

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

WEDNESDAY, MAY 18, 2022

1. Call to Order of the Regular Board Meeting

President Cutshall called the regular meeting of the Nine Mile Creek Watershed District Board of Managers to order at 7:00 p.m., May 18, 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, Janna Kieffer, Katie Turpin-Nagel (Barr Engineering Co.) and Michael Welch (Smith Partners)

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

Other Attendees: Ross Bintner and Chad Millner (City of Edina), Brian Boll and Joel Livingood (Interlachen Country Club), Laura Rescorla (WSB), and Deric Deuschle (SEH)

2. Approval of Regular Meeting Agenda

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

3. Reading and Approval of Minutes

a. Draft Minutes of the April 7, 2022, Board Workshop

Manager Olson moved, seconded by Manager Butler to approve the minutes of the District's April 7, 2022, workshop as drafted. On a roll call vote, the motion was approved 5-0.

b. Draft Minutes of the April 20, 2022, Regular Board Meeting

Manager Hunker moved, seconded by Manager Olson to approve the minutes of the District's April 20, 2022, regular meeting as drafted. On a roll call vote, the motion was approved 5-0.

4. Public Open Forum

a. General Interest

No items of general interest were raised.

5. 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. Natural Resources Planning and Project Manager

iv. Program and Project Manager

v. Engineer's Report

Education and Outreach Coordinator Gael Zembal reported the District was contacted by the Coca Cola Bottling Company in Eagan. She said the company is interested in doing a trash clean up along Nine Mile Creek in mid-June. Ms. Zembal said she will meet with the 40 or so volunteers on their cleanup day and present on the creek and watershed.

Permit and Water Resources Coordinator Lauren Foley asked if the managers would like to receive an overview of program improvements made in recent months. The managers indicated interest.

6. Hearing of Permit Applications

a. 2021-163 Edina Lift Station Hawkes Lake 5709 Warden Avenue: Edina

Louise Heffernan of Barr Engineering Co. shared her screen and presented the permit application review memo for the proposed redevelopment of City of Edina Lift Station #3, located at 5709 Warden Avenue in Edina (Permit 2021-163). She reminded the board of the discussion at the April 20 regular board meeting with regard to site challenges and constraints presented by Ross Bintner, City of Edina engineering services manager. Ms. Heffernan summarized the project and explained the proposed reconstruction of Edina Lift Station #3 adjacent to Hawkes Lake. Ms. Heffernan stated the District's rules applicable to

the project, including Rules 2.0, 4.0, 5.0, and 10.0. She reported that there are three variance requests associated with the project.

Ms. Heffernan displayed a site plan and described the project and proposed redevelopment. She said the project as proposed does not meet the District's Stormwater Rule 4.3.3, which requires the low-floor elevation of the lift station to be at least two feet above the flood elevation of Hawkes Lake. Ms. Heffernan stated the applicant has requested a variance from compliance with subsections 2.3.1 and 4.3.3 for the low-floor elevation of the proposed lift station building in relation to the 100-year flood elevation of Hawkes Lake. The proposed low-floor and low opening elevation of the lift station structure is 894.6 M.S.L., approximately 0.3 feet above the 100-year flood elevation of Hawkes Lake. The required 2.0 feet of separation is not provided. She said the applicant also has requested a variance from compliance with subsection 2.3.2 for placement of fill below the 100-year flood elevation of Hawkes Lake.

Ms. Heffernan reminded the board of the site constraints that Mr. Bintner described to the managers at the April 20 meeting. Ms. Heffernan explained that the proposed low-floor elevation of the lift station building is elevation 894.6 M.S.L., approximately 0.3 feet above the 100-year flood elevation. She explained that the project proposes 98 cubic yards of fill located in the floodplain. She provided more details about the variance request from the District's floodplain fill requirement.

Ms. Heffernan described the site's constraints, including the adjacent residence to the east and the finding that the project doesn't pose additional flood risk to the residence or other areas surrounding the site.

