

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

WEDNESDAY, AUGUST 17, 2022

South Fork Nine Mile Creek Streambank Stabilization Project Public Hearing

President Bob Cutshall opened the public hearing on the South Fork Nine Mile Creek Streambank Stabilization project at 6:30 p.m., Wednesday, August 17, 2022, at the NMCWD office at 12800 Gerard Drive, Eden Prairie, Minnesota.

Managers Present: Grace Butler (arrived at 6:35 p.m.), Bob Cutshall, Erin Hunker, Peggy Kvam, and Larry Olson

Advisors Present: Marcey Bean and Katie Turpin-Nagel (Barr Engineering Company), Mike Majeski and Daniel Mossing (Emmons and Olivier Resources), and Michael Welch (Smith Partners)

Staff Present: Randy Anhorn, Erica Sniegowski, Brett Eidem and Gael Zembal

Other Attendees: Julie Long (City of Bloomington), Trent Mahr (International School of Minnesota), and Tim Ronhovde (Citizen Advisory Committee)

President Cutshall stated that the public hearing is an opportunity for the public to comment on the proposed project following the presentation of the completed feasibility study for the project, Emmons and Olivier Resources. President Cutshall also stated that the managers will consider ordering the project at the board's upcoming workshop to be held on September 1, 2022.

Administrator Randy Anhorn added that the public hearing noticed and he sent letters and spoke with each of the property owners where the streambank restoration work may be undertaken.

Mike Majeski from Emmons and Olivier Resources provided background on the creek stabilization project in the six reaches of the creek in Eden Prairie and Bloomington, noting that creek stabilization is contemplated on both public and private parcels in Eden Prairie and Bloomington using toewood, brush bundles, rock riffles and vegetation toe boulders.. Mr. Majeski said the engineer’s opinion of probable cost of construction of the project is \$788,940, with additional administrative, legal and engineering costs of an estimated \$236,682.

In response to a question from Manager Grace Butler, Mr. Majeski confirmed that no work is contemplated on Reach 18 and Reach 15. Those reaches had low assessment scores and confining areas that make access difficult and would require significant earth moving. Manager Butler remarked that there may be an opportunity to address these reaches when the state works on Interstate 494 in that area.

President Cutshall opened the floor for public comments.

Trent Mahr of the International School of Minnesota expressed interest in connecting the school to the project. Mr. Eidem said yes, there is a lot of opportunity, including possible boots on the ground with removal of invasive species. Mr. Mahr asked if there are any project direct costs to the school. Mr. Anhorn said the project would be funded through a watershed-wide levy. He added that the District would be requesting a maintenance easement over the area of the project work. Mr. Mahr asked what the maintenance easement involves. Mr. Anhorn said an easement would allow NMCWD to access the property to do any necessary maintenance. Mr. Mahr asked what the term reach means. Staff Eidem explained that it refers to a section of the stream.

President Cutshall called for additional public comments. Upon hearing none, he closed the public hearing at 6:55 p.m.

1. Call to Order of the Regular Board Meeting

President Cutshall called the regular meeting of the Nine Mile Creek Watershed District to order at 7:02 p.m., Wednesday, August 17, 2022.

Managers Present:	Grace Butler, Bob Cutshall, Erin Hunker, Peggy Kvam, and Larry Olson
Advisors Present:	Marcy Bean and Katie Turpin-Nagel (Barr Engineering Company) and Michael Welch (Smith Partners)
Staff Present:	Randy Anhorn, Brett Eidem, Lauren Foley, Erica Sniegowski, and Gael Zembal
Other Attendees:	Tim Ronhovde (Citizen Advisory Committee)

2. Approval of Regular Meeting Agenda

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

3. Reading and Approval of Minutes

a. Draft Minutes of the July 20, 2022, Regular Board Meeting

Mr. Anhorn said under 10c the draft minutes reflected Manager Erin Hunker seconded the motion, but Manager Butler seconded the motion, so that correction will be made to the minutes.

Manager Kvam moved, seconded by Manager Hunker to approve the minutes of the District's July 20, 2022, meeting as amended. Upon a vote, the motion carried.

4. Public Open Forum

a. General Interest

No items of general interest were raised.

5. Consent Agenda

a. Administratively Approved Permits

b. Permit Inspection Report

c. MAWD Resolution Packet

d. Staff Reports

i. Permit and Policy Manager

ii. Education and Outreach Coordinator

1. City of Bloomington Groundwater Conservation Cost-Share Grant

iii. Natural Resources Project and Planning Manager

iv. Program and Project Manager

v. Engineer's Report

Mr. Anhorn noted there are no action items on the Consent Agenda.

