

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

**WEDNESDAY, JUNE 19, 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, June 19, 2019, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

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

Managers Absent: None.

Advisors Present: Randy Anhorn, Michael Welch, Louis Smith, Janna Kieffer, Katie Turpin-Nagel, Erica Sniegowski, and Lauren Foley

**Agenda**

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

**Reading and Approval of Minutes**

Chair Peterson called for review of the minutes of the Regular Meeting of May 15, 2019. The Managers provided minor grammatical changes to staff.

**Manager Sheely moved, seconded by Manager Hunker, to approve the minutes of May 15, 2019 subject to minor corrections. Upon a vote, the motion carried.**

**Public Open Forum**

There were none.

**Consent Agenda**

- A. **Permit Inspection Report**
- B. **Permit #2019-63: Fred Richards Playground: Northeast corner of Fred Richards Golf Course – Parklawn Avenue and Nine Mile Creek Regional Trail; Grading and land alteration permit: Edina**

Engineer Kieffer distributed an updated review memorandum for Permit #2019-63, which modifies the language of the fourth recommended condition to state that the applicant must submit plans showing buffer area compliant with NMCWD requirements before the permit can be issued.

Manager Sheely asked if there are additional active permits that are not included on the inspection report.

Permit and Water Resource Coordinator Foley provided background information on how the report has evolved. She stated that she did a lot of research to narrow the report. She explained that some of the permits included on the original report never moved forward, some continued to be listed on the report but were not active, and some active permits do not need to be inspected each month.

Administrator Anhorn stated that the District has permits in various stages and the inspections are done for erosion control purposes. He noted that even if the District had 300 active permits, perhaps only 50 of those require inspection.

Permit and Water Resource Coordinator Foley stated that she is working to develop a system where points are given to a project depending on various components of the project such as size, amount of impervious, vicinity to a water resource, etc., where a higher point value would result in the need for more frequent inspections.

Manager Kloiber stated that perhaps categories could be added showing the total number of permits and an estimation of permits with ongoing construction activity.

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

### **Hearing of Permit Applications**

There were none.

### **Treasurer's Report**

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

Engineer Kieffer stated that there are two pay requests to consider. She stated that the invoice from HAB is full payment for the work done for the alum treatment on Normandale Lake. She recommended approval. She reviewed the invoice from Rachel Contracting which

covers miscellaneous items related to site restoration over the past few months in the area near the bypass pipe. She also recommended payment of that request.

**A. HAB Aquatic Solutions Pay Request**

**Manager Sheely moved, seconded by Manager Hunker, to approve the pay request to HAB Aquatic Solutions in the amount of \$124,659.20. Upon a vote, the motion carried.**

**B. Rachel Contracting Pay Request**

**Manager Kloiber moved, seconded by Manager Sheely, to approve the pay request to Rachel Contracting in the amount of \$19,051.84. Upon a vote, the motion carried.**

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

Administrator Anhorn stated that after the Treasurer's Report was completed, a permit was closed with a release of escrow. He noted that the item can be included on the next Treasurer's Report but asked for authorization from the Board to sign and release the check.

Attorney Welch stated that the Board needs to approve the release of payment but noted that for accounting the item could be included in the Treasurer's Report for the following month.

**Manager Cutshall moved, seconded by Manager Kloiber, to execute the check to Daniel and Julie Desrocher for the release of escrow on Permit #2017-01 in the amount of \$20,000. Upon a vote, the motion carried.**

**Staff Reports**

**A. Permit and Water Resource Coordinator**

Permit and Water Resource Coordinator Foley stated that she has spoken with Minnehaha Creek Watershed District about a similar inspection point system to what she described earlier that they developed, to determine how she could implement a similar program for inspections.

Manager Cutshall commended Permit and Water Resource Coordinator Foley for reaching out to another watershed district and utilizing that resource to further tweak the inspection program.

**B. Education and Outreach Program Coordinator**

Program and Project Manager Sniegowski stated that she can address any questions the managers may have on anything in the Education and Outreach Coordinator's monthly activity memo provided in the meeting packet. There were no questions.

