

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

WEDNESDAY, APRIL 17, 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, April 17, 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, Louis Smith, Bob Obermeyer, Janna Kieffer, Erica Sniegowski, and Lauren Foley

Agenda

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

Reading and Approval of Minutes

The Chair called for review of the minutes of the Regular Meeting of March 20, 2019. It was noted that minor changes were provided to staff.

Manager Kloiber moved, seconded by Manager Cutshall, to approve the regular meeting minutes of March 20, 2019 with the minor changes. Upon a vote, the motion carried.

Public Open Forum

There were none.

Consent Agenda

- A. **Administratively Approved Permits**
- B. **Permit Inspection Report**
- C. **2018 Annual Audit and Report**
 - i. **2018 Annual Report**
 - ii. **2018 Annual Audit**
- D. **Permit #2019-05: Olive Garden Reconstruction; 4701 American Boulevard West; Grading and land alteration permit: Bloomington**
- E. **Permit #2019-06: Orange Line Bus Rapid Transit; Knox Avenue and I-494; Grading and land alteration permit: Bloomington/Richfield**

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

Hearing of Permit Applications

- A. **Revised Permit #2018-10: Friendship Village: Grading and land alteration permit: Bloomington**

Jacob Steen, Attorney representing Lifespace Communities, stated that this project was before the Board in a different iteration in 2018. He noted that the project is a fully developed constrained site that has a full continuum of care. He stated that this would be a comprehensive update to the entire facility, in excess of \$100,000,000. He stated that the original application included a much larger pond expansion, which would have required the removal of two townhomes on the south side of the property. He stated that due to concerns and opposition from those residents, Lifespace was forced to investigate changes that could be made on the site to allow those homes to remain. He stated that one alternative would be to meet the buffer requirement by filling part of a wetland while the other option would be to preserve the wetland area, but the application would then not comply with the buffer requirement. He stated that Lifespace had already purchase the wetland credits and did not have a strong preference on the options. He noted that after meeting with the stakeholders, there was a clear preference from the city and BWSR to not fill the wetland. He stated that since that time they have worked on this plan and have received approval from Bloomington, as the LGU, for the revised plan. He asked for the approval of the Board on this amended variance.

Ryan Bluhm, Westwood Professional Services, stated that he has been working on this project for almost three years. He displayed the approved plan from the previous year, which included the expansion of the basin and the removal of the two twinhome buildings on the south as well as a two-story wing of residential. He stated that the wing has now been removed to reduce that residential living footprint. He stated that they needed to find creative ways to ensure that the water is still being treated and have proposed a below grade cistern to handle the volume from the site. He reviewed the stormwater management plan, which is essentially the same as the previous request with the exception of the cistern that has been added to provide storage in rain events that exceed one inch. He explained that the cistern will be used as flood storage. He noted that this was a complex solution and took a lot of coordination. He stated that the volume

that would have been gained with the expansion of the basin would now be provided with the cistern. He provided a comparison of the previous plan and the revised plan. He noted that another change between the two applications is to comply with the rule change of the District that occurred.

Engineer Obermeyer presented the permit request and proposed plans. He noted that the original recommendation letter was included in the packet along with a redline version that identifies the changes. He noted that the new District rules would apply to the request, which would require a few of the BMPs proposed to be expanded in size. He stated that the water quality treatment remains essentially the same. He stated that the main change would be the overall wetland, noting that a MnRAM assessment is requested pre and post construction. He stated that with this revision there would be a decrease in impervious area, filling of the wetland would be reduced, the wetland buffer would be reduced, the shortfall in the average buffer would be increased, and the average buffer width decreased. He reviewed the MnRAM assessment and stated that staff is satisfied with what is proposed. He stated that overall, from a function and values standpoint, the wetland would be better under the revised plans compared to the 2018 plans. He stated that a recommendation was not included in the memorandum, but a series of conditions were included, should the Board decide to approve the revision. He noted that a substantial increase would be proposed for the surety for a total amount of \$258,000.

Administrator Anhorn explained that when this was originally approved in 2018, there was a volume reduction of one inch but since that time the rule has changed to 1.1 inches and the chloride management plan and surety would also be required.

Manager Sheely asked for details on the input of BWSR.

Engineer Obermeyer stated that BWSR would prefer less wetland buffer versus filling wetland to create additional buffer, which supports this proposal.

