

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

WEDNESDAY, SEPTEMBER 16, 2020

1. Call to Order

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, September 16, 2020. 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: Bob Cutshall, Erin Hunker, Larry Olson, Grace Sheely, and Jodi Peterson

Managers Absent: None

Staff Present: Randy Anhorn, Lauren Foley, Erica Sniegowski, Gael Zembal

Advisors Present: Janna Kieffer, Bob Obermeyer, Keith Pilgrim, Michael Welch

Other Attendees: Mike Berndt, Jack Distal, Bryan Gruidl, Ted Lockhart, Darin Rezac, Bob Simon

2. Approval of Regular Meeting Agenda

Manager Olson moved, seconded by Manager Sheely to approve the meeting agenda as presented. On a roll call vote, the motion was approved 5-0.

3. Honor and Celebrate Jodi Peterson's Retirement from the Board

Administrator Anhorn noted that tonight's meeting is Manager Peterson's last as a

Board member, and he recognized Manager Peterson's significant contributions to the District during her three terms starting in 2011. Attorney Welch, Engineers Obermeyer and Kieffer, staff, and managers shared tributes to Manager Peterson and her work on behalf of the watershed. Manager Peterson noted her appreciation for the great managers with whom she has served, District staff, and consultants.

4. Reading and Approval of Minutes

a) Draft Minutes of the August 6, 2020, Special Meeting

Manager Sheely moved, seconded by Manager Olson to approve the minutes of the District's August 6, 2020, Special Meeting. On a roll call vote, the motion was approved 5-0.

b) Draft Minutes of the August 19, 2020, Regular Board Meeting

Manager Hunker moved, seconded by Manager Olson to approve the minutes of the District's August 19, 2020, Regular Board Meeting as amended. On a roll call vote, the motion was approved 5-0.

5. Public Open Forum

Chair Cutshall presented the District's procedure for the public open forum and explained the managers take no action on items raised during the public open forum. No items were raised.

6. Consent Agenda

a) Administratively Approved Permits

No comments or questions on the administratively approved permits were raised.

b) Permit Inspection Report

No comments or questions on the permit inspection report were raised.

c) Staff Reports

- i. Permit and Water Resources Coordinator
No additional report presented.

- ii. Education and Outreach Coordinator
Chair Cutshall asked for more information about staff's meeting with the Association of Minneapolis Area Realtors. Program and Project Manager Sniegowski explained the meeting was regarding a potential cost share grant and to discuss education and outreach opportunities with the group such as providing classes for continuing education to the Association.
- iii. Program and Project Manager
No additional report presented.

The Board accepted the Consent Agenda as presented.

7. Hearing of Permit Applications

a) Permit #2020-96: Trail Improvements: West Bush Lake Road between Park Knoll Circle and West 86th Street Circle, Bloomington

Engineer Obermeyer noted this permit application was submitted by the City of Bloomington for trail improvements along West Bush Lake Road between Park Knoll Circle and West 86th Street Circle. He explained this is a linear project adjacent to a high-value wetland. He went through the permit review, noting the buffer as it exists does not comply with the District's 30-foot minimum, or 60-foot average buffer requirement for a high-value wetland. Engineer Obermeyer explained the reconstructed trail will need to comply with Americans With Disabilities Act requirements. The existing 7-foot wide bituminous trail will be reconstructed to a width of 10 feet.

Engineer Obermeyer stated the requested variance is from compliance with the minimum and average buffer requirements, District Rule 3.4. He pointed out the meeting packet contains the variance request from the City of Bloomington and contains the engineer's memo on the review of the project, permit, and variance request.

Manager Sheely asked when the original trail was constructed. Engineer Obermeyer replied 1978. Manager Sheely said the trail was constructed before the District's rules were in place. She said her concern is how the City will maintain the buffer free of buckthorn. Engineer Obermeyer said a requirement of the permit is the City of Bloomington provides a written agreement to the District stating the city is responsible for maintaining the buffer. He said buffer maintenance will need to be inspected. Attorney Welch stated the city will not be

required to remove invasive species, although they can do so. There was discussion about buckthorn removal and the steep slope along the trail.

Manager Hunker moved, seconded by Manager Olson to approve the variance request as presented in the Engineer's Report. On a roll call vote, the motion was approved 5-0.

Manager Olson moved, seconded by Manager Peterson to approve Permit #2020-96 for the trail improvements: West Bush Lake Road between Park Knoll Circle and West 86th Street Circle, Bloomington as presented in the engineer's report. On a roll call vote, the motion was approved 5-0.

8. Treasurer's Report

a) Dering Pierson Group Pay Application for Discovery Point Building Addition

Treasurer Olson stated the Dering Pierson Group pay application for the Discovery Point building addition is for the amount \$50,267.87. Administrator Anhorn commented on a few details listed in the report, including the invoice from LHB. Mr. Anhorn noted that LHB had reviewed the application and recommended payment.

Manager Sheely moved, seconded by Manager Hunker, to accept the Treasurer's Report and approve paying the pay application from Dering Pierson Group and all bills. On a roll call vote, the motion was approved 5-0.