**C. Program and Project Manager**

Program and Project Manager Sniegowski stated that in regard to the nonprofit project, the request for quotes is out and responses are due Tuesday at 10 a.m. She noted that there should be a final draft of the Story Map done by Monday at the latest and will send that to the Managers for high-level comments. She noted that the goal is to launch the Story Map in conjunction with the summer tour on July 10<sup>th</sup>. She stated that the tour will begin at 5:30 p.m. on July 10<sup>th</sup> at Bloomington Public Works. She noted that an emailed invitation will be sent within the next few days. She stated that this week she also took NMCWD summer intern Megan Jester out to train her on cost-share inspections. She referenced an upcoming bike tour this weekend and asked if any Managers are planning to attend. She believed that the event is setup for 15 to 18 people, noting that Sunday is the backup day if the weather does not cooperate on Saturday.

Manager Sheely stated that while she had registered for the bike tour, she was going to bring a friend along that had not registered and asked if that would be ok.

Program and Project Manager Sniegowski suggested that Manager Sheely reach out to Education and Outreach Coordinator Zembal.

Manager Kloiber stated that he was also thinking of attending and asked if that would be an Open Meeting Law problem.

Attorney Welch stated that if three Managers are going to attend, notice will need to be provided.

Manager Kloiber stated that he can simply not attend the event as two other Managers are planning to attend.

#### **D. Administrator**

Administrator Anhorn welcomed any questions to his written report.

##### **i. Correspondence**

Administrator Anhorn shared a positive correspondence from a resident about the success of the Lake Normandale Project. He said that it is nice to get the positive feedback, because all too often, people seem to reach out when things are bad, and don't take the time to reach out when things are good.

Administrator Anhorn stated that he received a phone call from the son of a previous member of the Technical Advisory Committee who had recently passed away. He noted that the son setup a memorial donation for the Watershed District to use for native plants in project areas, in lieu of flowers for his father. He advised that once the donation period is completed, he will send a thank you letter to the son and let him know where some of the plantings will occur. He stated that Hennepin County Commissioner Jan Callison was going to attend the meeting this month, but she had a conflict and will attend the July meeting. He stated that he will be on vacation from July 19<sup>th</sup> through the 29<sup>th</sup>. He stated that he has begun the process to develop a

draft budget, noting that he will present the preliminary draft budget at the July meeting. He stated that there would then be a workshop to discuss the budget during the first week in August, which would be followed by a public hearing to ensure certification to the County can occur by September 15<sup>th</sup>. He suggested that perhaps the budget workshop take place on August 1<sup>st</sup> with a budget public hearing to take place on September 3<sup>rd</sup>.

Manager Hunker noted that September 3<sup>rd</sup> is the first day of school and perhaps that would not be the best choice.

Administrator Anhorn noted that perhaps September 4<sup>th</sup> could be a better date. He noted that date does not need to be confirmed today and could be decided at a later date.

## **Unfinished Business**

### **A. Lake Cornelia and Lake Edina UAA Updates**

Engineer Kieffer provided background information on the type of study that was completed on Lake Cornelia and Lake Edina, explaining that this could be considered a diagnostic study. She noted that she will attempt to summarize this as there is a lot of information provided in the results. She reviewed the drainage patterns going into Lake Cornelia and then Lake Edina. She reviewed the current conditions of the lakes, noting that they are shallow lakes with a large, dense watershed that leads into Lake Cornelia. She reviewed the state standard for phosphorus in shallow lakes and compared that to the current conditions from 2015 through 2017, noting the high phosphorus levels which exceed the standard consistently through that time period. She reviewed the challenges, or opportunities, for water quality in the lakes. She noted that because there is a densely populated, large watershed that empties into the area, there is a lot of untreated runoff that reaches the lakes. She advised that there is curly leaf pond weed in the lakes, nutrient rich sediments, and an interesting fish situation. She noted that there are some carp and a lot of goldfish, which are similar bottom feeders that stir up the sediment.

