

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

WEDNESDAY, DECEMBER 15, 2021

I. Call to Order of the Regular Board Meeting

President 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, December 15, 2021. 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: Grace Butler, Bob Cutshall, Erin Hunker, Peggy Kvam, and Larry Olson

Advisors Present: Janna Kieffer, Bob Obermeyer, Barr Engineering; Michael Welch, Smith Partners

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

II. Approval of Regular Meeting Agenda

Administrator Anhorn requested two agenda changes: removal of item 6a, the hearing of the permit 2021-012 Pentagon Park Residential Redevelopment, 4660 W 77th Street, Edina, to allow staff and legal counsel to complete the review, and removal of item 9b – Boardroom Audiovisual Proposal. He said he and Education and Outreach Coordinator Zembal met with the potential A/V provider two weeks ago, but the provider is still working on revising the proposal.

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

III. Reading and Approval of Minutes

a. **Draft Minutes of the November 17, 2021, Regular Board Meeting**

Manager Butler moved, seconded by Manager Kvam to approve the minutes of the District's November 17, 2021, Regular Meeting. On a roll call vote, the motion was approved 5-0

IV. **Public Open Forum**

a. **District's 2022 Budget and Levy**

Administrator Anhorn explained the District is required to have a public comment period on the District's budget and levy. He said the District adopted its 2022 budget of \$4,110,000 and 2022 levy of \$2,600,000 in September, and he opened the floor for public comment. No member of the public appeared to comment.

b. **General Interest**

No items of general interest were raised.

V. **Consent Agenda**

a. **Administratively Approved Permits**

b. **Permit Inspection Report**

c. **Staff Reports**

i. **Permit and Water Resources Coordinator**

ii. **Education and Outreach Coordinator**

iii. **Natural Resources Planning and Project Manager**

iv. **Program and Projects Manager**

v. **Engineer**

Administrator Anhorn said all items on the consent agenda are informational only.

VI. **Hearing of Permit Applications**

b. **2021-170 Opus Lift Station, Minnetonka**

Engineer Obermeyer provided background on the permit application submitted by the City of Minnetonka for a 10-inch sanitary sewer force main. Engineer Obermeyer shared a PowerPoint presentation and displayed a slide showing the location of the proposed project. He noted that some filling of the wetlands in this location took place years ago for the current location of the lift station and maintenance access driveway/entryway on the eastern end of the project, prior to rules and regulations regarding the placement of fill in wetlands. Engineer Obermeyer said the district's floodplain rule is applicable. He said the

district's wetland buffer rule also applies, and the wetland has been determined to be a medium-value wetland. Engineer Obermeyer went through the Engineer's review of the permit submittal and two variance requests submitted by the applicant for the project. He explained a variance is for compliance with providing the minimum and average wetland buffer for a medium value wetland. The second variance is for providing stormwater management for the section of the project not within a linear corridor as defined by the district. He reported the Engineer recommends approval of the two variance requests and the permit with the conditions as outlined in the project review letter. He listed the conditions, including that the applicant provide the contractor's name for installing the erosion control and that buffer markers are installed on City property per District requirements.

Manager Butler said she didn't see the documentation for the second variance and asked Engineer Obermeyer to add it to the Engineer's letter. Engineer Obermeyer said he will do so and a revised letter would be provided to the Board. She asked about the opportunity with this project to change the slope of the driveway/entryway and pad for the lift station to drain toward Green Circle Drive rather than discharging surface runoff directly to the wetland. Engineer Obermeyer described how street runoff flows along the gutter system and into the existing stormwater system. He described the 300-square-foot area of bituminous being disturbed and reconstructed by the project and because this is the only area being altered, changing the drainage pattern would not be possible unless the entire pad and driveway/entryway were reconstructed.

Manager Butler moved, seconded by Manager Hunker to approve Permit 2021-017 Opus Lift Station, Minnetonka and the variances from compliance with the wetlands buffer and stormwater management requirements. On a roll call vote, the motion was approved 5-0.

Engineer Obermeyer commented he takes the motion as direction to include the revised engineer's letter being provided to the Board.

