

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

WEDNESDAY, APRIL 17, 2024

1. Call to Order

President Larry Olson called the Nine Mile Creek Watershed District Board of Managers regular meeting to order at 6:30 p.m. The meeting was held at the NMCWD office, Discovery Point, 12800 Gerard Drive, Eden Prairie.

Managers Present: Grace Butler, Bob Cutshall, Chris-Ann Lauria, Larry Olson and Peggy Kvam

Advisors Present: Brigitte Bjorklund* and Kara Van Lerberghe* (Zan Associates), Louise Heffernan, Janna Kieffer, and Katie Turpin-Nagel (Barr Engineering Company), Mike Majeski* (Emmons & Oliver Resources), and Michael Welch (Smith Partners)

Staff Present: Lizzy Boor (Watershed Specialist), Brett Eidem (Project and Planning Manager), Dylan Monahan (Administrative Assistant), Erica Sniegowski (Administrator), Zach Stafslie (Regulatory Program Manager), and Jordan Wein (Water Resources Project Manager)

Other Attendees: Jim Boulay*, Renae Clark (City of Bloomington), Connie*, Jane Freeman*, Michele Lloyd*, Karl Lutz*, and Brian Wolff

*Attended virtually

2. Approval of Agenda

Manager Butler moved, seconded by Manager Lauria, to approve the agenda as presented. Upon vote, the motion carried.

3. **Public Open Forum**

Dr. Brian Wolff, a Bloomington resident, asked for an accounting of cost-share program expenditures and outcomes. Erica Sniegowski said staff does not have that information, but that it can be provided.

4. **Action Items**

a. **NMCWD Carp Management Device Permit: 2024-035**

Louise Heffernan reviewed the application of the NMCWD rules to the district's effort to remove carp from Nine Mile Creek upstream from the American Boulevard West creek crossing in Bloomington. Ms. Heffernan explained that the project triggers the district's Floodplain Management and Drainage Alterations Rule.

Ms. Heffernan reported that district staff prepared an operation and maintenance plan to demonstrate that the project is not reasonably likely to have adverse impacts. She recommended that the board approve the permit contingent on compliance with the NMCWD general provisions and continued compliance with the project's operations and maintenance plan.

Manager Kvam moved, seconded by Manager Cutshall, to approve Permit 2024-035 with the condition in the engineer's report. Upon vote, the motion carried.

b. **NMCWD South Fork Stabilization Permit 2023-142**

Ms. Heffernan provided the engineer's regulatory review of NMCWD's South Fork Stabilization and Restoration Project. She reminded the board that the district's proposed project is for streambank and shoreline restoration and improvements along reaches of the south fork in Eden Prairie and Bloomington.

Ms. Heffernan said the project triggers the district's Floodplain Management and Drainage Alterations, Wetlands Management, Erosion and Sediment Control and Shoreline and Streambank Improvements rules.

Ms. Heffernan stated the work will result in increases of 0.01 to 0.16 feet to the 100-year flood elevation of creek reaches 6 to 8 in Eden Prairie, but even with these increases, the creek will be contained within the proposed reconstructed channel section. She said the adjacent landowners are situated above the proposed elevations. Ms. Heffernan said that the engineer finds the project is not reasonably likely to have significant adverse impacts on adjacent landowners.

Ms. Heffernan said that based on the permit review, she recommends the board approve the permit with the conditions provided in the engineer's report, including provision of written documentation of the necessary land-use rights for the work.

Manager Butler moved, seconded by Manager Cutshall, to approve Permit 2023-013 NMCWD South Fork Stabilization with the conditions presented in the engineer's report. Upon vote, the motion carried.

c. EOR Scope of Work Amendment

Brett Eidem explained that staff is seeking the board's authorization to amend the existing scope of services with EOR for the South Fork Streambank Stabilization Project. He said work preliminary to construction of the project has taken significantly more effort and time than originally budgeted, and the work to date is roughly \$47,000 over the original budget, with the bidding and construction oversight yet to be completed.

Mr. Eidem said the revised scope for task 3 would require a budget of \$55,000. He asked the board to take action to authorize an amendment for not-to-exceed \$55,000, increasing the total final design, bidding and construction management cost to \$175,533.

Manager Kvam moved, seconded by Manager Butler, to authorize the administrator, with advice from counsel, to enter the EOR agreement amendment for not-to-exceed \$55,000, increasing the total final design, bidding and construction management cost to \$175,533. Upon vote, the motion carried.

d. Handicap Accessible Door Retrofit

Lizzy Boor reported that staff has obtained a quote from Assured Security for the retrofitting of three external doors at Discovery Point and the quote from Prairie Electric Company for wiring.

