

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

TUESDAY, OCTOBER 26, 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., Tuesday, October 26, 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, Bob Obermeyer (Barr Engineering); Michael Welch (Smith Partners)

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

II. Approval of Regular Meeting Agenda

Manager Hunker moved, seconded by Manager Butler 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 August 31, 2021, Public Hearing and Board Workshop

Manager Butler moved, seconded by Manager Kvam to approve the minutes of the District's August 31, 2021, public hearing and workshop. On a roll call vote, the motion was approved 5-0.

b. Draft Minutes of the September 15, 2021, Regular Board Meeting

Manager Butler moved, seconded by Manager Olson to approve the minutes of the District's September 15, 2021, regular meeting. On a roll call vote, the motion was approved 5-0.

c. Draft Minutes of the October 7, 2021, Board Workshop

Manager Hunker moved, seconded by Manager Olson to approve the minutes of the District's October 7, 2021, workshop. 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**

Attorney Welch noted the items on the consent agenda are information only, so the Board does not need to take action.

VI. Hearing of Permit Applications

a. 2021-117 Bloomington Fire Station #4: 4201 W 84th Street, Bloomington

Engineer Obermeyer explained this proposed project is for the reconstruction of Bloomington Fire Station #4. He summarized the project, which would disturb 100% of the site's impervious area and increase impervious area by 13,385 square feet, or 65.3%. Engineer Obermeyer noted the project site is located in an area that the City of Bloomington has designated as a wellhead protection area. He explained why the City of Bloomington requests the project site be considered a restricted site. Engineer Obermeyer said Barr Engineering

found that because of underlying soil conditions there is risk of contamination of the underlying aquifer from stormwater infiltration and agrees with the restricted-site classification. He stated that reuse of stormwater is not feasible on the site.

In response to a question as to whether the city is seeking a variance, Michael Welch stated that even though the city will provide no stormwater volume management on the site, because the water-quality and rate-control standards are met, the maximum extent practicable amount of volume control for the project is zero, so no variance is requested.

Engineer Obermeyer went through the city's stormwater management proposal and the engineer's review of the permit application. He recommended approval of the permit, based on conditions and stipulations he described and included in the engineer's memo. Engineer Obermeyer explained the City of Bloomington has volunteered to do offsite replacement of stormwater volume control not provided by the proposed stormwater-management plan. Engineer Obermeyer clarified that volume control is not a requirement for this project to comply with the District's rules. He explained the permit for the proposed future project that will include replacement volume control will go through the District's permitting process, so the District will see the project at that time.

Manager Olson moved, seconded by Manager Butler to approve Permit 2021-117 Bloomington Fire Station #4: 4201 W 84th Street, Bloomington. On a roll call vote, the motion was approved 5-0.

VII. Treasurer's Report and Pember Construction Pay Application #1 for the Rosland Stormwater Filtration BMP Project

Manager Olson went through the invoices and disbursements listed in the treasurer's report. Attorney Welch noted the engineer recommends payment of the Pember Construction Pay Application #1 as submitted.

Manager Butler moved, seconded by Manager Hunker to accept the Treasurer's Report and approve paying the bills and the Pember Construction Pay Application #1 for the Rosland Stormwater Filtration BMP Project. On a roll call vote, the motion was approved 5-0.

VIII. Administrator's Report

Administrator Anhorn highlighted items in his report. He reported the Edina City Council gave the nod to move forward with the Lynmar Basin BMP project. He reminded the Board that it already approved the project scope, so now design of the project will move forward.

Administrator Anhorn stated that interviews for the Natural Resources Project and Planning Manager position will be conducted soon.

Administrator Anhorn reported the District has already surpassed its historical high number of permit applications and permit approvals. He noted the District is still trying to get a meeting set up with the Minnesota Department of Transportation about the Highway 494 project. Administrator Anhorn talked about the Southtown redevelopment project in Bloomington and the potential opportunity for partnering with the City of Bloomington and the developer to go above and beyond to treat stormwater volume.

Administrator Anhorn reported he will be sending the draft aquatic invasive species rapid response plan to partners for final comments. Administrator Anhorn stated Federal Emergency Management Agency has come out with flood hazard mitigation grants, which could help with the District's phase 3 funding for the Atlas-14 flood resiliency and project implementation. He said the District has submitted a notice of interest to FEMA about the grants, and if the feedback is positive, the District will apply.

The administrator noted that there will be no workshop in November, but rather proposed an informal social gathering, a bonfire on November 10. The managers expressed interest in the event.

