

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

WEDNESDAY, OCTOBER 16, 2019

Call to Order

Vice President Grace Sheely called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, October 16, 2019, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

Managers Present: Bob Cutshall, Erin Hunker, and Grace Sheely

Managers Absent: Jodi Peterson, Steven Kloiber

Advisors Present: Randy Anhorn, Michael Welch, Janna Kieffer, Erica Sniegowski, and Lauren Foley

Agenda

Manager Cutshall moved, seconded by Manager Hunker, to approve the agenda as presented. Upon a vote, the motion carried.

Oath of Office

Attorney Welch administered the oath of office to Manager Grace Sheely.

Reading and Approval of Minutes

The chair called for review of the minutes of the Special Meeting of September 4, 2019.

Manager Hunker moved, seconded by Manager Cutshall, to approve the special meeting minutes of September 4, 2019 as presented. Upon a vote, the motion carried.

The chair called for review of the minutes of the Regular Meeting of September 18, 2019. The Managers provided minor grammatical changes to staff.

Manager Cutshall moved, seconded by Manager Hunker, to approve the minutes of September 18, 2019 subject to minor corrections. Upon a vote, the motion carried.

Public Open Forum

There were no comments.

Consent Agenda

- A. Administratively Approved Permits**
- B. Permit Inspection Report**

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

Hearing of Permit Applications

- A. Shady Oak Pond Regional Stormwater Management Plan**

Administrator Anhorn noted that the managers have heard reports on Minnetonka and Hopkins' proposed regional stormwater-management plan at past meetings, but the matter is now coming forward for approval. At his request, Engineer Kieffer presented the engineer's review of the joint request from the City of Hopkins and the City of Minnetonka for approval of the Shady Oak South Pond regional stormwater-management plan. She stated that the cities are seeking approval of a regional stormwater-management plan to provide stormwater management from an 11.2-acre area that will drain through a culvert to a stormwater facility on property owned by Metropolitan Council. She explained that the property was initially going to be the site of a train-washing operation for the Southwest Light Rail line. But Met Council has consolidated those operations, and the property now will be used for other rail-support operations. She further explained that both the rail-support property and the 11-acre contributing area suffer from extensive historical contamination, and the engineer concurs with the cities' assertion that the contributing area and proposed receiving property are 'restricted,' as defined in the rules and no infiltration should occur. She stated that the pond on the Met Council property would provide the water-quality treatment and a reduction in existing impervious surface in the contributing area would mean the rate-control standard would be met. She stated that staff recommends approval of the project contingent upon the conditions listed.

Attorney Welch explained that critical to the proposed plan is the upsizing of the culvert from what Met Council submitted for the Southwest LRT permit, 2016-88. He said the cities and Met Council have not yet agreed on the cost for the upgrade.

Manager Hunker asked why the District would be approving the application before the cities have agreement with Met Council on the culvert upgrade.

Administrator Anhorn explained that the request had already been continued multiple times. He noted that all the conditions listed in the report would need to be met in order for approval to be gained, including finalization of an agreement for the culvert upgrade. The ma

Engineer Kieffer explained that the cities also do not want to venture further into the project with the Metropolitan Council unless the Watershed District is on board.

Attorney Welch noted that the regional plan would provide for stormwater management, but permits for the individual projects will still need to come to NMCWD for approval.

Manager Hunker noted that the plans in the managers' packet call for an upgrade to a 4-by-7-foot box culvert, but the memo and conditions refer to the 60-inch culvert as the upgrade. The managers, engineer and attorney discussed the need to confirm with Bob Obermeyer at Barr that the upgrade is to the box culvert. Mr. Welch offer clarified language to this effect for the report and recommended conditions on approval.

Manager Hunker moved, seconded by Manager Cutshall, to approve permit 2019-126, the Shady Oak Pond Regional Stormwater Management Plan, with the conditions as revised. Upon a vote, the motion carried.

Treasurer's Report

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

A. Sunram Construction Pay Request

Engineer Kieffer stated that Sunram is requesting release of about half of the retainage the District is holding.