9. Administrator's Report

Administrator Anhorn asked whether the managers would be available for a special meeting on Thursday, October 1 at 5:30 p.m. for an informational overview of the education program, a permit application, and one or more additional agenda items. The Board agreed that Administrator Anhorn could schedule the October 1 special meeting.

Administrator Anhorn noted the Normandale Lake information has been updated on the District website. Administrator Anhorn announced there have been high algal counts on numerous lakes in the watershed. He reminded the Board of the District's procedure, and he said the District's website lists the four lakes identified as having high blue-green algal counts per the criteria. He said the identified lakes include: Lake Cornelia, Lake Edina, Arrowhead Lake and Lake Holiday. Administrator Anhorn stated the Minnesota Green Corps participant will start at the District on Monday, September 21. Administrator Anhorn provided brief updates on other items addressed in his administrator's report.

10. Unfinished Business

a) Lake Normandale

Administrator Anhorn provided background on concerns raised by Ted Lockhart, a citizen, regarding the health of Normandale Lake, blue-green algae and its toxicity, the overall water quality project, and whether the water quality has been improving or degrading. He noted that Mr. Lockhart had asserted that the District had posted information that is false or misleading.

Administrator Anhorn displayed and explained a flow chart of the protocol the District has for blue-green algal bloom monitoring and identification. He said that the District does not send samples in to be analyzed for cyanotoxins because of the unpredictability of a bloom being toxic and the lag time for receiving results. He stated that instead NMCWD takes a more conservative approach: If monitoring staff observes a potential blue-green bloom in a lake, and expedited identification and enumeration confirms a moderate risk of adverse public health impacts (greater than 100,000 blue-green algal units per milliliter), the District notifies the city, and both entities would alert the public of the potential health hazard.

Administrator Anhorn said that at the request of Mr. Lockhart the District did take two samples, one in a stormwater pond and one in the lake, that were examined under a microscope for enumeration and identification and sent to a lab for cyanotoxin analysis. He said that while both samples came back below detection limits for cyanotoxins, the sample from the stormwater pond had blue-green counts above the World Health Organization (WHO) threshold of 100,000 units per milliliter. He said the District reported the results to the City of Bloomington which chose not to post an advisory for the stormwater pond, because stormwater ponds are not meant for bodily contact.

Administrator Anhorn talked about steps the District is taking regarding public education, such as working with the City of Bloomington on signage with the message, "When in doubt, stay out," and other educational messaging about identifying blue-green algae. He said another future public education idea is informational brochures.

Administrator Anhorn discussed the District's past and present water quality and biological information for Lake Normandale, starting with the Use Attainability Analysis completed in 2005, and the 2017 water quality study updates. He noted additional information including engineer's reports, public hearings, and ordered projects. Administrator Anhorn talked about Normandale Lake water quality projects and explained how the District monitors projects and continually evaluates their effectiveness in meeting identified goals.

Engineer Kieffer provided background on the Normandale Lake Water Quality Improvement Project and talked about the project's goals. She introduced Keith Pilgrim, PhD., of Barr Engineering to discuss the water quality project and data in greater detail.

Dr. Pilgrim said this project review is a great opportunity to revisit the data and the decisions to undertake particular management actions. He shared a slide showing Normandale Lake water quality monitoring data regarding summer phosphorous levels for the years the District has monitored the lake from 2002 to 2020. He noted the phosphorous data show the lake is a stable system.

Dr. Pilgrim explained phosphorous is a limiting factor on phytoplankton growth, and he went through the Normandale Lake monitoring data on chlorophyll-*a*, which is an indicator of phytoplankton in the lake. He pointed out that the phytoplankton levels have bounced around but said the levels are low for a shallow lake. He compared chlorophyll-*a* levels in Normandale Lake to the Minnesota Pollution Control Agency reference lakes with similar phosphorus concentrations, noting that Normandale Lake has notably lower chlorophyll-*a* than the reference lakes given the phosphorus concentration. He noted that this is because the aquatic plants are competing with the phytoplankton for nutrients and light since the plants cause shading. He emphasized the importance of maintaining a healthy native aquatic plant population for ecological stability and control of phytoplankton blooms. In addition, he stated the chlorophyll-*a* levels meet the MPCA shallow-lake criteria, 20 micrograms per liter or less, for most of the years the District has monitored the lake since 2002 to present. Dr. Pilgrim discussed the Normandale Lake internal phosphorous loads which can come from lake bottom sediments as well as curly-leaf pondweed. He talked about treatment including alum treatment in 2019 and the lake drawdown in 2018. He noted the results of aquatic plant surveys conducted in June 2018, 2019, and 2020. Dr. Pilgrim compared the ecology of the lake at present time compared to in the past. The overall conclusion is that Normandale Lake is a stable ecosystem and management actions should be conducted with the understanding of the importance of maintaining the currently stable ecosystem.

