

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

WEDNESDAY, NOVEMBER 16, 2022

1. Call to Order of the Public Hearing

President Bob Cutshall opened the Nine Mile Creek Watershed District Board of Managers public hearing at 6:45 p.m. at the NMCWD office, Discovery Point, 12800 Gerard Drive, Eden Prairie, MN.

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

Advisors Present: Janna Kieffer (Barr Engineering; attended virtually), Louise Heffernan (Barr Engineering), and Michael Welch (Smith Partners)

Staff Present: Randy Anhorn (Administrator), Brett Eidem (Natural Resources Project and Planning Manager), Alissa Schmidt (Minnesota GreenCorps; attended virtually), Erica Sniegowski (Program and Project Manager; attended virtually), and Gael Zembal (Education and Outreach Coordinator)

2. Proposed Revisions to the District's Rules - Public Hearing

Randy Anhorn stated that the public hearing is an opportunity for the public to provide comments on the proposed changes to the NMCWD rules that were issued for public comment on October 22. He reported that the comment period closes December 7. Administrator Anhorn said the board will consider adopting the rule amendments at the December regular meeting.

Manager Kvam asked whether the buffer graphic discussed at the board's last meeting has been completed. Michael Welch said it should be finished next week

Mr. Anhorn noted no members of the public were in attendance, either in person or virtually. He added that if anyone does join the meeting before 7 p.m., they would be allowed to comment.

President Cutshall public hearing ended at 6:55 p.m.

1. **Call to Order of the Regular Meeting**

President Cutshall called the Nine Mile Creek Watershed District Board of Managers regular meeting to order at 7:00 p.m.

2. **Approval of the Agenda**

Mr. Anhorn said item 11a is an action item to change the date of the board's December 21 meeting. He noted that the Minnesota Association of Watershed Districts annual meeting program is currently available on the MAWD website.

It was moved by Manager Kvam, seconded by Manager Olson to approve the agenda. Upon vote, the motion carried.

3. **Reading and Approval of Minutes**

a) **Draft Minutes of October 6, 2022, Workshop**

Manager Butler moved, seconded by Manager Hunker to approve the minutes of the district's October 6, 2022, workshop as drafted. Upon vote, the motion carried.

b) **Draft Minutes of October 19, 2022, Regular Board Meeting**

Manager Kvam moved, seconded by Manager Olson to approve the minutes of the October 19, 2022, regular meeting as drafted. Upon vote, the motion carried.

President Cutshall suggested for future meetings staff should put the approval of the minutes on the consent agenda, and managers can pull them individually from the consent agenda if managers have points about the minutes to discuss. Manager Grace Butler stated she reviews the minutes as part of her responsibilities as secretary and reminded the managers to review the minutes and confirm the minutes correctly reflect what the managers have said.

Michael Welch highlighted the importance of the minutes as the record to which staff, the board, and the public can refer. He said a style guide is being

developed for the minutes. Manager Butler said the minutes seem to take up a lot of staff time, and she thinks the board and staff agree that there are ways to make the minutes less time-intensive.

President Cutshall said that generally he would like to see the board focus on policy issues and less on day-to-day items that are important but don't need board attention.

4. **Public Open Forum**

a) **General Interest**

President Cutshall noted there are no members of the public in attendance.

5. **Consent Agenda**

Manager Butler wonders whether the Permit Inspection Report needs to include summary data on inspections conducted. Administrator Anhorn said he could come back at the next board meeting to provide more details about those items listed in the first page of the report. President Cutshall said if there is a reason staff needs to bring a permit item to the board's attention, then that is the type of information staff should report. Manager Butler said she uses the information on sites with issues in the report to keep her eyes on those projects.

6. **Staff Updates**

Erica Sniegowski reported the Hennepin County Chloride Initiative has been awarded the Minnesota Association of Watershed Districts program of the year. She said the district has participated in the program for several years. Ms. Sniegowski said the initiative is a group of all the Hennepin County water management organizations. She stated the initiative received 2019 watershed implementation funds to focus on reducing chloride use. The funds were used by various programs and projects.