Ms. Heffernan reported that the proposed fill increases the critical 100-year flood elevation of downstream Hawkes Lake by 0.0028 feet. The pre-project 100-year flood elevation of Hawkes Lake potentially impacts nine structures adjacent to Hawkes Lake, based on comparison of LiDAR elevation data and approximate building footprints. The proposed increase in the flood elevation of Hawkes Lake does not result in additional potentially impacted structures. She explained that for the project to get to no net fill in the floodplain, the lift station would need to be lowered below the flood elevation, which would pose additional flood risk, as documentation provided indicated that flooding of city-owned infrastructure during extreme storm events would not allow for safe operation of equipment during a flood event or access to mechanicals, resulting in storm and sewer flood risk to both city-owned property and properties surrounding Hawke Lake that rely on the safe operation of city infrastructure. Ms. Heffernan said the District engineer finds adequate technical basis for the requested variances. She said the engineer's recommendation is approval of the permit based on the analysis as presented.

Manager Butler moved, seconded by Manager Olson to approve the three variances as presented in the engineer's memo on the basis provided in the memo and to approve application 021-163 with the conditions and stipulations in the engineer's memo. On a roll call vote, the motion was approved 5-0.

President Cutshall noted the reference in the packet materials to a city study assessing use of automated pump systems that draw water levels down in advance of storm events to create storage. President Cutshall said that NMCWD should work with the city on such innovative solutions.

b. 2022-022 Blake Road South Improvements: Blake Road South and Interlachen Blvd: Edina

Ms. Heffernan shared her screen and presented the application review memo for permit 2022-022, Blake Road and Interlachen Boulevard Roadway Improvements. She said the applicant, the City of Edina, is proposing to reconstruct portions of Blake Road and Interlachen Boulevard adjacent to Mirror Lake, Department of Natural Resources Public Water #55P. She said the lake includes two landlocked basins separated by Blake Road, which she will refer to as the Northwest Basin and Mirror Lake.

Ms. Heffernan said the applicant has requested a variance from compliance with subsection 2.3.2 criteria for placement of fill below the 100-year flood elevation of both Mirror Lake and the Northwest Basin. Ms. Heffernan noted the project includes construction of a roundabout at the intersection of Blake Road and Interlachen Boulevard. She pointed out the DNR has indicated that it is exercising jurisdiction over the installation of the retaining walls, and a permit under Rule 7.0 is not required for this portion of the work in accordance with the NMCWD rules. She reported the DNR is waiving jurisdiction to NMCWD for the installation and replacement of outfalls at DNR Public Water #55P.

Ms. Heffernan reviewed the analysis of the application of the NMCWD rules to the project. She stated the project proposes 304 cubic yards of fill material placed below elevation 914.7 M.S.L., the Northwest Basin flood elevation and approximately 105 cubic yards of fill material below elevation 910.8 M.S.L., the Mirror Lake flood elevation. Ms. Heffernan stated that as a result of the fill in both the Northwest Basin and Mirror Lake, XP-SWMM models were used to evaluate flood risk regarding potentially impacted structures around the water basins. She reported the model results showed the proposed 105 cubic yards of fill below the flood elevation of Mirror Lake will result in a 0.028 foot increase in the

flood elevation. The proposed 304 cubic yards of fill below the flood elevation of the Northwest Basin will result in a decrease in the flood elevation of 0.027 feet as a result of proposed surface flow alterations conveying less runoff to the Northwest Basin in post-project conditions. She reported it was found that the existing and proposed 100-year flood elevations of the Northwest Basin (elevation 914.7 M.S.L.) are not likely to result in flood impacts to the lowest structure (approximately elevation 920.2 M.S.L.). She highlighted the point that no existing structures are at risk in either existing or proposed post-project conditions. Ms. Heffernan stated the XP-SWMM model also showed the project is not reasonably likely to increase flood risk to upstream or downstream properties, and because the existing flood risk at Mirror Lake, the Northwest Basin, and at upstream and downstream properties will not change, the project is not reasonably likely to increase the flood risk in conformance with subsection 2.3.3 criteria.

