

**MINUTES OF THE REGULAR MEETING OF
THE MINNEHAHA CREEK WATERSHED DISTRICT
BOARD OF MANAGERS**

April 13, 2023

CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by President Sherry White 7:00 pm on April 13, 2023.

MANAGERS PRESENT

Sherry White, William Olson, Arun Hejmadi, Jessica Loftus, Stephen Sando, Richard Miller, and Eugene Maxwell.

MANAGERS ABSENT

None.

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Maria Friedges; Permitting Technician; Abigail Ernst, Permitting Technician; Josh Wolf, Project and Land Program Manager; Rena Weis, District Consulting Engineer; and Louis Smith, District Counsel.

OATH OF OFFICE

Mr. Smith administered the oath of office to Richard Miller, who was reappointed to the Board of Managers by the Hennepin County Board of Commissioners.

APPROVAL OF AGENDA

It was moved by Manager Miller, seconded by Manager Maxwell to approve the Agenda as distributed. Upon vote, the motion carried 7-0.

MATTERS FROM THE FLOOR

None.

CONSENT AGENDA

It was moved by Manager Olson, seconded by Manager Sando to approve the items on the Consent Agenda consisting of approval of the March 23rd Meeting Minutes, and the following resolutions:

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Resolution 23-016: Authorization to Renew GIS and WISKI Maintenance and Licenses and the Authorization to Submit Annual Report to BWSR and DNR

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the renewal of GIS software maintenance and licenses for an amount of \$15,717.00.

AND, NOW THEREFORE, BE FURTHER RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the renewal of WISKI software maintenance and licenses for an amount of \$14,492.22.

Resolution 23-017: Authorization to Submit Annual Report to the Board of Water and Soil Resources and Department of Natural Resources

NOW, THEREFORE, BE IT RESOLVED, that the District's Board of Managers accepts the 2022 Annual Activity Report and authorizes its release to BWSR and DNR.

Upon vote, the motion carried 7-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: President White noted the upcoming meeting schedule and that the District may consider changing the date of the November 30 meeting given the annual conference of Minnesota Watersheds. President White asked that Managers Hejmadi and Miller provide a report as Board liaisons on the development of the 2D model.

Manager Hejmadi reported that he and Manager Miller met with staff to review progress on the 2D model. He noted that the development of the model has two aspects: 1) data input and automation; and 2) evaluating the models and the need for further calibration. The staff were not satisfied with the level of documentation and will use contingency funding to address this need. The project is still within budget, but these changes to the model will add a little bit of time to the schedule. Manager Hejmadi said he is impressed that the model is only four and a half months behind and that the Staff has embarked on a wonderfully challenging project.

Manager Hejmadi noted the transition from the pilot to the watershed-wide model, and in June staff will report on the pilot. Anticipating the grant from the Legislative Citizens Commission on Minnesota Resources July 1, staff is planning an RFP process for identifying consultants for the next phase of the project and anticipate a project launch sometime in the fall. The staff is also attending to promote the connection of this work to

communities in the watershed. The District will likely begin to see results in 2025 and this work will inform the District's development of the 2027 10-year plan.

Manager Miller stated that he was pleased with the staff's abilities to monitor the work of the consultants and to explain the integration of science and technology with the District's mission.

PERMITS REQUIRING A VARIANCE OR DISCUSSION

Permit 23-011: CenterPoint Energy, 1360 Morningview Dr., Minnetrista

Ms. Maria Friedges appeared before the Board of Managers to review the permit application and variance request. Ms. Friedges reviewed the scope of work, location, and application of MCWD rules. CenterPoint energy is replacing a distribution line and will use horizontal directional drilling to install a new pipeline and connect the original natural gas line. They will then abandon the current utility line and replace a property service line on 1360 Morningview Drive. Ms. Friedges illustrated the project location and the elements of the project requiring a variance. She noted water resources of concern, including the streams tributary to Jennings Bay.

