

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

WEDNESDAY, JANUARY 18, 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, Eric Hunker, Peggy Kvam, and Larry Olson

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

Staff present: Randy Anhorn (Administrator), Brett Eidem (Natural Resources Project and Planning Manager), Erica Sniegowski (Program and Project Manager), Zach Stafslie (Regulatory Program Manager), and Gael Zembal (Education and Outreach Coordinator)

2. Approval of Regular Meeting Agenda

Manager Olson moved, seconded by Manager Hunker to approve the agenda. Upon vote, the motion carried.

3. Public Open Forum

No members of the public were in attendance.

4. Consent Agenda

With regard to item 5eviii the review of the NMCWD Governance Manual, Randy Anhorn stated that staff will be working with the Personnel Committee on a recognition policy that may be brought forward in the near future.

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

5. **Staff Updates**

The district's newest staff member, Regulatory Program Manager Zach Stafslie, introduced himself.

Manager Grace Butler commented regarding Mirror Lake; she wants the district to keep track of the road construction. She says she wants to make sure the city and county work together and make sure fill from the construction activity does not go into the lake. Erica Sniegowski said staff will track it.

Manager Butler referenced the district staff report and commented she hopes staff has tested the data logger to make sure it works. Janna Kieffer responded a data storage SIM card was needed for the data logger and the card has been purchased and sent to the project subcontractor. She noted a Verizon data plan has been set up for the data logger. She said she will put in a request to the contractor regarding testing the data logger.

7. **Treasurer's Report**

a. **US Site Works Pay Application #4 for the Lynmar Basin Stormwater Retrofit Project**

Ms. Kieffer reported a pay application was received from U.S. Siteworks for the Lynmar Basin project for work covered under change order 2, which was to bring in additional topsoil. She said the pay application is in the amount of \$1,197.00 and she recommends payment.

Mr. Anhorn stated he invoiced the City of Edina for sidewalk costs and will seek reimbursement from the city in 2023 for its 50 percent of the street and infrastructure costs.

Manager Hunker moved, seconded by Manager Butler to pay the bills, including pay application #4 from U.S. Siteworks as set forth in the treasurer's report. Upon a roll call vote, the motion carried 5-0.

Mr. Anhorn said expenditures for the Lake Cornelia-Lake Edina Project have exceeded the budget of \$1,500,000 that the district levied for by \$540,000. He said the accounting does not include \$563,000 in grants funds that have not yet been received. Mr. Anhorn said grant funds will come in the next month or so for the Rosland project and in mid-2023 once the Lynmar basin project is completed. He said the grant funds will offset the deficit in the budget. With regard to anticipated additional expenditures for the Lake Cornelia- Lake Edina Project, Mr. Anhorn explained there are still costs to be incurred to finish the Lynmar Basin stormwater retrofit project, as well as completion of the Rosland Park stormwater filtration project and an additional alum treatment of Lake Cornelia. Mr. Anhorn said the district's Capital Contingency Reserve funds are at

\$1,440,000.00. He proposed moving \$440,000 from the reserve funds to the Lake Cornelia-Lake Edina Project to finish the project including the upcoming alum treatment, completing the Lynmar Basin project and continued goldfish removal.

Manager Cutshall asked what happens if the district goes over budget. Mr. Welch said NMCWD has contingency funds that can be drawn on for capital projects.

Mr. Anhorn requested a motion from the board to approve moving \$440,000 from account 7700, Capital Reserve, to account 7110, Lake Cornelia-Lake Edina.

Manager Olson moved, seconded by Manager Kvam to authorize the administrator to move \$440,000 from the account 7700, Capital Reserve, to account 7110, Lake Cornelia-Lake Edina Projects. Upon vote, the motion carried.

8. Administrator's Report

Mr. Anhorn reminded the board that he will be on vacation February 4 to February 16. He recommended the board appoint Ms. Sniegowski as temporary administrator in his absence.

Manager Butler moved, seconded by Manager Hunker to appoint Erica Sniegowski as temporary administrator in Randy Anhorn's absence February 4 – February 16. Upon vote, the motion carried.

