

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

**WEDNESDAY, JANUARY 20, 2021**

**I. Call to Order**

Chair 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 20, 2021. The meeting was conducted by web-based video conference, pursuant to Minnesota Statutes section 13D.021, after the Chair 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

Manager Absent: None

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

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

**II. Approval of Regular Meeting Agenda**

**Manager Butler moved, seconded by Manager Olson 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 16, 2020, Regular Board Meeting**

Administrator Anhorn noted that Manager Butler alerted him to the need to correct her name from “Sheely” to “Butler” throughout the minutes.

**Manager Kvam moved, seconded by Manager Hunker to approve the minutes of the District’s December 16, 2020, Regular Board Meeting as amended. On a roll call vote, the motion was approved 5-0.**

**b. Draft Minutes of the January 7, 2021, Special Board Meeting**

Administrator Anhorn noted that Manager Butler alerted him to the need to correct her name from “Sheely” to “Butler” throughout the minutes.

**Manager Hunker moved, seconded by Manager Olson to approve the minutes of the District’s January 7, 2021, Regular Board Meeting as amended. On a roll call vote, the motion was approved 5-0.**

**IV. Public Open Forum**

No items were raised.

**V. Consent Agenda**

Administrator Anhorn pulled item e – 2021 Annual Business Items and Designations – from the Consent Agenda for discussion.

- 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**
- d. Annual Communications**

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

- e. 2021 Annual Business Items and Designations**
  - i. Adoption of Meeting Schedule**

Administrator Anhorn noted the change to listed Board Special Meetings to make them Board Workshops and shared the dates of the

workshops. He noted the addition of Metro chapter of the Minnesota Association of Watershed Districts meetings to the schedule.

**ii. Appointment of CAC and TAC Members**

Administrator Anhorn reported there are three new Citizens Advisory Committee members. Education and Outreach Coordinator Zembal and Manager Butler provided more details about the process of selecting the CAC 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. Insurance Coverage**
- viii. Review Employee Policy Manual**

**Manager Butler moved, seconded by Manager Olson to approve the 2021 Annual Business Items and Designations with the revision to the schedule as described by Administrator Anhorn. On a roll call vote, the motion was approved 5-0.**

**VI. Hearing of Permit Applications**

- a. Permit #2021-01: Discovery Point Phase 3 Landscape Restoration: 12800 Gerard Drive, Eden Prairie – NMCWD Application and Permit #2021-02: Discovery Point Phase 3 Landscape Restoration: 12800 Gerard Drive, Eden Prairie – Eden Prairie Application**

Permit and Water Resources Coordinator Foley summarized the project, explaining the permits are for different sections of the same project. She noted NMCWD is the permit applicant for Permit #2021-01 and on behalf of the City of Eden Prairie for Permit #2021-02. She said staff recommends Board approval of both permits.

**Manager Olson moved, seconded by Manager Hunker to approve Permit #2021-01: Discovery Point Phase 3 Landscape Restoration-NMCWD Application and Permit # 2021-02: Discovery Point Phase 3 Landscape Restoration-Eden Prairie Application. On a roll call vote, the motion was approved 5-0.**

**VII. Treasurer’s Report and Dering Pierson Group Pay Application for Discovery Point Building Addition and Year-End Budget**

Treasurer Olson highlighted the final pay application from the Dering Pierson Group for the Discovery Point building addition. He talked about the cash disbursements in this month’s Treasurer’s report.

**Manager Kvam moved, seconded by Manager Butler to accept the Treasurer’s Report and pay the bills including a \$500 retainage payment to Dering Pierson Group. On a roll call vote, the motion was approved 5-0.**

Administrator Anhorn went through end of the year budget information in detail including details about the District’s assigned and unassigned funds. He said he recommends moving \$950,000 out of the Edina Streambank Stabilization Project, which is underbudget with very little work remaining, into the capital contingency reserve. Administrator Anhorn suggested the Board authorize this movement of District funds as part of the budget amendments to the District plans to make later this year.

**VIII. Administrator’s Report: Correspondence**

Administrator Anhorn noted Barr Engineering provided information on its personnel for 2021 work and advised that it would not seek a change to the rates in the existing agreement for consulting services. He announced the passing of Walter Levesque, a NMCWD volunteer, and talked about Mr. Levesque’s contributions of service to the District and watershed. Administrator Anhorn pointed out there is a Board workshop scheduled for February 4, 2021, at 5:30 p.m. and a virtual community stakeholder meeting regarding the Normandale Lake Water Quality Improvement Project in February, likely the 18<sup>th</sup> or the 23<sup>rd</sup>.

**IX. Unfinished Business**

**a. Atlas 14 Model Update Documentation Memo and Budget Overage Memo**

Engineer Kieffer noted the documentation memo is in the meeting packet and wraps up Phase 1 of the Atlas 14 Flood Risk and Resiliency project, which encompassed updating the District’s watershed model. She went through a summary of the memo and Phase 1 and discussed the project cost overage. Administrator Anhorn said a takeaway about going over budget is that he and the consultant need to communicate back and forth more diligently to make sure there are more frequent project updates. He said the District hasn’t been billed for the overage of approximately \$21,500 and asked the Board for input on how to

address the overage. Administrator Anhorn added he takes responsibility for not monitoring the budget more closely and therefore sees the District as responsible for at least a portion of the overage.

