

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

WEDNESDAY, DECEMBER 20, 2023

1. Call to Order

President Bob Cutshall called the Nine Mile Creek Watershed District Board of Managers regular meeting to order at 7:00 p.m. The meeting was held at the NMCWD office, Discovery Point, 12800 Gerard Drive, Eden Prairie, MN.

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

Advisors Present: Janna Kieffer (Barr Engineering Company) and Michael Welch (Smith Partners)

Staff Present: Randy Anhorn (Administrator), Lizzy Boor (Watershed Specialist), Brett Eidem (Natural Resources Project and Planning Manager), Erica Sniegowski (Deputy Administrator), Zach Stafslie (Regulatory Program Manager), and Gael Zembal (Education and Outreach Coordinator).

*Indicates attended virtually under advice of a health-care professional, in accordance with Minn. Stat. 13D.02, subd. 1(b)(2).

2. Approval of Agenda

Manager Olson moved, seconded by Manager Lauria to approve the meeting agenda as drafted. On a vote, the motion was approved.

3. Reading and Approval of Minutes

a. Draft Minutes of November 2, 2023, Public Hearing and Workshop

Manager Butler moved, seconded by Manager Olson to approve the minutes of the November 2, 2023, public hearing and workshop as presented. On a vote, the motion was approved.

b. Draft Minutes of November 15, 2023, Regular Meeting

Manager Butler moved, seconded by Manager Olson to approve the minutes of the November 15, 2023, regular meeting as presented. Upon vote, the motion carried.

4. Public Open Forum

a. Public Comment – 2024 Budget and Levy

Mr. Anhorn noted that the district is offering a second opportunity for the public to comment on the district’s 2024 budget and levy. He reminded the board that it held a public hearing on the district’s 2024 budget and levy on September 7, 2023, and received no comments on the budget of \$5,759,000 and levy of \$3,200,000.

No members of the public were in attendance.

b. General Interest

No members of the public were in attendance.

5. Consent Agenda

a. Administratively Approved Permits and Inspection Report

b. Engineer’s Report

The board accepted the consent agenda by consensus.

6. Staff Updates

Brett Eidem reported that based on a recent meeting with City of Hopkins staff, district staff will be proposing a high-level assessment to help inform future opportunities to work on flood mitigation and water quality in Hopkins.

Gael Zembal reported on the District’s 2024 education program “STEM on Tap.” She explained the program will provide educators with science, technology, engineering and math resources and the opportunity to network and to maintain their credentials through continuing education units.

7. **Treasurer's Report**

Manager Peggy Kvam presented the treasurer's report, which includes Pember Construction pay application #10 for the Rosland Stormwater Filtration BMP Project, the final pay application from Pember for the project. Janna Kieffer said the pay application is for \$14,310. She said all work is completed and Barr has received all required close-out documentation from Pember. Ms. Kieffer recommended payment, which constitutes the release of all remaining retainage.

President Cutshall asked if the bond is still in force. Michael Welch said the payment bond runs 15 months after the final payment and the performance bond is for a year.

Manager Butler moved, seconded by Manager Lauria to accept the treasurer's report and pay the district's bills including pay application #10 from Pember Construction for \$14,310. Upon vote, the motion carried.

8. **Administrator's Report**

Mr. Anhorn noted that in addition to his report in the packet, the board will hold its annual business meeting at its January workshop. Mr. Anhorn reported employee manual updates are needed to reflect recent changes in state law.

9. **Unfinished Business**

a. **Holiday, Wing and Rose Lake Quality Improvement Project**

Mr. Anhorn stated the district recently held its public hearing on the Holiday, Wing, Rose Lake Water Quality Improvement Project feasibility study. He said a resident commented about sediment buildup in Wing Lake and her concern that the sediment may be entering Wing Lake from Holiday Lake. Mr. Anhorn said dredging was not assessed in or recommended by the feasibility study. He said the board could direct staff to look into the sediment concern with the City of Minnetonka. Mr. Anhorn said staff does not judge that the potential presence of sediment deltas will have significant negative effects on the proposed alum treatments.

Michael Welch explained the second to the last recital, or "Whereas" statement, clarifies the board of Managers received a public comment at its December 7, 2023, public hearing. He reported the comment was about a resident's concern about sedimentation in Wing Lake, potentially tied to water pumped from Lake Holiday. Mr. Welch stated district staff, legal counsel and engineer determined removal of sediment from Wing Lake is not supported as an

immediate resource-improvement step and that the effectiveness of the projects will not be adversely affected by the reported sediment deposits.

Mr. Welch said that in addition to ordering the project, the resolution authorizes the engineer to undertake the scope of work for design, project coordination and construction oversight at a cost not to exceed \$80,455. Mr. Welch said the resolution directs the administrator to develop a cooperative agreement with the city. Staff will bring the agreement to the board for approval. Mr. Welch said the resolution also authorizes the administrator to go out for bids.

Manager Grace Butler indicated that staff should be sure to take lessons learned in conducting the iron-aluminum treatment on Holiday and apply them to the Indianhead and Arrowhead treatment. Erica Sniegowski said for Holiday, the herbicide treatment is planned for spring and the aluminum-iron treatment is planned for the fall. She said the information that staff could bring to the board is about the aluminum-iron treatments of Wing Lake, Arrowhead Lake, and Indianhead Lake anticipated for spring 2024 application. Ms. Kieffer said there will not be results to review before the fall treatments.