Ms. Friedges noted that CenterPoint has requested a variance from section 3(g) of the waterbody crossing's structure rule. The first criterion for a variance is to prove that special conditions inherent to the property will cause undue hardship. CenterPoint is not a property owner and must work within property rights and rights of way as they exist, using this to demonstrate the undue hardship caused by this project. The second criterion to meet is that the hardship was not created by the landowner, the landowner's agent or representative or a contractor, as economic hardship is not grounds for issuing a variance. CenterPoint is not able to move the proposed location of the natural gas distribution pipeline or service line due to the location of existing CenterPoint Energy infrastructure and the meter location on the property home and because they need to stay within the road right-of-way or easements for the installation. Thus, they did not create the hardship. The third criterion CenterPoint must meet is to prove that the variance is not merely out of convenience to them. Ms. Friedges said that CenterPoint demonstrated that this project and the variance will benefit the property owners as well as CenterPoint. Not installing the distribution line would cause public safety hazards affecting property owners, CenterPoint, and the public. The fourth criterion to be met is that CenterPoint must prove there is no feasible alternative. Ms. Friedges noted that the Applicant has explored alternative options for this location, none of which are feasible or minimal impact options for the project. The fifth criterion is to demonstrate that the variance will not impair or be contrary to the intent of rules. CenterPoint presented evidence that there is no stream work that will disturb ecology and that CenterPoint is doing additional erosion control to ensure this.

Ms. Friedges concluded that there are no feasible alternatives and that erosion control measures will be implemented to ensure there is no damage caused to waterbodies. The MCWD staff recommends permit approval with the recommended conditions and concurs in the factual statements and technical justifications supporting the variance request. Ms. Melissa Leider appeared before the Board of Managers on behalf of CenterPoint and noted that this project will be coordinated with city road work.

It was moved by Manager Miller, seconded by Manager Olson to approve the variance based on the findings presented by staff. Upon a question from Manager Maxwell, Ms. Friedges reviewed the city and CenterPoint responsibilities for vegetation restoration on their respective parts of the work. asked about the erosion control measures. Manager Maxwell inquired wither the old line would be abandoned and removed, and Ms. Leider stated that it typically would not be removed.

Upon vote, the motion to grant the variance carried 7-0.

It was moved by Manager Miller, seconded by Manager Hejmadi to approve the permit with conditions recommended by staff. Upon vote, the motion carried 7-0.

Permit 22-568: St. Louis Park High School, 6425 33rd Street W, St. Louis Park

Abigail Ernst appeared before the Board of Managers to review the permit application and variance request. The site is within the approximate area of shallow groundwater contamination identified by the Environmental Protection Agency as a Superfund Site, which limits the applicant's ability to infiltrate stormwater runoff. Ms. Ernst illustrated the location and the water discharge from the site, and current conditions of the high school with the existing drainage on site and infiltration. She identified the proposed changes, discussed the proposed improvements to the site, including reconfiguration of the parking lots, converting the athletic field to impervious synthetic turf, and changes to the sidewalk and tennis courts. Ms. Ernst reviewed the different filtration systems that will be added as well as the existing infiltration basin that was permitted in the past.

Ms. Ernst explained that the groundwater contamination limits the applicant's ability to infiltrate on site. MCWD rules do not prevent applicants from infiltrating on known polluted areas. The District policy is simply to inform the applicant of the risks associated with infiltration. Here, the applicant states that it is unable to provide the required treatment due to inability to intercept runoff from a portion of existing impervious surface, due to the location of existing buildings and surface on the property, spatial constraints, and the location/depth of existing storm sewer facilities. The applicant can provide 8.77 lbs. per year of phosphorous removal, which is 3.86 lbs. less than the required amount of 12.63 lbs., but still a significant reduction in total phosphorus loading.