Manager Kloiber stated that the letter addresses the reduction in the total square footage of the buffer but noted that could also be attributed to the perimeter of the wetland not being expanded. He stated that without the wing on the residential property, it appears that additional buffer is being gained in that area.

Engineer Obermeyer stated that the buffer will be reduced by 6,400 square feet.

Manager Kloiber asked what amount of that is due to the fact that the expansion is not occurring, and the pond size is not changing.

Engineer Obermeyer stated that the average buffer width was reduced from 34.8 feet to 31 feet.

Chair Peterson stated that overall there are many improvements proposed that were not proposed with the original application.

Manager Sheely stated that when this started, the building was going to be built on the wetland because the city wanted a better road. She stated that one quarter of the wetland will be lost, and her original desire was to remove four townhouses. She stated that Friendship Village is not even maintaining the buffer for the townhomes currently. She stated that she is not seeing an improvement that would equate keeping all the townhomes. She stated that the current buffer is poorly maintained, and she would not trust the applicant to maintain a reduced buffer. She stated that if pushed tonight, she would vote against this request. She noted that she would like to see a stormwater management plan for the townhome area.

Mr. Bluhm stated that they will abide by a vegetation management plan that has been prepared. He acknowledged that the decision in 2018 was a tough decision and they did not look forward to coming back with another request. He stated that originally the plan to remove the townhomes was not made lightly and was very impactful for that community. He explained that they are back because those residents would like to stay.

Mr. Steen stated that he understands the concerns of Manager Sheely. He explained that they have not taken these changes lightly and attempted to move forward with the largest wetland replacement possible. He noted that this has been a complicated and expensive process. He agreed that the buffer has not been treated as a buffer but noted that there is a maintenance plan that they will comply with and acknowledged that there will be a significant time commitment to maintaining the buffer.

Manager Sheely stated that she would only support this request if there is a buffer maintenance plan for the townhome area of the property. She stated that currently there is nothing happening to buffer water in that area.

Manager Cutshall stated that part of his concern is with the future development in the townhome area, noting that perhaps if that area is redeveloped with high density in the future, 40 feet of buffer could then be provided in that area.

Attorney Smith stated that this review is confined to reviewing this application against the District rules. He noted that adding a condition about what might occur in the future would be beyond the scope of this permit. He stated that it would be a fair planning point to note for the future, as the applicant is present tonight. He stated that if there is a new plan to redevelop the townhome area, in this restrained area, that would be another opportunity for discussion, and the minutes would make note of Manager Cutshall's point.

Mr. Steen stated that currently, as approved, this project did require variances from the city. He noted that the site is at the maximum development from the city standpoint. He stated that it would be very unlikely that this would redevelop in the future but acknowledged the concerns of the Board.

Manager Cutshall stated that he likes the stormwater management proposed, noting that some areas go beyond what is required by the District, but is also concerned with the buffer.

Chair Peterson asked if rain gardens could be added or whether additional stormwater elements could be added in the townhome areas.

Manager Sheely stated that she had a concern about the existing townhomes and that the roof runoff was currently being directed by the gutters directly into the wetland without being captured or treated.

Mr. Bluhm stated that the only area of the site that is not being treated is the townhome area, noting that they would be happy to add treatment to that area. He agreed that something could be done in that area to improve the existing conditions and have some infiltration before discharging.

Engineer Obermeyer stated that if the runoff from the townhomes is an issue, a small tile line could be installed along the backyards that would pickup the runoff from the downspouts.

Gary Conkin, representing Lifespace Communities and Mr. Steen stated that they are more than willing to do that.

Engineer Obermeyer stated that the applicant has submitted a buffer maintenance plan that would eliminate invasive species and include native plantings to reestablish that buffer. He noted that the two-year plan has been expanded to three years.

Manager Sheely stated that she understands that the applicant has tried and was pushed by the city.

Manager Kloiber asked what would be done with the cistern storage, specifically whether that water would be used for irrigation or another purpose.

Mr. Bluhm stated that the cistern does not have a permanent pool and instead slopes out and would only be inundated during a storm event.

Engineer Obermeyer provided additional details on the regulations that Bloomington put on the applicant, noting that the flood storage from the cistern would minimize the impact from a storm event.

Chair Peterson asked if there are any concerns with the chloride management for the trail.

Engineer Obermeyer replied that is an access road and not trail.

Manager Kloiber stated that it would be his assumption that would not be salted.

