and are not easy to solve from an engineering standpoint. He stated that it will be very difficult for these properties to meet the rules of the District, separately or even regionally. He noted that it would be difficult for those parcels to develop, even if the District did not exist, because of the flooding issues. He noted that property values could be impacted by the flooding issues.

The Board and staff discussed potential opportunities for improving this area.

Chair Kloiber encouraged staff and everyone to think big and comprehensively.

Manager Peterson noted that this will be an ongoing problem as the area continues to redevelop.

Attorney Smith stated that this is a detailed engineering report, that presents the problem, and he wondered about the merit of investing in a planner to create a redevelopment plan that would create net gains in property value. He stated that perhaps the cities would want to invest in that work also.

Chair Kloiber asked the next steps.

Engineer Kieffer stated that there is a draft report that the stakeholders have commented on which will be finalized. She noted that the next step after that is unclear.

Administrator Anhorn stated that he would speak with the city staff about their thoughts on a regional management plan. He noted that if the Managers are interested, there could be a discussion on whether to sit down with a landscape architect planner.

Chair Kloiber asked if the final plan would be presented to the landowners and city staff.

Engineer Kieffer stated that there was a stakeholder meeting with the draft report. She agreed that there could be value in regrouping to see if there is interest in regional solutions.

Chair Kloiber asked if there would be a benefit to having the Board and City Council members attend.

Administrator Anhorn stated that option was presented to member cities and their staff did not find benefit/interest in their City Councils attending. He stated that the input that he received from city staff was that it is the responsibility of the private property owners, rather than the city picking and choosing where they will assist.

## **New Business**

### **A. Summer Intern**

Administrator Anhorn stated that this item is included in the budget. He stated that the summer intern the previous year was a successful endeavor and therefore he will advertise for an intern for this summer as well.

### **B. Workplans**

Administrator Anhorn stated that staff looked at the Water Management Plan to create individual workplans for each employee for 2018. He welcomed input from the Managers on the presented workplans. He noted that he also included the Administrator's 2017 workplan tracking all the identified the items that had been completed and which were ongoing.

Chair Kloiber stated that perhaps there is additional opportunity for staff to share duties in different areas, so that individual workloads do not get overwhelming.

Administrator Anhorn noted that there are shared duties among the items in each of the workplans. He explained that for example, in some cases one employee may provide general oversight for a program, but another may be responsible for the majority of the tasks, in which case the items may be listed under both employees, but one is responsible for most of the tasks.

### **C. Permit Fees**

Administrator Anhorn provided information on permit fees and options that different watershed districts use. He asked the Managers to look at the different information and provide input. He noted that this item will come back before the Board at a future meeting.

Administrator Anhorn presented a proposed revised permit fee schedule that would keep fees for single-family home (SFHs) applications identical to what they currently are but would change the fee structure for projects other than SFHs where a fee would be required for each of rule 2.0, 4.0 and 5.0 triggered. He states that currently, the District collects a single fee for the project no matter how many rules are triggered. In addition, the new fee schedule would allow for the recovery of excess costs for more difficult permits.

Chair Kloiber stated that the numbers included in the memorandum were astonishing.

Administrator Anhorn noted that also includes the cost for permit inspections.

Chair Kloiber stated that about \$200,000 is being covered by District-wide ad valorem taxes to subsidize the review of permittees work.

Administrator Anhorn noted that also includes ensuring that the standards are met and reviewed the modeled phosphorus loads that was removed in 2016 and 2017 as a result of the District's permit program.

Chair Kloiber agreed that there is a trade-off. He acknowledged that it could be a lot of administrative work to track expenses for permit review but noted that a lot of permit review is being covered by the general budget and District-wide taxes.

Administrator Anhorn stated that staff would be looking to add a financial assurance for chloride management plan component of the draft plan if it is adopted into the revised rules, as well as and increasing the financial assurance fee for stormwater BMPs. He stated that perhaps an MOU could also be developed with the cities to ensure that duplicate financial assurances are not being collected by both entities.

Manager Sheely asked if the changes would shift the cost responsibility more towards permit applications.

Administrator Anhorn confirmed that permittees would be paying more of the cost.

#### **D. MAWD Legislative Day at the Capital**

Administrator Anhorn reported that MAWD Legislative Day at the Capital will be held on March 7<sup>th</sup> and 8<sup>th</sup>. He stated that he will be attending and welcomed interested Managers to attend.

Manager Sheely stated that she would be interested in attending but would like additional literature to give to people in regard to chloride management.

Administrator Anhorn stated that there has been discussion on in-person training versus online training. He noted that Program and Project Manager Sniegowski may be called to testify on the benefits of in-person training. He stated that interested Managers should RSVP to him by February 28<sup>th</sup>.

#### **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. Status of Construction Projects**

Administrator Anhorn provided an update on the Edina Creek stabilization project.

Engineer Kieffer stated that there is a change order that was in the Board packet which rectifies the quantities. She explained that when the project is put out to bid there are estimations on materials and this is a chance to update the material quantities. She stated that it will not change the price, but it will change the ultimate price and looks as if at the end the project could come in about \$200,000 under the bid price.

**Manager Sheely moved, seconded by Manager Twele, to approve Change Order No. 2 for the Edina Creek stabilization project. Upon a vote, the motion carried.**

#### **Attorney's Report**

Attorney Smith referenced the Hennepin County discussion regarding Clean Water funding and stated that there are comments being generated by other watersheds within the county. He stated that he will pass on those comments to Administrator Anhorn.

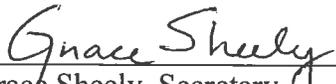
#### **Managers' Report**

The Chair called for reports. No additional comments.

**Adjournment**

**It was moved by Manager Peterson, seconded by Manager Hunker, to adjourn the meeting at 9:52 p.m. Upon a vote, the motion carried.**

Respectfully submitted,

  
\_\_\_\_\_  
Grace Sheely, Secretary

ATTACHMENTS:  
Treasurer's Report