Manager Hunker spoke in favor of the District paying Barr Engineering the \$21,500. Manager Olson agreed. Manager Butler commented on how she would like the District to continue working to build relationships with the City of Eden Prairie as it pertains to using the modelling to potentially partner on projects.

Attorney Welch stated the agreement between the District and Barr Engineering Company has a not to exceed amount, so if the District plans to pay Barr Engineering for the overage, the Board should authorize Barr to bill the District for the \$21,528 overage. Attorney Welch explained the action would effectively amend the February 12, 2020, authorization for updating the District's watershed model.

**Manager Butler moved, seconded by Manager Hunker to authorize additional payment for the updating the District's watershed model of \$21,528. On a roll call vote, the motion was approved 5-0.**

**b. Barr Phase II Scope of Work for Flood Vulnerability & Assessment Analysis**

Engineer Kieffer reminded the Board about its discussion in December 2020 about Phase I and Phase II of the Atlas 14 Flood Risk and Resiliency project and the Board's request for a more defined scope for Phase II. She went through the revised scope of work for Phase II, talking about each of the eight tasks. Engineer Kieffer responded to questions from the managers. There was discussion about the risk analysis component of task five including information known, such as how high the creek is at a 100-year event, and information unknown, such as what would happen in the case of a culvert failure and where the water would go.

Engineer Kieffer walked the Board through the proposed schedule, which is approximately 12 to 13 months long. She said that many of the tasks will be most efficiently completed if done linearly, one after the next. However, she said some of the latter tasks can likely be done concurrently to shorten the timeline. Chair Cutshall asked Engineer Kieffer to see if there are any opportunities to compress the schedule. Manager Butler also expressed desire to tighten the project schedule, requesting that tasks be done concurrently when possible. Manager Kvam remarked calibration is important and data from storm events will be necessary to perform the calibration, which may be impacting the proposed schedule. Engineer Kieffer responded that she anticipates that monitoring data

from recent years can be used so it won't be necessary to wait for this year's storms to happen.

**Manager Olson moved, seconded by Manager Butler to authorize Barr Engineering Company to complete the Phase II scope of work for flood vulnerability and assessment analysis as described at a cost not to exceed \$197,000. On a roll call vote, the motion was approved 5-0.**

**c. Results of Discovery Point Landscaping RFQ**

Program and Project Manager Sniegowski said this is an information-only item. She summarized the quotes the District received in response to its request for quotations. She reported the lowest quote came in from Minnesota Native Landscapes at \$105,828. Program and Project Manager Sniegowski reminded the Board that it authorized Administrator Anhorn at the November 2020 board meeting to enter into an agreement at a cost of up to \$106,000. She stated Administrator Anhorn has executed an agreement with Minnesota Native Landscapes. There was discussion about the successful timing of going out for quotes, which resulted in the District receiving multiple competitive quotes.

**X. New Business**

**a. Election of Officers and Designate CAC Liaison**

The Board discussed the officer and CAC liaison roles.

**Manager Hunker moved, seconded by Manager Olson to reappoint the current slate of Board officers: Manager Cutshall as Chair, Manager Butler as Vice Chair, Manager Olson as Treasurer, and Manager Hunker as Secretary and to designate Manager Kvam as Citizens Advisory Committee liaison. On a roll call vote, the motion was approved 5-0.**

**b. Personnel Committee**

Administrator Anhorn asked the Board to consider if it wants its Personnel Committee to remain ad hoc or if it wants to appoint a standing committee. He noted the current ad hoc committee includes Managers Hunker and Olson. The Board and staff discussed the responsibilities of the personnel committee, including personnel reviews among other items.

**Manager Butler moved, seconded by Manager Kvam to designate Manager Hunker and Manager Olson as the ad hoc personnel committee. On a roll call vote, the motion was approved 5-0.**

**c. Governance Manual**

Administrator Anhorn introduced the proposed draft revisions to the policies in the NMCWD Governance Manual. Administrator Anhorn asked the managers to take some time to review the manual, which will be discussed at the February workshop.

**d. 2020 Water Management Plan Workplan Tracking**

The managers agreed to table this item until the Board's February workshop.

**XI. Engineer's Report**

Manager Butler asked for more info about the meeting with Mike Berndt and whether there was consensus about data. Engineer Kieffer said yes, overall, it was a productive meeting and beneficial to be able to compare the data collected by Mr. Berndt with data collected by Barr Engineering on behalf of the District. Engineer Kieffer said Mr. Berndt was interested in Barr's concurrence that the lake appeared to be nitrogen limited at times and nitrogen is controlling the growth of algae at times. She said an important message that was discussed during the meeting is the importance of educating about nitrogen usage, which would be beneficial for the District to consider further in the future.

**XII. Attorney's Report**

Attorney Welch clarified it is a misconception that watershed districts don't have authority to work on groundwater. He said that idea is incorrect even though it is an idea that was stated at the last Metro Minnesota Association of Watershed District meeting. Attorney Welch noted that a bill introduced to the state legislature would greatly expand the rights of citizens to speak at local governmental meetings to an extent that would make it difficult for the chair of such a board to effectively manage meeting. He said the bill, Senate File 180, merits watching.

**XIII. Managers' Reports**

Manager Butler provided a brief report of the recent Metro MAWD meeting.

**XIV. Adjournment**

**It was moved by Manager Olson, seconded by Manager Butler, to adjourn the meeting at 9:21 p.m. On a roll call vote, the motion was approved unanimously.**

Respectfully Submitted,



Erin Hunker, Secretary