

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

WEDNESDAY, MAY 15, 2019

Call to Order

Chair Peterson called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, May 15, 2019, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

Managers Present: Bob Cutshall, Erin Hunker, Steve Kloiber, Grace Sheely and Jodi Peterson

Managers Absent: None.

Advisors Present: Randy Anhorn, Michael Welch, Bob Obermeyer, Janna Kieffer, Gael Zembal, Erica Sniegowski, Lauren Foley and Megan Jester

Agenda

Manager Hunker moved, seconded by Manager Kloiber, to approve the agenda as presented. Upon a vote, the motion carried.

Report on Closed Session at April 17, 2019 Board Meeting

Chair Peterson reported that the Board held a closed session meeting on April 17th to complete the performance review for the Administrator and determined that Administrator Anhorn's overall performance rating was outstanding and approved a 5.5 percent salary increase effective March 26, 2019.

Reading and Approval of Minutes

The Chair called for review of the minutes of the Special Meeting of April 17, 2019.

Manager Hunker moved, seconded by Manager Sheely, to approve the special meeting minutes of April 17, 2019 as presented. Upon a vote, the motion carried.

The Chair called for review of the minutes of the Regular Meeting of April 17, 2019. Administrator Anhorn stated that he filled in the name of the representative from LifeSpace Community since distributing the minutes. The Managers provided minor grammatical changes to staff.

Manager Hunker moved, seconded by Manager Kloiber, to approve the minutes of April 17, 2019 subject to minor corrections. Upon a vote, the motion carried.

Public Open Forum

David Hadley, 7730 Smetana Lane, Eden Prairie, he stated that Lake Smetana is quite green and asked if there is anything he could do to improve the situation. He noted that his home is the only single-family residence on the lake.

Administrator Anhorn stated that the District will be completing a load allocation study on Lake Smetana this year to identify nutrient loading sources to the lake and will then attempt to identify projects that will reduce loading in the lake and reduce the green events. He stated that there will be public outreach when the process begins and when the report is done. He stated that the District has a cost-share grant program as well for homeowner projects.

Engineer Kieffer agreed that the modeling will be completed this year.

Mr. Hadley asked if the modeling will result in a project one year from now or whether that would be further out.

Administrator Anhorn stated that once the report is finished, the District would look to implement projects, and he believes that funds are budgeted in 2020 or 2021.

Consent Agenda

- A. Administratively Approved Permits**
- B. Permit Inspection Report**
- C. Permit #2018-102: Crossview Lutheran Church Building Addition and Parking Lot Improvements; 6646 McCauley Trail; Grading and land alteration permit: Edina**
- D. Permit #2019-28: Donaldson Company – Materials and Research Center Building Construction; 1400 West 94th Street; Grading and land alteration permit: Bloomington**

Manager Hunker moved, seconded by Manager Cutshall, to approve the Consent Agenda. Upon a vote, the motion carried.

Hearing of Permit Applications

There were none.

Treasurer's Report

The Treasurer submitted the report. Manager Cutshall provided clarification on certain items included in the report including cost-share grant reimbursements, fire alarm testing and carp tracking.

Manager Kloiber moved, seconded by Manager Sheely, to approve the Treasurer's Report and pay the bills. Upon a vote, the motion carried.

Staff Reports

A. Permit and Water Resources Coordinator

Permit and Water Resources Coordinator Foley provided an update on the process of insourcing the inspection program. She reviewed the process thus far, including prioritization. She stated that this month she will focus on inspecting sites on the list that had vegetation issues. She provided an update on the guidance documents for the rules, noting that members of the CAC have volunteered to assist in the process.

B. Education and Outreach Program Coordinator

Education and Outreach Coordinator Zembal advised of upcoming school visits that will bring students to the creek for different activities. She asked if the Managers would be interested in staff purchasing giveaway items for the 60th anniversary that could be used at events. She stated that currently there are about 300 tote bags left, 80 water bottles, 75 lunch bags, a few pens, and about 900 of the 50th anniversary books. She stated that there have been some suggestions from staff (post-its, bobbers, etc.).

Manager Kloiber suggested native plant seeds.

Manager Sheely stated that perhaps a bumper sticker or window cling would be a good idea.

