

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

THURSDAY, JULY 12, 2018

Call to Order

Chair Kloiber called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 5:30 p.m., Thursday, July 12, 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, Bob Obermeyer, Karen Wold, and Erica Sniegowski

Agenda

The agenda was approved as presented.

Permit #2018-61: Kiddie Academy Recreation Area; 7711 Computer Avenue; Grading and land alteration permit: Edina

Engineer Obermeyer stated that the project site for the permit application is located across from the old District office in Edina. He stated that the existing building would be renovated on the inside and fill material will be brought in to level out an area and create a play facility. He provided details on the elevation of the site, the inundation area, and compensatory storage, and ponding basin, noting that even though the site is inundated during large storms it is not actually within the floodplain of Nine Mile Creek or any other waterbody, so the NMCWD floodplain requirements do not apply. He stated that because of the basin the surety amount would be high at \$81,900 with an additional \$5,000 required for the District's chloride management requirements. He recommended approval of the permit subject to the condition of financial assurance in the amount of \$86,900, submission of the chloride management plan, and submission of the maintenance declaration to the District prior to it being recorded with the property.

Manager Sheely asked for details on the existing parking area for the site.

Engineer Obermeyer replied that this project will result in a reduction of about 4,500 square feet of impervious surface.

Manager Sheely moved, seconded by Manager Twele, approval of permit 2018-61, subject to the conditions and stipulations recommended by the Engineer. Upon vote, the motion carried.

Hennepin County Medical Examiner Building Pre-Permit Application Presentation

Administrator Anhorn stated that the proposed Hennepin County Medical Examiner's office will be located in the watershed, near Glen Lake, and when the application is submitted the applicant will be seeking a variance from the NMCWD wetland buffer requirement due to the location of the access road to the building. He said that while the project as proposed will meet the required wetland buffer width average, it will not meet the 20 foot minimum requirement along a portion of the access road. He further said that the applicant will also be seeking a variance to allow the road through the buffer on the southern end of the site where, due to the steepness of the area, buffer will be required to be established to the top of the slope. He stated that the purpose of this discussion is to provide additional information to the Board prior to permit submittal.

Zac Essig, Leo A Daly Engineering, review the history of the Hennepin County site and the past uses and development that has occurred as well as pointing out various natural resources features on the site such as wetlands.

Karen Gallus, Hennepin County Environment and Energy, stated that there is an existing wetland in the central portion of the 90-acre parcel on which building is proposed. She said that the county is proposing to restore the existing wetland as well as re-establish additional areas of wetland around the existing wetland to establish a wetland credit bank. She stated that the Wetland Conservation Act (WCA) provides a process to review projects that have an impact on wetlands. She said that the process includes the establishment of a Technical Evaluation Panel (TEP) that includes a member of the Board of Water and Soil Resources, the WCA local government unit (LGU), which in this case would be the City of Minnetonka, and a representative of the local soil and water conservation district (SWCD). She further said that because the Hennepin County does not have a SWCD, the county is a member of the TEP instead. The TEP would review the proposed wetland impacts as part of the medical examiner's building project. She stated that the goal of the WCA is to avoid and diminish wetland impacts. She stated that when avoidance of wetlands is not possible, mitigation is required. She stated that the wetland-banking project has been placed on hold until the medical examiner's building project is completed. She estimated that 12 acres of wetland credit would be created through the banking process.

Mr. Essig identified the 24 acres that would be buildable after eliminating the areas that are unbuildable because of wetlands, wetland buffer and tree preservation. He reviewed the options the development team had reviewed for potential road access to the proposed building site and the challenges that makes those options infeasible. He stated that the proposed location was chosen because it would protect the greatest number of trees while avoiding wetlands and affording the necessary building pad. He stated that a variance would be needed for not meeting the minimum buffer width along the road on the southern end of the wetland. He stated that in the area along the proposed road there would only be room for a 10-foot buffer as opposed to the

required 20-foot minimum. He said that approval of a variance from the minimum buffer width would maximize the potential for future wetland bank credits because there would be no wetland fill. He further stated that the proposed road would have a series of stormwater-treatment features, including ditches, curbing, and infiltration basins, with the goal of possibly exceeding the District's water-quality requirements, treating runoff for as much as a 10-year event. He stated that the road would be private and would be maintained by Hennepin County staff, who would adhere to the eventual chloride-management plan required through the District's rules. He stated that site will maintain the natural environment to the greatest extent possible and would allow preservation of trees. He added that the new medical examiner's facility is needed because of the increased need for autopsy tables throughout the metro as well as providing needed training space.

Chair Kloiber stated that there had been mention of a bonding request at the legislature and asked if that was approved.

Tom Powers, Leo A Daly Engineering, replied that the bonding was approved, although not for the full amount the county was seeking.

Mr. Essig said that to recap the eventual variance requests, one of the hardships is the need to maintain the large wetland credit banking opportunity while minimizing other impacts to the project design. He said that the development team is open to any feedback that the managers may have.

Administrator Anhorn referenced the minimum wetland buffer variance and asked if that 10 foot distance figure is still fluid, or if the designers could still make that a bit wider.

Mr. Essig confirmed that the road design is still in flux but noted that when they submit a permit request they will have solid data to present supporting the design while trying to make the buffer in the area as wide as possible.

Manager Peterson asked for information on the chloride plan.

