

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

WEDNESDAY, JULY 19, 2023

1. Call to Order of the Regular board Meeting

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, Minnesota.

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

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

Staff Present: Randy Anhorn (Administrator), Lizzy Boor (Watershed Specialist), Brett Eidem* (Natural Resources Project and Planning Manager), Erica Sniegowski (Deputy Administrator), Zach Stafslie* (Regulatory Program Manager), and Gael Zembal (Education and Outreach Coordinator).

*Attended virtually

2. Approval of Regular Meeting Agenda

Randy Anhorn requested the addition of authorization to issue a minor plan amendment to add the wetland restoration and project projects NMCWD has identified, include the restoration of Whited Fen, to the capital improvements program in the NMCWD watershed plan.

Manager Erin Hunker moved, seconded by Manager Grace Butler to approve the meeting agenda as amended. Upon vote, the motion carried.

3. Reading and Approval of Minutes

Manager Kvam moved, seconded by Manager Olson to approve the minutes of the June 1, 2023, workshop as drafted. Upon vote, the motion carried.

Manager Butler moved, seconded by Manager Hunker to approve the minutes of the June 21, 2023, regular meeting as drafted. Upon vote, the motion carried.

4. **Public Open Forum**

No members of the public were in attendance.

5. **Staff Updates**

Gael Zembal reported that district staff will host a project tour for an audience of local and state government decisionmakers on Monday, August 7, starting with a dinner at the Rosland Park picnic pavilion at 5:30 p.m.

6. **Treasurer's Report**

Manager Peggy Kvam highlighted some of the disbursements listed in the treasurer's report. Mr. Anhorn noted that the district has received the first of two Hennepin County 2023 tax levy payments.

Manager Olson moved, seconded by Manager Butler to accept the treasurer's report and pay the district's bills. Upon roll call vote, the motion carried 4-0.

7. **Administrator's Report**

Mr. Anhorn added to his packet report that the City of Eden Prairie communicated that amendment of NMCWD's development agreement with the city to add meeting and staff will be on the consent agenda at the city council's September 5 meeting. President Cutshall asked if the board or staff should attend the meeting. Michael Welch recommended that a representative attend to answer any questions.

Mr. Anhorn reported the City of Edina approved the wetland banking concept design for the Fred Richard's Park, formerly the Fred Richards Golf Course.

Mr. Anhorn reported the district's new staff member started last week and reminded the board the position is a shared assistant position with the Riley Purgatory Bluff Creek Watershed District, with 40 percent of the assistant's time allocated to NMCWD.

Mr. Anhorn said topics for the board's August workshop include an update on the ongoing Atlas 14 flood-risk analysis work and the 2024 draft budget.

Manager Grace Butler suggested adding a workshop topic to further discussion on the topics discussed at the board retreat.

8. **Unfinished Business**

a. **Chloride Reduction Cost-Share Grant Application**

Lizzy Boor reviewed the York Condo West Association request for \$20,000 for installation of a pavement-heating system to reduce chloride use for snow and ice removal. She noted that the board approved the request in June, contingent on the project using electric heat and demonstration that an individual involved in snow and ice removal for the association was Smart Salt certified.

Ms. Boor said York Condo West Association representatives agreed to the certification requirement, but stated that they determined that switching to an electric heating system would be cost-prohibitive.

Manager Larry Olson spoke in favor of removing the contingency. President Cutshall said he thinks the board needs to consider and discuss the negative environmental impacts, such as increased carbon emissions, when it is considering proposed projects.

Ms. Boor said the district's cost-share program does not have any precedent of setting standards for carbon emissions. She said if the board wants to include such standards in the program, there needs to be an initiative to modify the program.

Manager Butler said she would like to see in the future that the district's salt plan requires the applicant have proof of completing the low-salt/no-salt training before being eligible for cost-share funding.

Manager Olson moved, seconded by Manager Hunker to rescind the June 21, 2023, approval for this cost-share grant and approve the cost-share grant for the York Condo West Association in the amount of \$20,000 with the contingency that a representative from the association's maintenance staff complete the state smart-salt training. Upon vote, the motion carried.

Mr. Welch said that the managers need not establish guidelines to condition approval of cost-share funding on a specific relevant performance requirement or metric. After further discussion, President Cutshall noted that he judges that staff understands that the managers wish to consider potential negative impacts of proposed cost-share projects.

b. Diversity Equity Inclusion and Accessibility Proposals

Ms. Boor reported staff received four responses to its request for diversity, equity, inclusion and accessibility plan proposals, and plans to interview two of the consultants. In response to a request from Ms. Boor, Manager Kvam and Manager Butler volunteered to participate in the interviews.

c. Update on Adaptive Level-Control System Study

Mr. Anhorn reported the district was not awarded grant funds from the Minnesota Stormwater Research Council for the study of flood control through management of storage levels in lakes and other basins, so the City of Edina put together a scope of work focused on Edina lakes. Janna Kieffer said the city's scope looks at how an adaptive level-control system would impact Edina lakes and the creek flow downstream of Edina but does not include a holistic view of the creek or review of how such an adaptive system would impact the creek system overall.

