

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

WEDNESDAY, MARCH 20, 2019

Call to Order

Chair Peterson called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, March 20, 2019, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

Managers Present: Bob Cutshall, Erin Hunker, Grace Sheely and Jodi Peterson

Managers Absent: Steve Kloiber

Advisors Present: Randy Anhorn, Louis Smith, Bob Obermeyer, Jana Kieffer, Gael Zembal, Erica Sniegowski, and Lauren Foley

Agenda

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

Reading and Approval of Minutes

The Chair called for review of the minutes of the Regular Meeting of February 20, 2019. Minor grammatical changes were submitted to staff in writing.

Manager Sheely moved, seconded by Manager Cutshall, to approve the regular meeting minutes of February 20, 2019 subject to minor changes. Upon a vote, the motion carried.

The Chair called for review of the minutes of the Special Meeting of March 7, 2019. The Managers provided minor grammatical changes to staff.

Manager Sheely moved, seconded by Manager Hunker, to approve the special meeting minutes of March 7, 2019 subject to minor corrections. Upon a vote, the motion carried.

Public Open Forum

There were none.

Consent Agenda

- A. Administratively Approved Permits**
- B. Permit Inspection Report**
- C. Permit #2018-109: Richfield Bloomington Credit Union – Phase 2; 9500 Lyndale Avenue; Grading and land alteration permit: Bloomington**
- D. Permit #2018-121: International School of Minnesota Building Addition; 6385 Beach Road; Grading and land alteration permit: Eden Prairie**

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

Hearing of Permit Applications

- A. Permit #2018-108: The Mariner; 10400 Bren Road; Grading and land alteration permit: Minnetonka**

Engineer Obermeyer presented the permit request and proposed plans. He stated that there are three existing buildings and three lots under common ownership, noting that the existing buildings will be razed, and two new apartment buildings will be constructed. He advised that the applicant has indicated that the lots will be replatted into two lots. He stated that the soil is composed of clay material and therefore would fall within the restricted site category because of the low ability of infiltration. He stated that an underground treatment facility is proposed to handle the runoff from the site which would meet the District requirements for rate control, volume control and water quality management. He stated that the District requires a 48 hour draw down and this system would have a 63 hour draw down. He explained that would not require a variance because of the restricted site categorization and the applicant is aware of the longer draw down period. He stated that pretreatment will be provided and provided details on that process. He stated that the developer is required to provide the necessary grading for the road realignment and will be constructing a portion of the sidewalk.

Administrator Anhorn stated that the site has easements on two portions of the property, one on the western side of the property and one on the northern side. He said that while the majority of the site had clay soils that support the restricted site determination, the northern portion of the site that is held under a city drainage and utility easement has better soils that are conducive to infiltration. He explained that the city has a policy stating no private use in the public easement is allowed, and has indicated to the applicant and to District staff that they would not allow a stormwater BMP in the easement area. He noted that Southwest Light Rail plans to relocate utilities in that area in the future. He noted that he intends to meet with city staff to discuss possible strategies for future development sites to avoid a similar situation.

Engineer Obermeyer confirmed that the road would be a separate project in the future. He provided additional details on the location for the sidewalk. He recommended approval of the request subject to financial assurance in the amount of \$344,100, finalized drainage easements on the property title, the setback from the building to underground system should be

firmed up, along with the general conditions. Jack Ammerman, Wenck Associates, was in attendance representing the applicant and available to answer questions.

Manager Cutshall moved, seconded by Manager Hunker, to approve the permit subject to the noted conditions. Upon a vote, the motion carried.

B. Permit #2019-01: Pentagon North; 4510-4660 West 77th Street; Grading and land alteration permit: Edina

Engineer Obermeyer presented the permit request and proposed plans. He stated that this project contains a 27-acre site with nine single-story office buildings. He stated that the project will bring the buildings up to ADA compliance. He reviewed the amount of land alternation throughout the entire development that would be necessary to meet ADA compliance. He stated that two facilities would be planned to meet the District's requirements and the proposal includes the use of a sand filter. He stated that volume retention cannot be provided on site because of the organic underlying soils and high groundwater conditions. He stated that rate control and water quality would need to be met and explained how those requirements would be met. He explained that the overall disturbance on the site is fairly minimum compared to the overall site area. He provided information on the wetlands on site and required buffers. He stated that the required buffers cannot be provided with the current layout of the buildings. He stated that the overall 40-foot average buffer is short by 16,000 square feet and therefore a variance would be needed. He stated that staff recommends approval of the variance because of the site constraints.

