

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

**WEDNESDAY, MARCH 21, 2018**

**Call to Order**

Chair Kloiber called the meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, March 21, 2018, at the Nine Mile Creek Watershed District Office, 12800 Gerard Drive, Eden Prairie, MN 55346.

Managers Present: Twele, Hunker, Kloiber, Sheely and Peterson

Managers Absent: None.

Advisors Present: Randy Anhorn, Michael Welch, Bob Obermeyer, Janna Kieffer and Gael Zembal

**Agenda**

Administrator Anhorn requested to remove Permit #2018-19 from the Consent Agenda and instead consider that item as Item D under Hearing of Permit Applications.

**Manager Sheely moved, seconded by Manager Twele, to approve the agenda as amended. Upon a vote, the motion carried.**

**Reading and Approval of Minutes**

The Chair called for review of the minutes of the Regular Meeting of January 17, 2018. Administrator Anhorn noted that the changes suggested by the Attorney and by the Managers have been incorporated. Manager Sheely noted on page two, the second to last paragraph, it should state, "...~~pond~~ wetland..."

**Manager Sheely moved, seconded by Manager Hunker, to approve the minutes with the noted correction. Upon a vote, the motion carried.**

The Chair called for review of the minutes of the Public Hearing Meeting of February 21, 2018. Manager Sheely noted on page two, the fourth paragraph, it should state, "Manager ~~Hunker~~ Sheely..." Attorney Welch noted under the public hearing, the first two paragraphs should be joined together. He stated on page two, the first paragraph, the fourth paragraph, it should state, "He stated that they are trying to enhance the neighborhood and ~~built~~ build out the development." He noted on page two, the second paragraph, it should state, "...asked if this would be an example of a ~~development~~ project..." He noted on page two, prior to the motion to

adjourn, the following statements should be added, "Chair Kloiber closed the public hearing. Chair Kloiber thanked Mr. Hanson for his comments and invited him to revisit his project further with District staff."

**Manager Sheely moved, seconded by Manager Peterson, to approve the minutes with the noted corrections. Upon a vote, the motion carried.**

The Chair called for review of the minutes of the Regular Board Meeting of February 21, 2018. Attorney Welch noted on page three, under the Treasurer's Report, prior to the motion, it should state, "Engineer Obermeyer reviewed the Sunram pay request and confirmed that it is in order and that he recommends payment." He suggested that staff review the comment on page seven, the fourth paragraph, regarding the language "...flooding issue does not have a marginal solution..." He noted on page seven, the eighth paragraph, it should state, "He said that the place he thinks it has been tough..." On page seven, the ninth paragraph, it should state, Manager Peterson said that she thinks this project should address the potential variance issues upfront ~~because if it doesn't it could look bad on the watershed.~~ On page seven, the tenth paragraph, it should state, "He noted that ~~he did not believe that these parcels will be as valuable as they had been because of.~~ property values could be impacted by the flooding issues." On page eight, the first paragraph, it should state, "Attorney Smith stated that there is a really detailed engineering report which presents the problem, and questioned he wondered about the merit of investing in a ~~landscaping architect planner that could help~~ to create a redevelopment plan that would create large net gains in property value. He stated that perhaps the cities ~~should~~ would want to invest in that work also, just like the watershed." On page nine, two thirds of the way down the page, beginning Chair Kloiber, it should state, "... permit review is being covered by operational fees the general budget and District wide taxes."

**Manager Sheely moved, seconded by Manager Twele, to approve the minutes with the noted corrections, conditional on clarification from the Administrator. Upon a vote, the motion carried.**

### **Correspondence**

- Information on workers compensation
- Language for limited liability chloride application
- Information on House File #3805

### **Hearing and Discussion of Matters of General Public Interest**

There were none.

