

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

April 14, 2022

CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District was called to order by President Sherry White at 7:00 p.m. on April 14, 2022. President White noted that this meeting was convened electronically through Zoom, pursuant to Minnesota Statutes 13D.021, due to the COVID-19 pandemic and her determination that it is not prudent for the Board of Managers, or any committee thereof, to meet in person, and it is not feasible to provide for any member of the Board, or of the public, to meet at the regular meeting location. For this reason, until this determination is withdrawn by the District's presiding officer, chief legal counsel or chief administrative officer, the meetings of the Board and its committees will be convened by telephone or other electronic means as the presiding officer determines appropriate. All such meetings will be noticed and conducted in accordance with §13D.021 and all other applicable terms of the Open Meeting Law. President White noted that, pursuant to §13D.021, all votes will be by roll call.

President White called the roll to note attendance:

Hejmadi:	Present
Loftus:	Present
Sando:	Present
Miller:	Present
Olson:	Present
Maxwell:	Present
White:	Present.

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Brian Beck, Research & Monitoring Manager; Kayleigh Blommer, Research & Monitoring Field Assistant; Abigail Ernst, Permitting Technician; Anna Brown, Planner – Project Manager; Michael Hayman, Project Planning Manager; Chris Meehan, District Consulting Engineer; and Louis Smith, District Counsel.

APPROVAL OF AGENDA

It was moved by Manager Miller, seconded by Manager Hejmadi to approve the Agenda as distributed. Upon roll call vote, the motion carried 7-0 as follows:

Hejmadi:	Aye
Loftus:	Aye
Sando:	Aye

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Miller: Aye
Olson: Aye
Maxwell: Aye
White: Aye

OATH OF OFFICE

Mr. Smith administered the oath of office to Manager William Olson, who was recently reappointed by the Carver County Board of Commissioners to a new three-year term.

NEW EMPLOYEE INTRODUCTION

Mr. Brian Beck introduced Ms. Kayleigh Blommer as a new Research & Monitoring Field Assistant. The managers welcomed Ms. Blommer to the District.

MATTERS FROM THE FLOOR

None.

CONSENT AGENDA

It was moved by Manager Hejmadi, seconded by Manager Sando, to approve the items on the Consent Agenda consisting of approval of the March 24, 2022 Board meeting minutes; and adoption of the following resolutions:

Resolution 22-017: Authorization to Renew GIS and WISKI Maintenance and License Agreements:

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 \$14,957.00.

Resolution 22-018: 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 Minnehaha Creek Watershed District Board of Managers accepts the 2021 Annual Activity Report and authorizes its release to BWSR and DNR.

Resolution 22-019: Authorization to Extend Five Vegetation Maintenance Contracts Through 2022:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorize the District Administrator, on advice of District Counsel, to amend a contract with Landbridge Ecological with a scope of services for one year of vegetation maintenance at the Minnehaha Creek Greenway sites in the amount of \$24,999 and that the Board establishes a Minnehaha Creek Greenway sites project maintenance budget in the not-to-exceed amount of \$27,498.90 and authorizes the District Administrator, in his judgement, to authorize change orders obligating MCWD up to that amount; and

BE IT FURTHER RESOLVED that the District Administrator is authorized, on advice of District Counsel, to amend a contract with Prairie Restorations, Inc. with a scope of services for one year of vegetation maintenance at the Six Mile Marsh Prairie Restoration and Laketown Wetland sites in the amount of \$31,900 and that the Board establishes a Six Mile Marsh Prairie Restoration and Laketown Wetland sites project maintenance budget in the not-to-exceed amount of \$35,090 and authorizes the District Administrator, in his judgement, to authorize change orders obligating MCWD up to that amount; and

BE IT FURTHER RESOLVED that the District Administrator is authorized, on advice of District Counsel, to amend a contract with Landbridge Ecological with a scope of services for one year of vegetation maintenance at the Pond Buffers & Shoreline sites in the amount of \$49,490 and that the Board establishes a the Pond Buffers & Shoreline sites project maintenance budget in the not-to-exceed amount of \$54,439 and authorizes the District Administrator, in his judgement, to authorize change orders obligating MCWD up to that amount; and

BE IT FURTHER RESOLVED that the District Administrator is authorized, on advice of District Counsel, to amend a contract with Minnesota Native Landscapes with a scope of services for one year of vegetation maintenance at the West & Southwest sites in the amount of \$47,980 and that the Board establishes a West & Southwest sites project maintenance budget in the not-to-exceed amount of \$52,778 and authorizes the District Administrator, in his judgement, to authorize change orders obligating MCWD up to that amount; and

BE IT FINALLY RESOLVED that the District Administrator is authorized, on advice of District Counsel, to amend a contract with Natural Shore Technologies with a scope of services for one year of vegetation maintenance at

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the CR 101 Shoreline and Jennings Bay Wetland sites in the amount of \$4,000 and that the Board establishes the CR 101 Shoreline and Jennings Bay Wetland sites project maintenance budget in the not-to-exceed amount of \$4,400 and authorizes the District Administrator, in his judgement, to authorize change orders obligating MCWD up to that amount.

