

**MINUTES OF THE WORKSHOP
OF THE
BOARD OF MANAGERS
OF THE
NINE MILE CREEK WATERSHED DISTRICT**

THURSDAY, AUGUST 5, 2021

I. Call to Order

President Cutshall called the workshop of the Board of Managers of the Nine Mile Creek Watershed District to order at 6:00 p.m., Thursday, August 5, 2021. The meeting was conducted by web-based video conference, pursuant to Minnesota Statutes section 13D.021, after the president determined that because of the COVID-19 pandemic, it was not prudent for the Board of Managers, or any committee thereof, to meet in person.

Managers Present: Grace Butler, Bob Cutshall, Erin Hunker, Peggy Kvam, and Larry Olson

Manager Absent: None

Advisors Present: Janna Kieffer, Louise Heffernan, Bob Obermeyer (Barr Engineering), Michael Welch (Smith Partners)

Staff Present: Randy Anhorn, Lauren Foley, and Erica Sniegowski

Others Present: Sarah Schweiger (City of Minnetonka), Kimberly Oleson and Linda Russell

Administrator Anhorn suggested the board hold its September workshop on Tuesday, August 31 at 6 p.m. The Board agreed.

II. Hearing of Permit Applications

a. NMCWD Permit 2021-71: Shady Oak Lake Outlet - Minnetonka

Engineer Obermeyer provided the project background, describing temporary actions taken to alleviate high-water conditions in Shady Oak Lake. He presented information about the proposed project – a permanent 24-inch concrete

pipe outlet system from the lake to the South Fork of Nine Mile Creek. He summarized the construction plans and explained the system includes an overflow weir and controlled gate within the outlet structure to be monitored by a sensor system informing city staff of elevations of the lake and the creek. Engineer Obermeyer noted a comparison of the controlled flow rates from the lake that this system will have compared to a gravity outlet system. He indicated that the outfall of the system is located immediately east of the creek crossing of Jorrissen Road.

Engineer Obermeyer provided information about Department of Natural Resources jurisdiction and work below the ordinary high water level of the lake. He described how the system will regulate rates flowing to the creek system as to not exceed the flow rates within the creek for the 2-, 10- and 100-year storm events. Engineer Obermeyer stated the project proposes fill in the floodplain of the creek, to be compensated onsite and within the wetland area, and noted that the city is seeking a *de minimis* exemption under the Wetland Conservation Act, which, as the WCA local government authority, it would issue itself.

Engineer Obermeyer recommended approval of the permit contingent upon general conditions, submittal of relevant Wetland Conservation Act determination, submittal of the final set of plans and operation manual of the outlet control gate, if any changes are made prior to construction, and that the applicant concurrence in the following stipulations:

- In accordance with Rule 3.4.5, buffer markers are required at the limits of the wetland on city property south of Jorrissen Road at the location of the pipe outfall to the creek.
- A written agreement for compliance with the requirements of subsection 3.4.7.
- City staff must notify the NMCWD administrator any time the outlet gate is open and submit any substantive revisions to the outlet control operations plan for review and approval by the NMCWD.

Manager Hunker asked for more information about the notification process, and Ms. Sarah Schweiger of the City of Minnetonka talked about the email notification that the on-call city's public works staff would receive. Administrator Anhorn summarized comments received about the project from the public, noting he has forwarded them on to the City of Minnetonka.

It was moved by Manager Olson, seconded by Manager Hunker, to approve the permit with the recommended conditions and stipulations. On a roll call vote, the motion was approved 5-0.

b. NMCWD Permit 2021-85: NMCWD Rosland Park BMP – Edina

Ms. Louise Heffernan of Barr Engineering Company presented the permit application review, noting the review was conducted per the District’s rules as amended effective on July 22, 2021. She displayed slides showing the proposed project’s location in Edina and summarized the project. Ms. Heffernan discussed the rules triggered and the variance request. She presented the permit review, noting that a variance is requested from the minimum and average buffer-width requirements.

Manager Butler asked about compaction issues in the buffer zone and if anything further would need to be done to remediate compaction, given equipment that may be required for maintenance of the filter backwash outlet pipe at Swimming Pool Pond. She wanted to ensure that the buffer zone can be left as uncompacted as possible. Engineer Kieffer said she doesn’t anticipate needing frequent access to the area Manager Butler is referencing for maintenance activities and doesn’t anticipate compaction being an issue, as maintenance activities would likely be completed with equipment placed in the roadway. Engineer Kieffer noted that the plan requires revegetating disturbed areas within the proposed buffer with native vegetation for final stabilization following construction of the filtration system.