## **Consent Agenda**

- A. Permit #2017-125: American Boulevard Storage – 101 American Boulevard West; Grading and land alteration permit: Bloomington**
- B. Permit #2018-07: 9601 Penn Avenue Self Storage Facility; Grading and land alteration permit: Bloomington**
- C. Permit #2018-14: Parking Lot Reconstruction – 8100 Pillsbury Avenue; Grading and land alteration permit: Bloomington**
- D. Permit #2018-16: Normandale Hills Elementary School Parking Lot Reclaim and Retaining Wall Construction – 9501 Toledo Avenue; Grading and land alteration permit: Bloomington**
- ~~E. Permit #2018-19: Central Pickleball Courts – 101 16<sup>th</sup> Avenue South; Grading and land alteration permit: Hopkins~~**

Manager Sheely noted that staff has been working to improve parking lots and asked if the projects that are the subject of applications 2018-07, 2018-14 and 2018-16 represent opportunities for improvement, as three of the permit applications on the consent agenda apply to parking.

Administrator Anhorn provided clarification that the work on parking lots staff has been involved in is associated with a planning grant the District received from the Board of Water and Soil Resources, where staff is working with churches and/or nonprofits to retrofit their parcels with stormwater BMPs to retain and treat stormwater runoff where it previously went untreated. He stated that staff is going to attempt to gain additional grant funds to implement the identified BMPs on those properties, and retrofitting parking lots could be component of that, but there is no specific aim at commercial parking lots.

Manager Sheely asked if there will be a recommendation in the future for staff to work with commercial applicants.

Administrator Anhorn explained that if staff were going to provide assistance, it would be perhaps using pervious pavers or a similar element and not with a traditional mill and overlay and would be to help the applicant go above and beyond the District's rules, not to help them meet them. Michael Welch explained that the District would not contribute funds to assist with compliance with regulatory requirements, such as are imposed under the permits referenced.

**Manager Sheely moved, seconded by Manager Peterson, to approve the Consent Agenda. Upon a vote, the motion carried.**

## **Hearing of Permit Applications**

- A. Permit #2018-18: Normandale Community College Tunnel Repair and Courtyard Renovation – 9700 France Avenue; Grading and land alteration permit: Bloomington**

Engineer Obermeyer noted that two projects have been submitted by the applicant for review tonight. He presented the permit request and proposed plans for the first, tunnel repair and courtyard renovation. He stated that the college is asking that the credits be debited from its existing bank, which has a sufficient balance.

Administrator Anhorn stated that staff reviewed the history of Normandale College permitting. He stated that a master stormwater-management plan was developed under Permit #2010-15 and provided additional details on permit 2012-17, which was approved with banked volume credits of 18,100 cubic feet and permit 2012-71 which was approved allowing the project to wholly meet its stormwater volume requirement of 9,802 cubic feet through those banked credits.

Michael Welch stated that in the ordinary case, banked credits are used off-site, but in this case the banked credits were provided in anticipation of the future projects on the Normandale property. The master planning allowed the permit applicant to plan for the future development on the property, while providing stormwater management at locations that presented the most efficient and effective treatment capacity, even though not all future project locations would necessarily drain to them. He said that it was something of a regional stormwater management planning approach approved by the managers under their discretionary authority even though the District did not actually provide for such an operation its rules. He noted the present draft of the rules amendments does propose regional treatment. The benefit achieved by the District through this approach is that stormwater treatment has been provided before it was needed to offset creation or reconstruction of impervious surface.

Attorney Welch stated that there have been seven permits approved for the college under the 2008 rules. He stated that the applicant has challenges with infiltration in other parts of the site and therefore it was advantageous to plan for infiltration in the area that the applicant chose. He stated that the presently proposed land-disturbing activities do not implicate any additional buffer work.

Engineer Obermeyer provided clarification on the reduction of impervious area and the proposed withdrawal of 1,226 cubic feet of credits from the applicant's bank. He said that the applicant has 7,082 cubic feet of credit remaining in the bank after the withdrawal for this permit.

Administrator Anhorn noted that staff recommends approval of the request contingent upon the transfer of credits from the applicant's bank.