Manager Cutshall asked staff to identify the buffer area.

Engineer Obermeyer identified the 20-foot buffer area and the 40-foot average buffer area. He stated that there is a natural area that varies from the wetland area to the edge of the curb. He noted that staff recommends that the invasive species be removed from that natural area.

Manager Cutshall stated that in the special meeting there was discussion of an enhanced buffer and asked if that would make sense in this application.

Engineer Obermeyer commented that in this case he does not believe that would be practical. He explained that perhaps when the city property comes forward, there would be additional opportunity on that property.

Manager Sheely asked if there is anything else that could be recommended to improve the buffer area.

Engineer Obermeyer stated that his only recommendation would be to remove the invasive species from the natural buffer area. He stated that natural vegetation is acting as the best filter for the wetland.

Manager Sheely stated that these are medium quality wetlands and perhaps the applicant can treat the wetlands as an asset rather than a liability and should be included in the maintenance plan for the site.

Kristina Smitten, representing Pentagon North, agreed that could become a part of the maintenance plan for the property. She stated that they will be increasing the amount of landscaping and pervious area on the site, noting that plants will be pollinator friendly and the trees will be climate tolerant. She stated that any desired wetland buffer maintenance could also be incorporated. She stated that as part of the city's process for Fred Richards, the entrance location will most likely change, and the plans may include additional water storage areas and wetland improvement.

Manager Cutshall moved, seconded by Manager Hunker, to approve the variance to the minimum and average buffer for wetland ten based on the findings of fact discussed. Upon a vote, the motion carried.

Manager Hunker moved, seconded by Manager Sheely, to approve the permit subject to the noted conditions. Upon a vote, the motion carried.

C. Permit #2019-06: Orange Line Bus Rapid Transit; Knox Avenue and I-494; Grading and land alteration permit: Bloomington/Richfield

Engineer Obermeyer recommended that the Board extend this review by 60 days. He noted that this is a complicated project that will go from downtown to Burnsville and will include a tunnel under 494.

Manager Sheely moved, seconded by Manager Hunker, to continue the permit for 60 days. Upon a vote, the motion carried.

Treasurer's Report

A. Rachel Contracting Pay Request

Engineer Kieffer recommended approval of the pay request six for the Normandale Lake project in the amount of \$16,875.

Manager Sheely moved, seconded by Manager Cutshall, to approve the pay request to Rachel Contracting in the amount of \$16,875. Upon a vote, the motion carried.

The Treasurer submitted the report. Manager Cutshall provided clarification on certain items included in the report.

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

Staff Reports

A. Permit and Water Resources Coordinator

Administrator Anhorn noted that a report was included in the packet from Permit and Water Resources Coordinator Foley. He noted that they continue to work on certifications and will aim to move the permit inspections from Barr Engineering to Permit and Water Resources Coordinator Foley.

B. Education and Outreach Program Coordinator

Education and Outreach Coordinator Zembal asked the Managers to bring their nametags to the next meeting as the position each Manager plays will be added to the nametag. She stated that staff is looking to improve the professional development of the long-term volunteers, specifically the CAC members. She stated that they are attempting to find ways to reward service and help the volunteers learn more about the water world. She noted that another Watershed District reimburses CAC members for conference attendance. She asked if the Board would be interested in staff drafting a policy to review that could be implemented in 2020.

Manager Sheely stated that it is a good idea but noted that not everyone would be the right fit for certain meetings or conferences, using the MAWD annual meeting as an example. She noted that it would need to be the right fit and the member would also have to have interest.

Education and Outreach Coordinator Zembal confirmed that the member would need to be interested and submit the application, which would then need to be accepted by staff.

Administrator Anhorn provided examples of other conferences outside of MAWD that could be beneficial.

Chair Peterson asked what the other Watershed District has learned from implementing this program and the benefits that have been found.

Attorney Smith stated that he is aware of more than one Watershed District that has paid for CAC members to attend MAWD. He noted that they have reported that they found the program to be valuable and more than one CAC member has transitioned to a Manager position.

Education and Outreach Coordinator Zembal stated that many of the CAC members this year live on or near the creek and therefore additional background information and water knowledge would be helpful. She stated that many of the members are also interested in pollinators and may be interested in pollinator conferences as well.