Engineer Kieffer showed how the development of the watershed in that area has transformed from the 1930's through today. She stated that sediment cores were taken during this study and had also been done in 2010. She noted that while Lake Cornelia shows the potential for internal loading, Lake Edina does not show that same level of potential for internal loading. She stated that the curly leaf pond weed has been a big concern for the residents, noting that it is a relatively new concern since 2013. She stated that the city has been working with residents to complete treatments to reduce the nuisance, noting that it is also a water quality issue. She noted that while a large focus is Lake Cornelia, Lake Edina is downstream and therefore is sensitive to what occurs in Lake Cornelia. She stated that Eurasian milfoil has spread throughout Lake Edina and there are also pockets of curly leaf pond weed. She stated that while the primary goal of the District is water quality, there are also goals related to diverse native plant populations. She noted that invasive species, like curly leaf pond weed and Eurasian milfoil, have different impacts on the native plant population.

Attorney Welch asked if there is public access on either Lake Cornelia or Lake Edina.

Engineer Kieffer stated that there is public use on Lake Cornelia through a fishing pier and canoe access, but there is no public boat access.

Katie Turpin-Nagel provided information on the modeling process which included development and calibration of models that simulate current lake conditions, estimation of phosphorus sources for each lake based on the calibrated models, and development of management strategies and use of the model to predict impacts on lake water quality. She explained the process that was used to develop the calibration models including water balance models and phosphorus models.

Manager Kloiber noted that both internal and external loading will need to be addressed.

Katie Turpin-Nagel stated that pie charts were developed for each of the three years for each of the lakes, identifying the amount of phosphorus attributed to each type of source.

Manager Kloiber stated that while there are not any upstream lakes, there are upstream ponds and that could provide opportunity for mitigation.

Engineer Kieffer stated that the University of Minnesota looked at the pond directly upstream, but that pond did not have enough constant internal loading to continue with their proposed iron filing study.

Manager Kloiber stated that it would be best to start the farthest upstream and work your way down as the benefits will trickle down through that watershed area.

Engineer Kieffer noted that there would be a two-pronged approach to managing the lake: managing the external nutrients that come into the lakes and completing in-lake management activities. She reviewed some of the in-lake management activities that could be implemented in the lakes. She stated that staff worked with the City of Edina throughout this process to create a broad scale of options ranging from very aggressive to less aggressive to compare the results that would be gained.

Manager Cutshall asked if there are buffer strips along the lake and whether additional strips would provide benefit.

Engineer Kieffer stated that there are some buffer strips in place and the City is working to create more, but it would be more difficult to obtain a measurable result from a buffer alone.

Manager Cutshall stated that it appears there is a large problem here and a multitude of solutions would need to be enacted to improve the situation.

Manager Kloiber stated that the direct contribution from the lake's immediate subwatershed is probably a relatively minor component compared to the water that comes in from the storm sewers.

Engineer Kieffer reviewed the results that could be gained from each of the different management activities and how combinations of those activities could increase the benefit gained. She stated that the in-lake treatments seem to provide a better improvement for water quality but acknowledged that a holistic approach would need to address upstream issues as well.

Manager Kloiber noted that even with those approaches, the lake would not meet the state shallow-lake phosphorus standard.

Engineer Kieffer reviewed the cost benefit analysis that was created, highlighting the management activities that would provide the best benefit in the most cost-effective manner.

Manager Kloiber commented that this simply shows the challenge for managing shallow lakes, noting the high cost and effort that would still not reach the State standard. He stated that if a strategy were chosen that was going to come close to meeting the State standard, that costly option may only last five to ten years before the process needs to be repeated.

Manager Cutshall noted that he just ran quick numbers on infiltration on all commercial properties option using the cost per pound of phosphorus reduction as provided by the engineers and the cost to get to the phosphorus removal needed to meet the goal could be as much as \$14 million. He added that the cost shows the magnitude of the issue and difficulty of managing shallow urban lakes.

Administrator Anhorn noted that because of the cost, staff is not recommending that option. He said that it was included as a management practice to compare to other management practices in order to help identify which options made the most sense on a cost-benefit basis and to assist in determining the recommended practices. He added that the Cornelia Lake watershed is actually getting infiltration on commercial properties as sites like Southdale redevelop and they are required to meet District stormwater rules.