VII. Treasurer's Report

Manager Olson highlighted the invoices and disbursements listed in the report. Administrator Anhorn explained the treasurer's report reflects a greater disbursement amount than the amount in the District's checking account for the end of November, but the District received its second 2021 levy disbursement of roughly \$1,200,000 from Hennepin County. He also noted that as the District's investments reach maturity each month, they will be added into the District's checking account and reflected in the treasurer's report. He wanted to make sure the managers know that the balance in the checking account will cover the disbursements.

a. **Pember Construction Pay Application #3 for the Rosland Park Stormwater Project**

Engineer Kieffer said pay application #3 from Pember Construction is in the amount of \$306,520.35 and covers a wide variety of the work performed on the Rosland Park Stormwater Project. She said the engineer has reviewed the pay application and recommends payment, with the disbursement pending the District's receipt of required affidavit language.

Manager Butler moved, seconded by Manager Kvam to approve paying the District's bills, including paying Pember Construction pay application #3 for the Rosland Park Stormwater Project in the amount of \$306,520.35, contingent on submission by Pember of a pay application that comports with contract terms. On a roll call vote, the motion was approved 5-0.

VIII. Administrator's Report

Administrator Anhorn highlighted items in his report. He noted the managers will be receiving a letter from the Minnesota Campaign Finance Reform Board for action the managers need to take to recertify their statements of financial interest before January 31, 2022. Administrator Anhorn highlighted the dates of the Minnesota Association of Watershed Districts' legislative session and summer tour. He talked about his upcoming meeting with the District's accountant and auditor for routine annual work. Administrator Anhorn said the board will have a workshop on Thursday, January 6, 2022, and he proposes starting the workshop at 5:30 p.m. He said the Board will hold its annual business meeting as part of the regular January meeting.

The administrator noted that he recommends that permit coordinator Lauren Foley present a 2021 permit review, noting costs and outcomes, at a future workshop or meeting.

IX. Unfinished Business

a. **Watershed-Wide Flood Risk Assessment (Atlas 14 Flood Risk and Resiliency-Phase 2) Update/Discussion and Barr Scope of Work for Phase III of the Watershed Wide Flood Risk Assessment**

Engineer Kieffer provided a project progress update. She said one item the District's Technical Advisory Committee will be discussing at its December 17 meeting is how to communicate the flood risk information gleaned from the

modeling. She showed examples of flood risk mapping based on the modeling for the 1-, 2-, 5-, 10-, 50-, 100-, and 500-year events. Engineer Kieffer said the same modeling is used to estimate flood damage. She reminded the board the goal of using the model to estimate flood damages is to quantify flood impacts in terms of potential damage to structures and approximate high-level flood damage costs per structure.

Engineer Kieffer described that damage costs are approximated using damage curves and flood probability curves, and converting the curves to damage costs. She displayed a heat map of annualized flood damage costs per subwatershed. Engineer Kieffer displayed a table listing preliminary flood damage estimates by city in the watershed, including the number of impacted structures and total annualized cost. She displayed another table breaking down the costs between residential and nonresidential structures, pointing out that although the number of potentially impacted residential structures is higher than potentially impacted nonresidential structures, the total annualized damage costs for the two categories are similar. Engineer Kieffer showed a table breaking down the preliminary total annualized flood damage costs by whether the structure is in the creek corridor or not. There was discussion about how the curves can be used to compute high-level flood damage estimates, but she noted that the curves do not factor in regional or local attributes. She said the curves are a tool used by the Federal Emergency Management Agency. Engineer Kieffer pointed out there are many different curves available, and an organization can develop its own curve, if desired, or modify assumptions such as structure value in terms of dollars per square foot.

Manager Butler asked about the status of the modeling for the City of Eden Prairie. Engineer Kieffer responded that Phase 1 of the Atlas 14 Flood Risk and Resiliency project completed primarily in 2020 included adding detail to the model for portions of the watershed in Eden Prairie.

