

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

WEDNESDAY, JUNE 16, 2021

I. Call to Order of the Public Hearing

President Cutshall called the Public Hearing of the Board of Managers of the Nine Mile Creek Watershed District to order at 6:45 p.m., Wednesday, June 16, 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

Advisors Present: Janna Kieffer (Barr Engineering) and Michael Welch (Smith Partners)

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

Others Present: Jordan Vennes, City of Richfield

II. Public Hearing on Proposed Revisions to the District's Rules: Draft Rules and Proposed Changes Matrix

Chair Cutshall stated the District developed the proposed rule revisions to correct, improve, or clarify the operation of certain specifics in the rules, primarily housekeeping changes, and to implement policy and programmatic improvements to streamline the operation of the rules. He said the explanation for each of the specific proposed changes is documented in the proposed changes matrix provided with the proposed rules revisions and can be found on the District's website.

Chair Cutshall reported the District's Technical Advisory Committee reviewed an advanced draft of the proposed rules revisions with staff on April 27, 2021, resulting in a

couple of changes. He explained the District released the proposed rules revisions on May 24, 2021, for the 45-day public comment period. Chair Cutshall stated the purpose of this public hearing is for the District to receive public comments about the proposed rules revisions. He added that written comments can be submitted to the District through July 7th, and the Board will discuss the comments at its July 21, 2021, Regular Board meeting.

Chair Cutshall opened the floor for public comments. The Board provided time for receiving public comments. Chair Cutshall called for public comments. No comments were raised.

III. Adjournment of Public Hearing

Upon calling for and hearing no public comments, Chair Cutshall called for a motion to adjourn the public hearing.

Manager Olson moved, seconded by Manager Butler to adjourn the public hearing at 6:55 p.m. On a roll call vote, the motion was approved 5-0.

I. Call to Order of the Regular Meeting

Chair Cutshall called the Regular Meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, June 16, 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

Advisors Present: Janna Kieffer and Michael Welch

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

Others Present: Jordan Vennes, City of Richfield

II. Approval of Regular Meeting Agenda

Administrator Anhorn noted an addition to the agenda to add permit 2021-71 Shady Oak outlet under the hearing of permit applications.

Manager Butler moved, seconded by Manager Kvam to approve the meeting agenda as modified. On a roll call vote, the motion was approved 4-0 [Manager Olson absent from vote].

III. Reading and Approval of Minutes

a. Draft Minutes of the May 19, 2021, Regular Board Meeting

Manager Butler noted a change on page 2 to modify the language to state “the proposed outlet.”

Manager Hunker moved, seconded by Manager Butler to approve the minutes of the District’s May 19, 2021, Regular Board Meeting as amended. On a roll call vote, the motion was approved 5-0.

IV. Public Open Forum

Mr. Jordan Vennes, water resources engineer for the City of Richfield, introduced himself.

V. Consent Agenda

- a. Administratively Approved Permits**
- b. Permit Inspection Report**
- c. NMCWD 2022 Budgetary Meeting Schedule**
- d. Staff Reports**
 - i. Permit and Water Resources Coordinator**
 - ii. Education and Outreach Coordinator**
 - iii. Program and Projects Manager**
 - iv. Engineer’s Report**

The Board accepted the consent agenda by unanimous consensus.

VI. Hearing of Permit Applications

a. Permit 2021-71 Shady Oak Outlet

Administrator Anhorn provided an update on the regulatory review of the City of Minnetonka’s Shady Oak outlet proposals, noting that the NMCWD engineers continue to receive supporting materials and that the 60-day review period will expire before the next board meeting. Attorney Welch recommended the board extend the review period by another 60 days, as allowed by law, to provide sufficient time to review the application.

Manager Butler moved, seconded by Manager Hunker to extend the review of Permit 2021-71 Shady Oak Lake Outlet by 60 days. On a roll call vote, the motion was approved 5-0.

VII. Treasurer's Report and Minnesota Native Landscapes Pay Application for Discovery Point Raingarden

Manager Olson reviewed the invoices. Administrator Anhorn highlighted the pay application from Minnesota Native Landscapes in the amount of \$42,654.00 for construction of the Discovery Point rain garden and their \$1,500 invoice for separate maintenance work. Administrator Anhorn talked about three other checks he has administratively approved that will need to be signed but will be part of next month's Treasurer's Report: an adjustment of LMCIT workers compensation, an invoice for mowing services, and an invoice for Metro Watershed Partners for Adopt-A-Drain.