IX. Unfinished Business

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

Administrator Anhorn said this update is to update the managers on the tasks that have been accomplished, describe the next tasks, and discuss the phase 3 scope of work.

Engineer Kieffer and Engineer McKinney displayed a PowerPoint presentation on the Atlas 14 Flood Risk and Resiliency Project Phase 2 project update. Engineer McKinney summarized the project's overall scope and the phase 2 tasks.

Engineer Kieffer said addressing flooding issues will require ideas, cooperation, and partnerships, and the District needs to consider where it wants to lead and where it wants to partner. Engineer Kieffer said the District also needs to consider barriers to flood risk reduction, such as space limitations or other topographical constraints at flooding sites, project cost, and environmental risk, among other potential barriers.

Engineer Kieffer said another question to consider is what can be done to help accommodate increased flow rates to the creek. She asked managers for comments. Manager Butler said she would like to understand take-aways from the

1987 flood and get more information about what would happen currently in a flood. She said she'd like to know where that water would be stored, and why, such as whether an inability to store water is a capacity issue. She said this information would help her to plan and prioritize.

Engineer Kieffer said a goal is that by the end of phase 3, the District is ready to remove barriers or target projects. Attorney Welch commented another piece to identify is what role the District will play in those projects and which ones will lie squarely on the District. Chair Cutshall said it seems like the District would want to identify regional areas that could provide significant amounts of additional storage. Manager Hunker asked what staff needs from the managers now. Administrator Anhorn suggested staff provide the managers a list of questions to consider in advance of the next discussion on this topic.

X. New Business

a. Imagine IT Agreement

i. Draft Agreement

Administrator Anhorn reminded the Board the District started working with Imagine IT in 2016 and had a service agreement in place for the work. He said the agreement expired and a new agreement has been drafted to reflect current and updated services. Attorney Welch said \$11,964 was authorized by the Board last month for services to move NMCWD network and storage to the cloud. The proposed contract would cover that work plus \$30,000 for two years of ongoing services to maintain the system. He said a possible course of action tonight is for the Board to authorize Administrator Anhorn to enter an agreement not to exceed \$30,000 on advice of counsel for managed services. Chair Cutshall asked who would be responsible for a ransomware attack. Attorney Welch said the contract doesn't warrant the safety of the internet but does address duty of care, which addresses the extent of Imagine IT's responsibility. Administrator Anhorn said he could look into coverage the District may have through the League of Minnesota Cities Insurance Trust.

Manager Olson moved, seconded by Manager Hunker to authorize Administrator Anhorn to enter an agreement not to exceed \$30,000 over two years on advice of counsel . On a roll call vote, the motion was approved 5-0.

b. Boardroom Audiovisual Proposal

Administrator Anhorn stated he presented the first quote, which was for approximately \$34,600, at the last meeting, and the Board directed him to go out for a second quote. He said the second firm wasn't able to get him a hard quote yet, but they estimated a cost of \$25,000-\$28,000. Administrator Anhorn explained he would bring back to the Board the second quote once he receives it.

He asked the managers to consider the value of audiovisual capability in the Discovery Point boardroom.

There was a discussion about possible state legislation amending the Open Meeting Law to allow hybrid in-person/virtual options and ways the managers could meet but be physically separated. Administrator Anhorn said staff will bring more information back to the Board at an upcoming meeting.

XI. Engineer Report

Engineer Kieffer reported the Rosland Park stormwater best-management practice project is underway. She said there is a proposed change order, which is a result of conversations with Pember as the District looked for cost savings.

Engineer Kieffer said the cost savings will be \$68,235, and the change order lowers the contract by that amount.

Attorney Welch said the administrator is authorized to execute the change order. Administrator Anhorn said he will sign the change order.

Engineer Kieffer highlighted the construction photos of the Rosland Park project in the Engineer's Report and provided project updates, including noting the project schedule.

XII. Attorney's Report

Attorney Welch noted that Minnesota Association of Watershed Districts is developing its proposed legislative agenda for 2022, and he may have an update at the Board's next monthly meeting. He mentioned the Board of Water and Soil Resources votes on October 28th on the watershed-based implementation funding policy, which in draft form allows soil and water conservation districts to received Clean Water Land and Legacy funding if they complete plans that somewhat emulate watershed plans.

Attorney Welch reported the COVID-19 case numbers in Hennepin County are getting better, but they aren't great. President Cutshall stated that he does not recommend rescinding the order allowing virtual meetings any time soon.

XIII. Managers' Reports

There were no manager reports.

XIV. Adjournment

It was moved by Manager Butler , seconded by Manager Kvam to adjourn the meeting at 9:07 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.

Erin Hunker, Secretary

