

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

**WEDNESDAY, NOVEMBER 17, 2021**

**I. Call to Order of the Regular Board Meeting**

President Cutshall called the regular meeting of the board of managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, November 17, 2021. 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, or any committee thereof, to meet in person.

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

Advisors Present: Janna Kieffer, Michael McKinney, Barr Engineering; Michael Welch, Smith Partners

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

**II. Approval of Regular Meeting Agenda**

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

**III. Reading and Approval of Minutes**

**a. Draft Minutes of the October 26, 2021, Regular Meeting**

**Manager Kvam moved, seconded by Manager Butler to approve the minutes of the District's October 26, 2021, regular meeting. On a roll call vote, the motion was approved 5-0.**

**IV. Public Open Forum**

No items were raised in the public open forum.

**V. 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. **Program and Projects Manager**
    - 1. **Gamble Woodland Habitat Restoration Grant**
  - iv. **Engineer's Report**

Administrator Anhorn said all items on the consent agenda are informational only.

**VI. Hearing of Permit Applications**

- a. **2021-112 Pentagon Park Residential Redevelopment, 4660 W 77<sup>th</sup> Street, Edina**

Administrator Anhorn explained staff's recommendation to extend the permit review period. He said the application includes a variance request, and staff is still working with the applicant on the request and documentation, and needs more time to review the application materials. Attorney Welch said the extension would extend the permit review period 60 days to February 8, 2022.

Attorney Welch reminded the board that state law provides for a single 60-day extension of the review period by NMCWD, and that NMCWD needs to notify the applicant and provide at least brief reasoning for the extension. He said Permit and Water Resources Coordinator Foley has documented the need for the extension in her memo in the meeting packet.

**Manager Olson moved, seconded by Manager Hunker to approve the 60-day extension of the review of Permit 2021-112 Pentagon Park Residential Redevelopment, 4660 W 77<sup>th</sup> Street, Edina. On a roll call vote, the motion was approved 5-0.**

Attorney Welch recommended that the board recognize the administrator has the authority, as part of his management of the regulatory program, to extend a permit-review period under Minnesota Statutes section 15.99. He said an extension is an administrative matter related to the review process and isn't a decision on the permit.

**Manager Butler moved, seconded by Manager Olson to affirm the administrator's authority to extend permit reviews at his discretion in accordance with state law. On a roll call vote, the motion was approved 5-0.**

**VII. Treasurer's Report**

Manager Olson highlighted the invoices and disbursements listed in the report.

**a. Pember Construction Pay Application #2 for the Rosland Park Stormwater Project**

Engineer Kieffer said Pember Construction submitted an updated application that includes all required elements . She recommended payment of this application in the amount of \$185,230.57.

**Manager Butler moved, seconded by Manager Kvam to approve paying the Pember Construction Pay Application #2 for the Rosland Park Stormwater Project in the amount of \$185,230.57. On a roll call vote, the motion was approved 5-0.**

**b. Sunram Construction Pay Application #2 for 1-Year Vegetation Maintenance and Establishment Work for the Non-Profit Stormwater BMP Project**

Engineer Kieffer said this pay application is the final pay application for the nonprofit stormwater BMP project. Engineer Kieffer described the work performed and recommended payment of \$6,900. Kieffer noted that staff is waiting for additional project close-out documentation from Sunram Construction and recommended approval of payment contingent on receipt of the requested documentation.

**Manager Butler moved, seconded by Manager Hunker to pay the Sunram Construction Pay Application #2 in the amount of \$6,900 for 1-Year Vegetation Maintenance and Establishment Work for the Non-Profit Stormwater BMP Project, contingent on receipt of required close-out documentation. On a roll call vote, the motion was approved 5-0.**

**c. Sunram Construction Pay Application #8 for 2-Year Vegetation Warranty Work and Final Retainage for Phase 2 of Edina Streambank Project**

Engineer Kieffer said this pay application is the final pay application for the Edina Streambank project. She recommended payment of \$18,876.98, which includes the remaining portion of the two-year warranty and release of remaining retainage. Kieffer noted that staff is waiting for additional project close-out documentation from Sunram Construction. She recommended approval of payment contingent on receipt of the requested documentation.

**Manager Hunker moved, seconded by Manager Olson to pay the Sunram Construction Pay Application #8 in the amount of \$18,876.98 for 2-Year Vegetation Warranty Work and Final Retainage for Phase 2 of Edina Streambank Project, contingent on receipt of required close-out documentation. On a roll call vote, the motion was approved 5-0.**

**Manager Butler moved, seconded by Manager Olson to pay the bills. On a roll call vote, the motion was approved 5-0.**

**VIII. Administrator's Report**

Administrator Anhorn highlighted items in his report. He noted the new staff member will be starting on November 29<sup>th</sup>. Administrator Anhorn reported permit applications for 2021 are 25% higher compared to this time last year. He will be sending a draft wetland-scoring matrix for the managers to fill out. Administrator Anhorn will schedule a social gathering the second week of December.

