

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

**WEDNESDAY, JULY 18, 2018**

**Call to Order**

Chair Kloiber called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, July 18, 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, Louis Smith, Bob Obermeyer, Jana Kieffer, and Erica Sniegowski

**Agenda**

Administrator Anhorn requested to move Permit #2018-85 from the consent agenda to the hearing of permit applications as the review memorandum has been updated.

Chair Kloiber referenced Permit #2018-74 and asked why that was on the consent agenda as the scope of the project appears to be large.

Administrator Anhorn stated that the permit is pretty straightforward and that's why it was put on the consent agenda.

Chair Kloiber stated that he would like additional detail on that permit and suggested that permit be moved to the hearing of permit applications as well.

**Manager Hunker moved, seconded by Manager Peterson, to approve the agenda with this change. Upon a vote, the motion carried.**

**Reading and Approval of Minutes**

The Chair called for review of the minutes of the Regular Meeting of June 20, 2018. The Managers provided minor grammatical changes to staff.

**Manager Twele moved, seconded by Manager Sheely, to approve the minutes subject to the minor edits passed on by the managers. Upon a vote, the motion carried.**

## **Public Open Forum**

No comments.

## **Noah and Associates Salary Survey**

Administrator Anhorn stated that direction had previously been given by the Board to have an updated salary survey completed by Noah and Associates.

Sara Noah, Noah and Associates, reviewed her survey results with the Board and staff. She noted that data was collected from the public, private and not for profit sectors in order to give the Board a full picture of the market. She explained that because the surveys were done at different times, she then aged the data to match today's market. She provided additional details on the report done for the Administrator position. She stated that it is not unusual that there is a range within the report because of the range of entities that she collects data from. She noted that there are not a lot of watershed districts and therefore similar positions within municipalities and counties are also reviewed to provide a broad view of the marketplace. She stated that the information is then used to find the low and high ranges for the position. She provided additional details on a job family approach that was developed working with staff, which will provide steps for the case when an employee is promoted to another position within the organization. She provided additional details on the different zones.

Administrator Anhorn noted that this is simply for informational purposes at this point and will be used in budgeting and salary discussions in the future.

Manager Hunker asked if all forms of compensation are compared, including benefits, or whether this is just salary.

Ms. Noah replied that the report only includes salary.

## **Consent Agenda**

Chair Kloiber noted that Permit 2018-074 should be pulled for board discussion. Mr. Anhorn requested that Permit 2018-085 also be pulled for discussion.

- A. **Administratively Approved Permits**
- B. **Permit Inspection Report**
- C. ~~**Permit #2018-74: Bloomington Senior Housing; 6701 West 78<sup>th</sup> Street, Bloomington**~~
- D. **Permit #208-76: Victoria Pond Sediment Removal; 4801 West 81<sup>st</sup> Street and 4851 American Boulevard West, Bloomington**
- E. **Permit #2018-84: Parking Lot Improvements; 5215 Edina Industrial Boulevard, Edina**
- F. ~~**Permit #2018-85: Centennial Lake Park Bridge Replacements; 7499 France Avenue South, Edina**~~

Upon a question from Chair Kloiber, Mr. Smith noted that Items A and B on the Consent Agenda did not require board approval, but simply acceptance, as the noted permits had already been issued by the Administrator and the inspection report only requires board acknowledgment and acceptance. **Manager Peterson moved, seconded by Manager Twele, to approve the Consent Agenda with these changes. Upon a vote, the motion carried.**

### **Hearing of Permit Applications**

#### **A. Permit #2018-74: Bloomington Senior Housing; 6701 West 78<sup>th</sup> Street, Bloomington**

Engineer Obermeyer presented the permit request and proposed plans. He stated that the site has been vacant for an extended period of time. He provided details on the impervious surface calculations for the proposed four-story senior housing and adult daycare facility. He stated that the City of Bloomington is the LGU for WCA requirements. He provided information on the different wetlands and buffer requirements. He provided details on the stormwater management system proposed by the applicant. He recommended approval of the permit contingent upon the standard conditions including surety in the amount of \$130,200, necessary easements for buffer and volume retention area, submission of the maintenance declaration, and submission of a chloride management plan.

Manager Sheely stated that realistically there is not a change in the footprint from the previous building that existed years ago.