Resolution 22-020: Acceptance of Donation:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby accepts the donation of \$150 from the Gleason Lake Improvement Association and authorizes the deposit of the donation into the District's general fund.

Upon roll call vote, the motion carried 7-0 as follows:

Hejmadi: Aye
Loftus: Aye
Sando: Aye
Miller: Aye
Olson: Aye
Maxwell: Aye
White: Aye

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: President White reported on a recent meeting with Managers Miller and Hejmadi as liaisons to the City of Minneapolis.

Operations and Programs Committee: Manager Loftus reported that the committee had a briefing on the potential projects in the Minnehaha Parkway Subwatershed, which will involve engagement with the City of Minneapolis, Minneapolis Park & Recreation Board and the potential renewal of a Memorandum of Understanding.

Upcoming Meeting and Event Schedule: President White directed the managers to the meetings listed on the agenda.

PERMITS REQUIRING A VARIANCE OR DISCUSSION

Permit Application 22-016: Morningside Flood Risk Reduction Project (Edina)
Ms. Abigail Ernst appeared before the Board of Managers to review the permit application. She reviewed the site area, project description, and application of the MCWD Rules. She explained that based on the submitted design information the project complies with applicable MCWD regulations, but a consequence of the proposed

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pumping is a decrease in efficiency in the downstream stormwater management ponds adjacent to Bde Maka Ska, due to their receiving a larger annual volume of water under the proposed project conditions. Therefore, as presently designed, while providing upstream water quality improvements, the project would have the unintended effect of increasing total phosphorus (TP) on the order of 8lbs annually and increasing total suspended solids (TSS) on the order of 1900lbs annually to Bde Maka Ska. This represents roughly 1% of the annual watershed phosphorus load to Bde Maka Ska.

The MCWD stormwater management rule does not contain a specific criterion addressing this type of volume or water quality impact, although counsel advises that the Board of Managers, on the basis of the atypical nature of the impact, does have the authority to impose conditions to address it. The City of Edina is interested in working collaboratively with the Minnehaha Creek Watershed District and the Minneapolis Park and Recreation Board to explore solutions to offset this impact, which may also present the opportunity to create a net improvement in water quality by reducing phosphorus discharge to Bde Maka Ska beyond the eight pounds annually needed to mitigate the project increase. This collaboration would take place through a cooperative agreement which is a recommended condition of approval to the permit.

Mr. Scot Neal and Mr. Ross Bintner were present on behalf of the City of Edina and expressed the City's support for the agreement and thanked the staff for the collaborative effort to produce it.

It was moved by Manager Miller, seconded by Manager Hejmadi to approve the permit application with the conditions and stipulation recommended by staff, including the cooperative agreement.

Upon a question from Manager Maxwell, Ms. Ernst confirmed that the City of Edina supports the staff recommendation, including the cooperative agreement. Upon questions from Manager Loftus, Ms. Ernst explained that District Engineer would review the proposed pumping plan, and that the storm sewer system in the area is collaboratively managed by the City of Minneapolis and the City of Edina. Manager Miller noted the unique history of the Morningside area and expressed his appreciation for the collaborative staff work, and Edina's willingness to engage in a look at the larger watershed issues.

Upon roll call vote, the motion carried 7-0 as follows:

Hejmadi:	Aye
Loftus:	Aye
Sando:	Aye
Miller:	Aye
Olson:	Aye

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Maxwell: Aye
White: Aye

ACTION ITEMS

Resolution 22-021: Authorization to Contract with Stantec for Wassermann Lake Alum Treatment Design and Construction Oversight

Ms. Anna Brown appeared before the Board of Managers to review the request for board action. She reviewed the project background, and explained the reasons for recommending that the contract be awarded to Stantec. *It was moved by Manager Olson, seconded by Manager Sando to adopt Resolution 22-021 as follows:*

NOW, THEREFORE, BE IT RESOLVED, that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the District Administrator, on advice of counsel, to execute a contract with Stantec for \$31,000 to develop specifications and provide construction oversight for the Wassermann Lake internal load management project.

Upon a question from Manager Olson, Ms. Brown and Mr. Meehan explained the process for determining the alum dosing concentration.

