

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

**WEDNESDAY, FEBRUARY 19, 2020**

Call to Order

Chair Peterson called the Regular Meeting of the Board of Managers of the Nine Mile Watershed District to order at 7:06 p.m., Wednesday, February 19, 2020, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

Managers Present: Bob Cutshall, Erin Hunker, Larry Olson, Grace Sheely, and Jodi Peterson,

Manager Absent: None.

Advisors Present: Randy Anhorn, Lauren Foley, Janna Kieffer, Erica Sniegowski, and Michael Welch

Approval of Regular Meeting Agenda

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

Reading and Approval of Minutes

**A. Draft Minutes of the January 9, 2020, Special Board Meeting**

Manager Sheely said she had grammatical changes but no substantive changes. There was discussion about whether Secretary Hunker should be identified as submitting the minutes even though Secretary Hunker wasn't present and no secretary pro tem was appointed. Attorney Welch said yes, if the Board approves the minutes, Secretary Hunker can submit them.

**Manager Olson moved, seconded by Manager Sheely to approve the minutes of the January 9, 2020, with nonsubstantive grammatical changes. Upon a vote, the motion carried.**

**B. Draft Minutes of the January 15, 2020 Regular Board Meeting**

Manager Sheely said she had approximately five nonsubstantive changes.

**Manager Sheely moved, seconded by Manager Hunker to approve the minutes of January 15, 2020, Regular Board Meeting with nonsubstantive grammatical corrections. Upon a vote, the motion carried.**

## **Public Open Forum**

There were no members of the public in attendance.

## **Consent Agenda**

### **A. Administratively Approved Permits**

Chair Peterson called for questions on the administratively approved permits. There were none raised.

### **B. Permit Inspection Report**

No questions on the permit inspection report were raised.

## **Hearing of Permit Applications**

There were no permit applications brought forward.

## **Treasurer's Report**

### **A. Sunram pay application 6 - Phase I**

Engineer Kieffer explained this application for pay is for the Edina stream stabilization phase I and is for half of the line item for maintenance and the warranty period for planting and vegetation establishment and restoration and a portion of the retainage. She said the total amount requested is \$22,614.45, and the engineer recommends payment of that amount.

**Manager Sheely moved, seconded by Manager Hunker to approve the payment of \$22,614.45. Upon a vote, the motion carried.**

### **B. Sunram pay application 6 – Phase II**

Engineer Kieffer said this application for payment \$3,375 is for the Edina stream stabilization phase II and is for one-quarter of the budget for plant establishment and vegetation establishment, maintenance, and warranty. She stated the engineer recommends payment of \$3,375.

**Manager Olson moved, seconded by Manager Sheely to approve the payment of \$3,375. Upon a vote, the motion carried.**

**Manager Sheely moved, seconded by Manager Cutshall to accept the Treasurer's Report and pay bills as presented. Upon a vote, the motion carried.**

## **Staff Reports**

### **a) Permit and Water Resources Coordinator**

Permit and Water Resources Coordinator Foley reported she has had several pre-permit meetings, and the District is starting to see permit applications permits for larger, multiple-acre projects. Coordinator Foley said she has turned her attention to the guidance documents project, which is in the final edits and graphic design phase. She

reported 31 parties signed in for this evening's cost share information session, which took place just prior to tonight's Board meeting. Coordinator Foley gave an update about the status of the office's automated external defibrillator (AED).

**b) Education and Outreach Coordinator**

Education and Outreach Coordinator Zembal reported the District's Citizens Advisory Committee (CAC) met last week, and all the new members are excited to get started on education and outreach initiatives. She reported about the CAC's annual goals.

Coordinator Zembal mentioned staff is working to draft a reimbursement policy for CAC members to attend conferences, and staff will bring this in front of the Board at a future Board meeting. Administrator Anhorn noted the District's 2020 budget includes funds for this reimbursement program. Coordinator Zembal provided details about the types of water conferences she believes would be useful to the CAC members. There was discussion about other types of training, such as communications, that could be useful to CAC members.