Chair Kloiber stated that this will be a lot more water quality treatment than would have been provided through straight redevelopment if the building was reused.

Laura Clarens, Kimley Horn and Associates, provided additional details on the discharge rate to the existing pond.

**Manager Peterson moved, seconded by Manager Twele, to approve the permit subject to the noted conditions. Upon a vote, the motion carried.**

#### **B. Permit #2018-85: Centennial Lake Park Bridge Replacements; 7499 France Avenue South, Edina**

Administrator Anhorn noted that this item was removed from the consent agenda as the memorandum had been updated. He stated that the staff recommendation remains the same and the memorandum simply contained additional details requested by legal counsel.

Engineer Obermeyer confirmed that he simply added the additional detail requested by legal counsel.

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

**C. Permit #2018-90: Normandale Lake Improvement Project: Normandale Lake, Bloomington**

Administrator Anhorn stated that there has been internal staff discussion on the best method to address a variance to rule 2.3.2. He stated that either a variance or an exception could be granted.

Engineer Kieffer stated that the project complies with all the rules with the exception of fill, found under rule 2.3.2. She explained that as part of the project the District will install a temporary weir that will hold the upstream water level up when the District drains the lake. She noted that all of the construction will be under the normal water elevation. She stated that while the District would put fill below the 100-year flood elevation, it would be below the area that influences flood elevation and therefore there will not be an impact and that could be justification for an exception.

Attorney Smith stated that this is the District project and everyone on the District team takes the position that this project should be an example to everyone else in the watershed and the rules should be applied to this project in the way they would be in any other case. He stated that at the same time, this project is unique as the District is undertaking the project to increase the long-term health of the lake, rather than a typical development project. He noted the difference between a variance and exception, reviewed the criteria that must be considered for a variance and noted that an exception is less focused on a hardship and more focused on whether the natural resource benefits outweigh the noncompliance. He stated that the staff opinion is that an exception would be better fitting in this instance, with less emphasis on hardship as the project will protect and enhance the natural resource. He recommended that staff also be directed to revise the report to include this information.

Manager Peterson asked if there would be an issue with fish getting over the weir.

Engineer Kieffer stated that the weir would somewhat hinder fish passage but noted that there will be some flow that will allow passage. She stated that although not ideal, there will be some impacts for fish passage. She stated that the DNR has a work restriction from March 15<sup>th</sup> through June 15<sup>th</sup> to promote fish spawning and passage. She noted that the DNR would prefer that the barrier be taken out after June 15<sup>th</sup>.

Chair Kloiber noted that the fill is temporary.

Engineer Kieffer confirmed that the fill for the weir would be removed between June 15<sup>th</sup> and June 30<sup>th</sup> of 2019. She provided additional details on the four cubic yards of fill that will be permanent and used for the rip rap.

Chair Kloiber noted that any impacts would be marginal and would be vastly outweighed by the benefits of the project.

In response to a question from Manager Sheely, Attorney Smith stated that both the temporary and permanent fill should be included in the exception as they both assist in enhancement of the natural resource.

**Manager Peterson moved, seconded by Manager Hunker, to approve the permit subject to the noted conditions and a finding of an exception for the fill below the floodplain and to direct staff to revise the permit report accordingly. Upon a vote, the motion carried.**

### **Treasurer's Report**

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

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

### **Staff Reports**

#### **A. Education and Outreach Program Coordinator**

Program and Project Manager Sniegowski noted that Education and Outreach Coordinator Zembal submitted a written report. She noted two upcoming Master Water Steward informational sessions and advised that the District is recruiting for the next cohort. She encouraged the Managers to spread the word that the District is looking for new recruits, as word of mouth is often the best advertising for the group.

Manager Sheely asked if there is an informational sheet that she could share with potential recruits.

#### **B. Program and Project Manager**

Program and Project Manager Sniegowski reported that the first electrofishing occurred on July 16<sup>th</sup> and provided details. She noted that the DNR is willing to restock fish in Normandale next year following completion of the District project.

##### **i. Change Order 1 – Phase 2 Landscape Restoration**

Program and Project Manager Sniegowski stated that the details on the change order were provided in the Board packet. She noted that this will replace the trees that were damaged from deer or that had died off and the amount is included in the 10 percent allotted. She confirmed that deer protection will be installed to protect these trees.