Manager Cutshall moved, seconded by Manager Hunker, to approve the pay request from Sunram Construction in the amount of \$12,127. Upon a vote, the motion carried.

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

Staff Reports

A. Permit and Water Resource Coordinator

Permit and Water Resource Coordinator Foley stated that she has been speaking with an erosion control specialist to gain additional input. She stated that Manager Hunker has been helpful with the development of guidance documents. She reported that the large influx of permits after Labor Day has begun to slow down. She noted that the inspection report included a 90 percent compliance rate.

B. Education and Outreach Program Coordinator

Program and Project Manager Sniegowski stated that she could answer any questions related to the education and outreach program coordinator's written report.

C. Program and Project Manager

Program and Project Manager Sniegowski reported that six Master Water Stewards began the program the previous night. She advised that tracking was added to the StoryMap and provided additional input.

Chair Sheely provided an update on the last CAC meeting, noting that only six people were in attendance. She noted that bookmarks are available to distribute. She stated that she has dropped some off at two different libraries. She noted that she attended the Metro MAWD meeting the previous night.

Program and Project Manager Sniegowski provided an update on a collaborative meeting with District staff, Minnetonka, Bloomington, Riley Purgatory, and Freshwater Society to talk about water conservation. She noted that the group will meet again in November or December to discuss different collaborative efforts. She stated that the Metropolitan Council is providing grants to cities for water conservation, noting that some cities are focusing on smart irrigation sensors and irrigation system audits.

D. Administrator

Administrator Anhorn stated that he attended the City of Eden Prairie Planning Commission meeting on Monday and the District received favorable reviews for its planned building addition. He noted that the item will move forward to the City Council for the first reading on November 12th. He stated that the alum treatment for Lake Cornelia is scheduled, with a demonstration to occur prior to that.

Engineer Kieffer stated that there is a bit of a concern with the fall alum treatment, as the water temperature is required to be 45 degrees or higher for the treatment. She noted that today the lake is 48 degrees. She stated that there is a good chance that the fall alum treatment will need to be canceled. She noted that staff will continue to monitor the lake temperature.

Administrator Anhorn reminded the Board of the workshop focused on aquatic invasive species strategy scheduled for October 30th at 5:30 p.m. He provided an update on a recent walkthrough that occurred with the City of Bloomington for the Lower Valley project. He described an area that will require some repair/maintenance and discussed the maintenance agreement with the city for the project and highlighted where approved repairs and maintenance would be as a 50/50 split with the city.

Administrator Anhorn provided updates on other possible collaborative efforts and projects that may come forward in the near future. He noted that the MAWD Legislative Day at the Capital was scheduled for March 18-19, 2020 and noted that one of the dates falls on the same date as the District's regular March Board meeting. He noted that he will bring back additional MAWD discussion items at the board November meeting. He noted that the single deductible for employee health insurance is increasing once again and advised that item will appear on the November agenda as well.

New Business

A. MN Stormwater Research Council Contribution Request
i. Supporting Documents

John Bilotta, Senior Research and Extension Coordinator at the University of Minnesota Water Resources Center, provided an update on the Stormwater Research and Technology Transfer Program. He reviewed the goal of urban stormwater research, noting that the program is composed of a group of people across the state who work together to facilitate identification of the types of research that will be completed, coordinate the research, collaborate, and obtain funding. He stated that the Research Council is led by a 20-member Advisory Board and reviewed the makeup of that Board. He stated that the Stormwater Research Council was formally established in 2016 and was able to ascertain \$1,700,000 in funding. He advised that 11 different projects were invested in and 54 researchers worked on those projects which were split into two categories: rapid response and integrated projects. He highlighted four of the 11 projects. He reviewed the goals and next steps for 2020 which include secured funding goals, technology transfer implementation, and release of request for research proposals.

Manager Cutshall asked if this is occurring in other states as well, and if so, how would the group know it is not duplicating something that is being studied somewhere else. He asked if the information gained will be shared with other organizations in the country, if they exist.