It was moved by Manager Butler, seconded by Manager Hunker, to approve Permit 2021-85, including the variance and with the conditions as listed in the permit review. On a roll call vote, the motion was approved 5-0.

III. 2022 Draft Budget

Administrator Anhorn reminded the Board there was an initial presentation of the draft 2022 budget at the Board’s last meeting. He said the proposed 2022 budget is \$4,095,000, which represents a 3.5% increase over last year.

Administrator Anhorn recommended the District keep the levy the same as last year’s, at \$2,600,000, and he noted that the taxable market value of property in the watershed has gone up, while the tax burden has continued to go down. He said the proposed budget includes a \$150,000 increase in the administrative budget over last year. He explained that much of increase is to add salary and benefits for one additional full-time employee. He described some of the other areas of budget increase including office network tasks with Imagine IT, manager per diems, engineering, and accounting,

Administrator Anhorn said the proposed budget includes an increase in the District’s program budget, to nearly \$1,600,000 from about \$1,400,000 in 2021. He explained much of the increase is for lake-level monitoring and upgrading to some automated monitoring as well as an increase in groundwater monitoring, lake and

stream monitoring, targeting monitoring, and modeling. Administrator Anhorn stated he plans to have an amendment to the District's 2021 budget in front of the Board in September. He mentioned a proposed decrease to use attainability analysis studies in the 2022 budget.

There was discussion about the proposed education and outreach budget, including the status of supporting the Minnesota Water Stewards program. Manager Butler said she would like to see more budget directed to education opportunities for the District's citizens advisory committee.

Administrator Anhorn stated the 2022 proposed project budget is a decrease to \$1,500,000 from \$1,700,000. He talked about the anticipated projects and 2022 work. He pointed out that as the District decides on a wetland restoration project, the Board may need to amend its 2022 budget to add a wetland restoration project. Administrator Anhorn said with the proposed 2022 budget of \$4,095,000 and proposed 2022 levy of \$2,600,000, he recommends the District use about \$1,495,000 in 2020 project carryover and reserve funds as well as grant funds to make up the difference between the 2021 proposed budget and proposed levy amounts. The managers discussed the proposed budget and thought keeping the levy flat for 2022 was appropriate.

IV. Minnesota Association of Watershed Districts Resolution Request

Administrator Anhorn announced the District received the annual request from the Minnesota Association of Watershed District for resolutions and a timeline for submitting resolutions. He asked if the managers had issues they would like to raise. He mentioned reaching out to Metro MAWD and requesting its backing for continuing to push for a statutory liability limitation for certified chloride applicators. Manager Butler suggested she and attorney Welch work on a presentation the District could give at the February Metro MAWD meeting to educate the group on what the District is doing. She suggested partnering with the Riley Purgatory Bluff Creek Watershed District and making a joint presentation on issues each district wants to bring to the attention of Metro MAWD.

There was discussion about thinking ahead for when the MAWD request comes next year for submitting resolutions. Manager Butler remarked on the upcoming sunset of the chloride legislation and how there would be a need next year to un-sunshine the salt legislation and write a resolution for it.

V. MAWD's Policy Recommendation on the Board of Water and Soil Resources Watershed-Based Implementation Funding Program

Administrator Anhorn summarized Metro MAWD's request for a letter of support for its policy recommendation to have all watershed-based program funds in the metro area go to the 26 watershed districts and water management organizations instead of having soil and water conservation districts eligible for the funds. He said the deadline for the letter of support is mid-August prior to Metro MAWD going to a BWSR board meeting. Administrator Anhorn and the managers discussed Metro MAWD's policy recommendation as well as the District's most recent experience as part of Lower Minnesota North group and divvying up the groups watershed-based implementation funds between the members to implement specific projects and his participation in numerous meetings with between Metro MAWD and BWSR to continue to make the process more efficient.

The managers discussed the proposed policy and were not in full support of it as presented, but directed Administrator Anhorn to continue to participate in the conversations between Metro MAWD and BWSR.

VI. Adjournment

It was moved by Manager Hunker, seconded by Manager Olson, to adjourn the meeting. On a roll call vote, the motion was approved 5-0. The meeting adjourned at 8:05 p.m.

Respectfully Submitted,

Erin Hunker, Secretary