**Manager Sheely moved, seconded by Manager Twele, to approve the permit, subject to the conditions mentioned. Upon a vote, the motion carried.**

- B. Permit #2018-20: Normandale Community College Parking Lots 1 and 2 Repair and Expansion – 9700 France Avenue; Grading and land alteration permit: Bloomington**

Attorney Welch stated that there is a representative of the applicant present and suggested that he be provided with an opportunity to speak.

Eric Meyer from Larson Engineering stated that he is present to address any questions.

Engineer Obermeyer presented the permit request and proposed plans. He stated that the applicant proposes that credits from the college's bank be used to again offset the disturbance and provided the calculation of credit proposed to be used for this project. He reviewed the balance of the credit bank that would remain after this withdrawal. He recommended approval of the request subject to submission of documentation of the transfer of credits, and noted that all of the same background facts relevant to the prior permit applied here. He noted that the total amount of impervious area that has been disturbed and reconstructed since 2008, after these two projects, would be 44.6 percent of the site's impervious. He stated that the next project could exceed the 50 percent threshold where the District's stormwater management rule would then apply to the entire project parcel.

Attorney Welch stated that perhaps the Board would like to direct a formal communication from staff to alert the college that they are nearing the threshold.

Chair Kloiber confirmed consensus that such a communication should be sent.

**Manager Hunker moved, seconded by Manager Sheely, to approve the permit, subject to the condition noted. Upon a vote, the motion carried.**

**C. Permit #2018-10: Friendship Village; Grading and land alteration permit: Bloomington**

Engineer Obermeyer presented the permit request and proposed plans. He provided information on wetland buffers and the variances requested. He noted that four acres of runoff will be treated beyond the requirement and highlighted the stormwater-treatment facilities proposed. He reviewed the conditions recommended should the Board approve the request, including one additional year for vegetation establishment.

Ryan Bluhm, Westwood, representing the applicant, stated that there is a shortfall in the provided buffer amount relative to the NMCWD width standard, but noted that there is an additional 8,500 square feet of established buffer that will be provided around an onsite stormwater pond that is disconnected by a road. Citing the limitation on averaged buffer width that counts toward meeting the NMCWD requirement to 200 percent of the required width meant that additional buffer provided does not count toward compliance and the applicant could not expand to the full potential in certain areas. He stated that they have been working on this project for two years and many changes have been made along the way. He stated that the initial plan included additional wetland fill but the input from the Wetland Conservation Act technical evaluation panel members was that additional wetland should not be filled to provide buffer. He stated that the applicant reduced the amount of fill to a minimum which equates to a zero buffer along a portion of the wetland, with the acknowledgement that the activity would require a variance. He noted that the entire building, exterior path, and hard surface do not discharge

directly into the wetland and will be treated before discharging to the wetland. He thanked staff for their cooperation and support throughout this planning process.

Manager Sheely stated that she visited the site today and was struck by the beauty of the site. She stated that this site is constrained by hills, swales, and impervious surface. She noted that there are multiple structural problems on the site. She addressed the issue of snow storage, referencing the townhome area that currently has a large pile that will melt and go downhill into the wetland. She noted that there has been a lot done to improve the water quality going downstream. She stated that although there will be improvements, the size of the wetland is going to be decreased and therefore she is not totally comfortable with the variances requested. She stated that this is a round pond with a 45-degree slope and noted that the applicant would now create another cliff scenario on the north end. She stated that there will be 7,500 square feet of buffer lost and the variance is requesting 4,300 square feet less of buffer than the current conditions. She stated that perhaps the last townhouse should be removed to allow additional buffer area. She noted that the decreased buffer would decrease the amount of infiltration and therefore the water will run more quickly into the pond. She noted that the buildings do not have downspouts and therefore all that stormwater will run into the pond. She commented on the amount of chloride that will run into the wetland. She stated that she appreciates that the applicant is attempting to improve the water quality but wants to go on record that the last townhouse needs to come down. She stated that she would like to see the last part being included as part of the buffer, even though it will not count toward compliance. She stated that this is a great amenity for the residents of the townhomes.