Manager Sheely asked if the District would reimburse a manager for fees associated with attending a conference, such as the March 7, 2020, Isaac Walton League conference. Administrator Anhorn responded the Board would need to approve a manager attending a conference for fees and expenses to be reimbursed under board policy.

**Manager Olson moved, seconded by Manager Hunker, to approve reimbursement for manager attendance at the March 7, 2020, Isaac Walton League Watershed and Climate Summit 2020. Upon a vote, the motion carried.**

Manager Sheely said she believes the early-bird registration fee is \$32. Attorney Welch recommended the process, going forward, could be that the managers email Administrator Anhorn with conference details and requests for reimbursement for conferences related to watershed business and interests. Attorney Welch said Administrator Anhorn could put conference requests on the Consent Agenda for Board approval.

**c) Program and Project Manager**

Program and Project Manager Sniegowski displayed new cost share signs that grantees would have access to for display. She announced the CAC review for residential grants is scheduled for the evening of April 1, and the managers' review of association and higher-level grants will be held April 1 from 11 a.m. to 12:30 p.m. Manager Sniegowski asked for two managers to volunteer and said she would send an email, following the District's Open Meeting Law compliance procedures, to set that up.

Program and Project Manager Sniegowski updated the Board about the Normandale Lake herbicide treatment and timeline. She provided background on Normandale Lake, the lake's phosphorous levels and loading, vegetation, oxygen levels, and lake management

strategies. She said it has been anticipated that the lake draw-down, previously implemented, would need to be followed up with an herbicide treatment, and now the District is planning to move forward with the herbicide treatment. Program and Project Manager Sniegowski reported the plan is to conduct the curly-leaf pondweed herbicide treatment in the spring of 2020. She explained the whole-lake treatment requires a DNR variance, which requires a lake vegetation management plan, and she described DNR's progress on completing the lake vegetation management plan. Program and Project Manager Sniegowski talked about the public communications process, the notification process for the herbicide treatment, and the different channels that are being used to communicate about the project.

Engineer Kieffer presented the details of the herbicide treatment, noting the District will be issuing a request for quotes to three herbicide application companies next week in order for quotes to be received before the District's March meeting. She said in addition to the lake vegetation management plan, the District needs a DNR permit for the herbicide application. Engineer Kieffer said once ice is out, the District will do a plant survey and modify the herbicide treatment plan, if necessary, based on the results of the survey, then apply for the DNR permit. She noted that after completing an Environment Assessment Worksheet for the Normandale Lake project, the District considered the benefit of treating for curly-leaf pondweed in Nine Mile Creek just upstream of the lake. Engineer Kieffer said those areas of the stream are included in the request for quotes, and staff wants to make sure the Board is aware of and agrees with this change from the original project proposal and scope of the EAW. She pointed out the cost of the treatment of the portion of Nine Mile Creek is an additional \$8,000, and the original herbicide-treatment cost estimate was \$43,000, so with the creek treatment and adjustment for inflation, the current project cost estimate is \$53,000-\$57,000. Engineer Kieffer explained the estimate is a range because the cost depends on the amount of herbicide applied, which depends on flow rates, and the exact amount of herbicide used won't be known until the application is complete.

Chair Peterson said she feels a part of the ongoing project is educating people about the project and expected results. Program and Project Manager Sniegowski said she is communicating with the City of Bloomington about updating brochures, and she noted signage will be updated for spring.

**d) Administrator**

Administrator Anhorn announced the upcoming Board workshop to be held at 5:30 p.m. on Thursday, March 5. He said one of the agenda items will be the retreat agenda. He noted the building addition project has gone out for bid. Administrator Anhorn said his annual review is coming up, and he will contact Manager Olson and Manager Hunker to sit down and talk about the review process. Administrator Anhorn reported the District has been recommended for grant funds in the amount of \$20,000 from the County aquatic invasive species grant program for goldfish management assessment work on Lake

Cornelia. Administrator Anhorn shared that he has had some initial conversations about the idea of Hennepin County working on an expanded groundwater observation well network throughout the county.