6. Hearing of Permit Applications

a. 2022-093 Lynmar Basin Stormwater Retrofit Project – Edina

Permit & Policy Manager Lauren Foley explained that the proposed work is for a stormwater-management and flood-control retrofit project to be completed by the Nine Mile Creek Watershed District on a parcel of land owned by the City of Edina. She said the work will greatly expand the stormwater and local flood storage capabilities of the parcel.

Ms. Foley reported that staff recommends approval of the permit with a condition of submission of contact information for the contractor responsible for erosion control.

Manager Hunker moved, seconded by Manager Butler to approve permit 2022-093 with the condition as presented. Upon a vote, the motion carried.

7. Treasurer’s Report

a. Pember Construction Pay Application #7 for the Rosland Stormwater Filtration BMP Project

Manager Peggy Kvam provided the treasurer’s report, including the Pember Construction pay application number seven for the Rosland Park project for \$20,200. Katie Turpin-Nagel listed items included in the pay application. She said the district engineer reviewed the pay application and recommends payment. Ms. Turpin-Nagel said the engineer hasn’t issued the certificate of substantial completion yet because there are some troubleshooting items being worked through.

Manager Kvam reviewed the treasurer’s report. Mr. Anhorn noted a \$20,300 check for an escrow release. He explained the check will be reflected on the next treasurer’s report.

Michael Welch reminded the managers that they authorized a contract for maintenance work by Metro Blooms on the nonprofit church sites. He explained that the proposal included a request upfront payment of 50 percent of expenditures for materials, but to follow state constitutional requirements for the expenditure of public money, the district’s standard is to pay only for work completed, and the draft contract did not include such advance payment. Metro Blooms is requesting board consideration of upfront payment.

Mr. Welch explained that the contract is still pending. Mr. Welch said another important consideration is equitable treatment of all contractors in the marketplace.

President Cutshall stated that he does not wish to deviate from established district practice to issue payment in advance. Manager Larry Olson concurred. Manager Grace Butler said perhaps a check could be authorized and prepared, then released only after completion of the work.

Program and Project Manager Erica Sniegowski said this topic seems like a future topic for discussion regarding a broader District policy issue regarding equity and how the District wants to work with contractors, given that some entities have less carrying capacity, and the district may wish to encourage minority- and women-owned business by establishing a policy of advance reimbursement of materials costs or something similar.

Mr. Welch said the board could consider authorizing payment of the invoice, contingent on Metro Blooms signing the agreement and submitting an invoice only after materials are purchased and delivered to the site.

Manager Butler moved, seconded by Manager Olson to authorize a check to Metro Blooms upon receiving the executed contract and proof of purchased materials and delivery to the site and to accept the treasurer's report and authorize paying the bills, including Pember Construction pay application 7 in the amount of \$20,200 for the Rosland Stormwater Filtration BMP Project. Upon a vote, the motion carried.

8. Citizen Advisory Committee Update

Citizen Advisory Committee member Tim Ronhovde introduced himself, noting he is a middle school science teacher. He spoke about the tie between the district's work and engaging students in science.

9. Administrator Report

Mr. Anhorn stated his administrator's report is in the meeting packet.

a. Correspondence

Mr. Anhorn reviewed correspondence items, including correspondence from the Minnesota Association of Watershed District regarding NMCWD's dues increasing to \$12,500 for 2023 from \$7,500 in 2022, based on the total market value of property in the watershed. He reminded the board he had circulated the draft MAWD strategic plan for comment. Mr. Welch commented that the draft plan, as may be modified, will be presented at the MAWD annual meeting for approval.

Mr. Anhorn reminded the board about event August 24 at 3 p.m. at the site of the Rosland Park BMP. He mentioned the Minnesota Water Resources Conference

registration is open. Mr. Anhorn said the board has a public hearing on its proposed budget and levy at its 5:30 p.m. meeting on September 1.

10. Unfinished Business

a. Lynmar Basin Stormwater Retrofit Project Bid Approval

i. Lynmar Basin Stormwater Retrofit Bids

Marcey Bean summarized the results of bidding for construction of the Lynmar Basin project. She reminded the board the engineer's opinion of cost was \$770,000 and the apparent low bidder was U.S. SiteWork Inc. at \$669,817.40. Ms. Bean said the three lowest bids were very close. She said the engineer has determined the U.S. SiteWork is a responsible and responsive bidder, and recommended the board award the project to U.S. SiteWork Inc.