Manager Cutshall asked what is being done at the high school level in addition to the elementary schools.

Education and Outreach Coordinator Zembal stated that the District partners with the Hennepin County river watch program and provided additional details. She stated that the District has worked for the past two years with that age group.

C. Program and Project Manager

Program and Project Manager Sniegowski provided an update on the alum treatment in Normandale Lake, noting that application occurred on May 7th and 8th. She stated that the process went smoothly. She displayed some of the photos and aerial photos that were taken during the process.

Chair Peterson asked for details on the alum process.

Engineer Kieffer provided additional explanation on the reaction of the alum during the treatment process.

Program and Project Manager Sniegowski stated that staff will continue to monitor the conditions.

Manager Kloiber stated that the ultimate objective is not to get clear water but to reduce the blue-green algae blooms that have been plaguing the lake and to create a healthier, more diverse natural plant community.

Engineer Kieffer stated that when staff and engineers were out on the lake last week, they did not notice a lot of plant growth, noting that typically they would have seen curlyleaf pondweed by now. She noted that they will be monitoring the lake again next month.

Program and Project Manager Sniegowski displayed elements of the Story Map for the Board to review. She stated that Carp Solutions will be out in the next few weeks to track the fish. She noted that the DNR will be out in the next few weeks to stock Normandale Lake with Bluegill Sunfish and Largemouth Bass.

D. Administrator

Administrator Anhorn stated that his written report was included in the Board packet. He stated that there are a few areas to touch up on the Nine Mile Creek project, in the phase one and reach 12 sections. He noted that because of the standing water, some areas will need to be reseeded. He stated that staff has received calls regarding high lake levels, which is a trend across the metro right now due to high groundwater and according to the DNR, the wettest six-year period (from 2013-2018) on record since the 1870s.

i. Correspondence

Administrator Anhorn stated that the draft minutes from the Technical Advisory Committee meeting on the stormwater volume-reduction opportunity study and to seek their input on the District's roles in local and regional flooding issues were included in the packet and provided an update. He stated that the cities were supportive and like the proactive rather than reactive stance.

Manager Cutshall stated that he was impressed with the forward thinking of the group and expressed cooperation.

Administrator Anhorn noted that Hennepin County stated that they are doing some modeling to the mid-century precipitation event.

Engineer Kieffer explained that mid-century would be a 100-year event for 2050. She stated that there has not yet been a robust study to determine the mid-century number, but provided additional details on the low, medium and high predictions that have been developed thus far.

Manager Sheely stated that she liked the use of the term “community capacity” and hopes that continues to be used.

Administrator Anhorn stated that he included another correspondence item in the packet for Board to review from a developer questioning the reasonableness of watershed rules. Attorney Welch provided background information. He noted that the topic is on the Minnesota Association of Watershed Districts’ radar and a strategy will be developed.

Unfinished Business

A. Scope of Work for Non-Profit Planning Grant Stormwater BMP Projects

Program and Project Manager Sniegowski provided details on the final scope of work from Barr Engineering for the three nonprofit projects that are moving forward this year with an amount of \$24,600. She asked the Board to approve the final scope of work to continue moving forward on this process, which would allow the request for quotes to go out in June. She explained that this amount is included within the \$125,000 budgeted amount for the project this year. She stated that at June’s meeting she will be asking the Board to give the administrator authority to enter into a contract for construction of the 2019 projects, noting that an engineer’s estimate will be included in the information provided to support the requested authorization. She reviewed the elements that were included in the engineer’s scope: final design, contractor solicitation, and construction administration.

Manager Sheely moved, seconded by Manager Kloiber, to approve the scope of work from Barr Engineering with an amount not to exceed \$24,600. Upon a vote, the motion carried.

New Business

A. Building Addition Options

Administrator Anhorn stated that there are various designs from LHB Architects, and they are getting to the point where they would bring a design to the city for review and amendment of the development agreement. He noted that the original options extending out the west end of the building would require removal of large trees and therefore other options were reviewed adding on to the north side of the building. He stated that there are three options that are currently being reviewed and provided details on each of the three options, along with the very rough cost estimates. He asked for feedback from the Managers.

Chair Peterson asked about the benefits to having private offices rather than open office spaces.

Administrator Anhorn stated that open offices tend to have issues with noise.