Alissa Schmidt, the Minnesota GreenCorps member working with the district, introduced herself and explained her main focus within her service term with the GreenCorps is chloride reduction. She said she took over managing the Salt Watch program and is promoting the Smart Salt Trainings for the district. Ms. Schmidt said upcoming projects she'll be working on include developing a smart salting toolkit and promoting the Hennepin County Chloride Initiative's "Low Salt, No Salt Minnesota" campaign. She described other programs and campaigns she has been working on with the District.

Gael Zembal displayed a mockup of the district’s new interactive outreach tool “the salt suitcase.” She also noted that NMCWD will use it at events, and it will be able to be checked out by other organizations to use at their events as well. She noted that it is still being fabricated currently, with the goal to be finished later this winter.

7. **Hearing of Permit Applications**

a) **2022-127 Oxboro Heights Multifamily Housing Redevelopment, 600 W. 93rd Street, Bloomington**

Louise Heffernan provided the engineer’s analysis of the permit application for the Oxboro Heights Multifamily Housing Redevelopment. She reported that the proposed project meets NMCWD regulatory requirements. The permit must be approved by the NMCWD board because the applicant has requested that the site be found to be “restricted” under subsection 4.3.2 of the rules and the proposed stormwater management plan does not provide at least 0.55-inches of volume retention; no volume retention is proposed.

Ms. Heffernan said the applicant proposes the construction of a five-story multi-family residential building with surface parking around the building, and a one-level parking garage. She said the project proposes to combine three existing parcels into a single parcel. She said the site is located within an area with known subsurface contamination – the Lyndale Ave Superfund Corridor – and there is known contamination on the site. Ms. Heffernan reported that a Phase II Environmental Site Assessment was completed for the site, which identified soil and groundwater contaminants at levels exceeding state risk-screening criteria, and the applicant asserts that infiltration onsite is not appropriate because of the contamination. She explained that onsite stormwater infiltration could potentially mobilize the contaminants through groundwater and soil.

Ms. Heffernan reported she reviewed the submitted documentation and concurs the site is restricted. She stated the underground stormwater management facility proposed for the site will not provide infiltration, but will provide rate control and water quality management for the site runoff.

Ms. Heffernan said she recommends approval of the permit contingent on conditions listed in the report.

President Cutshall asked what would happen if there were a project proposed within an area of known contamination and onsite soil borings do not exhibit concentration levels exceeding state risk-screening criteria . He asked if the project would need to comply with the district’s rules. Mr. Welch

pointed out the Minnesota Pollution Control Agency does not dictate applicability of NMCWD requirements, but if tests came back clean, the district may need to see further investigation before approving a permit based in part on infiltration of stormwater.

Manager Butler wanted clarification on the low floor of the parking garage. Ms. Heffernan clarified that the low floor and low opening are the lowest floor and low opening garage elevation, but the low floor of the garage does not provide two feet of separation from the 100-year high water elevation of the stormwater facility. She explained that the low opening of the proposed building is not hydraulically connected to the underground facility emergency surface overflow. Surface overflow, should it occur, is located within a proposed manhole with a rim elevation at 822 feet, two feet lower than the crest of the bituminous driveway leading to the low floor and low opening of the building, and surface overflow is directed towards 93rd Street West.

President Cutshall asked where the floor drains in the garage drained. Ms. Heffernan said the project is designed for the underground parking garage floor drains to drain to the stormwater runoff to the sanitary sewer system.

Manager Olson moved, seconded by Manager Hunker to approve Permit 2022-127 with the conditions and stipulation as listed by the engineer. Upon vote, the motion carried.

8. Treasurer's Report

Janna Kieffer reported the US SiteWorks pay application in the meeting packet is for \$106,011.93. She recommends approval of payment.

Manager Peggy Kvam commented the pay application's line items did not match the \$106,011.92 check listed in the current Treasurer's Report. Ms. Kieffer noted the difference of \$0.01 and said the next payment and pay application will be adjusted to accommodate the difference.

Ms. Kieffer reported the district received a pay application for the Rosland Stormwater Filtration project. She explained that the tasks included were authorized by change order no. 3.

President Cutshall asked if any work remains on the project. Ms. Kieffer said the project is very close to complete. Manager Butler asked if work can be completed in the winter. Ms. Kieffer said the work would be completed this winter, but testing will not be able to happen until spring.

Manager Butler moved, seconded by Manager Kvam to accept the treasurer's report and authorize payment of the US SiteWorks pay application #2 for \$106,011.92 and the Pember Construction pay application #8 for \$4,657.50. On roll call vote, the motion carried 5-0.