Manager Cutshall asked if many of the CAC members are Master Water Stewards.

Education and Outreach Coordinator Zembal believed that two of the 12 members of the CAC are Master Water Stewards. She noted that the program is promoted with the CAC members to gauge if there is interest, and even if the members are not interested, they are asked to share that with potential candidates for the program.

Manager Cutshall advised of a great online training that he and Manager Sheely completed that was hosted by the Freshwater Society.

Education and Outreach Coordinator Zembal confirmed the consensus of the Board to direct staff to draft a potential policy that could be reviewed along with a list of potential conferences that could be attended.

Administrator Anhorn noted that because the policy would not be implemented until 2020, this would then become a part of the budget discussion this summer.

Chair Peterson stated that she would also be interested in the benefits of offering this reimbursement and how that could be tracked.

Manager Sheely stated that perhaps there is a potential to cover the cost of a CAC member to become a Master Water Steward. She stated that she would support the CAC members becoming more educated in return for their service and volunteerism to the District.

C. Program and Project Manager

Program and Project Manager Sniegowski stated that cost-share grant applications are due on Friday of this week. She noted that the CAC will review and make recommendation on residential grant applications. She stated that she would be looking for a few Managers to assist in reviewing the association and larger applications, estimating that eight to ten applications would need to be reviewed.

Manager Sheely stated that she would glad to assist again this year.

Manager Cutshall asked when the review would take place.

Program and Project Manager Sniegowski stated that if possible, she would forward the applications to the Managers on Friday and would then be looking to do site reviews on April 2nd or April 3rd.

Chair Peterson stated that she would also be available.

Program and Project Manager Sniegowski stated that she could post the applications in a Dropbox where all Managers could review the applications and provide comments direct to her. She stated that the stoplogs were installed for the Normandale Lake project on March 7th and the lake filled quickly, noting that the lake was full by March 14th. She noted that a plant survey will be done this summer to determine the amount of curly leaf left in the lake. She advised that quotes were received for the alum treatment and noted that HAB was the low quote at \$124,659.

The quote was below the engineer's estimate. She stated that the project was not able to be completed with a tax-exempt status, as contractors were not comfortable with the method they would need to submit quotes and may not submit quotes if setup in that manner. She stated that it is essential that the alum treatment be completed this spring and noted that the project price was still under the engineer's estimate.

Engineer Kieffer reported that all three bids received were reasonable, which was exciting to see.

Chair Peterson asked if there is an obvious reason the bid was lower than the engineer's estimate.

Engineer Kieffer stated that the alum pricing had increased last fall and therefore the estimate was adjusted up to account for that increase in pricing. She noted that if you remove the contingency the engineer's estimate falls between the quotes received.

Manager Cutshall asked why there would be a tax-exempt issue on this project and not for other projects.

Engineer Kieffer stated that typically the portion of the project cost for materials is relatively small compared to the labor costs and therefore the District does not pursue it. She stated that in this case the chemicals are a large portion of the cost and therefore it would be more desirable to pursue the tax-exempt status.

Program and Project Manager Sniegowski stated that radio tags are in hand for carp tracking and staff is awaiting ice out on Normandale Lake to begin the process. She estimated that the tagging could begin as early as next week.

D. Administrator

Administrator Anhorn noted that the next scheduled meeting should read as April 17th rather than April 7th. He stated that he spent this past week having discussions regarding high water, noting that most of the calls received were from the area below the Marsh Lake dam. He stated that staff is completing the intern interview process. He noted that he will be out on vacation the following week. He advised that the Friendship Village permit will be reviewed at the April meeting along with some potential budget amendments. He stated that things seem to be moving in the right direction on the potential salt legislation and provided an update on other legislative activity. He noted that the CAC is still looking for a liaison from the Board.

Manager Sheely stated that she would be interested in being the Board's liaison to the CAC.

Unfinished Business

A. District Office Addition LHB Scope of Work

Administrator Anhorn stated that the scope of work has been provided from LHB. He stated that he and Manager Cutshall have met with the architect to discuss the process, which would involve presentations to the necessary city entities including the Planning Commission and City Council. He noted the total cost of \$35,000.

Manager Cutshall confirmed that would be an appropriate cost for this type of project. He explained that you could double the space of the addition and the architectural costs would not be much higher, noting that a small project often has a larger cost for architecture.

