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MEMO

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TO: Nine Mile Creek Watershed District Board of Managers
FROM: Randy Anhorn
DATE: May 2, 2019
RE: Permit Review and Approval Process

Background/Discussion

Past adopted resolutions have delegated various permit approval authority to the administrator, including:

- **13-01** Land-disturbing activity and projects subject only to NMCWD rule 5.0 – Erosion and Sediment Control
- **17-01** Certain permit modifications and transfers, as well as applications for assignment or renewal of valid permits
- **17-04** Permits for single-family home development and redevelopment projects
- **18-06** Certain Wetland Conservation Act applications (e.g., wetland boundary and type, exemptions and no-loss determinations)

Exceptions to the above delegated administrative approval authority include that the administrator may not approve an application if:

- The approval requires approval of a variance or exception;
- the administrator determines that the application involves technical, policy or legal issue(s) or raises public comments that warrant review of the application by the board of managers;
- anyone requests consideration of the application by the board of managers.

During recent regular board meetings, the Managers have discussed the possibility of delegating further authority for permit issuance to the administrator to focus the Board's meeting times on other items that potentially need closer attention or set District policy (e.g., AIS strategies, District's role in local and regional flood issues, groundwater, etc...).

Also, applicants sometimes need to wait a month after getting all their items submitted before the project can be approved at a board meeting which may be somewhat burdensome for a smaller project.

To identify which other permit related items might be considered for further delegation, staff met with Managers Cutshall and Peterson, with the District engineer, and with the attorney, to discuss possible options for the Board to discuss.

The following options are intended to be a list of possible options to better facilitate the discussion on this topic.

Option 1. Status Quo--Board may choose to retain sole authority over permit issuance for projects which trigger any District rule beyond those already delegated to the administrator.

Option 2. Staff level permit approval--Board may choose to delegate authority over permit issuance to the District administrator for projects which trigger all District rules except Rule 10.0 (Variances) or the administrator determines that the application involves technical, policy or legal issue(s) or raises public comments that warrant review of the application by the board of managers; or the applicant requests consideration of the application by the board of managers.

While no permits would be presented to the Board, unless a variance or exception is sought, the administrator determines it warranted Board consideration, or the applicant or another party requests to have the application heard in front of the Board, compliance-review documentation for each application will be maintained (as it is now and would be available upon manager request) and a monthly log of approved permits (including resulting stormwater volume and water quality benefits for each) would be prepared for the Board.

Option 3. *Hybrid*--Board may choose to delegate authority for permit issuance to the District administrator for projects which trigger some District rules if certain criteria are met.

- Floodplain and Drainage Alterations (Rule 2.0)
 - No change – Board retains authority over permit approval for all projects
 - Delegate permit approval authority to administrator
 - Other
- Wetland Management (Rule 3.0)
 - Not applicable/no change
- Stormwater Management (Rule 4.0)
 - No change – Board retains authority over permit approval for all projects
 - Delegate permit approval authority to administrator for all projects
 - Delegate permit approval authority to administrator for projects that meet a defined criterion (*for example*):
 - i. *Residential lot/development projects: 10 lots or fewer*
 - ii. *Commercial/multi-residential projects: Less than or equal to 2.5 acre of new impervious surface*
- Erosion Control (Rule 5.0)
 - Continue to delegate permit issuance authority to administrator for all projects
 - Other
- Watercourse and Basin Crossings (Rule 6.0)
 - No change – Board retains authority over permit approval for all projects
 - Delegate permit approval authority to administrator
 - Other
- Shoreline and Streambank Improvements (Rule 7.0)
 - No change – Board retains authority over permit approval for all projects
 - Delegate permit approval authority to administrator
 - Other
- Sediment Removal (Rule 8.0)
 - No change – Board retains authority over permit approval for all projects
 - Delegate permit approval authority to administrator
 - Other
- Appropriation of Public Surface Waters (Rule 9.0)
 - No change – Board retains authority over permit approval for all projects
 - Delegate permit approval authority to administrator
 - Other
- Variances (Rule 10.0)
 - No change – Board retains authority over permit issuance for all projects involving variance/exemption requests

Note: If a project triggers multiple rules, and one of those rules needs to be approved by the board, the full application for all applicable rules will be reviewed by the Board.

Request

While staff sees the value in Option 2, delegating all permit approval authority (other than those seeking a variance or exemption or the District is the applicant) to the administrator, the information is to promote discussion and no action is needed at this time.

If the Board decides to delegate additional approval authorities to the administrator, a resolution will be brought to the June meeting.