Mr. Bilotta stated that there are a few other states that have urban stormwater research programs. He explained that as research proposals come in, they undergo a two-tier review process which helps to eliminate duplicative efforts. He explained that all of the research is well shared, noting webinars and national conferences as examples. He stated that they are also hosting the Minnesota Stormwater Seminar Series which occurs once a month and features different speakers from across the country to discuss similar research. He noted that next year that format will be flipped to feature speakers from the Research Council to share the information from the completed projects.

Administrator Anhorn stated that some duplication is not bad because of differences in climate and conditions.

Mr. Bilotta stated that there is a critical eye on certain elements to avoid duplication.

Manager Cutshall asked if there is a national publication for stormwater.

Mr. Bilotta confirmed that there are multiple stormwater-research journals.

Manager Cutshall stated that he is pleased to hear that Minnesota is a leader in this area and just wanted to ensure that information is being shared.

Mr. Bilotta stated that the organization has been good at sharing information and obtaining information from similar groups.

Attorney Welch noted Mr. Bilotta's reference to work on policy issues and stated that as Mr. Bilotta's program delves into policy it will be more likely to encounter differing agendas among

fundings, making it more difficult for funders to find that the work furthers their public mandates, as is necessary for public entities to comply with the Public Purposes Doctrine in the Minnesota Constitution. He asked who makes the decision about which projects to complete and how conflicts of interest are considered.

Mr. Bilotta stated that the Advisory Board holds great sway over the decisionmaking but noted that the Director of Water Resource Center ultimately needs to sign off. He explained how conflicts of interest are handled. He stated that they have not funded a research-based program related to policy and explained that research was identified as a need for policy.

Attorney Welch stated that as a public entity, NMCWD cannot “contribute” funds, and that instead the managers need to find that there is a value to the watershed district’s purposes to support an expenditure. He stated that the Managers would need to find that this research provides the value to NMCWD’s mission.

Administrator Anhorn used the example of spent lime, noting that this knowledge assists the District in implementing BMPs to improve the water resources.

Attorney Welch stated that the pooled funding for stormwater research projects would be more readily supported, rather than policy-based elements.

Chair Sheely noted that the street sweeping research helps to provide input to the District, noting that the District recently helped to fund the purchase of a street sweeper in Edina. The managers noted that they find the research agenda outlined by Mr. Bilotta and as described in the materials he has provided to show that NMCWD will derive significant benefit to its stormwater-management purposes from the program.

Administrator Anhorn noted that there have been discussions in the budget process and advised that these funds have been included in the budget.

Manager Cutshall moved and Manager Hunker seconded the approval of a contribution of \$15,000 to the Minnesota Stormwater Research Council and direction to staff to work with Smith Partners to draft a letter agreement stating NMCWD’s expectations with regard to the use of the funds. Upon a vote, the motion carried.

- B. Normandale Lake Carp Management Assessment**
 - i. Proposal**
 - ii. Carp Tracking Report**

Program and Project Manager Sniegowski stated that Carp Solutions was hired to track 12 carp, noting that carp do leave Normandale Lake which leads staff to believe that spawning occurs in the lake and in wetlands outside of the lake. She stated that the proposal identifies three different objectives and provided details. She noted that based upon the results of those objectives, Carp Solutions would then provide a recommendation for management. She noted that the cost of the proposal is \$37,255.

Manager Cutshall asked if the goal is to manage the carp or eliminate the carp.

Program and Project Manager Sniegowski clarified that the goal is to manage the carp population and provided the acceptable threshold.

Manager Cutshall asked why the goal would not be to eliminate the carp. He commented that there seems to be a lot of funds that would be spent to study and manage the carp rather than eliminate them.

Program and Project Manager Sniegowski replied that it would be very difficult to completely eliminate the carp. She explained that the goal of any invasive species is to manage to a certain threshold, as it becomes very difficult to eradicate once the invasive species is established in a water body.

Administrator Anhorn noted that this water body has additional challenges because it is shallow.

Chair Sheely stated that she was hoping additional Managers would be present for this discussion. She asked if there are other groups that do this type of work.

Program and Project Manager Sniegowski provided background information on Carp Solutions.

Chair Sheely commented that the costs are reasonable and explained that she was simply attempting to determine if this was a good investment.