The managers directed Mr. Anhorn and Ms. Kieffer to reach out to the other cities, including Bloomington, Minnetonka, Eden Prairie and Richfield as well as Edina, to evaluate application of an adaptive system more holistically.

d. Wetland Projects Plan Amendment

Brett Eidem explained that NMCWD needs to amend the capital improvements program in its plan to include wetland-protection and -restoration projects derived from the inventory of rare and high-quality wetland biological communities NMCWD conducted. He said the amendment would include Whited Fen and others.

Mr. Eidem said the district would have a public hearing on the amendment at the September 7 workshop.

Manager Hunker moved, seconded by Manager Kvam to authorize the administrator to issue the draft wetland projects plan amendment for review. Upon vote, the motion carried.

9. New Business

a. Minnesota Watersheds

Board Member Education and Training Survey

Mr. Anhorn said Minnesota Watersheds recently requested feedback on its educational programming. He asked the managers fill

out the survey and return responses to him before the next board meeting. He will compile the responses and submit them to Minnesota Watersheds.

i. Request for Resolutions

Mr. Anhorn shared Minnesota Watersheds' request for resolutions and the timeline. He said if the managers have any resolutions to put forward, to let him know.

Mr. Welch said he did not have recommended issues for the managers to consider.

Manager Butler said she is seeing effects of wake boats wakes on shoreline and she suggests supporting the Riley Purgatory Bluff Creek Watershed District resolution regarding wake boats.

b. League of Minnesota Cities Insurance Trust Liability Waiver

Mr. Welch said the statutory liability limit for governmental subdivisions such as NMCWD is \$500,000 per person and \$1,500,000 per incident. He explained the limit means that amount is the maximum that could be recovered from the district in event of liability for an accident or the like. Mr. Welch said he does not see any compelling reason for the district to waive the liability limits.

Manager Butler moved, seconded by Manager Olson to not waive the monetary limits on municipal tort liability established by Minnesota Statutes section 466.04. Upon vote, the motion carried.

2024 Draft Budget Mr. Anhorn said he and Ms. Sniegowski prepared a draft 2024 NMCWD budget and reviewed it with Manager Kvam. Mr. Anhorn presented the budget memo included in the meeting packet.

Mr. Anhorn said the draft 2024 budget proposes a 14.29% levy increase from 2023's levy amount of \$2,800,00 to \$3,200,00 for 2024. He said the draft proposed 2024 budget is \$5,759,000, which is an increase of approximately 25.4% over the district's 2023 non-amended budget of \$4,594,000. Mr. Anhorn explained much of the increase is due to the district's increase in projects for 2024 compared to 2023. He reported the district's total market value has increased by approximately 11.5% for 2023 over 2022. Mr. Anhorn clarified that while the district's levies have increased over the past years, the tax impact on taxpayers has generally decreased or stayed flat.

Mr. Anhorn recommended developing a fish management line item for 2024. Ms. Sniegowski said the special cost-share program in the district's watershed plan provides funding for partner projects or city-led projects. Ms. Sniegowski said the district has not budgeted for or used this line item previously, but staff recommends starting to fund this line item.

Mr. Anhorn highlighted that as part of the district's water management plan workplan implementation there will be work in 2024 to prepare guidelines for an enhanced street sweeping program in Minnetonka as well as a baseline assessment of Nine Mile Creek from Marsh Lake to 102nd Street West in Bloomington. He added that Bloomington is interested in cost sharing with the district on that baseline assessment.

Mr. Anhorn pointed out the draft proposed 2024 budget for capital projects is \$2,755,000, which is more than a \$1 million increase over the 2023 capital projects budget of \$1,675,000.

Manager Butler asked about the proposed budget for the adaptive level control. Mr. Anhorn said it would be part of the Atlas 14 flood planning and management line item but staff does not have an accurate number at this point.

10. Attorney's Report

Mr. Welch said the group working on chloride-use reduction is brainstorming possible next steps in light of the failure of the liability-limitation legislation this past session. He mentioned that a number of other avenues are being considered, including an effort to support city passage of ordinances requiring licensing and smart-salt licensing of commercial salt applicators.

11. Managers' Reports

Manager Kvam said she was in Valley Park in Hopkins on Sunday and she is interested to see how the stream stabilization area revegetates. She said the completed work looks very good, neat, and stable.

Manager Butler reported she and Mr. Anhorn are attending the June 20 Minnesota Stormwater Research Council tour. She also reported on different steep-slope lawn cover types and shared photos of Minneapolis lawns of white clover and of fescue. She pointed out the grub damage to the fescue lawn.

Manager Butler shared highlights from the previous night's Minnesota Watersheds meeting. She said she could send out the link to the Metropolitan Council research papers that will be presented at the Minnesota Watersheds meeting in October. Manager Butler reported Minnesota Watersheds' annual meeting will be earlier in the week than in previous years. She said the annual meeting will be November 28-30.

Manager Butler requested that a manager attend the Penn Lake community meeting regarding the ongoing water quality study. She said she thinks she is available to attend. Ms. Sniegowski said the meeting is being rescheduled to the evening August 15th or 17th and that she will send out an update once the date is finalized.

12. Adjournment

It was moved by Manager Olson, seconded by Manager Hunker to adjourn the meeting at 8:39 p.m. Upon vote, the motion carried.

Respectfully Submitted,



Grace Butler, Secretary