

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

THURSDAY, OCTOBER 1, 2020

I. Call to Order

Chair Cutshall called the Special Meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 5:30 p.m., Thursday, October 1, 2020. The meeting was conducted by web-based video conference, pursuant to Minnesota Statutes section 13D.021, after the Chair 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: Bob Cutshall, Erin Hunker, Larry Olson, and Grace Sheely
Manager Absent: None.
Staff Present: Randy Anhorn, Lauren Foley, Erica Sniegowski, and Gael Zembal
Advisors Present: Bob Obermeyer, Michael Welch
Other Attendees: Carter Schulze (City of Eden Prairie) and Peggy Kvam (incoming manager)

II. Message from the NMCWD President

Chair Cutshall made the following statement:

The advent of Covid-19 in March has made the work of Nine Mile Creek Watershed District more challenging and difficult and resulted in remote working for staff and virtual meetings for the Board. On top of that difficulty, we have been dealing with a situation at Normandale Lake that has caused a lot of stress and anxiety for our staff and consultants. I have personally been involved with this situation since about June.

Allegations have been made about our staff and consultants stating that they are hiding information about the lake, that they are issuing misleading reports, that they are endangering public health and safety, that they are incompetent, that they are engaged in professional misconduct and that they committing outright

fraud. These allegations are, understandably, very disturbing to the people involved. But what is more disturbing is that the allegations are completely baseless. They are assertions being that are based on anecdotal evidence used to draw unscientific and erroneous conclusions.

I have observed our staff and consultants respond to the questions that have been asked and the allegations that have been made. They have done so in a calm and professional manner. They have responded to anecdotal evidence with scientific data. They have explained our policies and how they function. They have explained the incremental nature of the Normandale Lake project and that this is a multi-year project and that our recommendations for the lake may change based upon how the lake responds to our interventions.

In the short time that I have been on the Nine Mile Creek board, I have learned of the incredible difficulties involved in dealing with water quality issues in shallow urban lakes. Normandale Lake is a classic example of this. However, I believe that our approach is sound and based on the best available science. Much of what we are doing in the district is trying to undo 75 years of development in the southwestern suburbs; much of it done with few, if any, regulations on stormwater discharges. These problems won't be solved overnight but rather only through the long process of implementing programs and projects based on the best available science I am concerned that responding to baseless allegations and requests that are designed solely to harass are affecting our ability to efficiently and effectively pursue real-world resource improvement and flood protection. I will be working with Randy and Michael to ensure that staff is supported, and the harassment stops so that Nine Mile can continue its work.

I want to personally thank and affirm our staff at Nine Mile Creek Watershed District. You are doing a great job. You take your responsibilities seriously and tirelessly work for the good of the District. And to our partners at Barr engineering and Smith Partners, the District could not accomplish what it does without you. You are technically competent and provide a great resource to the District. Thank you all for your hard work.

III. Permit 2020-85 W 62 and Shady Oak Road, Eden Prairie

Engineer Obermeyer gave a brief history of the project site, the permit issued in 2012 for work at and adjacent to the right-of-way, and the wetland impacts, replacement, and credits. He stated the permit in front of the Board this evening was submitted by the City of Eden Prairie. He explained the proposed project is to reconstruct West 62nd Street to connect on the east side with a new Southwest Light Rail transit station. Engineer Obermeyer provided project details and went through his review of the permit application.

He said the applicant submitted a variance request for compliance with the District's wetland buffer requirements because the proposed project does not meet the 20-foot minimum buffer width requirement for a medium value wetland. Engineer Obermeyer reported that the Wetland Conservation Act (WCA) comment period ended yesterday, and no comments were received. He explained the practical and feasible reason for not providing the minimum buffer width, noting that the Technical Evaluation Panel recommended minimizing wetland impacts versus adding fill to the wetland to increase buffer.

Engineer Obermeyer recommended approval of the variance request and the project permit based on the engineer's review and recommendations summarized in the review memorandum included in the Board's meeting packet.

Attorney Welch provided additional background on the project initiated by United Health Group (UHG) in 2011. He explained the permit issued by NMCWD in 2012 has expired and the associated WCA approval has expired. He noted that staff recommends that if the board elects to approve the WCA application, such approval should be conditioned on submission of documentation of the transfer from United Health Group to the city of the rights to use wetland-replacement credits UHG secured but did not use for its project.

It was moved by Manager Sheely, seconded by Manager Olson, to approve the variance from compliance with the District's minimum buffer width requirement on the 62nd Street extension. On a roll call vote, the motion was approved unanimously.

It was moved by Manager Sheely, seconded by Manager Hunker, to approve permit 2020-85 with the conditions listed. On a roll call vote, the motion was approved unanimously.

It was moved by Manager Hunker, seconded by Manager Olson, to approve the WCA Notice of Decision for temporary wetland impacts, sequencing, and replacement with the additional recommended condition presented by Mr. Welch that the District receive documentation of the transfer from United Health Group to the City for the right to use the remaining wetland replacement credit. On a roll call vote, the motion was approved unanimously.

IV.

IV. **Education and Outreach Program**

Program and Project Manager Sniegowski and Education and Outreach Coordinator Zembal presented the history on the District's Education and Outreach program, discussed how the program helps the District to meet goals and priorities identified in the District's Watershed Management Plan, and highlighted future education and outreach opportunities and activities to continue engaging constituents.

V. **Brainstorming Discussion on Groundwater Conservation Opportunities**

Administrator Anhorn took notes on ideas from managers on opportunities the District could investigate regarding groundwater conservation opportunities, as groundwater conservation is identified as a goal in the District's Management Plan and there are funds for groundwater conservation in the District's 2021 budget. Ideas discussed included approaching cities about cost-share projects involving industrial

users in the watershed, finding information about water levels in aquifers, and reaching out to the sustainability team at Normandale College about irrigation and low mow grasses. Manager Olson commented on the business of water and wondered if there is any resistance by cities to conserve water. Manager Sheely suggested the District ask to see what cities submitted to Metropolitan Council regarding goals, and she pointed out that cities would likely be open to partnerships to facilitate achieving those goals. She suggested the District engage in community education about water softeners.

Chair Cutshall asked Administrator Anhorn and the staff to draft recommendations on what they think are the best opportunities for the watershed to get involved with and to present the draft recommendations at a future Board meeting. Administrator Anhorn said staff will bring recommendations to the Board in December.

VI. Adjournment

It was moved by Manager Sheely, seconded by Manager Olson, to adjourn the meeting at 7:20 p.m. On a roll call vote, the motion was approved unanimously.

Respectfully Submitted,



Erin Hunker, Secretary