Program and Project Manager Sniegowski noted that an alum treatment has been completed on the lake and carp can damage those results.

Chair Sheely asked if objectives one and two could be combined.

Program and Project Manager Sniegowski explained the reasoning behind the proposed timing.

Administrator Anhorn noted that carp will continue to show up as an issue and this information can be used on other future projects.

Manager Hunker commented that a large amount of funds have been spent on Normandale and therefore this expenditure would not add much more to the project total but would provide valid information.

Chair Sheely stated that she would like additional details on what will be provided in the reporting.

Manager Hunker moved, seconded by Manager Cutshall, to authorize the Administrator to execute a contract with Carp Solutions in an amount not to exceed \$37,255. Upon a vote, the motion carried.

C. NMCWD November Regular Meeting Date

Administrator Anhorn stated that at the Board's annual business meeting in January, the November meeting was moved from the 3rd Wednesday of the month to the 2nd Wednesday (November 13th). The reason for the meeting being moved the meeting was that he had thought that Thanksgiving was Thursday, November 21, 2019. He stated that because this is not the case and that Thanksgiving is the 4th Thursday of the month, November 29th, he suggested moving the November meeting date back to the 3rd Wednesday of the month or November 20th.

Manager Cutshall moved, seconded by Manager Hunker, to change the November meeting date to 7:00 p.m. November 20, 2019. Upon a vote, the motion carried.

**D. 2019 MAWD Annual Meeting
i. Tentative Schedule of Events**

Administrator Anhorn stated that the tentative schedule has been released. He noted that he reserved a block of rooms for those that may be interested in attending.

Chair Sheely stated that she will be attending and will be going early.

Manager Cutshall stated that he will be attending but is unsure of when he would arrive.

Manager Hunker confirmed that she will be attending but will not be attending any of the pre-conference activities.

Unfinished Business

**A. Revised Lake Cornelia and Lake Edina Water Quality Study Projects
Analysis and Feasibility Study Scope of Work
iii. Revised Scope of Work**

Administrator Anhorn stated that the Board approved the scope of work at the previous meeting but asked for a revision of the first section. He noted that revision was completed as directed.

Attorney Welch stated that given that the scope and amount have changed, the Board may want to revise the motion to reflect the lower cost but noted that it not necessary.

It was the consensus of the Board to leave the motion as it was previously adopted.

B. Permit Review Storage

Administrator Anhorn stated that there are a few permits that have been approved through the expanded administrative permit authority. He walked the Managers through the process to access those permits on the District website.

Chair Sheely stated that she thought that worked well but would have liked to see the site plans and location maps for the permit applications.

Administrator Anhorn noted that the photos will be added, advising that staff did notice that element was missing.

Manager Hunker asked how difficult it would be to link the address to Google maps.

Permit and Water Resource Coordinator Foley confirmed that she could look into that option.

Engineer's Report

Engineer Kieffer noted that staff will continue to monitor the water temperatures in Cornelia related to the fall alum treatment. She stated that her report included information on the high-water levels, noting that the high rainfall totals have increased flooding risks around landlocked lakes.

Attorney's Report

Attorney Welch stated that in working to prepare for the Eden Prairie approval of the addition plan for the District office, staff discovered a lien that was improperly recorded on the District property. He said he will work with staff to remove it from the District title.

Chair Sheely stated that she is unsure how the petition process works differently than the memorandum of understanding process for coordinating with watershed cities on capital projects, and noted that she would like additional information on that in the future.

Managers' Report

The Chair called for reports.

Manager Cutshall stated that he is attempting to align travel plans for the winter and asked if the special meeting dates could be set ahead in attempt to work around those dates.

Chair Sheely agreed that it would be helpful to have special meeting dates identified ahead of time in order to make plans accordingly. She stated that she has met with two people that are interested in forming a Glen Lake Association.

Adjournment

It was moved by Manager Hunker, seconded by Manager Cutshall, to adjourn the meeting at 9:20 p.m. Upon a vote, the motion carried.

Respectfully submitted,

Erin Hunker, Secretary

ATTACHMENTS:
Treasurer's Report