Engineer Obermeyer stated that area could be identified as non-salted in the chloride management plan.

Mr. Bluhm agreed.

Attorney Smith reviewed the details of the Board's options to consider Manager Sheely's concern. He noted that if the Board desires to add additional conditions, that could be a part of the Board's consideration of the variance and then incorporated into the permit.

Manager Cutshall stated that he has confidence in the Engineer for the District and the applicant seems to be in agreement as well with the comments the Board has made.

Manager Sheely stated that she would be comfortable with Engineer Obermeyer working with the applicant to investigate the best possible solution to address the issue with the townhome area.

Manager Sheely moved, seconded by Manager Hunker, to approve the requested variance based on the findings in the engineer's report with the additional condition that there will be a stormwater management plan for the townhouse area that is approved by the District engineer and reported back to the Board, but will not need to be further reviewed by the Board. Upon vote, the motion carried.

Manager Kloiber moved, seconded by Manager Sheely, to approve the permit modification for permit 2018-10 subject to the conditions in the engineer's report, and the additional requirement of the stormwater management plan for the townhouse area as noted above. Upon vote, the motion carried.

**B. Permit #2019-08: Hopkins City Hall Renovation: 1010 1st Street South;
Grading and land alteration permit: Hopkins**

Engineer Obermeyer presented the permit request and proposed plans. He stated that this would be landscaping work in conjunction with the proposed entryway reconstruction. He stated that necessary stormwater management elements have been incorporated within the landscaped areas. He stated that there are three areas where pretreatment cannot be provided, therefore a variance is required from that specific aspect. He stated that the pretreatment is attempting to prevent clogging of the treatment area with sediment. He recommended approval of the variance from the pretreatment for the basins and that the permit be approved as the necessary stormwater management requirements are being met.

Manager Kloiber asked if there is any nonstructural activity that should be considered as part of a maintenance plan, such as spring sweeping.

Engineer Obermeyer noted that could be a possibility. He stated that there are some proprietary systems that could be installed, but the grade is not there to support that. He noted that a maintenance aspect could be added. He stated that typically cities complete sweeping twice per year, but perhaps that could be done quarterly in this area.

Manager Kloiber stated that perhaps that need not be included as a condition but simply mentioned when the maintenance plan is developed.

Engineer Obermeyer recommended approval with the conditions outlined in the memorandum.

Manager Kloiber moved, seconded by Manager Sheely, to approve the variance from the pretreatment requirement based on the findings of fact in the engineer's report. Upon a vote, the motion carried.

Manager Sheely moved, seconded by Manager Hunker, to approve the permit subject to the conditions in the engineer's report. Upon a vote, the motion carried.

C. Permit #2019-09: Highland Road Improvements – North of Excelsior Boulevard; Grading and land alteration permit: Minnetonka

Engineer Obermeyer presented the permit request and proposed plans. He stated that this is an erosion control project along Highland Road. He explained that the erosion is working itself back and in certain areas the road is subject to failure. He noted that the city is planning a mill and overlay this spring but would like to correct the areas of erosion before completing that action. He stated that a variance would be needed for the steepness of slope of the shoreline improvement from the roadway to the lake. He noted that the stormwater management is not necessary as new impervious is not generated. He stated that the flood storage will be compensated for and the project will provide an overall net improvement for storage.

Manager Cutshall asked if the size of the boulders would be increased because of the slope.

Engineer Obermeyer provided additional input on the riprap and the sizing. He stated that the more critical aspect is the volume and velocity of the water coming down onto the riprap.

Manager Sheely asked why the city chose this location. She acknowledged that this location is eroded but stated that is partly because the city did not curb that location. She stated that part of the erosion is due to acts of the adjacent homeowners. She stated that it is not the slope of the road but the slope immediately after that.

Engineer Obermeyer identified the location of a catch basin and rock swale.

Sarah Schwieger, Water Resource Engineering Coordinator for the City of Minnetonka, provided additional input on the pipe and catch basin elements.

Manager Sheely asked if there would be curb cuts at certain locations.

Ms. Schwieger identified the existing curb location and explained the reasoning behind the placement of the curbs.

Manager Sheely asked if the fencing would be replaced.

Ms. Schwieger stated that in some places curb will added or curb cuts will be added to assist in directing water. She noted that there are a few places where curb will not be added because it will not assist in directing water because the road is too flat in those areas.

