

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

WEDNESDAY, JANUARY 19, 2022

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, January 19, 2022. 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 to meet in person.

Managers Present: Grace Butler, Bob Cutshall, Erin Hunker, Peggy Kvam, and Larry Olson

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

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

II. Approval of Regular Meeting Agenda

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

III. Reading and Approval of Minutes

a. Draft Minutes of the December 15, 2021, Regular Board Meeting

Manager Olson moved, seconded by Manager Butler to approve the minutes of the District's December 15, 2021, regular meeting as posted. On a roll call vote, the motion was approved 5-0.

IV. Public Open Forum

a. General Interest

No citizen appeared to comment.

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. Program and Projects Manager

iv. Natural Resources Planning and Project Manager

v. Engineer's Report

d. 2021 Annual Communications

e. 2022 Annual Business Items and Designations

i. Adoption of Schedule of Board of Managers

ii. Appointment of CAC and TAC Members

iii. Naming of District Bank and Permit Security Depository

iv. Confirm Receipt of Broker Certificates for Investments

v. Naming of Official Newspaper

vi. Review of Permit Fees and Financial Assurances

vii. Maintain Insurance Coverage

Administrator Anhorn reported that he reviewed the District's insurance coverage with the assistance of legal counsel and found no need for changes. He recommends no changes to permit-fee or financial-assurance schedules, and packet materials provide no changes to the bank, permit security depository or official newspaper.

Manager Butler moved, seconded by Manager Kvam to approve annual report and all business items as presented in the meeting packet. On a roll call vote, the motion was approved 5-0.

VI. Hearing of Permit Applications

VII. Treasurer's Report

Manager Olson highlighted the invoices and disbursements listed in the report. Program and Project Manager Sniogowski provided background information on the payment to the City of Edina for signs at Centennial Lakes. Administrator Anhorn noted Landbridge Ecological is a 50%-50% cost share with the City of

Bloomington. He explained the District pays the invoice to Landbridge, then submits an invoice to and receives reimbursement from the city. He said he has sent an invoice to the city for its share of the 2021 costs.

a. **Pember Construction Pay Application #4 for the Rosland Stormwater Filtration BMP Project**

Engineer Kieffer said the pay application #4 from Pember Construction is in the amount of \$110,170, and she recommends payment. Engineer Kieffer noted no additional retainage is being withheld because, as outlined in the contract, the project is at 50% complete and is proceeding satisfactorily.

Manager Kvam moved, seconded by Manager Hunker to accept the Treasurer's Report and approve paying the District's bills and paying Pember Construction Pay Application #4 for the Rosland Stormwater Filtration Project in the amount of \$110,170. On a roll call vote, the motion was approved 5-0.

b. **Year-End Budget**

Administrator Anhorn summarized the year-end status of the District's 2021 budget. He said the District ended the year at about 80% of its budget, and the capital improvements program budget ended at about 70%. Administrator Anhorn talked about the District's assigned and unassigned dollars, and he went through a table displaying the information. He reminded the Board the District's Fund Balance Policy states the District should have approximately 62% of its next year's budget as unassigned dollars. Administrator Anhorn recommended transferring the \$77,959.54 remaining in the completed Edina streambank project to the repair and maintenance fund to use for maintenance on the Edina streambank project and maintenance of other projects.

VIII. Administrator's Report and Correspondences

Administrator Anhorn highlighted items in his report. He stated the District's State of the Waters virtual event is on February 15th.

Administrator Anhorn went through correspondence he received, including the Minnesota Stormwater Research Council's request for grant proposals. He said the District will submit a grant application for the Rosland Park Stormwater project. Administrator Anhorn reported the District has submitted grant applications to Federal Emergency Management Agency and the Minnesota Pollution Control Agency for the Phase 3 Flood Risk and Resiliency Study. He reported staff is putting together the District summer internship description. Administrator Anhorn said there

is a Board workshop on February 3rd at 5:30 p.m., which will include an update by SRF regarding possible wetland projects, and a presentation by Barr Engineering on the 2018 Pentagon Park flood study, among other items. He talked about possible items for the Board's March agenda. Manager Butler suggested the District document for presentation purposes the restoration of the wetlands in the Hennepin County Home School watershed. She said she thinks it would be a wonderful topic at Minnesota Association of Watershed Districts and a good visual for other managers. She said she isn't sure the county is clear the District wants the project to be carefully photo-documented.

Mr. Anhorn stated that the engineer's 2022 rate sheet is included in the packet. Attorney Welch clarified that the new rates notwithstanding, the engineer is continuing to charge rates established under the existing contract with NMCWD, so the rate sheet is just for information. He noted that the District's upcoming bi-annual solicitation of professional services is coming up in spring 2022.