Manager Kvam moved, seconded by Manager Hunker to authorize the administrator on advice of legal counsel to enter into an agreement with U.S. SiteWork for the implementation of the Lynmar Basin Stormwater Retrofit project for an amount not to exceed \$669,817.40 and to authorize the administrator to approve change orders up to 10 percent in aggregate of the contract amount and take further action as necessary to undertake the project. Upon a vote, the motion carried.

b. South Fork Nine Mile Creek Streambank Stabilization Project Environmental Assessment Worksheet

Natural Resources Project and Planning Manager Brett Eidem stated that because the South Fork project will involve changes to more than 500 linear feet of the creek, a public watercourse, NMCWD was required to prepare an Environmental Assessment Worksheet. He stated that comments were received from state and local governmental representatives, mostly noting regulatory requirements applicable to the work. He stated that all comments and draft responses are in the packet. These, along with the findings of fact and law in the resolution, constitute the record of decision that staff finds supports a determination of no significant impact. Mr. Welch stated the board, sitting as the Responsible Governmental Unit, in adopting the resolution, is making the decision that there no need for additional environmental review, meaning an Environmental Impact Statement is not necessary.

Mr. Anhorn shared printed copies of the revised draft Resolution 22-06, revised with clarifications.

Mr. Eidem explained the resolution would memorialize the board's record of decision.

Manager Hunker moved, seconded by Manager Olson to adopt Resolution 22-06. Upon a roll call vote, the motion was approved 5-0.

c. Rosland Park Stormwater Filtration BMP Troubleshooting

Mr. Anhorn listed remaining work, including remaining construction administration and troubleshooting system startup and operations, need to complete the Rosland Park project and explained that the initial scope of work with Barr went through the end of construction and didn't include troubleshooting system startup and operations or the development of an operation and maintenance plan.

Ms. Turpin-Nagel provided details about the troubleshooting issues. President Cutshall expressed concern related to periods of system shutdown due to low water levels and other troubleshooting items given the high cost of constructing the filtration system. Ms. Turpin-Nagel said staff will continue monitoring the system and assessing what to do to optimize the system so it is running as much as possible.

Ms. Turpin-Nagel summarized the proposed action is board approval of additional operational testing and troubleshooting at a cost of \$14,000 not previously included in the project budget, and authorization to develop the operation and maintenance plan at a cost of \$15,000, funding for which is in the district's budget.

Manager Butler moved, seconded by Manager Olson to authorize a scope of work with Barr Engineering for the operation, testing, and maintenance plan at not to exceed \$29,000. Upon a vote, the motion carried.

11. New Business

a. Minnesota Association of Watershed District Resolutions

i. 2017 NMCWD Limited Liability MAWD Resolution Submittal

Mr. Anhorn asked whether the managers wished to resubmit the 2017 chloride limited-liability resolution, which is due to sunset this year. If so, he said, the resolution should be updated. Manager Butler commented on the bipartisan support for the legislation and encouraged

the managers to be versed in the background of the resolution. She would like the board to resubmit it, and submit it to Metropolitan Minnesota Association of Watershed Districts with a request for support.

Manager Butler moved, seconded by Manager Hunker to approve submitting to MAWD an update of the 2017 limited liability resolution to MAWD and submitting the resolution to Metro MAWD, requesting support. Upon a vote, the motion was approved 5-0.

The managers talked about a Riley-Purgatory-Bluff Creek Watershed District resolution calling for limitations on operation of wakeboards and agreed the topic should be added to the NMCWD September meeting agenda.

b. 2023 Draft Budget

i. Draft Budget

Mr. Anhorn stated that the draft budget presented this evening is identical to that discussed at the board's August 4, 2022, budget workshop. He said the proposed 2023 budget is \$4,590,000 and the proposed 2023 levy is \$2,800,000. He asked if the managers had any comments on the proposed budget and levy.

Manager Hunker mentioned that given the increase in the MAWD dues, staff may need to increase the dues, conference and membership-fee line item.

Mr. Anhorn reminded the board of the public hearing on the budget and levy on September 1.

12. Attorney's Report

Mr. Welch reported on the Minnesota Supreme Court's decision in *Circle Pines vs. Anoka County*, noting that the primary upshot for the managers is to ensure that you are on a city recommendation list if you would like to be reappointed.

13. Managers' Reports

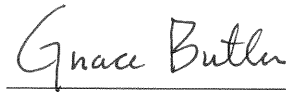
Manager Butler said she confirmed the wetland at the International School is on the District's list from the District's original assessment list of hydrologic restoration opportunities. She said the list identified that the project would involve fixing the pipe and getting the school to work with the District on invasives. Manager Butler would like staff to consider whether there is an opportunity to add this work to the south fork project.

Manager Butler reported on her meeting with the City of Minnetonka mayor, noting the conversation about the city implementing summer Friday schedules as an incentive for employees.

14. Adjournment

It was moved by Manager Butler, seconded by Manager Hunker to adjourn the meeting at 8:42 p.m. The motion carried 5-0.

Respectfully Submitted,



Grace Butler, Secretary