### **Unfinished Business**

#### **a) Non-Profit BMP Project Bids and Agreement**

Program and Project Manager Sniegowski pointed out the Board packet contains a memo with the bid results. She noted eight bids were received. She highlighted that during the bid process, an addendum was issued, which resulted in the District engineer modifying the opinion of probable cost from \$188,144 to \$193,426. Program and Project Manager Sniegowski said the lowest bid received came in at \$199,946 from Sunram Construction. She reported that the District project has been recommended for grant funds from Hennepin County in the amount of \$60,000 for project implementation, and the County Board will act on the recommendation in early March. Program and Project Manager Sniegowski said District staff recommends the District move forward with this project at five sites.

There was discussion about the bids received and total project cost. Manager Cutshall noted that the managers need information and objective data on expected pollution reductions and total costs in order to make good decisions. Attorney Welch said that type of detail is especially important in the stage of ordering the project, because it is the stage when the project has moved past conception but hasn't reached design.

**Manager Olson moved, seconded by Manager Sheely, to authorize the Administrator, with the advice of legal counsel, to enter into agreement with Sunram Construction for the implementation of Non-profit sites BMP Retrofits project for the amount not to exceed \$199,946 and to further authorize the Administrator to approve change orders up to an aggregate of 10% of the contract price and take other such action as deemed necessary to undertake the project. Upon a vote, the motion carried.**

#### **b) City of Minnetonka Opus II Area (NMCWD 2020-01) Stormwater Volume Retention Credit Bank Application**

Administrator Anhorn said the application is based on the preliminary design for construction of a stormwater facility, and is for 638 cubic feet of stormwater volume retention credit. He explained that to determine the actual volume, District staff will need the as-built drawings of the BMP. He said staff recommends approval of the bank deposit with the condition that the applicant submit the information he described and as noted in the memo in the meeting packet.

**Manager Sheely moved, seconded by Manager Olson to approve the bank deposit on the condition in the memo. Upon a vote, the motion carried.**

c) **Update from Recent Technical Advisory Committee Meeting on High Water Levels and Potential for Localized Spring Melt Flooding**

i. **BARR scope of work for screening level flood vulnerability of land-locked lakes**

Administrator Anhorn talked about the January 17 meeting with the TAC and the discussion about the groundwater-surface water interaction study and high ground water. He summarized the points of the discussion and ideas about areas of collaboration.

Administrator Anhorn reported the TAC didn't feel a comprehensive snowmelt analysis was an urgent task to complete but did agree that looking closer at landlocked lakes and associated inundation would be useful. He said he asked Barr Engineering to put together a proposal to assess flooding potential at landlocked lakes. Engineer Kieffer explained this would identify areas of high concern and provide information the District can share with the communities. Administrator Anhorn shared that the TAC suggested the District post information on its website about the past five years being the wettest on record, with 2019 being the wettest, and links to the Department of Natural Resources and National Weather Service, contact information and links to information and resources, a property owner tool kit, and other information such as data provided in real-time (as collected).

**Manager Sheely moved, seconded by Manager Hunker to authorize a task order for the District Engineer to complete the tasks in agenda item 9Ci not to exceed \$10,000. Upon a vote, the motion carried.**

Administrator Anhorn said he will ask Engineer Kieffer to draft a scope of work for a web application to share District data as collected to bring back in front of the Board at a future meeting.

ii. **Barr scope of work for "re-sewing" District-wide XP-SWMM model with updated information from cities**

Administrator Anhorn announced there is a scope of work for the re-sewing of the hydrologic and hydraulic model, for an estimated cost of \$45,000, which is not in the District's budget. He said there isn't an estimate for putting the information on the website, but it would be approximately \$5,000 to \$10,000. He said he will bring this back in front of the Board at a future meeting.

## **New Business**

### **a) Bush Lake Shoreline Vegetation Management**

Administrator Anhorn noted the District has partnered with the City of Bloomington since 2001 on maintaining native vegetation near the outlet of Bush Lake, and Bush Lake has good water quality and vegetative diversity. He displayed a PowerPoint slide with a map of the ecology of the plants in the area. Administrator Anhorn said the current three-year agreement with the City of Bloomington is expiring. He asked the Board to authorize him to seek quotes for the work and extend the agreement with the City to jointly manage vegetation. He said the current agreement is a 50-50 split with the City.

