

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

June 9, 2016

CALL TO ORDER

President Sherry White called the meeting of the Minnehaha Creek Watershed District Board of Managers to order at 6:53 p.m. at the District offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

MANAGERS PRESENT

Sherry White, Brian Shekleton, Richard Miller, Kurt Rogness, William Olson, Pam Blixt, Bill Becker.

MANAGERS ABSENT

None

MATTERS FROM THE FLOOR

None.

DISTRICT STAFF AND CONSULTANTS PRESENT

Lars Erdahl, Administrator; Anna Brown, Planner-Project Manager; Becky Christopher, Lead Planner-Project Manager; Tiffany Schaufler, Project and Land Program Manager; James Wisker, Planning and Projects Director; Michael Welch, Counsel.

APPROVAL OF AGENDA

Manager White stated that permit 16-228: Park-Nicollet Floodwall should be removed from the agenda. Manager Becker requested the addition of a report from the investment task force. *Manager Shekleton moved and Manager Olson seconded approval of the agenda. Upon vote, the motion carried, 7-0.*

INFORMATION ITEMS AND CORRESPONDENCE

Manager White noted the inclusion of a WISKI system implementation update in the packet materials.

CONSENT AGENDA

Manager Miller moved and Manager Rogness seconded approval of the consent agenda, consisting of the approval of the May 26, 2016, minutes of the meeting of the Board of Managers. Upon vote, the motion carried 7-0.

REGULAR AGENDA

Board, Committee and Task Force Reports

Manager White reported that she attended a meeting of Long Lake-area residents, who are alarmed about the poor water quality in the lake. Michael Hayman of the District staff provided a presentation. She said she also attended a presentation by the Board of Water and Soil Resources about the implementation of the state buffer law as revised in the last legislative session. She said BWSR will consider issuing the draft policies for review at its June meeting, but implementation will not begin until November of 2017. The District should determine when the policies are issued whether it has any comments. She said the meeting also included a report on data analysis showing that there are minimal areas of the state covered by the buffer requirement that do not in fact have buffers and that the amended buffer law shifts responsibility for implementation to soil and water conservation districts in the state, with other local governmental units such as watershed districts participating or not at their discretion. She also noted that the exemption for Municipal Separate Storm Sewer System areas is not as straightforward as all had been led to understand. Once the current implementation policies are finalized, additional implementation-assistance material would be developed.

Manager White also noted the Minnesota Association of Watershed Districts summer tour in late June and wondered if the managers didn't wish to move the June 23 meeting to June 30 to avoid a conflict. Manager Rogness noted that he will be attending the summer tour and supported the move to June 30. The managers concurred that the meeting date should be changed to June 30.

Manager Miller reported on the Program and Policy Committee meeting that took place prior to this evening's board meeting. He said all managers except Manager Blixt attended, and there was a long and robust discussion of the District's purposes, as being developed and refined for the plan update. The committee is endeavoring to develop frameworks for decisionmaking that provide a more transparent and strategic process. He said that the new framework should enhance understanding of the implications of the decisions that are made by the Board of Managers.

Manager White reported on the most recent meeting of the Citizens Advisory Committee, noting that 11 members attended and reviewed one homeowner cost-share agreement and discussed the upcoming round of 30 more in July. The committee recommended approval

of the application. She said that Darren Lochner of the District staff reviewed the recent and future events that the District has been involved in and showcased District education resources. She noted that the Board of Managers will see this presentation on an upcoming agenda. She said that one of the CAC members reported that Diamond Lake has seen a great influx and expansion of its goldfish population. She said that she reported to the CAC on the budget process the Long Lake and buffer meetings.

Manager Becker reported on the initial meeting of the Investment Task Force, noting that they members shared their perspectives on the opportunities for and costs to the District from efforts to attract new investment in activities, and the need to document efforts in a manner that will facilitate reporting to the board.

Public Hearings and Presentations

Public Hearing on Stormwater Pollution Prevention Plan

Becky Christopher appeared before the Board of Managers and noted the need for the District to present each year its stormwater pollution prevention plan, a requirement of its Municipal Separate Storm Sewer System permit with the Minnesota Pollution Control Agency. Ms. Christopher stated that no written comments have been received and noted that no members of the public are in attendance to comment on the SWPPP this evening.