Manager Kloiber confirmed that in those areas without curb, the water will run off the road into the riprap areas.

Ms. Schwieger confirmed that she could look into the fencing.

Manager Hunker moved, seconded by Manager Cutshall, to approve the variances as outlined and based on the findings of fact in the engineer's report. Upon a vote, the motion carried.

Manager Sheely moved, seconded by Manager Kloiber, to approve the permit subject to the conditions in the engineer's report. Upon a vote, the motion carried.

Treasurer's Report

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

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

Staff Reports

A. Permit and Water Resources Coordinator

Permit and Water Resources Coordinator Foley stated that her main projects she is currently working on were absorbing the inspection program and bringing that internally as well as developing guidance that will assist permit applications in reading the rules. She stated that she has reached large leverage points in terms of moving those forward in the last week. She stated that she received insight from the IT consultants, ensuring that the guidance documents would not be costly to integrate. She stated that she is also open to ideas on what should be included in the inspection report for the Board.

Administrator Anhorn stated that Permit and Water Resource Coordinator Foley has done a great job taking on these tasks. He stated that they will continue to determine which permit inspection elements are important to track. He noted that staff has reviewed the electronic tablet-based processes used by other watershed districts.

Manager Kloiber stated that there is a lot of data in the inspection reports, but not necessarily a lot of information. He explained that from a Manager perspective it can be difficult to wade through. It suggested that it would be more important to highlight areas where there are issues to contrast with the permits that do not have issues. He stated that while it is good to

know there are many permits in compliance, it is more important to see additional detail on permits that have issues.

Permit and Water Resources Coordinator Foley stated that she has started “grading” permits as well, which could enrich the data without showing all the good inspections. She agreed that there are so many permits that have never had issues and staff is spending time inspecting things that have never had issues.

B. Education and Outreach Program Coordinator

Program and Project Manager Sniegowski stated that she is available to answer any questions from her written report. She highlighted upcoming events. She reported that there were 40 people at the event the previous week on sustainable residential landscaping, which was a great turnout.

Manager Kloiber stated that he recently noticed a calling for volunteers interested in a wetland health evaluation program. He stated that perhaps that would be something members of the CAC would be interested in.

Program and Project Manager Sniegowski confirmed that information could be shared with the District volunteer list. She provided information on the parking at Discovery Point that occurred for the event the previous weekend.

C. Program and Project Manager

Program and Project Manager Sniegowski stated that staff was out radio tagging carp this week with Carp Solutions. She provided pictures and described the process. She stated that the alum treatment days have been scheduled, pending the weather, for Normandale Lake. She stated that an alum treatment demonstration will occur as part of the process as well. She stated that she and Matt Kumka from Barr Engineering met with the GIS staff from Barr Engineering to work on the Story Map. She noted that staff will continue to work on the Story Map to fill in the remaining gaps.

Manager Sheely referenced the cost-share information, noting that Program and Project Manager Sniegowski ran a timely meeting and her report summarized the issue well.

Manager Kloiber stated that the District should continue to maximize its visibility through these projects. He stated that the demonstration alum project is a good idea and noted that perhaps someone from the local paper should be invited.

Program and Project Manager Sniegowski stated that the city of Bloomington is going to attempt to have their communications person attend and film a video clip. She stated that she has received a quote for aerial photography of the alum treatment and will also obtain a quote for drone footage.

D. Administrator

Administrator Anhorn stated that staff ordered a vehicle for the District to assist in education and outreach and permit process duties. He stated that the following week there is a TAC meeting to discuss the stormwater reduction analysis, in attempt to possibly gain additional partners. He provided an update on the District intern that was selected and that she will begin on May 15th.

Unfinished Business

None.

New Business

A. Cost-Share Grants

Program and Project Manager Sniegowski distributed an updated memorandum, noting that a Master Water Steward project had been pulled from the list. She stated that a total of 19 applications were received and the request for funds was \$215,170.87 and staff is recommending funding in the amount of \$147,283.84. She stated that the recommended grants were included in the table and explained within memorandum. She welcomed any additional questions.

Manager Cutshall stated that he was pleased to see that not all the grants were simply approved. He asked for the reasoning that some applications were denied.

Program and Project Manager Sniegowski provided different examples of projects that were denied and the reasoning behind the denials.

Administrator Anhorn stated that on some of the bigger projects, the full amount requested was not approved.