Jacob Steen, in representation of the applicant, stated that they have reviewed alternatives for more than two years. He stated that the proposed design was not the applicant's first choice but was driven by a number of factors including the stakeholders. He stated that the stakeholders include the watershed District, the existing residents, future residents and the city. He stated that the city has really driven this design as it is presented today. He noted that this is the best balance of all the stakeholders. He noted that each townhome contains two residents and those residents intend to stay in their homes for the remainder of their lives and therefore it was a difficult decision to remove the four homes that they removed. He stated that the intent was to respect the residents of the townhomes while still preserving the site to the extent possible.

Manager Sheely asked if the new road is included in the calculations for the impervious surfaces.

Engineer Obermeyer noted that was included in the calculations.

Manager Hunker asked how the water on the south side of the building is being captured.

Mr. Bluhm replied that currently there is a manufactured separator with two structures. He provided details on the method that would be used to capture the water that would then go into the storm sewer and into the BMPs.

Attorney Welch stated that this is a complicated variance analysis, and one of the factors identified in the background information is the downgradient wetland, which is not on the site.

He stated that the District does not have a mechanism in its rules to consider what happens offsite as a part of this request, explaining that the information on the offsite wetland was provided for informational purposes only.

Chair Kloiber stated that he has been to the site and that wetland referenced is not hydrologically connected to the applicant's property or the onsite wetland.

Attorney Welch explained that the wetland buffers provide multiple benefits, one of which is water-quality improvements. The stormwater facilities for this project provide that element and thereby minimize the significance of the variance as a potential resource impact. The Board should then look at the other benefits buffers provide, which are harder to quantify. He stated that Engineer Obermeyer recommended an additional year for the establishment of vegetation.

Chair Kloiber stated that he struggles with these types of requests. He stated that he spent a fair amount of time reviewing the rules and how those work in relation to variances. He stated that the most important thing is that the resource is protected. He noted that the standards, including the buffer requirement, are in place to protect water resources. He stated that if the standards cannot be met then there needs to be discussion on whether the resource is being protected in an equivalent manner. He stated that he also considers the extent to which the applicant has attempted to mitigate the potential impact to resources from the shortfall prompting the variance request. The applicant here has made the decision to remove two of the townhomes so more buffer can be provided, and therefore the applicant has attempted to mitigate. He stated that another factor that was important was that the water is being captured and treated, and above that the applicant is going to treat an additional four acres, which would be similar to the amount of treatment that a buffer would provide. He stated that the applicant seems to have tried to avoid, minimize, and mitigate and to provide assurances that water quality treatment is being provided.

Manager Hunker stated that her understanding is that currently stormwater is going directly into the storm sewer and circumventing the buffer to enter the wetland. She confirmed with the engineer that the new plan will put that water into a treatment system before discharging into the buffer.

Attorney Welch noted that the District's rules require treatment of any water before it enters a wetland. He stated that the phosphorus-removal performance of the applicant's stormwater-treatment system is well above the requirement, which can be considered by the managers in weighing the variance request.

Attorney Welch also noted that the applicant has redeveloped 48.5 percent of the impervious surface of the property with this project, through the series of prior projects described by the engineer at the outset. Therefore any future project could exceed the 50 percent threshold in the stormwater rule and the applicant would then be required to provide stormwater treatment for all imperviousness on the site.

Manager Hunker stated that they will be providing more water-quality treatment than is required for this project, but the applicant is not banking that additional treatment capacity as a credit. She asked for additional input on how that threshold applies.

Attorney Welch explained that it is not a matter of credit but capacity. The applicant may not be using the full capacity at this time but could utilize that additional capacity for a future project if the capacity is verified as still available then.

Manager Sheely asked, given the steep slopes to the wetland, what would happen in a high rain season.

Engineer Obermeyer confirmed that a portion of the buffer could be under water for a short period of time after a storm event.

Manager Sheely referenced the pond that is not technically connected to this property and asked if that is being counted as mitigation.