Manager Butler moved, seconded by Manager Hunker to accept the Treasurer's Report and pay the bills including the Minnesota Native Landscapes invoice in the amount of \$42,654. On a roll call vote, the motion was approved 5-0.

VIII. Administrator's Report and Correspondence

Administrator Anhorn noted his report is in the meeting packet, and he highlighted items from the report. He pointed out some of the items the Board will discuss at its July 21 regular Board meeting, such as comments received on the Board's proposed rules revisions. He said there is no Board workshop scheduled for July. Administrator Anhorn said the District has included educational messaging in its newsletter and on the District's website regarding blue-green algae.

Administrator Anhorn stated he is scheduled to be out of town on the date of the Board's August 18th meeting, so at the July meeting he would like to discuss changing the date of the Board's August regular meeting or the idea of participating remotely. Administrator Anhorn commented on correspondence the District received from Hennepin County regarding analysis performed by Hennepin County and Freshwater Society of landslide susceptibility throughout the area. He said areas in the Nine Mile Creek watershed near the Minnesota River have been identified as high risk. He explained that the county has scheduled a briefing, and he will share the details when he receives them.

Manager Hunker raised a question about the status of watershed-based implementation funding. Administrator Anhorn said he will add an update about it to the Board's next regular meeting agenda.

IX. Unfinished Business

a. Wetland Restoration Protection Plan Request for Proposals

Administrator Anhorn summarized the RFP, previously discussed by the Board. He said the deliverables include recommendations for implementing wetland protection strategies for four wetlands, assistance in prioritizing the potential wetland-protection activities, and a detailed feasibility study of one project.

He went through the schedule, including awarding the work at the Board's August 3 meeting and completing the work no later than April 2022. Administrator Anhorn said the Board discussed at a previous Board meeting that this RFP will be distributed to the District's engineering pool. The managers indicated agreement.

Manager Olson moved, seconded by Manager Kvam to distribute the Wetland Restoration Protection Plan RFP to the District's engineering pool. On a roll call vote, the motion was approved 5-0.

b. Draft Aquatic Invasive Species Rapid Response Plan Update

Administrator Anhorn reminded the Board that the District started discussing the development of the District's AIS management strategies, including a rapid response plan in 2019. He went through the District's work to develop an AIS rapid response plan, and he shared the draft plan. Administrator Anhorn asked managers to provide comments and edits, and said after revising based on the comments received, the updated draft will go out to reviewers for their comment.

X. New Business

a. Return to In-Person Meetings and Return to Office

Administrator Anhorn summarized points made at the Board's previous meeting, including potentially holding the Board's July 21st meeting in person, that all staff and consultants would send in their vaccination cards, and one week prior to each meeting, he, Chair Cutshall, and potentially attorney Welch will look at the data regarding cases of COVID-19 in Hennepin County to understand trends. He said if the data show that new cases in the county are fewer than 250, the meeting will be held in person. Administrator Anhorn talked through other details about how the return to in-person meetings, such as requiring visitors to wear masks in the District's office and physical distancing.

Attorney Welch advised the managers that hybrid meetings, where some managers would attend in person and others via interactive technology, do not comply with the Open Meeting Law.

Manager Butler provided comments regarding input she received from certain public groups and their concerns about how the amount of space in the District's office could limit the number of attendees at in-person meetings. She raised additional points, noting that 250 new-cases number was a number she considered an indicating number but doesn't mean it is the correct number. Administrator Anhorn said he will investigate other possible meeting locations and update the Board and staff prior to needing to notice the meeting. Manager Butler suggested the Board's August 3rd workshop should be the District's first in-person meeting, and it should be held at Minnetonka City Hall.

The Board and staff agreed to hold the July 21st regular meeting remotely and start holding in-person meetings starting with the Board's August workshop. Administrator Anhorn said the District will reopen its office to the public starting July 6th. The Board and staff discussed details to consider about opening up the office and staff work schedules.

b. Discovery Point Chimney Work

Administrator Anhorn said he received three estimates for the work and two that are under \$5,000. He said he plans to administratively move forward with one of those two quotes.

XI. Attorney's Report

Attorney Welch reported that Craig Leiser of Brown's Creek Watershed District has retired.

XII. Managers' Reports

Manager Butler commented she went on a three-hour walk along the 106th Nine Mile Creek section and saw where the creek meets the Minnesota River.

XIII. Adjournment

It was moved by Manager Olson, seconded by Manager Butler to adjourn the meeting at 8:10 p.m. On a roll call vote, the motion was approved 5-0.

Respectfully Submitted,

Erin Hunker, Secretary