Engineer Kieffer presented Barr's proposed scope of work for Phase 3 of the Atlas 14 Flood Risk and Resiliency project. Manager Butler said she thought 10 to 12 projects may be more than the District wants to consider as part of Task 1.1, which encompasses identifying and conducting high-level evaluation of flood mitigation opportunities within the Nine Mile Creek system to achieve additional flood storage. She asked Engineer Kieffer to explain and discuss whether the identified opportunities will be prioritized. Engineer Kieffer described why it is difficult to narrow the number down and said it's not yet time to work on prioritizing the outcomes of task 1. Managers asked questions about the differences between Task 1, Flood Resiliency Analysis along Nine Mile Creek Corridor and Task 2, Characterize Flooding Issues and Develop Framework for Flood Risk Reduction Projects. Engineer Kieffer stated that Task 1 is a technical engineering analysis to identify specific flood risk-reduction opportunities along

the creek corridor, whereas Task 2 encompasses watershed-wide planning and policy development. She clarified that the two tasks will run parallel to each other, as indicated in the proposed schedule. Engineer Kieffer prioritization is currently identified in Task 2.3, but the optimal timing will be understood better as Task 1 and Task 2 work is undertaken.

Manager Butler suggested planning to present this initiative to the cities in an exciting and fun way, including giving the initiative a fun name in order to bring energy to this idea.

Administrator Anhorn asked the managers to consider if they feel comfortable authorizing Barr to go forward or whether they need a revised scope. Administrator Anhorn said staff is planning to apply for grants for this project. He explained one is the Minnesota Pollution Control Agency's Climate Resiliency Grant due December 21, and the other is a Federal Emergency Management Agency grant for which staff already submitted the notice of interest. Staff hopes to submit the FEMA grant application by the end of December. There was discussion about the grants and the proposed cost of the Phase 3 scope of work, including whether additional budget should be added to Task 2.1, which encompasses identifying areas within the Nine Mile Creek watershed with higher vulnerability to flooding based on various socio-economic factors.

Administrator Anhorn suggested that the Board structure a motion to authorize Barr to undertake the scope of work for not to exceed \$180,000, which includes Task 2.1, and direct staff to prepare and submit the grant applications for the MPCA Climate Resiliency grant program and FEMA Hazard Mitigation Grant Program for grant funding to be applied to the cost of this scope of work and authorize the Administrator to sign need agreements as part of the applications.

Manager Hunker moved, seconded by Manager Olson to authorize Barr to undertake the scope of work at a not to exceed \$180,000 and direct staff to prepare and submit the grant applications for the MPCA's Climate Resiliency grant program and FEMA's Hazard Mitigation Grant Program for grant funding to be applied to the cost of the scope of work and authorize the Administrator to sign need agreements as part of the applications. On a roll call vote, the motion was approved 5-0.

X. New Business

a. City of Edina Nine Mile Creek Enhancement Stewardship Grant Application

Program and Project Manager Sniegowski noted the District has remaining Stewardship and Habitat Restoration Cost Share funds, so cities could submit grant applications for the remaining funds. She described the application submitted by the City of Edina to enhance buffer vegetation in six reaches of the

Edina Streambank Restoration project. Program and Project Manager Sniegowski said staff recommends approval of this grant application and authorization of an agreement to provide up to \$50,000. Administrator Anhorn provided more details about the maintenance agreement in place for the Edina Streambank Restoration project and an upcoming agreement for a three-year contract for further maintenance along that creek corridor. He noted this proposed stewardship grant project is outside of the contracted maintenance.

Manager Olson moved, seconded by Manager Butler to approve the City of Edina – Nine Mile Creek Enhancement Stewardship Grant and authorize the Administrator to enter into an agreement with the City of Edina with advice of counsel for not to exceed \$50,000. On a roll call vote, the motion was approved 5-0.

b. NMCWD Draft 2022 Workplan

The managers agreed by consensus to move review of the 2022 workplan to the January workshop or regular meeting.

XI. Attorney's Report

No attorney report.

XII. Managers' Reports

Chair Cutshall said over the past few months he has received quite a few emails from a concerned citizen who lives on Normandale Lake. Chair Cutshall says he provides the communications and data received from this citizen to Administrator Anhorn and attorney Welch.

Manager Butler said she appreciates the terminology related to District lake water quality studies slowly transitioning from "Use Attainability Analysis (UAA)" to "water study" or "water-quality reporting," and she hopes at some point the managers permanently change it.

XIII. Adjournment

It was moved by Manager Olson, seconded by Manager Hunker to adjourn the meeting at 9:15 p.m. On a roll call vote, the motion was approved 5-0.

Respectfully Submitted,



Erin Hunker, Secretary