Manager Butler moved, seconded by Manager Cutshall, to authorize the administrator to enter into a contract with Assured Security for \$11,000 and a contract with Prairie Electric Company for \$2,000. Upon vote, the motion carried.

e. **Cost-Share Grants**

Ms. Boor explained the district funds many different cost-share projects, including rain gardens and salt reduction, among other projects, some of which cannot contribute to acres improved so acreage improved is not a metric the district tracks. She said the district does track the yearly funding, and in 2023, the district provided just over \$134,000 in cost-share grant funds, and to date, in 2024, the district has granted \$90,000.

Ms. Boor said the staff is seeing more applications come in as a result of the updates to the program, such as a monthly application review process.

Ms. Boor presented the application for the Hestad raingarden project. She explained it is a stewardship grant, which requires board approval. Ms. Boor explained the project is a residential rain garden project with a budget of \$3,240. She said staff and the Citizens Advisory Committee reviewers recommend funding the project at the requested amount of \$1,500.

Manager Cutshall moved, seconded by Manager Lauria, to authorize the administrator to enter into an agreement with David Hestad for \$1,500. Upon vote, the motion carried.

f. **Normandale-Amendment of Cooperative Agreement with Bloomington for Herbicide Treatment**

Ms. Sniegowski said that the district's cooperative agreement with the City of Bloomington for the Normandale Lake Water Quality Project has expired, but the city and district would like to reinstate and amend it to include a curlyleaf pondweed herbicide treatment this spring. Ms. Sniegowski said that under the amendment, a draft of which is included in the meeting packet, the treatment costs would be split 50-50 between the district and the city.

Mr. Welch said the Bloomington City Council approved the amendment earlier this week.

Manager Chris-Ann Lauria asked what the engineering and staff costs are for the project since she understood that only the treatment costs are being split. Ms. Sniegowski reminded the board that a scope of work for Barr Engineering for Normandale Lake has already been approved. Mr. Welch clarified that the cooperative agreement amendment is just for the contractor costs, and those costs are to be determined based on the survey that will take place in a few days.

Manager Kvam moved, seconded by Manager Butler, to authorize the president, on the advice of counsel, to enter into the cooperative agreement amendment with the City of Bloomington as presented. Upon vote, the motion carried.

g. South Fork Nine Mile Creek Streambank Stabilization Project – Cooperative Agreement with Bloomington

Mr. Eidem described the terms, such as land-use access and long-term maintenance, in the proposed cooperative agreement with the City of Bloomington for the South Fork Nine Mile Creek Streambank Stabilization Project in the meeting packet.

Manager Butler moved, seconded by Manager Lauria, to authorize the president, with advice from counsel, to enter the cooperative agreement with the City of Bloomington for the South Fork Streambank Stabilization Project as presented. Upon vote, the motion carried.

5. Diversity, Equity, Inclusion & Accessibility Plan

Ms. Boor introduced Brigette Bjorklund and Kara Van Lerberghe of Zan Associates to provide an update on the district’s diversity, equity, inclusion and accessibility work. Ms. Boor reminded the board that the District contracted with Zan Associates last fall to help the district with its DEIA work.

Ms. Bjorklund said the district asked Zan Associates to gather feedback from the district’s communities, learn what those communities think about the district, then create a plan for a more equitable approach to the district’s work. Ms. Bjorklund explained that Zan specializes in equitable engagement and has developed a DEIA plan tool that embeds equity and environmental justice throughout the plan.

Ms. Bjorklund said that based on Zan’s research and analysis, the next step is to establish criteria for the four equity considerations and to develop a plan around these considerations and criteria:

- How are marginalized communities informed about the work of the watershed, how can they help, and what unique strategies are being tried?
- How are communities informed of the benefits and burdens of water quality, environmental hazards and what benefits to these communities are missed by being uninformed?
- What specific strategies are used to get cost-share grant information to underrepresented communities in the watershed?

- What are the criteria for determining capital projects in the 10-year plan,? Is the capital project distribution equitable, and has special attention been paid to project areas that have been historically underrepresented?

Ms. Bjorklund noted that the district could help in the next steps by continuing to gather community feedback and sharing it with Zan, distributing the survey to the underrepresented community members, letting Zan know about organizations, people, and events that might help Zan gather more input, and sharing possible channels for distributing the survey, emails, and flyers.

6. Treasurer’s Report

Manager Peggy Kvam reviewed disbursements listed in the treasurer’s report.

Manager Butler moved, seconded by Manager Cutshall, to accept the treasurer’s report and pay the district’s bills as presented. Upon vote, the motion carried.

7. Consent Agenda

- i. **Minutes of March 7, 2024, Public Hearing & Workshop**
- ii. **Minutes of March 20, 2024, Regular Meeting**

Manager Butler moved, seconded by Manager Kvam, to approve the consent agenda as presented. Upon vote, the motion carried.