Manager Kloiber stated that at his office more walls are being removed in favor of open space, noting that he does not favor that trend. He referenced the hybrid option and asked if that would preserve the option of flexibility in the future.

Administrator Anhorn provided details on the option that would provide the most flexibility.

Manager Sheely stated that she wants everyone to think about how staff can operate during the construction process.

Administrator Anhorn stated that staff has purchased some used cubicle equipment at a low cost and staff will temporarily set up that equipment in the interactive room during construction. He stated that there could also be options to work from home if staff needs to make phone calls.

Manager Sheely stated that she did not feel she would be best to assess the options as she is not familiar with the day to day operations of staff. She stated that she does not like that there is no one greeting people when they come into the office, nor is there signage directing traffic. She stated that if the offices are put at the end, that would be a long way for people to walk before arriving at the offices.

Manager Kloiber stated that he is unsure how committed he is to keeping the interpretive room as it is. He stated that perhaps it would make more sense to turn that into office space.

Administrator Anhorn stated that room is used as meeting space.

Manager Kloiber stated that perhaps cubicles are put in the interactive room and the cubicle area turned into meeting space, as that would bring a staff person closer to the door.

Administrator Anhorn explained that internal changes do not impact the development agreement and can be done in the future.

Manager Sheely stated that she would like flexibility in the design but understood that staff might be more productive with five offices.

Manager Cutshall stated that he has experience working in both private offices and open office space. He stated that he personally would rather have a private office but also understands that is not necessarily needed and is not the trend. He commented that open offices do provide more flexibility but stated that it is a limited space so he was unsure how much flexibility would even be gained.

Administrator Anhorn stated that he does not anticipate being allowed to have more than five employees, even in the future, per his discussions with the city.

Manager Kloiber agreed that he would prefer a private office but noted that the open space is not that bad, and it provides a connection you may not otherwise get.

Manager Hunker stated that she currently has a private office and sometimes feels disconnected. She asked if natural light has been a thought in this process.

Administrator Anhorn confirmed that staff feels there is enough natural light.

Manager Hunker asked how much time some of the staff are in their offices working, compared to being in the field.

Administrator Anhorn stated that the amount of time spent in the offices change depending on the time of year, noting that there are more field visits in the summertime compared to winter.

Manager Hunker stated that if there is a lot of time being spent in the offices, then private space is important.

Chair Peterson asked if being on the phone would be an issue that would cause staff to relocate to a private space.

Administrator Anhorn stated that staff is good about leaving doors open to encourage collaboration.

Education and Outreach Coordinator Zembal stated that staff receive a fair amount of phone calls and that would be distracting for her to be in an open office area with others on the phone.

Manager Kloiber stated that some companies have gone further with the trend in that employees do not have assigned workspace and simply choose their space daily. He asked the price difference between the options.

Administrator Anhorn provided the different square footages and rough cost estimates of the three options. He confirmed the consensus of the Board to move forward with the separate-offices option. He confirmed that he will work with LHB to move forward on the five separate offices concept.

B. Permit Review and Approval Process

Administrator Anhorn stated that he recently met with Manager Cutshall and Chair Peterson to discuss the permit process. He noted that recently there was direction from the Board to determine if more permit approval authority should be delegated to the Administrator, which would remove some of that task from the Board allowing more time to concentrate on policy and long-term District planning at the meeting. He stated that the memorandum included in the packet provides three options: 1) to keep the process the same as it is now with the majority of permits coming before the Board for approval, 2) to delegate all permit approval authority to the Administrator, with the exception of variances and exceptions, District requested permits, and if the Administrator determines that the application should be heard by the Board,

or 3) a hybrid option that would delegate approval authority for most permits unless they trigger a determined level such as if the project proposed an increase in the amount of impervious surface of 2.5 acres or more. He noted that if permit approval authority is delegated to the Administrator, an application-review memorandum would still be provided to the Board that would keep them informed of the approved projects. He said that staff would put together a slightly less detailed version of the full review that would include background information on the project the, how they proposed to meet the rules triggered and resulting water quality benefits, but would not include all the engineering analysis of the hydrologic modeling. He stated that perhaps the Board time at the meetings would be better spent on long-range planning items rather than permitting details. Staff works with the applicant to ensure compliance with District rules and the projects that currently come before the board have a staff recommendation for approval. He could not think of a time when the staff recommended approval and the Board did not approve the permit.