Manager White closed the public hearing. ***Manager Shekleton moved and Manager Rogness seconded adoption of Resolution 16-055, authorizing staff to release the annual report on the Municipal Separate Storm Sewer System to the Minnesota Pollution Control Agency.*** Manager Blixt said that she's been trying to get a thorough permit-activity report and would like to have an update on the number and types of permits the District issued in the last year because she would like to have an understanding of the issues that the regulatory program is dealing with. She noted that the managers regularly received such a report in the past. Ms. Christopher confirmed that such a report is not included in the SWPPP. She said staff has issued a request to cities in the watershed for an update on their permit activity. Manager Blixt stated that she is still waiting for a report on 2015 permits issued by the District. James Wisker stated that it has taken longer than expected to receive information from the cities and reports don't always come in on time or with all of the information that the District requests. With regard to District permits, he said that he will make sure that the board receives quarterly reports. ***Upon vote, the motion carried 7-0.***

Contract with Smith Partners for Comprehensive Plan Support

Ms. Christopher again presented to the Board of Managers the proposed resolution authorizing expenditure of not-to-exceed \$38,740 for assistance with drafting and editing the update to the District's comprehensive plan. Ms. Christopher explained that Smith

Partners' long history with the District and District policies makes it uniquely capable of assisting with plan drafting. ***Manager Miller moved and Manager Shekleton seconded adoption of Resolution 16-056, authorizing the administrator to execute a contract with Smith Partners for assistance with the comprehensive plan update for an amount not-to-exceed \$38,740. Upon vote, the motion carried, 7-0.***

Design Contract for Jennings Bay Wetland Restoration Project

Tiffany Schaufler presented the proposed contract with RESPEC for design of the flood-storage element of the Highway 101 causeway reconstruction project. Ms. Schaufler explained that the floodplain work is fundamentally related to the causeway redevelopment and that the District had three responses to its request for proposals for the work. While RESPEC was the second-lowest-cost response, the District's experience with RESPEC on the Long Lake wetland restoration project and the analysis of the submitted response against the District's criteria for same led staff to recommend RESPEC. Ms. Schaufler said the project is 1,000 yards of floodplain mitigation on Jennings Bay. ***Manager Miller Moved and Manager Olson seconded adoption of Resolution 16-057, authorizing the administrator to enter into an agreement with RESPEC for engineering design and construction oversight services for the flood-storage element of the Highway 101 causeway reconstruction project for an amount not-to-exceed \$31,625 and authorizing the administrator to use an additional contingency of 10 percent of the not to exceed amount as in his judgement circumstances require.***

Responding to an inquiry from Manager Olson, Ms. Schaufler stated that the District has not yet gotten a decision from the Lake Minnetonka Conservation District regarding the shape of the redesigned causeway violating an LMCWD ordinance. She said that the LMCD is still looking into it. Manager Blixt inquired as to whether the District could accept a response to the request for proposals that was not the lowest price. Ms. Schaufler noted that the District followed the process outlined in its RFP criteria and noted that sometimes the lowest-cost proposal may not be the best value for the District. Michael Welch, responding to a further inquiry from Manager White, stated that the District is only obligated to select the lowest-cost bid when undergoing a sealed-bidding process. In response to a question from Manager Becker, Mr. Welch noted that the responses to the RFP criteria are not provided in the meeting packet because they are private data not subject to public posting. But, he said, the managers can review this material if they wish. Mr. Wisker stated that past policy was to accept the lowest response, but in this particular case and others the District has ranked the response on quality and staff provided an evaluation for consideration by a larger group of reviewers and through this process RESPEC was recommended. ***Upon vote, the motion carried 7-0.***

In response to a question from Manager Olson, Mr. Wisker confirmed that staff evaluated the responses to the request on quality before reviewing the cost of each. Manager Olson endorsed this approach.

Contracts for Gray's Bay Shoreline Restoration

Ms. Schaufler presented the proposed contract with Wetland Habitat Restorations for work on the Gray's Bay Shoreline as well as an agreement with Hennepin County for installation of enhanced erosion-control measures. She stated that the idea to advance this work now is to save costs and take advantage of the current growing season. She showed representations of the planting areas and the plans for plantings along the causeway. She stated that two contracts are proposed for the work because the District issued two requests for quotes because the work involves both upland-planting work and planting below the high-water mark, and staff reasoned that different contractors may be interested in and qualified for each. It happened, though, that Wetland Habitat Restorations was the lowest-cost respondent in each case.