Administrator Anhorn reviewed the design options that are still being reviewed.

Manager Cutshall stated that he was impressed with the architect as they would like to complete an attractive project in a cost-effective manner.

Manager Sheely moved, seconded by Manager Hunker, to authorize the Administrator to enter into a contract with LHB to complete the scope of work defined in the amount of \$35,000. Upon a vote, the motion carried.

New Business

A. 2018 Draft Annual Report and Annual Audit

- i. Draft 2018 Annual Report**
 - 1. 2018 Annual Communication**
- ii. Draft 2018 Annual Audit**

Administrator Anhorn stated that he is required to prepare an annual report which will be submit with the annual audit. He noted that drafts of both documents were provided in the packet for the Board to review and advised that the approval from the Board to submit the documents will be requested in April. He reviewed the information contained in the different reports.

B. Snowmelt Analysis

Administrator Anhorn stated that this topic was brought forward at the previous meeting and workshop. He stated that an analysis was completed in 2011 because there were similar concerns with snowmelt. He noted that the water content in the snow was higher in 2011 and therefore similar and sufficient information could be provided to the member cities by sharing the 2011 memorandum with some updates. He stated that parcels with potential flooding issues were identified so that member cities could communicate with those properties if desired. He noted that he also used the information when responding to resident phone calls that he received recently.

Chair Peterson asked if there is ongoing action needed on the topic of snowmelt because of the continued climate change.

Engineer Kieffer stated that in 2011 the snow was received earlier and therefore there was additional time to complete the analysis, whereas the snow came later this year in February. She stated that often the analysis is completed using the model of a ten-day snowmelt event and provided additional information on that analysis. She noted that the modeling uses frozen ground conditions, while typically some of the ground unthaws and some water infiltrates. She stated that perhaps there be a checklist developed that staff could review in January or February to review the ground conditions, lake levels, and amount of snowfall. She described the process that was used to update the 2011 information with the higher lake levels from this year. She noted that some lakes are more sensitive to volume while others are more sensitive to intense flows.

C. Minor Plan Amendment

Administrator Anhorn stated that following the last meeting the comment period has begun which will run from March 15th to April 15th. He noted that a public hearing will need to be held prior to the April 17th meeting with consideration of the comments and adoption of the plan amendment. He stated that at the public hearing the plan amendment will be considered along with potentially ordering the project.

Manager Hunker moved, seconded by Manager Sheely, to notice a public hearing on April 17th at 6:30 p.m. to consider the minor plan amendment. Upon a vote, the motion carried.

Manager Cutshall asked why the plan amendment is necessary.

Manager Sheely noted that it was not included in the plan.

Administrator Anhorn explained that the District is not able to complete projects that are not included in the plan. He explained that cost-share projects are completed by the applicant, whereas these projects will be completed by the District.

Engineer's Report

Engineer Kieffer had nothing further to report.

Manager Sheely asked for an update on the Story Map.

Program and Project Manager Sniegowski explained that staff met with Barr Engineering. She noted that each person was responsible for different elements of the Story Map and drafts have been submitted. She stated that Barr Engineering is compiling the information to determine if additional information is needed. She noted that the next step would be to identify the questions for the interviews that will be used for the verbal portions.

Engineer Kieffer commented that it has been a fun process and they continue to make good progress.

Manager Sheely asked for additional details on the wetland mitigation related items.

Engineer Kieffer stated that she would forward additional information on the wetland mitigation items included in the report.

Attorney's Report

Attorney Smith had nothing further to report.

Managers' Report

The Chair called for reports.

Manager Cutshall stated that perhaps part of the agenda could focus on new ideas, suggesting that perhaps that occur under the Managers' Reports in the future.

Administrator Anhorn agreed that those ideas could be brought up as part of the Managers' Report and if there are ideas that need further discussion the item could be added to a future agenda.

Manager Sheely stated that she went to the capital twice for legislative activities. She noted that the previous night she attended a meeting hosted by the Minnehaha Creek Watershed District and the Freshwater Society, which focused on small lake groups.

Adjournment

It was moved by Manager Cutshall, seconded by Manager Sheely, to adjourn the meeting at 8:45 p.m. Upon a vote, the motion carried.

Respectfully submitted,

Erin Hunker, Secretary

ATTACHMENTS:
Treasurer's Report