**IX. Unfinished Business**

**a. Watershed-Wide Flood Risk Assessment (Atlas-14 Flood Risk and Resiliency-Phase 2) Update/Discussion**

Administrator Anhorn said the Board discussed at its last meeting that it would be interested to hear what other municipalities and watershed organizations are doing regarding Atlas-14 flood risk issues. He said tonight's presentation by Barr will share information gathered from other water management organizations. He said staff will also talk about ideas for the Phase 3 flood-risk assessment scope of work. He noted the Minnesota Pollution Control Agency has climate resiliency grant funds available, and staff will be submitting a grant application. He said staff will also be putting grant applications in for Federal Emergency Management Agency grant funds.

Engineer Kieffer shared a PowerPoint Presentation "Atlas 14 Flood Risk and Resiliency Phase 2 / Next Steps Phase 3 Scoping." She explained that with

the modeling work nearly complete, the District has a better understanding of flood risks throughout the watershed, and the next step toward implementation of solutions includes an iterative process of characterizing problems and solutions, strategizing, and prioritizing.

Engineer Kieffer talked about how some of the other metro watershed districts and watershed management organizations are approaching Atlas 14 flood issues. She presented information Barr gathered from six organizations. She summarized that many organizations are serving as a technical resource, with circumstances regarding when they opt to lead flood mitigation planning efforts uniquely defined for each organization. Some organizations have conducted prioritization exercises, and some are moving forward with evaluating flood mitigation options for prioritized areas. Regarding partnerships between water management organizations and municipalities, feasibility studies are often funded by the water management organization, with projects completed through joint-funded partnerships between the water management organization and the impacted municipalities.

- Engineer Kieffer described the three areas of work she suggests being included in the scope for Phase 3 of the District's Atlas 14 Flood Risk and Resiliency project, including 1) identification and evaluation of creek corridor flood risk reduction opportunities; 2) characterization of flooding issues and development of a framework for flood risk reduction projects, and 3) communication of flood risk.

She reminded the Board it has previously discussed components that could be involved to identify and evaluate the creek corridor flood risk reduction opportunities. Engineer Kieffer provided further explanation about the type of tasks that could take place to characterize flooding issues and develop a framework for flood risk reduction projects, including:

- Further defining the District's role in flood mitigation planning;
- Prioritizing District-led flood risk areas for future feasibility studies;
- Developing guidelines for project partnerships; and,
- Developing a framework for consideration of project benefits and trade-offs.

Engineer Kieffer explained that regarding the work to communicate flood risk, she believes a communication plan needs to be developed and materials that will be shared in the communication tactics need to be developed. Engineer Kieffer said that over the next few weeks, Barr will be drafting a Phase 3 scope of work. She asked managers to provide feedback on the proposed tasks recommended to be included in the scope of work and she noted there will be opportunity to discuss the draft at future Board meetings.

Attorney Welch suggested going back to the District's 10-year plan as a starting place for establishing a basis for what to include in the scope. There was discussion about the inclusion of flood management projects in the District's capital improvements program.

Chair Cutshall requested Engineer Kieffer provide the managers with this PowerPoint presentation. Engineer Kieffer she said she would email it to them.

**b. Boardroom Audio/Visual Proposal**

Administrator Anhorn said more information is needed to properly assess options for improving audio-visual options in the meeting room, and staff will bring this back to a future meeting.

**X. New Business**

**a. Minnesota Association of Watershed Districts Annual Meeting Delegation and Resolution**

Administrator Anhorn asked which managers plan to attend the annual meeting and conference of the Minnesota Association of Watershed Districts. There was discussion about the role and responsibilities of the District's voting delegates. Administrator Anhorn displayed the proposed MAWD resolutions and bylaws amendment included in the meeting packet.

**Manager Hunker moved, seconded by Manager Olson to appoint Manager Cutshall and Manager Butler as the delegates and Manager Kvam as the alternate. On a roll call vote, the motion was approved 5-0.**

**XI. Attorney's Report**

Attorney Welch followed up about the issue Chair Cutshall raised last month about ransomware. He described the steps he took to look into the issue. Attorney Welch said the best defense against ransomware is a back-up system, and based on his review of the District's services contract, the IT service provider services seem to be robust. He said it seems the risk seems well addressed.

**XII. Managers' Reports**

Manager Butler asked if permit extensions could be part of the administrator's report and if the Board could authorize the administrator to grant permit review-period

extensions. Administrator Anhorn reminded the board it acted earlier in the meeting to recognize the administrator's authority to extend any permit review period.

**XIII. Adjournment**

**It was moved by Manager Olson, seconded by Manager Hunker to adjourn the meeting at 9:06 p.m. On a roll call vote, the motion was approved 5-0.**

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Erin Hunker", written in black ink.

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Erin Hunker, Secretary

