

**MINUTES OF THE PUBLIC HEARINGS AND WORKSHOP
OF THE
BOARD OF MANAGERS
OF THE
NINE MILE CREEK WATERSHED DISTRICT**

THURSDAY, SEPTEMBER 7, 2023

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

Advisors Present: Azeem Ahmed* (Barr Engineering Co.), Louise Heffernan (Barr), Janna Kieffer (Barr), Katie Turpin-Nagel (Barr), and Michael Welch (Smith Partners)

Staff Present: Randy Anhorn (Administrator), Lizzy Boor (Watershed Specialist), Brett Eidem (Natural Resources Planning and Project Manager), Zach Stafslie (Regulatory Program Manager), Erica Sniegowski (Deputy Administrator), and Gael Zembal (Education and Outreach Coordinator)

Other Attendees: Ross Bintner* (City of Edina), Travis Bren* (MGD Architects), Robbie Latta (Civil Site Group), Jason Lord (Solhem Companies), and Kristina Smitten (Hillcrest Development)

*Attended virtually

I. Wetland Restoration Projects Plan Amendment Public Hearing

President Bob Cutshall called the Nine Mile Creek Watershed District Board of Managers public hearing to order at 5:30 p.m. The hearing was held at the NMCWD office, Discovery Point, 12800 Gerard Drive, Eden Prairie.

Brett Eidem provided background on the district's proposed minor amendment to add wetland restoration projects to the capital improvement program in the NMCWD watershed plan. He said that each of the Department of Natural Resources, the Metropolitan Council, the Minnesota Pollution Control Agency, and the Minnesota Department of Agriculture indicated in writing that it had no comments on the

amendment. He noted the Minnesota Board of Water and Soil Resources provided a letter of support for the amendment.

Randy Anhorn added that while the district's plan includes the need to identify and develop restoration plans for high-quality wetlands, this amendment adds implementation of such restoration work to the plan.

President Cutshall called for public comment. Upon hearing no public comment, President Cutshall closed the public hearing on the plan amendment at 5:35 p.m.

Mr. Eidem explained that draft resolution 23-05 before the managers adopts the proposed plan amendment and orders the first such project, the Whited Fen restoration. He said the Whited Fen project has an estimated of \$140,000 and includes invasive species removal and the creation of a native plan upland buffer to preserve wetland functions and ecosystem health.

Manager Butler moved, seconded by Manager Kvam to adopt Resolution 23-05 to add wetland-preservation and restoration projects to the capital improvement program in the watershed management plan and order the implementation of the restoration of Whited Fen in Minnetonka. On a roll call vote, the resolution was adopted 5-0.

II. 2024 Budget Public Hearing

President Cutshall called the 2024 NMCWD budget public hearing to order at 5:36 p.m.

Mr. Anhorn said the proposed 2024 budget has no changes from the version presented at the board's August 16, 2023, meeting. He said the proposed 2024 budget is \$5,759,000, which is a 25.4 percent increase over the district's 2023 budget of \$4,594,000.

Mr. Anhorn stated the proposed 2024 levy is \$3,200,000, which is a 14.3 percent increase over the district's 2023 levy. He said the difference between the proposed budget and levy will be made up using district reserve funds and grant funds that are assigned and unassigned for specific projects and programs as well as those funds that have yet to be spent or assigned.

Mr. Anhorn said there will be another opportunity for public comment on the budget and levy in December. He said an action tonight to adopt the 2024 budget and levy sets the ceiling for the 2024 budget and levy.

President Cutshall called for public comment. Upon hearing no public comment, President Cutshall closed the public hearing on the 2024 budget and levy at 5:39 p.m.

Manager Butler moved, seconded by Manager Olson to adopt Resolution 23-06, to adopt the 2024 budget. On a roll call vote, the motion carried 5-0.

Manager Kvam moved, seconded by Manager Hunker to adopt Resolution 23-07, adopting the 2024 levy. On a roll call vote, the motion carried 5-0.

III. Permit 2023-092 – 4620 W 77th St. Redevelopment, Edina

President Cutshall called the workshop to order at 5:41 p.m.

Louise Heffernan presented the NMCWD engineer's review of the application for a permit for the Finch at 4570-4660 West 77th Street, Edina. She explained the redevelopment site consists of five properties, including four parcels and city right-of-way. Ms. Heffernan said the redevelopment proposes land disturbance on each of the properties but the project will decrease impervious surface by 7%.

Ms. Heffernan said the project proposes disturbance of greater than 50% of the project site, so stormwater management is required for the entire site. She reported the applicant has requested the site to be considered restricted for volume retention. Ms. Heffernan said her review finds the site is restricted.

Ms. Heffernan said the applicant has requested a variance from the district's water quality requirements, subsection 4.3.1c. She said as the NMCWD engineer, she determines the applicant's bases for unique conditions inherent to the property and undue hardship present non-technical matters best assessed by the managers. Ms. Heffernan explained the site location, associated flood risk, high groundwater elevation, shallow storm sewer tie-in locations, clay soils, topography, and existing onsite storage areas extending onto the site collectively present unique conditions inherent to the property and area, which make the implementation of typical stormwater practices complex. However, she explained, the hardship is created by the nature and extent of the applicant's proposed redevelopment.

Ms. Heffernan said as the applicant asserts, the proposed development would improve water quality over existing conditions. She stated the proposed water quality shortfalls are not likely to present significant risk or significantly degrade the resource or change the character of adjacent resources. Ms. Heffernan said some of the explored design alternatives brought the project closer to compliance with the water quality rule but required greater land disturbance on portions of the site not currently proposed to be disturbed.