Ms. Heffernan discussed the applicant's request for a variance from compliance with subsection 2.3.2 criteria for placement of fill below the 100-year flood elevation of both Mirror Lake and the Northwest Basin. She described the topography and roadway constraints that make the project's strict compliance with floodplain fill difficult. She noted the project's proposals to mitigate the fill to the maximum extent possible. Ms. Heffernan summarized that the supporting materials demonstrate, and the NMCWD engineer concurs, because the existing flood risk at Mirror Lake, the Northwest Basin, and at upstream and downstream properties will not change, the project is not reasonably likely to increase the flood risk.

Attorney Welch noted the variances are within the discretion of the managers and are not a technical decision. He said he understands that the engineer finds adequate technical basis for the variance and recommends approval of the permit.

Manager Kvam commented the cantilevered trail is a brilliant solution. Manager Butler remarked on the improvements to safety that will be provided by the proposed roundabout.

Manager Butler moved, seconded by Manager Olson to approve the variance on the basis presented in the engineer's memo and presentation and Permit 2022-022 with the conditions and stipulations outlined in the memo. On a roll call vote, the motion was approved 5-0.

Mr. Chad Millner of the City of Edina thanked the board for its consideration and said the city looks forward to working with the District to further explore predictive pumping.

7. **Interlachen Country Club Pre-Permit Application Submittal Presentation**

Administrator Anhorn said a permit application for the Interlachen Country Club restoration project will be presented to the board at a future meeting. He said tonight's presentation will give the managers background on the project and the variance that will be requested from NMCWD's buffer requirement. He noted the project includes a redesign of the golf course.

Joel Livingood, general manager and chief executive officer of Interlachen Country Club; Brian Boll, director of golf course grounds; and Deric Deuschle of SEH, the project engineer, presented the project. Mr. Livingood explained the primary goal of the restoration project is to restore the original vision of the golf course. Mr. Livingood said the project will include rebuilding greens, adjusting tee boxes and bunkers for playability, and converting to bentgrass.

Mr. Deuschle noted the project proposes a net decrease in impervious surface. Mr. Boll said the work to convert the course to bentgrass will require minimal soil disturbance, and will reduce water use by up to 10 million gallons water annually, decrease nitrogen application by 87-100 pounds per acre per year, and reduce fungicide application by half. He noted an estimated 33 percent reduction in the frequency of mowing, which also reduces the amount of fuel used.

Manager Butler expressed concern about the proposed shortfall from compliance with the buffer requirement, especially that in some places there would be zero buffer on wetlands. She said she would like the golf course to consider whether more native grasses could be used in the buffer zones. Manager Butler said she is very familiar with bentgrass and she is surprised by the numbers presented regarding fungicide-use reduction. Manager Butler said she would like the project to make sure it can really document those numbers. Manager Butler suggest the course look into water reuse. She said the District has funds available to use toward that type of project.

President Cutshall said he would like to see the project include at least some minimum buffer. Mr. Deuschle clarified the project isn't proposing no buffers but instead not buffers everywhere. Administrator Anhorn said project discussions have included the idea of longer cut along that area. Mr. Deuschle said that idea is still being evaluated with the course architect. He said he anticipates the permit application will be submitted in June and Interlachen and SEH will continue the conversation with District staff in advance of the submittal.

8. **Treasurer's Report**

Manager Kvam said that she reviewed the report and highlighted the invoices listed in the report, including those related to cost-share grant reimbursements.

a. **Pember Construction Pay Application #5 for the Rosland Stormwater Filtration BMP Project**

Engineer Kieffer reported the District received pay application #5 from Pember Construction in the amount of \$224,005.92. She said it includes work completed through May 3 and she described the work items included. Engineer Kieffer said she recommends payment. She stated the project should be substantially complete by mid-June and is on track regarding cost. She noted there will be a change order coming in front of the board at the next regular board meeting that reflects minor design modifications to improve accessibility for system performance monitoring.

Manager Hunker moved, seconded by Manager Butler to accept the treasurer's report and authorize payment of the bills, including Pember Construction pay application #5. On a roll call vote, the motion was approved 5-0.

