

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

**THURSDAY, JANUARY 6, 2022**

**I. Call to Order of the Workshop**

President Cutshall called the workshop of the board of managers of the Nine Mile Creek Watershed District to order at 5:32 p.m. on Thursday, January 6, 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: Louise Heffernan, Bob Obermeyer (Barr Engineering), and Michael Welch (Smith Partners)

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

Others Present: Mike Majeski (EOR), Dan Mossing (EOR), Robbie Latta (Civil Site Group), Jason Lord (Solhem Companies), Amber Blanchard (Minnesota Department of Transportation), Andrew Lataya (Minnesota Department of Transportation), Beth Neundorf (Minnesota Department of Transportation), Gabe Gubash (HZ United), Hugh Zeng (HZ United), and Earth Evans (WSB & Associates)

**II. Hearing of Permit Applications**

**a. 2021-112: The Fred Development, 4660 W 77<sup>th</sup> St. Edina**

Ms. Heffernan of Barr Engineering provided background on the area in Edina where the development will be located. She noted the project parcel is within the Pentagon Park/Border Basin Area study area, which before development was a low-lying marsh area. Ms. Heffernan presented a map of the site parcel and surrounding

area within the Pentagon Park/Border Basin study area. Ms. Heffernan talked about the flood risks in the study area, noting that much of the area is inundated in a 100-year storm event. She noted the permit applicant has requested a variance from compliance with the NMCWD's low-floor criteria in subsections 2.3.1 and 4.3.3 .

Ms. Heffernan reported the applicant proposes the construction of a six-story apartment building with surface parking, an on-grade parking garage, utilities, site amenities, and four on-site stormwater management facilities at the 5.4-acre site. She said the project proposes to decrease impervious surface area by 19%, or 0.8 acres, from existing conditions.

Ms. Heffernan reviewed the District rules that apply to this project. She pointed out that the pickle ball court is proposed to be located 1.9-feet below the Fred Richards Park 100-year flood elevation. She explained that portions of the surface parking areas along the western and southern part of the site are proposed to be located below the Fred Richards Park 100-year flood elevation as well. Ms. Heffernan said the project proposes to maintain and expand flood storage on the site through the use of the parking lot area to alleviate flood risk. She said this would be an improvement from existing conditions. She said if the pickle ball court and the portions of the parking lot were to meet the criteria of being located at an elevation two feet above the 100-year flood plain, it would be infeasible to construct the project and still meet the compensatory storage requirement, so the applicant has requested a variance to the District's rule.

Attorney Welch noted that the NMCWD rules applicable in the Pentagon Park area are the same rules that apply elsewhere in the watershed.

Manager Butler asked about the reduction in impervious surface area, commenting that the existing parking lot likely serves as flood storage area. Manager Butler requested the breakdown between building and non-building impervious areas for pre-development and post-development conditions below the 100-year flood frequency elevation of the Fred Richards Park ponds and wetlands. Robbie Latta, representing the applicant, said he doesn't have a comparison of the existing and proposed parking areas. Mr. Latta said Civil Site Group didn't do a tabulation of the existing building versus the proposed building in terms of the area or footprint of impervious surface below the 100-year flood elevation of Fred Richards Park. Manager Butler said in this area all parking is basically flood storage, and if all the proposed project reduces parking impervious area, the project really doesn't change the impervious area at all in relation to flood storage in regard to the impervious surface footprint.

Mr. Jason Lord, the project developer and applicant, explained that only a portion of the existing parking is flood-storage area. He said he doesn't have a number for the amount of existing parking lot area within the floodplain and the amount of proposed parking lot area that would be in the floodplain. Ms. Heffernan noted that a portion of

the parking will be on the first floor of the building. She said she could find out the numbers Manager Butler is asking about and get that information to the District.

Ms. Heffernan explained that the District's wetland management rule applies to the project because there is an offsite wetland located on the Fred Richards Park property adjacent to and downgradient from the land-disturbing activities. Ms. Heffernan said the buffer required for the proposed project is 7,200 square feet, but only a portion, 925 square feet, of this amount falls on-site. Ms. Heffernan reviewed the project's proposed stormwater management facilities. Ms. Heffernan discussed the applicant's variance request, which is regarding the two feet of separation from the garage low floor elevation and the 100-year flood elevation of Fred Richards Park. She said the applicant is proposing 0.9 feet of separation, short of the 1 foot required by subsection 4.3.3. Ms. Heffernan noted the recommended conditions in the engineer's report for the variances.

Manager Butler mentioned the topic of the 500-hundred-year flood event, noting the District tries to help the permit applicants to not have problems in the future, and she said there are things the managers need to do about this whole area. Attorney Welch noted that the impacts of these requested variances fall entirely contained on the subject property, which is why the engineer recommends that the applicant be required to record the noncompliant low-floor elevation. Engineer Heffernan agreed that the variances would not impact upstream or downstream landowners, only the applicant's property.