Engineer Obermeyer stated that pond is disconnected from the site and is separate from the onsite wetland.

Manager Sheely stated that she recognizes that the project will improve water-resource protection. She noted that she is still struggling with the 7,500 square feet of buffer loss and asked if this would set a precedent.

Chair Kloiber agreed that the District should be careful not to set bad precedents. He stated that his standard was not whether this will be better than it is currently, but rather that the water-quality and infiltration requirements are being met. He noted that the only elements not being met are the buffers and noted that if all the runoff along that side is being treated prior to entering the wetland, that somewhat mitigates the loss of the buffer. He stated that an additional four acres is also being treated and two townhomes have been removed.

Manager Sheely stated that on the north end there is a zero buffer and the Board is acknowledging that the water in that area is being treated. She stated that she is struggling with the other end and whether removing one additional townhome would improve the buffer. She identified trees that will be lost that were previously providing stabilization.

Chair Kloiber stated that the alternative would be that under the WCA, the applicant could fill or drain the wetland. He stated that the solution would then be to fill the wetland and provide replacement outside of the watershed and therefore the resource would be lost rather than protected. Chair Kloiber stated that it is not within the District's rules whether the design is appropriate, or the townhome should be removed.

Manager Sheely acknowledged that removal of the townhome could push the applicant over the threshold of having to treat the entire site.



Attorney Welch stated that a variance considers a unique set of circumstances for each applicant. He stated that it could be argued that the site is not unique, but what is unique is the various factors at play in this project. Because the buffer shortfall is being considered as a variance request, he is not concerned about precedent.

**Manager Peterson moved, seconded by Manager Twele, to approve the variances from the minimum and average buffer requirements based upon the findings noted in the discussion. Upon a vote, the motion carried.**

**Manager Peterson moved, seconded by Manager Hunker, to approve the permit with the added condition of adding a third year of buffer establishment to the plan. Upon a vote, the motion carried.**

**D. Permit #2018-19: Central Pickleball Courts – 101 16<sup>th</sup> Avenue South;  
Grading and land alteration permit: Hopkins**

Engineer Obermeyer presented the permit request and proposed plans. He provided details regarding the additional measures that will ensure that infiltration does not occur in any areas that contain debris from the landfill site. He recommended approval of the application, noting that financial assurance is not required because the applicant is a municipality but advised that a maintenance letter agreement will be required and must reflect the final stormwater-management plan.

Attorney Welch said that the engineer's recommendation rests on his professional determination that the finding of debris in the planned test pits will be indicative of whether underground conditions are such that infiltration should or should not occur. Engineer Obermeyer explained that if there is debris, infiltration could mobilize contaminants.

Chair Kloiber said he understands then that if the contractor digs and finds debris, there is indication that the site was part of the landfill and therefore infiltration is not a good fit for that location.

Attorney Welch noted that if no debris is found, Engineer Obermeyer feels comfortable with infiltration.

Chair Kloiber asked if the applicant cannot do infiltration onsite because of contamination, would the applicant then do 50 percent abstraction.

Attorney Welch noted that the applicant has a bank available that they would utilize. He noted that under the new rules a variance would not be required, but here, that option would require a variance from the requirement that an applicant meet half the abstraction requirement even where conditions warrant using the bank to meet the remainder of the retention requirement.

Chair Kloiber confirmed that under the existing rules, the District would require a variance if there is contamination.

Attorney Welch noted that if debris is found the Board could require the applicant to come back to request a variance but at that time the applicant could simply request a permit modification that would be considered under the new rules. He stated that the Board could delegate the authority for a variance request to be reviewed by the Administrator in this case should contamination be found.

**Manager Sheely moved, seconded by Manager Twele, to approve the permit with the added condition that, if the applicant finds debris in the test pits excavated before construction, authority is delegated to the administrator to review and approve a variance request to use stormwater volume banking credits from the City of Hopkins 8<sup>th</sup> Avenue ARTery Stormwater Volume Retention Bank to meet the stormwater retention requirement. Upon a vote, the motion carried.**

### **Treasurer's Report**

The Treasurer submitted the report. Manager Twele noted that she will be following up with the accountant on some items on the balance sheet.

