

RESOLUTION NO. 19-03

**Nine Mile Creek Watershed District
Board of Managers**

**Delegating additional authority to approve certain permit
applications to the administrator**

Manager _____ offered the following resolution and moved its adoption, seconded by Manager _____.

WHEREAS Minnesota Statutes sections 103D.341 and .345 direct watershed districts to adopt rules and issue permits to protect water resources and mitigate flood risk, and the Nine Mile Creek Watershed District has duly adopted and enforces rules and issues permits accordingly;

WHEREAS Nine Mile Creek Watershed District serves as the Local Government Unit administering the Wetland Conservation Act in certain areas of the Nine Mile Creek watershed, and as LGU makes determinations as provided in WCA in response to applications from property owners;

WHEREAS by resolution the NMCWD Board of Managers has previously delegated to the administrator the authority to approve:

- NMCWD permits for single-family home development or redevelopment projects requiring only application of the wetland-buffer criteria of section 3.4 of NMCWD rule 3.0 – Wetlands Management, and land-disturbing activity and projects subject only to NMCWD rule 5.0 – Erosion and Sediment Control; and
- Certain permit modifications and transfers, as well as applications for assignment or renewal of valid permits, with certain limitations specified in NMCWD Resolution 17-01 (adopted March 15, 2017);

WHEREAS by resolution the NMCWD Board of Managers has previously delegated to the administrator the authority, with certain limitations specified in NMCWD Resolution 18-05 (adopted May 18, 2018), to make WCA wetland boundary and type, exemption and no-loss determinations, to issue associated notices of decision, to request the assistance of the technical evaluation panel, as defined by Minnesota Rules 8420.0240, and otherwise to administer WCA, and also established an appeal process that includes an evidentiary hearing before the board, as required by the WCA rules (Minnesota Rules chapter 8420); and

WHEREAS the board finds that the administrator, with the technical support and assistance of the NMCWD engineer and legal counsel, has the knowledge and experience necessary to effectively and efficiently administer NMCWD's routine permitting activities, and the time and resources of the board, staff and applicants are best served by delegation

to the administrator of broad authority to approve regulatory requests that do not usually require the exercise of discretion.

NOW THEREFORE BE IT RESOLVED that the NMCWD Board of Managers affirms the authority delegated to the administrator by Resolution 18-05 to approve WCA requests, as well as the determination that the administrator may exercise the authority to make a WCA decision where the NMCWD permitting decision for the same or a directly related matter is before the board, except when the matter is before the board because a variance or exception from the NMCWD wetlands rule is requested;

BE IT FURTHER RESOLVED that the authority already delegated to the administrator, as described above, to approve permits for certain activities subject to NMCWD regulatory requirements is amended and superseded by the delegation to the administrator to approve all permit applications and requests for modification or assignment of a previously approval permit except those that seek approval of:

- A variance or exception,
- Land-disturbing activity to be undertaken, in whole or part, by or on behalf of NMCWD,
- A regional stormwater-management plan under subsection 4.3.6 of the NMCWD Stormwater Management Rule,
- Land-disturbing activity involving an increase in the impervious area of the subject site by 2.5 acres or more from existing conditions, or
- Land-disturbing activity or subdivision of land subject to the Stormwater Management Rule for which the applicant has requested that the subject site be found to be “restricted” under subsection 4.3.2 of the rule and the submitted stormwater-management plan does not provide at least 0.55 inches of volume retention from the regulated impervious area of the site in accordance with paragraph 4.3.2a;

BE IT FURTHER RESOLVED that, in addition, the administrator must bring a request for approval of a permit application to the NMCWD Board of Managers at the applicant’s or another interested party’s request, or if the applicant appeals the administrator’s approval of the administrator, or if the administrator determines that the application involves technical, policy or legal issue(s) or raises concerns that warrant determination of the application by the board of managers; and

BE IT FINALLY RESOLVED that the NMCWD Board of Managers directs the administrator to make written technical reviews of applications subject to this resolution accessible to interested parties through the NMCWD website, to maintain a log of applications approved pursuant to this resolution, to regularly provide a report to the board of managers summarizing approvals granted by the administrator, and to present a report reviewing and evaluating the operation of the permitting program pursuant to this resolution at the February 2021 regular meeting of the board of managers or as soon as reasonably feasible thereafter.

The question was on the adoption of the resolution and there were ___ yeas and ___ nays as follows:

Yea Nay Abstain Absent

CUTSHALL
HUNKER
KLOIBER
PETERSON
SHEELY

Upon vote, the chair declared the resolution _____.

* * * * *

I, Erin Hunker secretary of the Nine Mile Creek Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with NMCWD and find the same to be a true and correct transcription thereof.

IN TESTIMONY WHEREOF, I set my hand this _____ day of _____, 2019.

Erin Hunker, Secretary