Manager Butler commented it seems there is so much parking lot area and the mill and overlay is proposed in order to not create land disturbance.

Jason Lord, Solhem Companies, said the 4600 and 4570 buildings are fully occupied office buildings and those buildings will stay occupied and the parking is needed. Manager Butler asked whether all the parking is needed for those two buildings. She said when she has been at those sites all those parking areas are not fully used. Manager Butler asked if some of the parking lot can be unpaved. She asked if the project design can achieve any more reduction in impervious surface area.

Ms. Heffernan described her recommended conditions to permit approval per district rules and as documented in the review memo in the meeting packet, such as maintenance and use agreements between entities and receipt of recordation of a maintenance declaration of the stormwater maintenance facilities and the wetland buffer.

Ms. Heffernan said if the board grants the applicant a variance to the district's water quality rule, she recommends the approval include the required submission in draft for district approval of an agreement with the City of Edina and relevant entities for stormwater treatment to be provided as part of the future Fred Richards development, followed by execution of the agreement by the parties.

Mr. Welch pointed out the district's rules do not specify that applicants not meeting the water quality rules can turn to the city to make up the portion the applicant is not meeting. He said NMCWD cannot rely, in approving the variance or permit, on future treatment by the city, which has authorized the application as it pertains to city property, but is not an applicant.

Kristina Smitten, Hillcrest Development, the properties are short on parking spaces. Manager Butler said she is challenging the applicant to consider if all that parking lot is really needed, and she will be interested in visiting the properties over time to see to what capacity of the parking lots is being used.

Mr. Bintner said the City of Edina can commit to taking on the burden of water treatment shortfall that is due to the creation of the city's right-of-way.

President Cutshall said it would make him more comfortable for the district to get a written commitment from the City of Edina saying the city will accommodate the treatment shortage on this permit regarding the additional capacity being generated through the development.

In response to a question from President Cutshall,

Mr. Welch reiterated recommendation against reliance on future treatment by the city to approve the application.

President Cutshall said he supports the district working with the city to cover the water-quality treatment shortfall. In response to a request from President Cutshall,

Mr. Welch suggested authorizing the administrator to negotiate an agreement with Solhem for approval by the board.

Manager Olson moved, seconded by Manager Kvam to approve the variance as drafted, with the conditions in the engineer’s report and the additional requirement of presentation of a written agreement with Edina for water-quality improved to the board for approval. Upon vote, the motion carried.

Manager Butler moved, seconded by Manager Olson to approve Permit 2023-092 – 4620 W 77th St. Redevelopment, Edina, with the conditions recommended in the engineer’s report. Upon vote, the motion carried.

IV. Habitat Restoration Cost Share Grant

Lizzy Boor reported staff recommends approval of Creek Valley Elementary School’s application for its Creek Valley Pocket Plantings project for a Habitat Restoration Cost Share Grant in the amount of \$5,120.

Manager Butler moved, seconded by Manager Hunker to approve a Habitat Restoration Cost Share Grant to Creek Valley Elementary in the amount of \$5,120 and authorize the administrator to enter into a cost-share agreement with Creek Valley Elementary. Upon vote, the motion carried.

V. Mirror Lake Draft Water Quality Study Report

Katie Turpin-Nagel, Barr Engineering, presented a summary of results from the Mirror Lake Water Quality Study. She reported that in-lake modeling results indicate that in 2021, a relatively dry year, watershed inflow contributed 28% of total phosphorous loading and internal loading from lake bottom sediment contributed the remaining 72%. Ms. Turpin-Nagel said modeling results from 2019, a wet year, indicated 40% and 60% of total phosphorus contributions were from watershed and internal loading, respectively.

Ms. Turpin-Nagel presented options for managing TP in Mirror Lake to work toward meeting the lake management goals of achieving state water quality standards, promoting a diverse native aquatic plant population, and supporting a healthy, balanced aquatic ecosystem. She recommended the district consider undertaking an adaptive multi-step sediment treatment and monitoring, beginning with a single alum treatment in 2025.

Ms. Turpin-Nagel discussed evaluation of installing a stormwater filtration basin in Fox Meadow Park, located on the southwest side of Mirror Lake. The stormwater filtration basin would receive stormwater from 30 acres of untreated watershed prior to discharge to Mirror Lake, treating an estimated 11% of the

total watershed runoff load to Mirror Lake annually. While the proposed filtration basin would remove approximately four pounds of TP annually, in-lake model results indicate a very minimal change in water quality in downstream Mirror Lake when evaluating on a single year basis. Long-term improvements in lake water quality were not evaluated.

Ms. Turpin-Nagel reported many instances of shoreline slope failure were identified in the spring 2023 survey of Mirror Lake. She recommended considering shoreline stabilization in several areas. Ms. Turpin-Nagel recommended the City of Edina implement enhanced street sweeping in the Mirror Lake watershed. She reported the city was receptive to the enhanced street sweeping proposal.

Ms. Turpin-Nagel recommended the district consider performing an additional fisheries assessment to determine the extent of the goldfish population in Mirror Lake. She also recommended management and protection options such as a fertilizer management program, chloride monitoring, re-establishment of native aquatic vegetation, and residential cost-share grants to address external TP loading.

VI. Adjournment

It was moved by Manager Kvam, seconded by Manager Hunker to adjourn the meeting at 7:36 p.m. Upon vote, the motion carried.

Respectfully Submitted,



Grace Butler, Secretary