Administrator Anhorn noted that staff is not suggesting that option.

Engineer Kieffer stated that each of the management activities would have a different lifespan, which is built into the cost benefit analysis. She confirmed that drawdown was not reviewed as an option. She reviewed the cost effectiveness of individual management activities and combinations of management activities. She indicated the most cost-effective combination of management activities evaluated included curly-leaf pondweed management and an alum treatment in Lake Cornelia and installation of a spent lime treatment best management practice upstream of Lake Cornelia to remove phosphorus from incoming watershed runoff. She noted that the recommended combination would not include in-lake management activities for Lake Edina, as the data and modeling analyses indicate those activities are not warranted and better results would be achieved from improving the water quality that comes into Lake Edina from Lake Cornelia. She stated that there are still significant improvements that could be made to Lake Cornelia even if the State standard is not reached. She noted that because the lakes are shallow, the predator fish often die off in the winter while the carp and goldfish can remain. She noted that an aeration system could reduce the rate of winter kill for predator fish that could help to manage the amount of carp in the lake.

Manager Cutshall stated that it would appear that marginal improvement for water quality is gained from spent lime, which is one of the most expensive options on the list.

Administrator Anhorn stated that pursuing both in-lake and watershed management practices is important, as some of those internal activities address the symptom without providing a long-term solution addressing the cause of the problem from upstream sources.

Engineer Kieffer stated that while the capital cost is high in comparison with all other evaluated management options, the cost/benefit ratio is lower than other watershed management practices evaluated. She indicated that when considered in combination with the evaluated in-lake management practices, the cost/benefit ratio is lower.

Manager Hunker asked if there would be opportunity for grant funds.

Administrator Anhorn confirmed that there could be grant funds available for spent lime treatment.

Manager Kloiber stated that perhaps additional study could be done of the ponds as well.

Administrator Anhorn confirmed that the ponds are connected and would go through Swimming Pool Pond and then through the spent lime.

Chair Peterson asked if there would be more advantage to put spent lime treatment in additional small ponds rather than the one connection point.

Engineer Kieffer stated that the system would only treat the flow in one location and agreed that additional treatment locations could be evaluated.

Administrator Anhorn stated that staff is hoping to undertake an alum treatment on North and South Cornelia this fall, which would have a tight timeframe. He stated that staff would need direction from the Board to bring back a feasibility study and conduct a public hearing so the managers could order the project, perhaps at the August meeting.

Manager Kloiber stated that there is a plan and the only external treatment is the spent lime treatment system. He stated that he would support the alum treatment but would like to see additional analysis of external treatment options, as well.

**Manager Kloiber moved, seconded by Manager Hunker, to direct staff to finalize the study and to authorize the engineer to complete a feasibility study for a fall 2019 alum treatment of Lake Cornelia to bring back to the Board at the July meeting at a cost not to exceed \$10,000. Upon a vote, the motion carried.**

Administrator Anhorn stated that there was a broad petition from the City of Edina that includes other components above Lake Cornelia and Lake Edina. He stated that he has spoken with Edina staff about the development of UAA's and working with the City going forward.



Attorney Welch stated that the District should get Edina on record as concurring in NMCWD's implementation of projects in accordance with the process in Minnesota Statutes section 103B and the NMCWD plan as the most effective means of addressing the 2009 petition from the city.

Manager Kloiber stated that it would be exceedingly difficult for the lakes to meet the State standard for shallow lakes and therefore he would prefer to continue in this proactive manner rather than operating under a TMDL. He noted that there is only so much the District can do to manage a challenging shallow lake in an urban area that was developed before water quality standards.

Administrator Anhorn recognized the time constraints and noted that not all of the items on the agenda will be discussed tonight.

#### **B. Non-Profit Planning Grant Stormwater BMP Projects**

Program and Project Manager Sniegowski stated that the RFQ is out right now and quotes are due next week. She stated that Resolution #19-01 needs to be amended to provide Administrator Anhorn with the authority to enter into the contract for the project and issue the notice to proceed. She stated that the authority would be limited to a contract at a price within 10 percent of the engineer's estimate.