8. Discussion Items

a. Lower Valley – Bloomington/NMCWD Draft Memorandum of Understanding

Ms. Sniegowski explained that the draft memorandum of understanding lays out how the City of Bloomington and the district will collaborate on the assessment and design for the city-led Nine Mile Creek Corridor Renewal Project. She said staff is soliciting comments from the managers to inform finalization of the agreement with Bloomington staff. The final agreement will come back to the board for review and approval on May 2. She said she understood that the city plans to present the memorandum to its city council on May 6.

Manager Bob Cutshall said the project is on a critical part of the creek, and regarding flooding, we cannot design the project based only on what we know today. He supports working closely with Bloomington on this.

In response to a question from Manager Grace Butler, Ms. Sniegowski said the district engineering will review the assessment of the creek. Mr. Eidem added that staff is still discussing the district's potential role with city staff. He said the district's role may be different at the different project stages.

Dr. Brian Wolff said he is a professional conservation biologist, and argued that any addition of impervious bicycle trails along the creek would cause degradation of the creek and associated habitat.

Ms. Sniegowski reported that resident Michele Lloyd emailed to share concerns about bicycle trails

b. Rosland Filtration Vault Design Review

Janna Kieffer updated the managers on the engineer's assessment of the operational effectiveness of the stormwater filtration vault the district constructed in collaboration with the City of Edina in Rosland Park. She said the engineering team has identified some options for improving the performance of the system. She said the first of three operational issues that have been encountered is air introduction or entrapment in the pretreatment filter. The estimated cost of the recommended actions to address the problem is \$100,000.

Ms. Kieffer described the second issue as the backwash pumping rate not creating adequate lift to effectively clean the anthracite media. She explained the estimated cost of installing a higher horsepower pump and related recommended actions is \$175,000, which includes some duplicative costs that would be undertaken to address the air introduction issue.

Ms. Kieffer explained that the third issue is the fusing of the iron-based media in two of the filtration cells. She said the estimated cost of the recommended actions to loosen and redistribute the media is \$10,000 to \$15,000.

Ms. Kieffer indicated that given the unique and experimental nature of the filtration system, it is reasonable to expect some design modifications will be necessary following initial system operation. Ms. Kieffer noted that design assumptions for the backwashing process did not cover the wide range of water temperatures experienced throughout the

operating season, which is likely contributing to the backwash effectiveness issue, and expressed willingness by Barr to contribute a portion of the cost of the redesign fees and construction. She continues to discuss cost apportionment with the administrator.

Ms. Kieffer described the scope of work to take the conceptual design modifications through final engineering and design, finalize design drawings and specifications, solicit bids and provide construction oversight.

Manager Cutshall asked if the flow-capacity restriction and associated operational shut-downs during low-water conditions in Lake Cornelia have been resolved so the Rosland Park BMP usage is not limited in the future. Ms. Kieffer said the operational issues discussed tonight do not address the flow restriction when water levels in the lake are low. She suggested that the proposed scope of work be expanded to include evaluation of options to improve operational capacity when water levels in the lake are low, which would increase the cost of the scope of work by \$5,000.

Manager Cutshall commented that the Rosland Park BMP cost will be over \$1,500,000, and it needs to run at more than the 50 percent capacity achieved to date.

Manager Kvam asked which district budget line item the district's portion of the costs discussed tonight would come from. Ms. Sniegowski suggested first looking at the repair and maintenance fund, which has \$100,000 budgeted for 2024.

Mr. Welch commented that the operation and maintenance plan is meant to be drafted at the end of the construction period. Ms. Kieffer noted it is drafted but not finalized.

Manager Butler moved, seconded by Manager Lauria, to approve the Barr scope of work for design and construction oversight for Rosland Park BMP repairs, including the additional evaluation of options to improve operational capacity during low water levels, at a cost not to exceed \$55,000. Upon vote, the motion carried.

9. Updates

a. Administrator's Report

Ms. Sniegowski said Barr will present the past history of the lower valley work at the May workshop.

b. Managers' Reports

Manager Butler noted that both the Minnesota Watersheds summer tour, and the NMCWD board meeting are scheduled for June 26. The education component of the tour begins on the evening of June 25. She noted that the district is hosting a clean-up in Hopkins on May 5 from 1 p.m. to 3 p.m.

10. Adjournment

Manager Kvam moved, seconded by Manager Cutshall, to adjourn the meeting at 9:04 p.m. Upon vote, the motion carried.

Respectfully Submitted,



Chris-Ann Lauria (Jul 22, 2024 13:59 CDT)

Chris-Ann Lauria, Secretary

NMCWD-April-17-2024-Regular-Board-Meeting-Minutes

Final Audit Report


2024-07-22

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