Mr. Anhorn reminded the group the Minnesota Waters 2023 legislative event is February 15-16 in St. Paul. He noted Manager Butler is registered and any other interested manager should let him know and he will submit their registration.

Mr. Anhorn updated the board about the Hopkins Streambank Maintenance Project. He said staff is working on putting together a cooperative agreement and wants to be able to go out for quotes in April or May for doing the work after June 15.

Mr. Anhorn reminded the board of its February 2 workshop and reminded the managers they need to review their statements of economic interest by January 31, as required by the Minnesota Campaign Finance Board.

9. Unfinished Business

a. 2023 Work Plan

Mr. Anhorn reminded the board it has already seen the 2023 workplan, and he noted upcoming workshops will go into more depth on the programs. He highlighted initiatives new for 2023 or that have new components in 2023 such as new education and outreach programs, increases to staffing based upon the

district's organizational needs, and updates to internal policies. He recommended the district discuss staff succession plans.

Mr. Anhorn highlighted 2023 work plans regarding water management implementation, including completing the Water Quality Studies updates for Birch Island and Mirror Lake as well as initiating a WQS update for Penn Lake. Regarding Aquatic Invasive Species work, Mr. Anhorn said the work plan includes partnering with the City of Minnetonka to evaluate the extent of the brittle naiad infestation on Shady Oak Lake and to determine if rapid response treatments are necessary.

Mr. Anhorn highlighted some of the other projects planned for 2023 including the Arrowhead and Indianhead Lakes Water Quality Project, the Holiday, Wing and Rose Lakes Water Quality Project, the South Fork of Nine Mile Creek stabilization and restoration project, and the regional flood study projects.

Manager Kvam asked if the plan includes work investigating management of water levels. Mr. Anhorn said that work with the City of Edina might not be listed specifically in the plan. He will add it to the plan.

10. New Business

a. Annual Business Items and Designations

i. Election of Officers and Designate Citizen Advisory Committee Liaison

Manager Butler moved, seconded by Manager Olson to reelect Bob Cutshall as chair, Larry Olson as vice chair, Peggy Kvam as treasurer and Grace Butler as secretary. Upon vote, the motion carried.

Manager Hunker moved, seconded by Manager Kvam to designate Manager Olson and Manager Butler as the board's Citizen Advisory Committee liaisons. Upon vote, the motion carried.

ii. Appointment of Citizen Advisory Committee Members

Administrator Anhorn said the following Citizen Advisory Committee members have communicated they are able and willing to continue to serve on the district's CAC:

- John Arthur – Hopkins
- Roger Bildsten – Edina
- Mindy Braun – Edina

- Charlotte Lefebvre – Edina
- Joshua Lynn – Bloomington
- Beth Miller – Minnetonka
- Shelby Roberts – Bloomington
- Tim Ronhovde – Eden Prairie
- Jonathan Scoll – Edina

Mr. Anhorn said four new applications were received and three new applicants were interviewed: James Clark, John Hickman and Chris-Ann Lauria. All applicants reside in Bloomington. Mr. Anhorn noted the fourth applicant did not respond to the district’s request to schedule an interview.

Manager Butler moved, seconded by Manager Olson to appoint James Clark, John Hickman, and Chris-Ann Lauria to the CAC. Upon vote, the motion carried.

iii. Personnel Committee

Mr. Anhorn recommended establishing a standing Personnel Committee for NMCWD.

Manager Butler said that, in addition, the district may need to engage a human-resources consultant.

Mr. Cutshall said he would like to participate on or with the committee for a couple of meetings.

Manager Kvam moved, seconded by Manager Hunker to appoint Manager Butler and Manager Olson to the Personnel Committee. Upon vote, the motion carried.

iv. Internal Operations Review

The board agreed it does not need to appoint a committee but Manager Erin Hunker and President Cutshall will engage with staff in a limited, high-level review and analysis of the district’s operations, hoping to produce recommendations.

v. Review Draft Amendments to the District’s Employee Policy Manual

Mr. Anhorn reviewed housekeeping updates to the district's Employee Policy Manual and proposed changes including:

- Adding a statement on employee personal communications regarding the use of social media;
- Adding a statement on inclusivity;
- Adding an unpaid personal leave policy;
- Adding Juneteenth as a recognized holiday; and,
- Adding a standalone summary of the district's benefits, including the new section describing the district's flexible/hybrid work schedule policy.