Manager Butler moved, seconded by Manager Olson to adopt Resolution 23-09 ordering the Lake Holiday, Wing Lake and Lake Rose Water Quality Improvement Project. Upon a roll call vote, the motion carried 5-0.

a. District Rule Revision

Zach Stafslie reported the district received comments on the proposed revisions to NMCWD's requirements for stormwater management for linear, or road, projects from several cities. He said some cities commented on the rule revision's requirement that applicants use "reasonable efforts" to acquire property for stormwater management and undertake only "cost effective" best management practices – terms that are not defined. He noted that the language in the proposed revisions parallels the state requirements, which was NMCWD staff's intent. Mr. Stafslie said staff considered all the received comments and does not reason that changes to the proposed rule provisions are needed.

Mr. Welch said resolution 23-10 adopts the rule amendments and directs staff to issue notice of the change.

Manager Olson moved, seconded by Manager Butler, to adopt Resolution 23-10 adopting amendments to the Nine Mile Creek Watershed District rules. Upon a roll call vote, the motion carried 5-0.

b. Cost Share Grant Application

Lizzy Boor reviewed cost-share applications from the City of Minnetonka and the City of Richfield for low-salt design training. She recommended approval of \$26,193.75 for Minnetonka and \$27,800 for Richfield.

Ms. Sniegowski noted that the proposed training, which has been developed by Bolton & Menk, takes an innovative approach and Hopkins staff has expressed interest as well. President Cutshall said the course could also be offered to landscape architects and civil engineering firms. Staff noted that Bolton & Menk has mentioned that the training is proprietary, and the cost-share partnership with the cities may involve access to the training such as would require NMCWD to execute a nondisclosure agreement.

Manager Butler moved, seconded by Manager Lauria, to authorize the administrator to enter into a cost-share agreement with the City of Minnetonka for not to exceed \$26,194 and with the City of Richfield for not to exceed \$27,800 and to authorize the administrator with advice of counsel to enter a nondisclosure agreement with Bolton & Menk as necessary. Upon vote, the motion carried.

c. Phase 3 Flood Risk and Reduction and Resiliency Study Update

Ms. Kieffer provided a status update on the Phase 3 Atlas 14 Flood Risk and Resiliency project, indicating all tasks have been completed except development of a project evaluation framework for flood risk reduction projects.

Ms. Kieffer indicated that draft decision maps have been developed as the project evaluation framework for Task 2.5. She explained the decision maps are not prescriptive but can identify the primary factors to be considered when evaluating impacts and concerns.

Ms. Kieffer said the next steps in Task 2.5 include completing the development of preliminary decision maps for numerous identified impact categories and sharing them with district staff for review.

Manager Chris-Ann Lauria asked if the decision maps will be used to create a weighted system. Ms. Kieffer responded they will not create a weighted system, but they will help establish the district's expectations for impact analysis in a roadmap fashion.

President Cutshall said to give context to the flood risk issue, the model indicates there could be \$157,000,000 in flood damage costs from

a 100-year storm in the Nine Mile Creek watershed. He said that is the cost to keep in mind, so the district needs to reinforce the message that this is a serious economic issue.

Ms. Kieffer shared that regarding Task 3.1 Flood Vulnerability Communication Strategy; next steps include the district working on an interactive web tool.

10. **New Business**

a. **Barr Engineering Scope of Work for the Watershed-Wide Adaptive Level Control System Project**

Ms. Kieffer said that the proposed scope of work is for an evaluation of an adaptive level control system for the Nine Mile Creek Watershed District. She explained that if the first phase, a high-level evaluation of using ALCS on the Nine Mile Creek system and for understanding potential benefits and constraints, is promising, Phase 2 would be undertaken, and it dives into the details by using RiverWare software to evaluate overall effectiveness of implementing ALCS technology at multiple locations throughout the Nine Mile Creek system to reduce flood risk.

Ms. Kieffer explained that tonight the board is considering the approval of the first phase 1 of the scope of work. She said regarding the pilot test included in the proposed Phase 1, Barr requests the district contribute \$5,000 of the estimated \$17,500 cost. Barr would cover the remainder of the cost because of its interest in determining whether the RiverWare software it proposes to use can be adapted to landscapes such as in the Nine Mile watershed. Ms. Kieffer clarified the pilot will take the flows from the current SWMM model and put these inputs into the RiverWare model to make sure the RiverWare results are reasonably consistent with the district's SWMM model results and accurately reflect the Nine Mile Creek system. If the pilot does work accurately, then Barr can use the RiverWare software to start modeling system-wide application of ALCS technology in phase 2, if approved.

Manager Olson moved, seconded by Manager Butler, to authorize Barr Engineer's phase 1 scope of work for the watershed-wide adaptive level control system at a cost not to exceed \$65,000, which includes a \$5,000 subcontract to PWRE of \$5,000 for RiverWare. Upon vote, the motion carried.

11. **Managers' Reports**

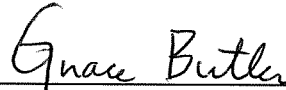
Manager Butler reported she took Manager Lauria on a tour of lakes in Minnetonka.

12. **Adjournment**

President Cutshall, in light of Mr. Anhorn's retirement from the position of the administrator as of December 31, 2023, presented Mr. Anhorn with a book and cards from the managers. The managers and staff shared accolades and appreciation for Mr. Anhorn and his years of service to the Nine Mile Creek Watershed District

It was moved by Manager Butler, seconded by Manager Lauria to adjourn the meeting at 8:37 p.m. Upon vote, the motion carried.

Respectfully Submitted,



Grace Butler, Secretary