**Manager Hunker moved, seconded by Manager Sheely to authorize solicitation of quotes for invasive plant management at Bush Lake and to authorize Administrator Anhorn to execute an amendment to the agreement with the City of Bloomington to jointly manage vegetation. Upon a vote, the motion carried.**

### **b) Amend Smith Partners Legal Service Agreement**

Administrator Anhorn said there is an amendment to the legal services agreement between the District and Smith Partners to include Smith Partners' new rates. Attorney Welch said the amendment includes the new rates and extends the agreement through December 2020. Attorney Welch said to avoid needing such contract extensions in the future, the Board could consider modifying the timing of entering into the two-year agreements with its legal counsel and engineering services provider to account for the biennial services-provider solicitation requirement. He said Administrator Anhorn plans to solicit for professional services in April. Administrator Anhorn added that the Board will act on the responses at the May meeting.

**Manager Sheely moved, seconded by Manager Olson to authorize the Administrator to execute the amendment to the agreement with Smith Partners. Upon a vote, the motion carried.**

### **c) Agreement with City of Edina for Braemar SW Volume Retention Project – Stormwater Facilities Fund**

Administrator Anhorn explained the City of Edina is changing its on-property salt storage, including moving existing stormwater BMPs, making the underground system larger, and capturing more roof runoff. Administrator Anhorn noted the project funds will come from the District's stormwater facility fund. He said this is an agreement between the District and the City of Edina to confirm the District will reimburse the City for the project once the District reviews the as-built drawings. Administrator Anhorn asked the Board to approve the draft agreement as presented.

**Manager Olson moved, seconded by Manager Sheely to authorize the Administrator to enter into agreement with the City of Edina for the Braemar SW Volume**

**Retention Project for funding from the District’s Stormwater Facilities Fund. Upon a vote, the motion carried.**

Manager Cutshall asked if the agreement should state \$11 per cubic yard or foot. Administrator Anhorn said he will correct it to state “foot.”

**d) Legislative Day at the Capital**

Administrator Anhorn stated the Legislative Day is the annual Minnesota Association of Watershed District event at which the District is able to engage legislators. He said it time to register for the event, and the dinner will be the evening of March 18 and the breakfast is the morning of March 19.

**Manager Hunker moved, seconded by Manager Olson to authorize Manager Sheely to attend and represent the District at the Legislative Day at the Capital. Upon a vote, the motion carried.**

**Engineer’s Report**

Engineer Kieffer provided an update on the Lake Cornelia project. She said staff is working with WSB & Associates on developing a monitoring plan for goldfish, and the District is being awarded grant funds for this project. She provided an update on the Rosland Park best-management practice feasibility analysis and noted an appropriations permit will be needed for the pumping. Engineer Kieffer mentioned other opportunities being explored in the Lake Edina watershed for implementation of stormwater BMPs with potential public partners. She talked about modeling and next steps.

**Attorney’s Report**

Attorney Welch reported on the city attorneys’ conference held in early February. He said approximately 40 attorneys attended a presentation he gave with Ms. Kieffer and one of her colleagues on Atlas 14 precipitation amounts and liability risks for cities.

Attorney Welch commented he had volunteered to follow up regarding information, shared at a recent Metro MAWD meeting, about the Friends of the Mississippi River taking the legislative lead on the chloride liability limitation. He reported that the Friends of the Mississippi River is not taking that role, but Clean Water Action will take the legislative lead. Attorney Welch notes that the District could consider submitting a letter of support for the Minnesota Pollution Control Agency’s initiative to gain authority for charging a fee for Smart Salting training and certification, on the condition that the liability limitation is adopted. Attorney Welch said the deadline for letters is March 13. Administrator Anhorn said he could add the letter to the Board’s March 5 workshop. The Board indicated consensus on adding this letter to the workshop agenda.

Manager Sheely said she would like added to the March agenda a directive, through a clear letter, to Ray Bohn at MAWD regarding what the District wants him to do regarding status reporting back to the District.



**Manager's Reports**

Manager Olson noted a resident filed a lawsuit against the City of Edina regarding backyard flooding.

**Adjournment**

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

Respectfully Submitted,



Erin Hunker, Secretary