Ms. Schaufler said that the third part of the request has to do with having Hennepin County upgrade the quality of the shoreline erosion-control work to use coconut bio-rolls as is the District's preference. She stated that the county's existing contractor provided the lowest quote for the work so staff proposed to amend the current agreement with Hennepin County agreement to provide for the work. Staff learned today, though, that it may be possible to simply order the work under the existing agreement, therefore only the authorization for the additional expenditure is necessary. ***Manager Miller moved and Manager Shekleton seconded adoption of resolution 16-058, authorizing the administrator, on advice of counsel, to enter into a contract with Wetland Habitat Restorations for \$15,448.05 for Gray's Bay shoreline planting, establishing a budget for the work not-to-exceed \$16,992.85 and authorizing the administrator to execute, as necessary, change orders obligating the District up to that amount;***

Further authorizing the administrator, on advice of counsel, to enter into a contract with Wetland Habitat Restorations for \$15,466 for upland plantings along Gray's Bay shoreline, establishing an upland-planting budget in the not-to-exceed amount of \$17,021.60, and authorizing the administrator to execute change orders obligating the District up to that amount; and

Finally authorizing the president to execute an amendment, on advice of counsel, to the Gray's Bay shoreline agreement with Hennepin County to install coconut bio-rolls along the shoreline and committing the District to reimbursement of the costs for the work up to \$15,500.

In response to a question from Manager Olson, Ms. Schaufler clarified the locations of the plantings. ***Upon vote, the motion carried 7-0.***

Contract with LHB and Hart Howerton for Six Mile Plan Support

Anna Brown presented the proposed agreement with the Hart Howerton and LHB for phase I planning for the Six Mile Creek subwatershed. She noted the revised resolution provided to the managers addressing the need for some leeway for the administrator to authorize an additional expenditure under the contract and to clarify that Hart Howerton will be a subcontractor to LHB. Ms. Brown reviewed the history of the development of the Six Mile planning process and the framework for the District to undertake further development of its plan for the integration of water-resource protection into overall development planning for the subwatershed. She emphasized that the current contract and requested authorization is for only phase I of the work. Staff is taking this approach because it is believed that the further work may be able to be minimized based on what is determined in the first phase. She said that the scope and contract for subsequent phases will be revised and, it is hoped, reduced based on the work done in this phase. She emphasized that the budget for the work will not be what is shown in the material she's provided to the managers, which is provided just for a broad sense of the overall project. ***Manager Olson moved and Manager Becker seconded adoption of resolution 16-059, authorizing the administrator, on advice of counsel, to execute a contract with LHB Corporation, with a subcontract to Hart Howerton, for a total not to exceed \$37,470 for phase 1 of Six Mile plan development; authorizing the administrator to execute, as necessary, change orders obligating the District up to a total of 10 percent of the contract, and authorizing staff to work with LHB and Hart Howerton to develop a scope of work for phase 2 for the Six Mile plan development for presentation for approval of the managers at a subsequent meeting.***

Manager Olson stated that he believes that this work and the title of the resolution should also refer to Halsted Bay. ***Manager Olson moved and Manager Shekleton seconded amendment of the main motion to require this change to the title of the work. Upon vote, the motion carried 7-0.***

In response to a question from Manager Blixt, Ms. Brown acknowledged that the work has slipped off the timeline shown in the materials and noted that it took longer to work through the review process. Mr. Wisker added that the work is roughly a month behind but it is expected that ground can be made up in phase II. ***Upon vote, the main motion carried 7-0.***

STAFF UPDATES

Administrator's Report

Mr. Erdahl reported on recent mentions in the media of the District's E-Grade program and AIS Spotlight communications. He stated that the Investment Task Force and staff

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from Redpath met to review the fund balance. He reported that staff is working with Himle Rapp on preparations for celebration of the District's 50th anniversary and is developing activities focusing on both the upper and lower watershed. The work will influence the District's plan update as well as education materials. He said that a joint committee has met to discuss the budgeting process and will provide a progress report and organizational overview from each of the departments plus a definition list of policy topics and next steps at an upcoming meeting.

Mr. Wisker stated that the Hopkins City Council and staff will take a tour of the Minnehaha Creek Preserve on June 21. In response to a question from Manager Blixt, Mr. Wisker stated that his understanding is that Federal Emergency Management Agency floodplain maps still have not been approved, but staff can follow up and request again the completion of the process. Manager Blixt noted that a Minneapolis City Council office has offered to help.

ADJOURNMENT

There being no further business, the regular meeting of the Board of Managers adjourned at 7:52 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Kurt Rogness" with a horizontal line extending to the right.

Kurt Rogness
Secretary