### **C. Administrator**

Administrator Anhorn provided an update on recent activity on the update of the Cornelia Lake Use Attainability Analysis (UAA) study, noting the large number of goldfish that were found in the lake during the recent electrofishing event. He stated that he will be on vacation during the beginning of August. He stated that he has obtained quotes for temporary office space in the interpretive room. He referenced and passed out a letter that the District received regarding an approved permit, asking the city to cease construction activities on the pickleball court due to the siting of a rusty patched bumble bee.

Attorney Smith stated that in this case, absent more information, the District is not in a position to issue a cease and desist order as the application met the appropriate conditions. He stated that absent noncompliance with the permit, the District is not in the position to issue a stop construction order.

Manager Peterson asked how the specific rusty patched bumble bee was identified and how it was determined that is habitat.

Chair Kloiber stated that the issue appears not to be in the jurisdiction of the Watershed District.

Manager Twele stated that the letter was addressed to the City of Minnetonka and not the Watershed District.

Administrator Anhorn stated that he inspected the site after receipt of the letter and everything is within compliance with the District's permit. He stated that staff would like to schedule a workshop in late-July or very early August to discuss the 2019 draft budget and to select a contractor for the Normandale project. He provided potential dates for the workshop and the consensus of the Board was to hold a workshop at 6:00 p.m. on July 31<sup>st</sup>.

### **Unfinished Business**

#### **A. Edina Creek Stabilization Project – Phase 2**

##### **i. Engineer's Award Recommendation**

Administrator Anhorn stated that bid opening for phase two of the Edina creek stabilization project occurred and three bids were received. He reviewed the bids received and compared that to the engineer's estimate for the project. He noted that as discussed previously, staff would talk about a strict project schedule for completion of the project with the contractor. He stated that staff recommends contracting with Sunram Construction for the project.

**Manager Peterson moved, seconded by Manager Sheely, to authorize the Administrator, on advice of counsel, to enter into an agreement with Sunram Construction for implementation of Phase 2 of the Edina Streambank Stabilization project for an amount not to exceed \$472,612.00 and to further authorize the Administrator authority to**

**approve change orders in aggregate of 10 percent of the contract amount and take such further action as deemed necessary to undertake the project. Upon a vote, the motion carried.**

**B. Cost Share Grant Program**

**i. MWS Cost Share Application**

Program and Project Manager Sniegowski stated that a cost share application was included in the Board packet for the installation of a rain garden by two Master Water Stewards. She recommended approval of funding. She noted that this would require a five-year maintenance agreement.

Chair Kloiber stated that perhaps in the future, because this is a budgeted item, authority should be given to the Administrator to approve Master Water Steward projects. Following discussion, it was the consensus of the board that the administrator be given the authority to approve Master Water Steward project applications.

Program and Project Manager Sniegowski noted that discussion will be included in the next agenda item under policies.

**Manager Hunker moved, seconded by Manager Sheely, to authorize the Administrator to enter into an agreement for the cost-share project in the amount of \$943.21. Upon a vote, the motion carried.**

**ii. Cost Share Policies**

Program and Project Manager Sniegowski stated that this item was prompted by the discussion of both the Board and CAC. She stated that a review of the program was done and reviewed the six recommendations which were developed as a part of the discussions.

Chair Kloiber stated that perhaps all the grant caps are raised but a limit is put on a project's line item amount that can be spent on buckthorn removal.

Program and Project Manager Sniegowski recognized that this is a balance but believed after ten years that the maximum amounts should be raised in order to cover increases in costs and construction costs. She also recommended that projects be allowed to be managed over the period of two years to allow the necessary time for proper activities to occur.

Chair Kloiber suggested that language be included that the project must address water quality in some manner, noting that buckthorn removal could be a component but should not be a standalone project.

Program and Project Manager Sniegowski stated that the District has conducted buckthorn removal on its property and therefore would be concerned with adding that limitation. She stated that she would not have a problem continuing to allow buckthorn removal but water

quality projects could be considered higher in ranking criteria, if that was the decision of the board. .

Manager Sheely stated that perhaps the District should identify targeted areas for projects. She stated that she has been wrestling with the recommendations but believed that additional work should be done to target other larger projects.