IX. Unfinished Business

X. New Business

a. Election of Board Officers and Designate CAC Liaison

There was discussion about board officer roles and responsibilities and interest among board members regarding officer positions.

Manager Hunker moved, seconded by Manager Olson, officers for 2022 as follows: Manager Cutshall as president, Manager Olson as vice president, Manager Kvam as treasurer, and Manager Butler as secretary. On a roll call vote, the motion was approved 5-0.

There was discussion about the Citizens Advisory Committee liaison duties, and managers Hunker, Olson, and Butler volunteered to be CAC liaisons. Education and Outreach Coordinator Zembal talked about the CAC membership and the three openings on the CAC. Attorney Welch noted that specific interest groups, such as groups focused on water-oriented sports, are recognized by statute as potential committee members, and they need not live in the watershed as long as the required base committee membership is appointed.

Manager Kvam moved, seconded by Manager Butler to designate Manager Hunker, Manager Olson, and Manager Butler as CAC liaisons. On a roll call vote, the motion was approved 5-0.

b. Personnel Committee

Administrator Anhorn discussed the responsibilities the ad hoc personnel work group has performed in the past. Managers Olson and Butler volunteered to serve on the personnel ad hoc work group.

c. Governance Committee

i. Draft Resolution 22-01 – Adopting and Electronic Signature Policy

Administrator Anhorn explained COVID-19 distancing has made obtaining signatures on legal documents more difficult than ever, and the District will benefit from utilizing electronic-signature technology. He said staff recommends the policy in the packet to authorize use of electronic signatures.

Attorney Welch explained the proposed policy is a functional item, intended to facilitate efficiency in administration of the District's business. He stated the policy is also fulfills a statutory requirement that the Board adopt a policy for accepting and using digital signatures. Engineer Kieffer asked how signatures on payment applications from contractors would be treated. There was discussion about the requirements of signatures for payment applications. There was consensus about tabling this item until a future meeting to provide staff time to consider the requirements related to signatures on payment applications.

d. 2022 Work Plan

Administrator Anhorn presented the District's 2022 draft work plan. He said that while the majority of the items in the draft work plan are tasks the District undertakes every year, such as fulfilling administrative needs to meet state statute requirements, monitoring and data analysis, education and outreach and continue to implement the District's regulatory program, there are numerous items specific to 2022. He highlighted a few of the items including water quality studies on Birch Island and Mirror lakes, phase 3 of the flood risk vulnerability assessment, a feasibility study/engineering report to undertake stabilization/restoration projects on identified reaches of the South Branch of Nine Mile Creek and the feasibility study/engineering report on one of the identified high-quality wetlands in order to initiate a project. He also mentioned that District will hold a photo contest in 2022 for the upcoming 2023 calendar and will need to complete a required biennial solicitation for professional services again in 2022 for the years 2022-2023.

e. **2021 Water Management Plan Workplan Tracking**

Administrator Anhorn explained that for the last few years, staff's practice has been to take information directly from the District's watershed management plan, and using a table format, evaluate what has been achieved. He said for 2021, there were 59 items in the table, and of those items, 52 were considered to be achieved, and 7 items were considered partially completed.

XI. Attorney's Report

Attorney Welch reported that the Board of Water and Soil Resources denied MAWD's petition for a rulemaking on soil and water conservation district plan development and plan criteria.

XII. Managers' Reports

Manager Olson gave kudos to District staff for putting together a well-done annual communication.

Manager Butler reported some items from the MAWD meeting, including Metropolitan Council will continue its Citizen-Assisted Monitoring Program for lakes this year, so the District could maintain its participation in the CAMP program. She said she would send Administrator Anhorn a link about a water education event at the state capitol and being put on by the Minnesota Humanities Center, so he can share the link.

Manager Butler reported there will be two lobbyists working with the Minnesota Center for Environmental Advocacy, one for the House and one for the Senate, on the salt liability-limitation legislation. She said she will be writing a letter to MAWD to specifically outline things she believes MAWD needs to do with our lobbyists, including weekly communication about the bill and its status and establishing what we want from our lobbyists on this topic. Manager Butler reported she has a meeting scheduled to catch up with the City of Minnetonka mayor, so if anyone has items they want her to address, to let her know. She said she has a meeting scheduled with Minnetonka engineering this month as well. Manager Butler suggested the District do Wordle for water words.

XIII. Adjournment

It was moved by Manager Olson, seconded by Manager Butler to adjourn the meeting at 8:40 p.m. On a roll call vote, the motion was approved 5-0.

Respectfully Submitted,



Grace Butler, Secretary