Mr. Anhorn said he will clarify with the accountant the \$0.01 discrepancy and Barr staff will let Pember know.

9. Administrator's Report

Adding to his report in the meeting packet, Mr. Anhorn said he has extended the application period for the open regulatory program manager to November 18. He has received 13 applications.

10. Unfinished Business

a) Board Retreat Discussion

Mr. Anhorn said the Freshwater Society will provide a summary from the board retreat soon. He asked how the managers thought the retreat went and what they think the next steps are. Manager Erin Hunker said she thought it went well. Manager Larry Olson said he thought it was important that there was a moderator facilitating it. Manager Kvam said she liked how group worked together.

Manager Olson brought up the district's tuition reimbursement policy in terms of how the funding is divided among the requests instead of a set amount per eligible person. He said he's never seen a tuition reimbursement benefit in which the funds are divided like that. Administrator Anhorn explained that only limited funds are budgeted annually, and that the item could be discussed at the board's business meeting in January.

Mr. Anhorn said he'll start talking with Jen Kader about completing the grid of items identified at the board retreat into the 90-day, 1-year, and 2-year process.

Manager Butler said she appreciated how the retreat kept to the time schedule and that the group agreed on the three priorities of staffing, environmental justice and equity being including in all District programs and projects and increase flexibility and adaptability. She thinks a post-retreat session is needed to discuss and layout more specific plans. Manager Butler said she would like to start moving on developing a land-acknowledgement statement that could be stated at the opening of the district's meetings immediately. Manager Kvam remarked she forwarded land acknowledgement information from the City of Eden Prairie's newsletter to Ms. Zembal. She added that the League of Women Voters recently had a seminar on land acknowledgement and the organization has resources on its website for writing a land-acknowledgment statement.

11. New Business

The managers elected to keep the December regular meeting as scheduled for December 21.

a) MAWD Annual Meeting Delegation and Resolutions

1. 2022 MAWD Meeting Materials

Mr. Welch stated the membership of MAWD, meaning the delegates, will be voting on the strategic plan included in the 2022 MAWD meeting packet.

Mr. Welch said regarding the proposed resolution number 2, limited liability for smart-salt certified applicators, he recommends not touching the language developed for the 2022 legislation and instead stressing to MAWD membership that they support progress on the legislation in 2023. Mr. Anhorn said the Minnesota Center for Environmental Advocacy was lead lobbyist last year and he thinks MAWD needs to better support this legislation in the next legislative session or two.

Manager Butler noted this is the first time there isn't a divided state legislature and that there is a new chair of the environmental committee.

The managers and staff reviewed the resolutions submitted by MAWD members which MAWD delegates will be voting and also discussed the MAWD Resolution Committee's recommendation regarding each of the proposed resolutions, Mr. Welch said he thinks the hesitancy people have regarding the resolution on limiting wake boat activities is that surface-water use is not within watershed organization's jurisdiction. Mr. Welch said regarding the revision to the Open Meeting Law to allow more virtual attendance of meetings by officeholders is not likely to move forward unless the numerous other local governmental entities support such a change, and that a complete shift from in-person attendance is unlikely to pass.

2. 2022 MAWD Program

Manager Butler and Manager Hunker volunteered to serve as NMCWD delegates at the MAWD annual meeting. Manager Olson volunteered to be the alternate.

It was moved by Manager Kvam, seconded by Manager Olson to appoint Manager Butler and Manager Hunker as the NMCWD delegates and Manager Olson as the alternate delegate for the 2022 MAWD annual meeting. Upon vote, the motion carried.

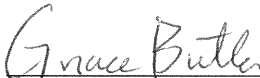
12. Managers' Reports

Manager Kvam said she invited Kathy Nelson of the Eden Prairie City Council to tour the NMCWD office and observe how the district functions and to open the discussion with the City of Eden Prairie about staffing. Manager Kvam said the visit went well. Administrator Anhorn added that he had a discussion with the City of Eden Prairie staff about the existing covenant and development agreement to include short-term and long-term staffing, especially regarding hybrid and flexible schedules allowing the increase of District staff numbers.

13. Adjournment

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

Respectfully Submitted,



Grace Butler, Secretary