Program and Project Manager Sniegowski stated that priority areas have been identified within the watershed, which was developed through the Clean Water Fund planning grant project that helped identify opportunities in partnership with non-profits, but could apply to other programs and participants as well.

Administrator Anhorn noted that as will be highlighted as part of the upcoming discussion on the 2019 draft budget, a potential added staff person could handle some of the cost-share duties and would hopefully have a more technical background and could promote and market to specific properties.

Program and Project Manager Sniegowski stated that perhaps this item be tabled for further discussion.

Chair Kloiber stated that he would be in agreement with increasing the cost-share maximums, as they have not been adjusted, and would provide additional flexibility in completing larger projects. He stated that he would also support balancing buckthorn removal with other objectives so that staff does not get overloaded with requests.

It was the consensus of the Managers to increase the maximum cost-share amounts and that further discussion should occur on buckthorn removal, whether that be allowed as a component of a larger project or a lower limit be placed on that line item. There was consensus to increase the maximum on in-kind labor costs. There was also consensus that the Administrator can approve Master Water Steward applications.

It was noted that this item will be further discussed at the next Board workshop on July 31<sup>st</sup>.

### **C. Meeting Agenda/Minutes**

Administrator Anhorn stated that the Board provided direction for staff to further investigate the cost of tablets for Board use. He stated that costs were provided in the packet for four different options.

Chair Kloiber stated that he would support the 9.7-inch sized iPads.

Administrator Anhorn confirmed the consensus of the Board to purchase five of the 9.7-inch sized iPad tablets for Board use.



Manager Hunker stated that she would prefer to have the compatible keyboard which would allow the Managers to easily take notes.

**Manager Sheely moved, seconded by Manager Hunker, to authorize the Administrator to spend up to \$5,000 to purchase five tablets for Board use. Upon a vote, the motion carried.**

Administrator Anhorn stated that the Board previously discussed the topic of minutes and direction was given for staff to investigate other possible options. He reviewed the data that he obtained, noting that some entities take minutes in-house, some entities use TimeSaver, and two other entities use a different service. He stated that for the entities that use minute taking services, the minutes do come in draft form and some staff time is spent reviewing the minutes. He stated that the recommendation from staff is to remain with TimeSaver, noting that staff does not spend a lot of time amending the minutes. He asked for Board direction on the amount of detail desired.

Manager Sheely stated that she believes that the minutes capture the discussion pretty well. She stated that some discussion could be reduced if an item is not controversial.

Manager Twele stated that it is not the responsibility of TimeSaver to make the decision on what should be removed and should be the responsibility of staff.

It was the consensus of the Board that they continuing contracting with TimeSaver Offsite Secretarial to draft the District's meeting minutes and it would be the responsibility of staff to strike unnecessary comments when reviewing the draft minutes.

## **New Business**

### **A. 2019 Draft Budget**

Administrator Anhorn stated that he has met with Chair Kloiber and Treasurer Twele for preliminary discussion on his initial draft budget for 2019. He reviewed the preliminary draft budget and levy amounts. He presented and provided a general overview of the proposed budget spreadsheet and associated memo and noted that proposed changes have been highlighted in yellow and provided a brief summary of some of the proposed increases/decreases. He noted that reserve funds would be used to cover the difference between the levy and budget amounts. He noted that additional details will be reviewed in depth at the upcoming budget workshop on July 31<sup>st</sup>.

## **Engineer's Report**

Engineer Kieffer highlighted the bid opening date for the Normandale Lake project. She noted that a survey was done on the areas upstream of Normandale to determine the impact of curly leaf pondweed in those areas and whether an herbicide treatment would be beneficial next year in those areas. She provided an update on a recent public meeting the District held to kick off the UAA update for Lake Cornelia.

Administrator Anhorn stated that following the discussion at the WCA workshop, staff will look to add information to the Engineer's Report on which wetland TEPs the District was involved in and which might come back to the Board in a variance request.

**Attorney's Report**

Attorney Smith had nothing further to report.

**Managers' Report**

No additional comments.

**Adjournment**

**It was moved by Manager Sheely, seconded by Manager Peterson, to adjourn the meeting at 9:18 p.m. Upon a vote, the motion carried.**

Respectfully submitted,

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Grace Sheely, Secretary

ATTACHMENTS:  
Treasurer's Report