Manager Cutshall stated that if a permit meets the rules of the District, there would not be a reason to deny the request. He stated that he would like the Board to be efficient and would like the District to be as user friendly as possible. He stated that currently an applicant may have to wait one month before receiving their permit because it needs to be approved by the Board.

Manager Sheely stated that she believes that the city projects need to be reviewed in more detail. She noted that there are projects that meet the rules, but that she does not support.

Manager Cutshall stated that if a request meets the rules, it cannot be denied simply because someone does not like it.

Manager Kloiber stated that he is open to giving the Administrator more authority and is conceptually in agreement that if the engineer reviews the project and recommends approval, there would not be a basis for denying the request. He stated that there may a circumstance where something was missed in the review that could potentially be addressed. He believed that the Managers have a role in providing some oversight. He stated that there are permits that he would like to see the presentations on and would hate to make a drastic policy change that would foreclose that as an option for future Boards.

Manager Cutshall stated that if the option did not work, the decision could be rescinded in the future. He stated that he likes to read the reports and analysis, if the recommendation is to approve the permit, he does not see a reason to make applicants wait 30 days and bring their engineer to the meeting. He suggested that the Board try this option for three to six months and then complete a review.

Manager Kloiber asked if any other watersheds have delegated permit-approval authority to the administrator.

Attorney Welch reported that Minnehaha Creek Watershed District has delegated authority to its administrator to approve all applications except those requiring a variance or exception, permits for district projects and permits presenting issues the administrator finds should be reviewed by the managers. Notice of applications is sent and a 15-day period must

pass before approval is given. He stated that other watersheds that he works with wrestle with where to set the line in terms of delegated permit-approval authority. He confirmed that the managers can adjust the parameters of delegation as and when they see fit.

Administrator Anhorn provided examples of some of the bigger issues that he believes the focus of the Board should be, relating to the Water Management Plan activities. He stated that it is not always efficient for the Board to review permits and presentations at meetings for permits that are recommended for approval by staff because they have met the requirements.

Attorney Welch stated that if an application meets the rules of the District, legally there would not be a reason to deny the request.

Manager Kloiber stated that the Administrator would then become the pressure point, noting that if the Administrator is on vacation, people would then not get a permit, or if an Administrator resigns, people would not get permits.

Attorney Welch noted that there would be an interim Administrator, similar to when the previous Administrator resigned, and that person would work with engineering and legal staff.

Engineer Obermeyer stated that staff currently does not bring forward a permit that is not recommended for approval. He recognized the input from Administrator Anhorn that the Board has a lot on its plate in terms of long-range planning and different areas of focus and suggested that the Board try delegating authority.

Manager Kloiber stated that he would not have a problem trying out that option but would be concerned with setting different expectations for applicants.

Attorney Welch noted that it may take a year to determine whether the parameters of delegated authority provide the managers with the desired engagement with the regulatory program; three months likely would not provide sufficient information.

Engineer Kieffer stated that she would also want to ensure that the Board feels comfortable and confident with the reviews being conducted.

Manager Sheely noted that one downside would be that new Managers would not become as familiar with the permit process. She believed that it would be important to keep the permit information publicly available.

Administrator Anhorn noted that staff would take tonight's input and bring back a recommendation and examples of various thresholds for the managers to react to and discuss at an upcoming Board meeting.

Manager Sheely stated that some of the permit review provides education for new Managers.

Manager Cutshall stated that as a new Manager he has found that the workshops provide better details and would prefer that option over tying up Board meetings.

C. Lake Cornelia and Lake Edina UAA Updates

The decision was made to postpone this item to the next meeting.

Engineer's Report

Engineer Kieffer had nothing further to report.

Attorney's Report

Attorney Welch provided a summary of the court of appeals decision in the White Bear Lake case.

Managers' Report

The Chair called for reports. There were no additional reports.

Adjournment

It was moved by Manager Hunker, seconded by Manager Sheely, to adjourn the meeting at 9:33 p.m. Upon a vote, the motion carried.

Respectfully submitted,



Erin Hunker, Secretary

ATTACHMENTS:
Treasurer's Report