**Manager Twele moved, seconded by Manager Sheely, to approve the Treasurer's Report and pay the bills. Upon a vote, the motion carried.**

### **Staff Reports**

#### **A. Education and Outreach Coordinator**

##### **a) General Updates**

Education and Outreach Coordinator Zembal reported that two of this year's class of Master Water Stewards have been unable to complete the curriculum due to personal reasons. She stated that typically the District could replace those stewards, but the point has passed at which that replacement could occur. She hoped that staff could stay in contact with those two stewards in hopes that they could finish the course next year.

She stated that staff is beginning to conduct background checks for the CAC members who are working in schools with children and may extend the checks to participants in the Master Water Stewards program.

She referenced the legislation being considered now to provide limited liability to chloride applicators who receive training from the Minnesota Pollution Control Agency. She noted that one volunteer for the District was testifying today.

Attorney Welch noted that background checks raise legal compliance concerns and recommended that he coordinate with Ms. Zembal to review the program to ensure the District has the protocols in place to protect the data collected.

Chair Kloiber agreed that the attorney should look at the process to ensure the necessary elements are being met.

Manager Sheely noted that perhaps there would be a cost savings to combining this process with other watersheds.

Education and Outreach Coordinator Zembal replied that the cost is \$12 for the volunteers.

## **B. Program and Project Manager**

Administrator Anhorn noted that a written report was provided. He stated that staff is looking for two Managers to assist in reviewing cost-share applications that will be submitted by March 30<sup>th</sup>. He noted that interested Managers can respond to staff.

## **C. Administrator**

Administrator Anhorn highlighted the Minnesota Association of Watershed Districts legislative day at the capital. He stated that staff and the Managers that attended visited four to five legislators to talk about the limited liability chloride legislation, noting that there was a positive response. He noted that the intern position has been posted and thus far 13 applications have been received. He reminded Managers to submit the performance review for the Administrator. He noted an upcoming watershed-based funding meeting that he will be attending.

Attorney Welch asked for details on the feedback from legislators on the chloride legislation.

Administrator Anhorn replied that most agreed that the legislation was a good idea. He noted that there was one legislator that was concerned as to what limited liability actually meant.

Chair Kloiber noted that the concern was that this would provide blanket immunity and there was then explanation that the applicator must be trained and following the requirements.

Manager Sheely noted that the three tort lawyers were testifying at a legislative committee today. She provided an update noting that the Senate bill passed, and the next stop would be judicial committee.

## **Unfinished Business**

### **A. Rule Revision**

#### **i. Response to Comments**

Administrator Anhorn reported that the 45-day review period on NMCWD's draft rules amendments ended March 6<sup>th</sup>, noting that 93 comments were received from 10 commenters. He noted that the proposed permit fee and financial assurance schedules were included along with a draft chloride management plan template for the Board to review and provide comments to staff. He stated that originally the intent was to adopt the rules this evening but because of the number of comments received, the decision was made to delay that action. He noted that a special meeting may be necessary for the rule adoption because of the heavy April meeting agenda.

It was the consensus of the Board to hold a special meeting on Tuesday, April 10<sup>th</sup> at 5:30 p.m.

Administrator Anhorn stated that most of the comments can be addressed with responses that staff will prepare before the special meeting. But there were three common themes on significant policy issues identified in the comments that staff wishes to review tonight with the managers. He noted that the first theme was regarding the single-family home provisions and the burden that could create. He reviewed some of the comments received.

Attorney Welch reviewed a comment received which presented a situation where a home does not meet the freeboard requirement and is building an addition. He stated that the comment suggested that the addition should then be exempt from meeting the freeboard requirement. He stated that staff does not believe any structure should, by rule, be allowed to flood. He noted that a requirement that an applicant indemnify NMCWD should not be built into the rules and therefore that situation would need to come forward as a variance.