**Manager Olson moved, seconded by Manager Hunker to approve the two variances. On a roll call vote, the motion was approved 5-0.**

**Manager Hunker moved, seconded by Manager Kvam to approve Permit 2021-112. On a roll call vote, the motion was approved 5-0.**

Administrator Anhorn stated the District will be seeing and reviewing more permit applications for similar redevelopment projects. He said that some of those applications likely will have similar variance requests for parking lot impervious surface area not meeting the District's rule about being two feet above the 100-year flood elevation. He said he thinks it would be helpful to have as a District workshop item a presentation of the 2016-2017 Pentagon Park Border Basin analysis. Administrator Anhorn talked about the District's rule for two feet of freeboard between a permanent structure and the 100-year flood elevation. He said the District should consider whether a parking lot is subject to this requirement, especially when it doesn't exacerbate flood risk.

Manager Butler said she would like information on the proposed redevelopment projects in terms of the proposed changes in impervious surface area of the buildings. She said it was her understanding that the existing parking lots were already considered flood storage area, and she will have concerns if the redevelopment

projects are proposing to decrease that area. Manager Butler said she will be uncomfortable if the District can't get the City of Edina to work collaboratively to address flooding concerns in this area. She said maybe more flood storage area needs to be built under these parking lots, if the amount of parking lot area is being reduced, in this area in particular. Administrator Anhorn said these points can be discussed at the workshop.

### **III. South Fork of Nine Mile Creek Baseline Assessment**

#### **a. EOR Technical Memo on Baseline Stream Assessment**

Administrator Anhorn reminded the Board that in the summer of 2021 the District had EOR complete a baseline assessment of the South Fork of Nine Mile Creek from Minnetoga Lake to Normandale Lake and identify potential areas that could use restoration and stabilization work. He noted EOR's technical memo is in the meeting packet and has been provided to the managers. Administrator Anhorn introduced Mr. Mike Majeski and Mr. Dan Mossing of EOR to talk about the assessment and recommendations. Administrator Anhorn said Mr. Majeski and Mr. Mossing also will present a scope of work for assessing the feasibility of restoring 6,000 lineal feet of the South Fork.

Mr. Majeski presented findings from the South Fork Nine Mile Creek Baseline Assessment.

#### **b. Draft Scope of Work for Feasibility Study/Engineer's Report**

Mr. Majeski reviewed EOR's proposed scope of work for the feasibility study, which has an estimated cost of \$54,517. Administrator Anhorn noted there is a potential need for an environmental assessment worksheet, which is not included in this scope of work, but could add up to \$15,000 to the cost. He said staff will investigate whether an EAW is needed. He added that the streambank reaches identified in this proposed scope of work do not have any private residential properties abutting the stream. Administrator Anhorn reminded the Board the District is levying for this project in 2022.

Manager Kvam mentioned a Three Rivers Park District project to construct a bike trail and suggested the District communicate with the TRPD about the proposed projects happening in generally the same area. Administrator Anhorn said he has contacted the TRPD and discussed how projects could potentially mesh together.

**Manager Butler moved, seconded by Manager Hunker to authorize the administrator to execute an amendment to the existing contract with EOR for south fork work for the scope of work at not-to-exceed \$55,000. On a roll call vote, the motion was approved 5-0.**

**IV. Pre-Permit Application Presentation for the Upcoming 494 Project**

Administrator Anhorn reported the district began meeting with Minnesota Department of Transportation representatives about a year and a half ago and discussed recent topics covered. He requested MnDOT present an overview of the upcoming Interstate 494 improvement project to the managers, so the Board gets an idea of the project scope and district's rules applicable to the project.

Mr. Gabe Gubash of HZ United shared the MnDOT/HZ United January 6, 2022, presentation "I-494: Airport to 169 Corridors – NMCWD Drainage Update." He defined the project and discussed applicable design criteria, stormwater management modeling results for compliance with NMCWD rule(s), identification of the drainage problems within the roadway corridor, proposed solutions, and the project schedule. Mr. Gubash reported that the project team began sharing data with the district in late 2021, with a permit submittal in March 2022. Phase 1 construction is anticipated to begin in 2023.

Chair Cutshall asked if Mr. Gubash anticipates any variance requests. Mr. Gubash indicated this will be determined soon as the project team prepares the watershed permit submittal. Administrator Anhorn mentioned the variance for the low-floor elevation of a structure requirement, as defined by the district, discussed with the permit reviewed and variance approved earlier in the workshop. The district staff would discuss this further with the I-494 team. Manager Butler said she would like to see the location of the I-494 area inundated during the historic July 1987, rainstorm event. She commented she would like the district's engineer to consider improvements within the I-494 corridor since that time to alleviate flood risk and to consider what else, if anything, could the I-494 project implement to reduce the flood risk within the corridor.

**V. Adjournment**

**It was moved by Manager Butler, seconded by Manager Hunker to adjourn the meeting at 7:37 p.m. On a roll call vote, the motion was approved 5-0.**

Respectfully Submitted,

  
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Grace Butler, Secretary