Mr. Essig confirmed that because the road will need to be open and accessible year-round, it is important that it not be icy, and with this in mind, they would implement a typical chloride management plan for the facility that would meet District requirements. He said that the parking areas would be maintained by county staff as well. He stated that there would be a robust treatment system along the roadway in an effort to go above and beyond requirements. He stated that the tiered walls between the road and the wetland would be about seven feet high with guardrail and step-ups. He noted they would be gabion style that over time could be vegetated.

Manager Sheely stated that the county has a huge property to work with and asked for additional input on the constraints that lead to the expected variance. She stated that she understands that it is rolling site with a lot of topography, but she is disappointed that the county would request a variance, then submit a wetland banking request in the future. She referenced another road option that would go through the woodland preserve area and wondered why that option was not selected. She asked the long-term plan for the county, as this will likely not be the

only thing that the road is being used for in the future. She was unsure that all the future needs of the property were considered and how hard the applicant thought to avoid the wetland buffer variance.

Manager Twele asked if a bridge would be an option.

Mr. Essig stated that a bridge was considered but would have a high cost. He noted that the woodland area is a heavily protected city tree preservation area.

Manager Sheely stated that she would like to hear additional information as this moves forward as to why the road cannot be put in another place. She stated that there will be other developments on the site and additional road accesses will be needed in the future. She stated that a bridge across the center seemed to provide a good option. She stated that Minnetonka did a massive planning study for the Glen Lake area at one point because there was a proposal for multi-family housing. She asked if nothing else would be located on the triangle portion of the property to the northeast of the proposed building, which is also developable. She stated that if the triangle is developed, the bridge would then be needed to access the area. She believed that a bridge would be a beautiful amenity for the property as well as avoiding wetlands. She stated that this is an issue of proper long-term planning.

Mr. Essig stated that to his knowledge, the county has no intention of selling any of the property to a developer.

Mr. Essig stated that they will need to have conversations with their client on master planning for the site.

Manager Sheely stated that she wants to ensure that someone looked at the plans Minnetonka created for the area, which included plans for potential access roads. She stated that this is the second time since the new rules have been implemented that a variance request from the District's wetland buffer rule is coming forward. She stated that this is a great site for the project and the proposed site location is the premium spot on the parcel with a great view. She did acknowledge that the location does have some limitations with the topography of the location and the protection necessary of the tamarack bog to the east.

Chair Kloiber stated that the parcel will most likely develop one way or another and therefore you have to contend with the best way to get to that side of the property with the least impact. Attorney Welch asked if the wetland bank would be made available publicly or would be used solely by county.

Ms. Gallus confirmed that the intention for wetland banking would be to support county projects, at least in part.

Administrator Anhorn noted that there had been discussions for part of the credits to be available for sale and the remainder to be used for road projects jointly with the Board of Water and Soil Resources and the county and for general county use.

Ms. Gallus stated that the prospectus for the wetland banking plan has already been developed and had been put out for comment to the TEP, and no comments were received, but has now been put on hold.

Attorney Welch stated that it appears the buffer average is met and asked if the buffer on the other side of the road from the wetland is counted toward the total.

Mr. Essig confirmed that the buffer averaging would be met and that there are areas where more buffer could be added to actually exceed the required average.

Attorney Welch asked if the applicant was speaking about addressing wetland buffer needs under a city ordinance. He explained that although the City of Minnetonka is the WCA LGU, because the city did not want to take on the wetland buffer components of the District's rules, the District buffer rules apply here.

Mr. Essig acknowledged that the District's wetland buffer requirements apply to the project.

Karen Wold, a wetland specialist with the District engineer, Barr Engineering, stated that at some point there was discussion of contaminated materials on the property that would be excavated, and that would need to be accounted for in project planning. She was unsure if that would impact the buffer average.

Manager Hunker asked if soil borings have been done.

Mr. Essig stated that a few borings have been completed in different areas of the site and provided additional details.

Chair Kloiber referenced the tamarack area, noting that he has been in that area and estimates that it is a stressed version of a tamarack bog. He stated that whole area either gets too much water or too many nutrients. He stated that perhaps there are things that could be done to enhance that area, noting that in some instances WCA gives credit for improvement of features.

Attorney Welch asked and received confirmation that the applicant has secured a type and boundary determination from Minnetonka as the LGU.

Chair Kloiber thanked the representatives of the Hennepin County project for presenting.

Wetland Conservation Act Presentation

The board received a presentation from the attorney regarding the primary features and operation of the Wetland Conservation Act. Ms. Wold contributed to the presentation as well.

It was the consensus of the managers that they sometimes feel that they don't have necessary information to ask informed questions on WCA decisions they are asked to make, and perhaps staff could provide detailed bullet point information in a staff report so they have

additional background information on WCA reviews. Board questions on the WCA documents should be directed to Administrator Anhorn.

It was the board consensus to continue to encourage applicants to provide onsite wetland replacement whenever possible.

The managers expressed interest in finding a substantial restoration opportunity in the watershed, and the engineer agreed to redistribute the high-value wetlands inventory he had produced several years ago.

Administrator Anhorn asked the managers to bring their calendars to the next meeting to discuss possible special meeting dates for the end of July/early August to review the 2019 budget.

Adjournment

It was moved by Manager Sheely, seconded by Manager Hunker, to adjourn the meeting at 7:53 p.m. Upon a vote, the motion carried.

Respectfully submitted,

Grace Sheely, Secretary