**Manager Hunker moved, seconded by Manager Sheely, to amend Resolution #19-01 to authorize the Administrator to enter into a contract for construction of the 2019 non-profit best management practice projects, as long as the total price does not exceed ten percent of the engineer's estimate of \$118,019 and to approve change orders in aggregate of not more than ten percent of the contract price. Upon a vote, the motion carried.**

Program and Project Manager Sniegowski provided additional details on a wetland buffer variance that would be needed for one of the projects, noting that request would come forward at a future meeting.

Manager Kloiber stated that this would be a net improvement and he would not see a problem with the variance.

Attorney Welch stated that the Board could choose to exempt existing impervious from the buffer requirement. He stated that one benefit of the variance is that the Board has the opportunity to review the request and determine what could be gained in return for the reduced buffer.

#### **C. Permit Review Approval Process**

This item was not discussed.

## **New Business**

### **A. Water Appropriations/Dewatering of Land-Locked Lakes**

Administrator Anhorn provided an update on the highwater conditions throughout the watershed, mentioning that he has been receiving numerous calls about high-water levels in many District lakes. He said that a couple of the land-locked lakes in the District were experiencing historic high levels and two, Shady Oak Lake in Minnetonka and Indianhead Lake in Edina have received water appropriation permits from the Minnesota Department of Natural Resources (MDNR) to pump water from the lakes. He said that MDNR permit is required as opposed to a District permit because they both anticipate pumping more than 1 million gallons from the lakes this summer. He said that the District did provide some comments to the cities about added monitoring of downstream levels to ensure that they were not causing issues downstream.

Manager Kloiber stated that his main thought was regarding downstream impacts and noted that it seems those concerns have been addressed.

### **B. Manager Per Diems**

Administrator Anhorn said the watershed district manager per diem bill passed in the Environmental Omnibus Bill at the conclusion of this past legislation session increasing the per diem rate from \$75 to \$125 a day. He said that to date, the District has not adopted a resolution establishing a specific per diem rate and has relied on Minnesota Statutes section 103D.315, subdivision 8 which currently states that the he compensation of managers for meetings and for performance of other necessary duties may not exceed \$75 a day. He further stated that the increase will be effective August 1, 2019.

### **C. Extension of Agreement for Accounting Services with JMSC**

Administrator Anhorn stated that the contract expired on May 31<sup>st</sup>. He stated that since a new staff person was brought in as the new contact for the District there have been no problems and therefore, he would recommend extension of the contract for one year.

**Manager Sheely moved, seconded by Manager Hunker, to authorize the Administrator to enter into necessary amendment to extend the accounting services contract with JMSC for an additional, on advice of legal counsel. Upon a vote, the motion carried.**

## **Engineer's Report**

Engineer Kieffer referenced Normandale Lake, noting that there is a request for a change order from Rachel Contracting. She explained that the price change in the change order in the packet is correct, but does not reflect the reduced project cost that will be realized in the final accounting because less HDPE pipe was used than was contracted for. She stated that contrary to

the change order, the reduced cost will not require a change order, but rather will be shown in the final project accounting on project closeout.

**Manager Kloiber moved, seconded by Manager Cutshall, to approve Change Order 6 from Rachel Contracting in the amount of \$17,325.12. Upon a vote, the motion carried.**

Manager Kloiber stated that at some point in the future he would like to see a presentation on the results from groundwater surface water interaction study.

Engineer Kieffer stated that the study has begun but the results are not yet prepared.

### **Attorney's Report**

Attorney Welch had nothing further to report.

### **Managers' Report**

The Chair called for reports. No additional comments.

### **Adjournment**

**It was moved by Manager Kloiber, seconded by Manager Hunker, to adjourn the meeting at 9:22 p.m. Upon a vote, the motion carried.**

Respectfully submitted,

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Erin Hunker, Secretary

ATTACHMENTS:  
Treasurer's Report