Ms. Ernst reviewed the request for a variance from full compliance with the Stormwater Management rule. The first criterion the applicant must meet to be granted a variance is to prove that special conditions inherent to property would cause undue hardship under the current rule. In this case, Ms. Ernst provided evidence that the building was constructed so roof drains are within the walls and discharge to the northeast corner. As a result, there is no way to provide that treatment without extensive building reconstruction to redirect the roof drains elsewhere and installing a pump to make up for the shallow stormwater depth. The second criterion is that the hardship must not have been created by the applicant. Ms. Ernst stated that the pipes were not created with the stormwater treatment in mind because when the pipes were built, the stormwater management rules as they exist today were not in effect. The third criterion is that the variance must not be merely a convenience to the applicant. Ms. Ernst said the District agrees removal of phosphorus would be physically and economically unfeasible. The fourth criterion is to demonstrate that there is no feasible and prudent alternative to the proposed activity requiring the variance. Given the spatial and elevation constraints and the importance of updating the facilities, the District staff stated this criterion was met. The fifth criterion is that the variance will not be contrary to intent of rule. Ms. Ernst stated that the rooftop runoff carries less pollutants than runoff from sidewalks and roads and that the project still removes almost 40% of the pollutant load. Ms. Ernst stated that the District Staff recommends approval of the variance and the permit with the conditions noted in the permit report.

It was moved by Manager Miller, seconded by Manager Maxwell to approve the variance based on the findings presented in the staff permit report.

Manager Miller stated that he is concerned that this project will result in downstream impacts like Morningside Park project in Edina. He stated that he appreciates the MCWD's great relationship with the City of St. Louis Park, but he is frustrated with the collective impacts posed by such variances. Manager Miller asked how much more impervious surface this project will create and how much more volume of runoff as a result. He stated that he understands that infiltration is not the answer here, but he believes more water storage should be considered.

Bill Diede, consulting engineer for the St. Louis Park School District said that the volume of runoff will increase but that the project will also provide rate control. Manager Miller then asked if the School District has discussed this project with the neighborhood. Thomas Braun, representative of St. Louis Park School District, stated that at a meeting with members of the neighborhood, there was support for the project and no concerns were expressed.

Manager Miller asked James Wisker directly whether Mr. Wisker was convinced that the issues seen in the Morningside project will not arise in this scenario. Mr. Wisker said he is confident that the Staff has given this variance a thorough examination. It is impossible to create impervious surface without increasing volume. Mr. Wisker stated that he feels confident that alternatives have been exhausted and that worthwhile options are not being

left on the table. Manager Loftus asked whether storage in the northwest corner of the site would be possible. Ms. Ernst responded that the building runoff currently drains to that corner.

Manager Olson clarified that Manager Miller is concerned more about flooding rather than the issue of water quality. Manager Miller expressed his concern that we need more imagination in exploring solutions to downstream impacts. Upon a question from Manager Maxwell, Mr. Braun stated that the project is on a tight timeline and the hope is to begin construction in June.

Upon vote, the motion to grant the variance carried 6-1 with Manager Miller voting nay.

It was moved by Manager Maxwell, seconded by Manager Sando to grant the permit with conditions recommended by staff. Upon vote, the motion carried 6-1, with Manager Miller voting against the motion.

ACTION ITEMS

Resolution 23-018: Authorization to Execute a Contract for the County Road 6 Stormwater Pond Retrofit Feasibility Study

Mr. Josh Wolf appeared before the Board of Managers to review the request for board action. He noted that the County Road 6 Pond is located within the Long Lake Creek Subwatershed. The Wolsfeld and Holy Name tributaries combine upstream of the pond and it drains directly into Long Lake. Mr. Wolf gave a brief history of the Subwatershed, stating that the Long Lake Creek Partnership roadmap was presented to the Board in a meeting in January of 2023. Ultimately, the Partnership recommended that the Pond retrofit be prioritized to enhance phosphorus reduction to Long Lake.