Engineer Kieffer noted that cyanobacteria, also known as blue-green algae, which are found naturally in lakes, streams, ponds, and other waterbodies, may or may not produce cytotoxins. She talked about the Environmental Protection Agency methods for analyzing cyanotoxins. Engineer Kieffer provided information about other types of algae, including filamentous green algae and multicellular cyanobacteria. She explained that the sample of Normandale Lake taken by the District on August 28, 2020, contained algae species *Pithophora* and *Rhizoclonium hieroglyphicum*, both mat-forming filamentous algae species. Engineer Kieffer noted other common

floating aquatic plants are duckweed and water meal, which are not algae and do not produce cyanotoxins.

Mr. Bryan Gruidl of the City of Bloomington spoke about Normandale Lake, providing its history and explaining the lake's primary function is providing flood protection for properties downstream of the lake. He said the City supports the adaptive-management approach NMCWD has taken to improving water quality in the lake.

Chair Cutshall opened the floor for questions.

Mr. Mike Berndt, Bloomington resident, asked if there were reports of animals suffering toxic effects from blue-green algae over this past summer. Mr. Gruidl said that he checked with several departments in the city, and the city has no record of any pets or other animals or humans becoming sick because of contact with lake water. Mr. Berndt said plant material has been greatly reduce on the surface of the lake this year from past years, and the quality of the lake seems so much better than in previous years. He noted that odors from the lake were less this year compared to the past. He said he hopes the lake can be maintained to this level.

Mr. Ted Lockhart, Bloomington resident, said he is a concerned citizen and represents approximately a score of Normandale concerned citizens. He said he and the concerned citizens he represents perceived this year to have the worst algal blooms ever seen. Mr. Lockhart added he is an Minnesota Pollution Control Agency-designated citizen scientist and has been taking samples on the lake, and this year was the worst for lake navigation. He said the lake has multiple areas of foul odors as well. Mr. Lockhart asked Mr. Pilgrim about indicators that citizens might notice to indicate blue-green algae. Mr. Pilgrim said the best analysis is taking a sample and sending it in for lab analysis. Mr. Lockhart noted he previously raised his concern about the integrity of data, or data that was false or misleading. He said Mr. Pilgrim had informed him of a couple of methods a concerned citizen could use on a regular basis. Mr. Lockhart explained that the stick and jar method is recognized by his home state of Wyoming and the Department of Interior.

Mr. Lockhart asked questions of the Board, Mr. Pilgrim, and District staff about the District's monitoring methods and staff training for identifying blue-green algae, and he noted an occasion on which a sample taken exceeded WHO standards. Administrator Anhorn interjected that the waterbody from which this sample was taken is a stormwater pond. Mr. Lockhart said he has seen people fishing in that pond, and he has photographed a bobber in the pond. Mr. Lockhart said the stormwater pond is water in the NMCWD and is not signed or protected per WHO. Mr. Lockhart said he is glad to hear about the forthcoming signage Administrator Anhorn mentioned this evening, and Mr. Lockhart requested the signage be placed sooner rather than later.

Mr. Lockhart asked if the District's flowchart and monitoring chart meet WHO steps, especially for concerns of low or moderate health effects of recreational water users of Normandale. Administrator Anhorn revisited the flowchart and pointed out the actions triggered by the different level of the blue-green algae counts. Mr. Lockhart recommended the District comply with WHO.

Mr. Lockhart talked about lake scum, wind, the importance of measuring carefully, and the importance of notifying health organizations and the public. He said he is very concerned about integrity and accountability.

Chair Cutshall asked if any Board member had any motions to offer as a result of the discussion, whether one of the six proposed actions recommended to the Board in writing by Mr. Lockhart or another. Manager Peterson said she did not have any motions to put forward and believes the District has acted with integrity, and while Mr. Lockhart has concerns, she feels the District has been addressing those concerns.

b) Lake Cornelia

Administrator Anhorn reported the District has received lab results for two tests, one in late August and one in early September, that showed blue-green algae counts over 100,000 units per milliliter on Lake Cornelia. He said that he asked Barr Engineering to evaluate what might be happening in the lake, especially given that the District had hoped for better water quality following the alum treatment in the spring.

Dr. Pilgrim presented data about total phosphorous and chlorophyll-*a* levels in Lake Cornelia, which is shallow lake. He said the goal for the lake is to have less nutrients and more plants to keep the phytoplankton from having growth spurts and blooms. Dr. Pilgrim said reaching the District's water quality goal for the lake takes a multi-prong adaptive management approach, and the alum treatment was one of the prongs, but it will take the entire approach to start rebalancing the lake's system. Manager Sheely asked if the goldfish can affect the alum treatment. Dr. Pilgrim said yes, the goldfish can cause mixing.

11. New Business

No new business raised.

12. Engineer's Report

No items raised.

13. Attorney's Report

Attorney Welch had no additional comments to report.

14. Managers' Reports

Manager Sheely said she may have a schedule conflict for the upcoming Citizens Advisory Committee meeting. Administrator Anhorn asked managers to let Ms. Zembal know if they are available Thursday, September 24, to attend the CAC meeting in place of Manager Sheely in the event she has a conflict.

15. Adjournment

It was moved by Manager Olson , seconded by Manager Hunker to adjourn the meeting at 9:23 p.m. Upon a roll call vote, the motion was approved 5-0.

Respectfully Submitted,

Erin Hunker, Secretary