Manager Kvam asked if the total funds available for tuition reimbursement can be addressed. Mr. Anhorn said yes, during the budget process. He said the Employee Policy Manual does not list a set amount for tuition reimbursement, and the board can change the amount when it sets its budget or as part of a budget amendment. Mr. Welch stated the resolution on the manual in the packet restates the original delegation of personnel management to the administrator. The board will continue to need to create new positions, then the administrator hires and oversees staff.

Manager Butler asked if staff reviewed the changes to the manual. Mr. Anhorn said he had discussions with some staff on some of the changes. A point was raised to make sure the manual uses the term "parental leave" and provides the same amount of leave time for fathers and mothers. Mr. Anhorn said that point is so noted.

Manager Hunker moved, seconded by Manager Kvam to adopt Resolution 23-01 Adopting the Amendments to the District's Employee Policy Manual. Upon vote, the motion carried.

Mr. Anhorn said that if the managers feel it would be worthwhile, NMCWD could add a policy on recognizing staff, managers and volunteers for significant contributions to the district's work. The managers agreed that such a policy should be drafted and presented.

vi. Review Financial Assurances Schedule

Mr. Anhorn explained the board has to review and re-adopt its permit fee and financial assurance schedule. He displayed a graph showing the average financial assurance amount received for single-family home projects since mid-2018 is \$12,508.

Mr. Anhorn said staff's recommendation is for the board to consider adopting a fixed financial assurance amount for single-family home permits that trigger the district's stormwater management rule and for the assurance amount to be \$10,000.

Ms. Kieffer pointed out a risk to a flat fee is that in some cases if the district actually needed to draw on it, the \$10,000 would not be enough. She commented, however, that \$10,000 is within a reasonable mid-range of assurance amounts to assure compliance and stabilize a site if needed.

Manager Kvam said she thinks a fixed amount will be well received by applicants.

Manager Olson moved, seconded by Manager Butler to adopt Resolution 23-02, setting the district's financial-assurance rates effective for permit applications completed on or after January 19, 2023, and directing the administrator to maintain the schedule. Upon vote, the motion carried.

b. 2022 Water Management Plan Workplan Tracking

Mr. Anhorn displayed the district's 2022 Water Management Plan Workplan tracking spreadsheet and discussed NMCWD's 2022 work and results. Mr. Anhorn commented that with the water quality studies, the district has added more outreach components, which has shifted the projects from a 12- to an 18-month process.

Manager Buter said she thinks the workplan should include a statement reflecting what Mr. Anhorn explained about the 18-month timeframe.

11. Attorney Report

Mr. Welch reported the Minnesota Center for Environmental Advocacy is supporting on the limited liability chloride bill at the legislature.

Mr. Welch stated the Environmental Protection Agency and Army Corps of Engineers have issued a new definition of "waters of the United States" that will set federal jurisdiction over waters and wetlands. Mr. Welch said the biggest effect it will have on NMCWD is regarding the permitting of district projects and whether or not they require federal permitting.

Mr. Welch reported the IRS standard mileage rate set for 2023 is \$0.655 per mile for cars and \$0.635 for motorcycles.

12. Managers' Reports

Manager Kvam asked if the district monitors for PFOAs in district lakes. Ms. Kieffer said the district's monitoring program does not include monitoring for PFOAs. She said it is possible to monitor for them although does not know of any watershed organizations in the area that do. She said she can bring additional information on the topic of monitoring for PFOAs back to the board.

Manager Butler reported that the Minnesota Association of Watershed Districts will become Minnesota Watersheds if the members approve and Metro MAWD will become Metro Watersheds. Manager Butler said the Metro Watersheds meetings in April and October are planned to be in person with a virtual option. She reported the Minnesota Watersheds 2023 summer annual event will be held in Albert Lea from June 20 to June 22.

13. **Adjournment**

It was moved by Manager Olson, seconded by Manager Butler to adjourn the meeting at 8:43 p.m. Upon vote, the motion carried.

Respectfully Submitted,



Grace Butler, Secretary