The scope of the project includes refining the P8 Model and calibrating combined models of the Wolsfeld and Holy Name Tributaries. The project also includes adding live storage, then running the model and refining results. Site investigation will be necessary as well as identifying alternatives via modeling. Mr. Wolf stated that for alternatives, there are three to five different retrofit options carried through modeling and evaluations. He also stated that the evaluation matrix for the model has been completed. Mr. Wolf discussed the timeline for the project and staff's recommendation to approve a feasibility study for CR 6 Stormwater Pond retrofit.

Manager Miller asked if the District has fee title to the site to which Mr. Wisker responded that the District has access to the site via an easement. Upon a question from Manager Miller, Mr. Wolf explained that the site is constrained, and it is not feasible to expand the pond footprint.

Manager Olson asked about the isthmus in the pond and whether it was built by the District. Mr. Wolf stated that the isthmus was built to help with drainage.

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It was moved by Manager Miller, seconded by Manager Olson to approve the resolution as recommended by staff:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator, on advice of counsel, to enter into a contract with Stantec Consulting Services, Inc. to conduct a feasibility study for the retrofit of the County Road 6 pond, in an amount not to exceed \$23,975.96, and further authorizes the Administrator thereafter to amend the contract in his discretion up to an additional 10% of this fee.

Upon vote, the motion carried 7-0.

BOARD DISCUSSION ITEMS

None.

BOARD INQUIRIES, ISSUES, AND IDEAS

Manager Miller said he already expressed his concerns with the St. Louis Park High School project, but feels it is worth the MCWD's financial investment to explore long term solutions to such increases in downstream volume.

Manager Sando raised an inquiry regarding a beaver that has cut down over 150 trees in Arden Park. Mr. Wisker stated that the Staff will be in contact with the City Forester and see what can be done.

Manager Sando noted that the members of the Edina Community Lutheran Church on 54th Street have removed buckthorn and are planting wildflowers.

President White mentioned that the Nature Center at Carver Park has received a grant to document Dakota community history. Manager Hejmadi suggested that the District seek engagement with Dakota leaders in its planning process. Mr. Wisker stated that this outreach could be helpful with the District's climate action framework.

Mr. Wisker spoke clarify the Board's focus on downstream volume impacts such as with the St. Louis Park High School project. He noted that the climate action framework and the capital improvement program are the primary policy opportunities to address volume and flooding concerns strategically. In response to a question from Manager Olson, Mr. Wisker noted that flood risk analysis will be one benefit of the 2D model, which could provide metrics to identify volume storage opportunities.

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Manager Loftus asked whether the MCWD needs a flood reduction policy. Mr. Wisker noted that the 2D model development would assist in developing tools to address flood reduction, along with potential changes in MCWD rules.

STAFF UPDATES

Administrator's Report

Mr. Wisker reported on the following items:

1. The Twin Cities received 7.5 inches of precipitation year to date, which is about 3 inches more than normal, but 2022 ended with 8.5 inches below normal. Lake Minnetonka is at 928.3 feet and Minnehaha Creek at Hiawatha is flowing at 48 cubic feet per second.
2. Michael Hayman met with Susan Du, a Star Tribune reporter is working on a project to report on "re-wilding" Minnehaha Creek.
3. Discussions exploring collaboration with the City of Minneapolis and the Minneapolis Park and Recreation Board have been productive, and seem to be leading to a focus on three pilot projects and a funding framework. More discussion will follow, and Mr. Wisker will be briefing the manager liaisons.
4. Staff have been meeting with City of St. Louis Park representations on Light Rail Transit station planning at Beltline, Wooddale, and Louisiana stations.
5. Staff have met with Carver County and the Minnesota Department of Transportation representatives regarding Highway 5 reconstruction, partnership opportunities, and chloride concerns.
6. Staff are planning a field outing for the Board of Managers and Citizens Advisory Committee on April 28.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 8:51 p.m.

Respectfully submitted,



Eugene Maxwell, Secretary