Chair Kloiber stated that there was a comment received that an engineer-designed stormwater treatment facility would be required for a single-family home. He stated that he does not believe that to be true as there are many people out there that are not engineers that can design a BMP.

Manager Sheely stated that Metro Blooms will do a preliminary design for a raingarden for under \$500.

Chair Kloiber agreed that a good landscaper could provide the necessary information for a raingarden. He confirmed that this action will add a marginal expense to single-family home construction.

Attorney Welch said that the performance of a facility should meet technical standards that very often will need to be assessed by an engineer, but he agreed that a homeowner could contract for a relatively small amount for the hard science calculations.

Engineer Kieffer stated that the District plans to develop a guidance document that would provide information to assist homeowners with the calculations. She acknowledged that some sites will be more difficult and may require an engineer for the calculations.

Chair Kloiber noted that this was required in the past, but only within 500 feet tributary of waterways and was simply expanded to all properties within the watershed. He noted that the new scope is also limited through a tiered system, such that some projects will not trigger a requirement to provide stormwater treatment for the entire property. He further stated that the managers' goal was to capture larger projects, not the smaller additions.

Engineer Kieffer stated that there was a question about the 20 percent threshold and that perhaps that was unfair because a small improvement on a small house will trigger the requirement while the same project on a larger property would not. She stated that after review it was determined that the threshold could really be between 20 to 30 percent and therefore perhaps the threshold should be raised to 25 percent to avoid disproportionately capturing small-site projects.

Manager Sheely stated that she just wants to ensure that the process will be made clear and friendly to residents that are doing small projects so that they do not become overburdened. She noted that perhaps the Master Water Stewards can be involved in some of the best-management-practice development or other resources can be suggested that can provide services for a low amount of money.

Administrator Anhorn confirmed the consensus of the Board to raise the threshold from 20 to 25 percent for single-family homes and to leave the remaining parts of the single-family home provisions as proposed. He referenced the comment from Carl Hanson regarding permits that have been pulled prior to the rules changing.

Attorney Welch stated that perhaps a response can be drafted to Mr. Hanson that acknowledges the potential hardship and that Mr. Hanson may have capacity that can be utilized in his system.

Chair Kloiber stated that it would be difficult to redesign rules for just one case and he does not believe many similar cases that exist. He noted that a grandfather clause would not be helpful because Mr. Hanson could then postpone development for an additional 30 years and would still then not need to meet the current requirements.

Administrator Anhorn moved to the next theme which is in regard to the increased stormwater retention standard from one inch to 1.1 inch. He reviewed some of the comments, noting that the change was made to be more consistent with the other metro watersheds and the state Minimal Impact Design Standards. He referenced a comment regarding underground parking and the requirement to meet the low-floor requirements. He noted that the comment was made stating that developers may choose not to do underground parking and thereby would use more greenspace for development.

Administrator Anhorn confirmed the consensus of the Board to keep the stormwater retention standard at 1.1 inch as proposed.

Engineer Kieffer provided additional information on how an underground parking facility could be lower than the low floor elevation and the documentation that would be needed. She stated that type of request would go through the variance process, by which the District could address liability concerns.

Chair Kloiber stated that the District does not review that many underground parking facilities and therefore it would not be prohibitive to have those applicants go through the variance process. He noted that overall many of the comments were very straightforward and some were encouraging from the Metropolitan Council, DNR, and BWSR.

Administrator Anhorn confirmed that the Board did not have any other input on the comments received. He stated that comments regarding the proposed permit fee and financial assurance changes can be submitted to staff after the Board has additional time to review the information. He asked that additional input be provided to staff within the next week.

Attorney Welch noted that the draft responses to the comments will be provided in a similar matrix and stated that staff will provide that information to the Board for review prior to the special meeting.

Administrator Anhorn reviewed the agenda for the special meeting in April which will include adoption of the rules, set an effective date for the new rules to be implemented, adopt the plan amendment (no comments were received), approve the final memorandum supporting the rule amendments, approve the responses to the comments, and adopt the new fee and financial assurance schedules.