Upon roll call vote, the motion carried 7-0 as follows:

Hejmadi: Aye
Loftus: Aye
Sando: Aye
Miller: Aye
Olson: Aye
Maxwell: Aye
White: Aye

Resolution 22-022: Award of Contract for Six Mile Marsh Prairie Trail Construction

Ms. Brown reviewed the request for board action. She reviewed the design process and effort to rebid the project with design changes in light of high bids in the initial bidding process. She noted that Urban Companies was determined to be a responsive bidder, but staff determined that some information was missing in its bid. Counsel has reviewed the matter as explained in the request for board action and has concluded that the Board may waive the indicated irregularities and consider the bid responsive. She noted the base bid and the five add alternates; adding all five alternates would require amending the project budget. She noted that staff recommended omitting the add alternative #5 Trail Surface

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(\$19,131.20). *It was moved by Manager Olson, seconded by Manager Miller to adopt Resolution 22-022 as follows:*

THEREFORE BE IT RESOLVED that the MCWD Board of Managers finds that the bid submitted by G. Urban Companies, Inc. is the low bid, and is responsive, and G. Urban Companies, Inc. is a responsible contractor; and awards the contract, consisting of the base bid and add alternates 2 - 4 to G. Urban Companies, Inc., for a contract price of \$278,715.75, and directs the District Administrator to issue the notice of award, return and otherwise administer bid bonds in accordance with the terms of the request for bids, and issue the notice to proceed, on advice of counsel and when all submittals prerequisite thereto have been made;

BE IT FURTHER RESOLVED that the MCWD Board of Managers establishes a contract budget in the not-to-exceed amount of \$293,000, and authorizes the Administrator, on advice of counsel, to approve work change orders up to that aggregate amount.

BE IT FINALLY RESOLVED that the MCWD Board of Managers directs the District Administrator to return to the Board with a proposed amendment to the construction budget and transfer of funds.

Upon a question from Manager Loftus, Ms. Brown explained the design intention for the loungers (add alternate 3). Manager Miller noted the MCWD's investment in acquiring the land and restoration, it seems appropriate to invest in these improvements to facilitate public use of the site. Manager Olson asked whether a traditional bench would be a good alternative to the loungers, and Manager Maxwell agreed. Upon a question from Manager Maxwell, Ms. Brown noted that the contractor's work has positive reviews from other agencies. Manager Hejmadi expressed his hope that the site would be well-used by school children and that he felt the interpretive features were an important investment.

It was moved by Manager Miller, seconded by Manager Hejmadi to amend the Resolution to include add alternate 1: Transect, and to direct staff to explore replacement of the loungers with a bench, thereby increasing the contract price to \$333,715.75 and the not-to-exceed contract budget to \$350,000.

Upon roll call vote, the motion carried 5-1, as follows:

Hejmadi: Aye
Loftus: Nay
Sando: Absent for vote
Miller: Aye
Olson: Aye

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Maxwell: Aye
White: Aye

Upon roll call vote, the motion to adopt Resolution 22-022 as amended carried 5-1 as follows:

Hejmadi: Aye
Loftus: Nay
Sando: Absent for vote
Miller: Aye
Olson: Aye
Maxwell: Aye
White: Aye

Resolution 22-023: Approval of the 325 Blake Road Purchase and Sale Agreement

Mr. Michael Hayman appeared before the Board of Managers to review the request for board action. He reviewed the background and process for development of the purchase and sale agreement with Alatus.

It was moved by Manager Hejmadi, seconded by Manager Miller to move into closed session for the purpose of discussing the terms of the sale of 325 Blake Road in Hopkins.

Upon roll call vote, the motion carried 6-0 as follows:

Hejmadi: Aye
Loftus: Aye
Sando: Absent for vote
Miller: Aye
Olson: Aye
Maxwell: Aye
White: Aye

Whereupon the Board of Managers went into closed session.

The Board of Managers returned to open session.

It was moved by Manager Maxwell, seconded by Manager Miller to adopt Resolution 22-023 as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby approves the purchase and sale

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agreement between MCWD and Alatus Development, LLC, and authorizes the President to execute the agreement with any non-substantive changes in consultation with legal counsel.

Upon roll call vote, the motion carried 6-0 as follows:

Hejmadi: Aye
Loftus: Aye
Sando: Absent for vote
Miller: Aye
Olson: Aye
Maxwell: Aye
White: Aye

STAFF UPDATES

Administrator's Report

Mr. Wisker reported on the following items:

1. Three new permitting staff have been hired and will start May 2;
2. The communications team is in the process of hiring for two positions;
3. A planner – project manager position will also be filled soon.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 9:05 p.m.

Respectfully submitted,

Eugene Maxwell, Secretary