Program and Project Manager Sniegowski noted that some changes were made to the program in the past year, increasing the threshold for different types of projects and requiring a different matching amount for certain types of projects.

Administrator Anhorn stated that Program and Project Manager Sniegowski developed a map which identifies the project locations.

Manager Hunker moved, seconded by Manager Sheely, to approve the recommended cost-share grants in the amount of \$147,283.84 and authorize the Administrator to enter into the agreements with the property owners. Upon a vote, the motion carried.

B. 2018 Water Quality Monitoring Summary
i. 2018 Water Quality Summary Report

Administrator Anhorn stated that this is part of the Annual Report that will be sent out, noting that he wanted to provide the data to the Managers to review. He stated that his memorandum included highlights from the monitoring results and provided a summary of those results.

Engineer Kieffer provided additional details on the drawdown that was completed in Northwest and Southwest Anderson Lakes in Eden Prairie, versus the herbicide treatment chosen for Southeast Anderson Lake in Bloomington.

Manager Kloiber asked if a drawdown could be completed on Southeast Anderson Lake.

Engineer Kieffer stated that she did not recall whether a drawdown is feasible, but seemed to recall that it was not a preferred option by the residents or perhaps the city.

C. Permit Review and Approval Process

Administrator Anhorn stated that the purpose of this item is to have some general discussion on the permit approval process. He stated that perhaps there are opportunities to expedite the process for applicants and provide authorization for staff to approve certain types of permits.

Manager Cutshall stated that his issue is process improvement, which is a constant process. He stated that while there is pressure for that in the business world, it often does not occur in the governmental world. He noted that there are small pieces of process improvement that have been discussed tonight and the permit approval process is a key element that can be considered. He stated that he would like to be involved, as he likes to work on these types of reviews.

Administrator Anhorn stated that the reason to place this on the agenda was to gauge the interest of the Managers in pursuing this type of activity. He noted that perhaps a subcommittee could be identified that could work with staff.

Manager Kloiber agreed that the timing makes sense as staff attempts to determine the work that could be insourced. He stated that the goal should be to be efficient because of the limited resources and staff that the District has. He agreed that this should be reviewed, and this would be the right time to do so.

Administrator Anhorn stated that the subcommittee could make recommendations to the Board at a future meeting. He confirmed that Manager Cutshall and Chair Peterson would be interested in joining the subcommittee.

Engineer's Report

Engineer Kieffer noted that a written report was included in the packet. She explained the importance of the upcoming alum treatment of Normandale Lake that will assist in controlling the internal loading of the waterbody.

Attorney's Report

Attorney Smith stated that he met with Administrator Anhorn the previous day to discuss options to improve the efficiency of the District's permit review and reporting process. He noted that the cost and value of the program were discussed and how the regulatory program can best address those elements. He stated that managing the District's costs for that program, and the support of the stakeholders, is important and this is a good time to determine how the program can be improved to best achieve the District's goals.

Manager Kloiber stated that in the past the focus of the District was on flooding, while water quality is a more recent focus of the District. He stated that when the focus changed, the District was already almost fully developed and therefore redevelopment is an opportunity to improve the water resources through the regulatory program.

Managers' Report

The Chair called for reports.

Manager Sheely stated that the CAC is an incredible group of people, noting that three issues were identified by the group when evaluating the cost-share grants. She stated that the group took the initiative to identify those issues and is willing to work on them and bring that information back to the Board.

Manager Kloiber referenced the Freshwater Society sponsored Water Summit in May and stated that Program and Project Manager Sniegowski will be participating in the event.

Program and Project Manager Sniegowski confirmed that she will be presenting on the Normandale Lake project on May 9th at the Water Summit at the Science Museum and tours will take place on May 10th.

Administrator's Annual Performance Review

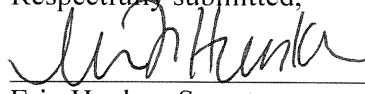
Manager Kloiber moved, seconded by Manager Cutshall, to adjourn the meeting to closed session at 9:13 p.m. to conduct the annual performance review of the Administrator. Upon a vote, the motion carried.

The meeting reconvened to open session at 9:21 p.m.

Adjournment

It was moved by Manager Sheely, seconded by Manager Hunker, to adjourn the meeting at 9:23 p.m. Upon a vote, the motion carried.

Respectfully submitted,



Erin Hunker, Secretary

ATTACHMENTS:
Treasurer's Report