9. **Citizen Advisory Committee Update**

Education and Outreach Coordinator Zembal mentioned that the CAC member that was going attend this evenings meeting was sick and unable to attend. She provided an updated the board on recent CAC activities including coming up with the idea of putting of mailers together that were sent residents that live along the creek reminding them not to put grass clipping, leaves and other debris into the creek .

10. **Administrator's Report**

Supplementing his written report, Administrator Anhorn recommended the board hold its June 2 workshop as a virtual meeting due to the Covid new case numbers reported by Hennepin County.

11. **Unfinished Business**

a. **Approval of Professional Services**

Administrator Anhorn said the District solicited letters of interest for professional services including engineering, legal, accounting, and the annual audit. He reported the District received one letter of interest for each. Administrator Anhorn said the letters are from the District's current providers. He said he, President Cutshall, and Manager Kvam reviewed the letters and recommend authorization for staff to work with legal counsel to prepare two-year agreements with Barr Engineering for engineering services, Smith Partners for legal services, Cavanaugh & Company for everyday accounting, and Redpath and

Company for the annual audit. Mr. Welch suggested that the board authorize agreements through the end of June 2024 to accommodate the administrator's schedule for issuing solicitation of interest.

Manager Kvam moved, seconded by Manager Butler to select Barr Engineering Company, Smith Partners, Cavanaugh & Company, and Redpath and Company as providers of engineering, legal, accounting, and audit services, respectively, and authorize the administrator to enter into agreements with each to run through June 30, 2024, on advice from legal counsel. On a roll call vote, the motion was approved 5-0.

12. New Business

a. Holiday, Wing and Rose Lakes Water Quality Study

i. Draft Summary

Engineer Kieffer presented the Lake Holiday, Wing Lake, and Lake Rose Water Quality Study. She introduced Katie Turpin of Barr Engineering, who reviewed the findings of the study.

Ms. Turpin-Nagel provided background on meeting state standards for water quality in shallow lakes such as Holiday, Wing, and Rose lakes. Ms. Turpin-Nagel described management strategies the District could consider implementing to improve the water quality and ecological health of the lakes and planning-level cost estimates for those strategies including in-lake alum and alum iron treatments on the lakes, a re-circulating filtration system on Lake Holiday.

Manager Butler said the District needs to address the lily pads in Wing Lake, including explaining the option for managing lily pads given the Minnesota Department of Natural Resources restrictions. She asked the District to focus on strengthening street sweeping. Manager Butler suggested staff discuss street sweeping equipment with Minnetonka staff. President Cutshall said managing expectations would be critical, given the challenges on improving water quality in shallow lakes.

Administrator Anhorn said there will be community stakeholder meetings, which will include a presentation similar to this one presented tonight to the managers. Administrator Anhorn said after the stakeholder meetings, staff will report to the board any comments heard. He said following that step, the board would consider asking Barr for a scope of work to put together a feasibility study on some of the management strategies recommended in the presentation. Administrator Anhorn said results of the feasibility studies would be shared with the board and public

hearings held prior to the board considering ordering any project. Manager Butler agreed. She said she doesn't think people understand why the District is focused on the three measures included in the Minnesota Pollution Control Agency water quality standards – d phosphorus, chlorophyll a, Secchi disc transparency. She thinks it will help if the District communicates about its role and why it focuses on what it does and how it collaborates with the city.

Attorney Welch said that the NMCWD cost-share cannot be used as a way to implement a NMCWD project or projects. To the extent that disbursed practices are needed to improve water quality, the District must focus on the purpose of the cost-share program, which is to foster stewardship.

13. Attorney's Report

No report.

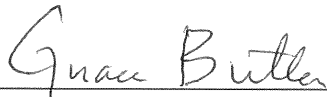
14. Managers' Reports

No reports.

15. Adjournment

It was moved by Manager Olson, seconded by Manager Hunker to adjourn the meeting at 9:17 p.m. On a roll call vote, the motion was approved 5-0.

Respectfully Submitted,



Grace Butler, Secretary