### **New Business**

#### **A. Edina Comprehensive Water Resources Management Plan (Resolution #18-01)**

Administrator Anhorn stated that the engineers, legal staff, and District staff reviewed the plan. He presented a memo on the staff's review of the plan and a resolution conditionally approving the plan. He noted that the plan meets all the requirements of Minnesota Rule 8410 and specifically authorizes the District to exercise regulatory authority and states that the District will continue to act as the Wetland Conservation Act Local Government Unit. He reviewed the comment from the Metropolitan Council which states that the plan is a good model that could be emulated by other municipalities. He noted that there were some comments staff would be providing the city suggesting where additions could provide better clarity in areas.

Attorney Welch referenced comment 11 from the memo and provided additional comments encouraging cooperation between NMCWD and the city on regional planning. He noted that there are a few places in the city plan where the District is authorized to exercise regulatory authority but then states that the city will review certain elements. He stated that the

District could push that the District will be reviewing those elements and therefore it is not necessary for the city to review those plans. He noted that Administrator Anhorn did not want to push on those elements.

Administrator Anhorn noted that the District has a good relationship with the city and does not feel it necessary to push on those elements.

Chair Kloiber confirmed the consensus of the Board to waive the requirement to read the recitals and read the remainder of the resolution aloud.

**Manager Hunker moved, seconded by Manager Sheely, to adopt Resolution #18-01 Conditionally Approving the City of Edina Comprehensive Water Resources Management Plan.**

**Administrator Anhorn conducted a roll call vote:**

<b>Manager Hunker</b>	<b>yea</b>
<b>Manager Kloiber</b>	<b>yea</b>
<b>Manager Peterson</b>	<b>yea</b>
<b>Manager Sheely</b>	<b>yea</b>
<b>Chair Twele</b>	<b>yea</b>

**The motion carried.**

**B. Update on Biennial Solicitation for Professional Services Process**

Administrator Anhorn stated that this is an informational item noting that the District is required to biennially solicit proposals for professional services. He stated that the public notice would be published during the weeks of April 16<sup>th</sup> and 23<sup>rd</sup> and the results will be reviewed at the board's May meeting.

Attorney Welch stated that the District does not need to do a full request for proposals but can simply solicit letters of interest. He stated that if the Board is unhappy with a consultant and wants to do more than test the waters, the Board should direct staff to solicit full proposals.

Manager Hunker suggested perhaps a pool method and noted that perhaps the District would receive more proposals using that method.

Attorney Welch stated that in his experience a pool method is not beneficial because NMCWD can seek specific special services for a project that requires some whenever it wishes.

The managers concurred in Manager Sheely's direction to staff to take particular efforts to solicit proposals for accounting services.

### **Engineer's Report**

- A. Bush Lake Outlet Project: Status Report**
- B. Eden Prairie Lakes Water Quality Improvement Project: Status Report**
- C. Edina Creek Stabilization Project: Status Report**
- D. Normandale Lake Water Quality Improvement Project: Status Report**
- E. Pentagon Park Storm Water Management: Status Report**
- F. Status of Construction Projects**

Engineer Kieffer stated that she had nothing further to report.

### **Attorney's Report**

Attorney Welch provided an update on the chloride liability legislation. He provided information on another legislative action proposed which is driven by a developer who does not want to do stormwater management on his development parcels. He stated that the representative that authored the bill was not fully informed of the issue and he does not believe that the legislation has a good chance moving forward. He stated that MAWD is involved and encouraged the local watersheds not to give this more attention than it deserves.

### **Managers' Report**

The Chair called for reports.

Manager Sheely stated that she has watched some of the legislative discussions recently. She provided an update on salt management activity within Minnetonka.

### **Adjournment**

**It was moved by Manager Peterson, seconded by Manager Hunker, to adjourn the meeting at 9:53 p.m. Upon a vote, the motion carried.**

Respectfully submitted,

  
Grace Sheely, Secretary

ATTACHMENTS:  
Treasurer's Report