

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

May 25, 2023

CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by President Sherry White 7:13 pm on May 25, 2023 at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

MANAGERS PRESENT

President White called the roll to note attendance:

Loftus:	Present
Sando:	Present
Miller:	Present
Olson:	Present
Maxwell:	Present
White:	Present
Hejmadi	Present (participating remotely using interactive technology at Minnehaha United Methodist Church, 3701 E 50th Street, Minneapolis).

MANAGERS ABSENT

None.

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Tiffany Schaufler, Senior Project Maintenance Coordinator; Michael Hayman, Project Planning Manager; Chris Meehan, District Consulting Engineer; and Louis Smith, District Counsel.

MATTERS FROM THE FLOOR

None.

APPROVAL OF AGENDA

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

<i>Hejmadi:</i>	<i>Aye</i>
<i>Loftus:</i>	<i>Aye</i>

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

CONSENT AGENDA

It was moved by Manager Olson, seconded by Manager Miller to approve the items on the Consent Agenda consisting of approval of the May 11, 2023 Board Meeting Minutes; approval of the General Check Register, including check numbers 42256 through 42280 in the amount of \$245,986.06, electronic funds withdrawals of \$45,808.90, Managers Per Diems and Reimbursements of \$4,156.91, employee reimbursements of \$184.23, and payroll electronic funds withdrawals and disbursements of \$149,777.86 for a total of \$445,913.96; the Surety Check Register Bremer Bank fee in the amount of \$37.00; the Wire Check Register in the amount of \$132,068.75 in payment to Hennepin County for 2013B and 2020B.

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 that the Hopkins City Council approved the Cottageville Park agreement, and Alatus provided an update to the Council. President White noted a conflict in the regular meeting schedule with the annual meeting of Minnesota Watersheds, and by Board consensus directed that action be prepared to change the Board of Managers meeting from November 30 to November 27.

Planning and Policy Committee Report: Manager Miller reported that the committee had a productive discussion of strategic action planning for strengthening partnerships and leveraging brand equity.

Citizens Advisory Committee Report: Manager Maxwell reported that the CAC had a full meeting to review the strategic action planning for strengthening partnerships and

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leveraging brand equity, initial review of the capital improvement plan, an update on 325 Blake Road, and an update on the MCWD web site.

Upcoming Meeting and Event Schedule: President White noted the upcoming meeting schedule.

ACTION ITEMS

Resolution 23-029: Authorization to Amend a Contract for Engineering and Design Services for Minnehaha Preserve Boardwalk Reconstruction

Ms. Tiffany Schaufler appeared before the Board of Managers to review the request for board action. She noted the discovery by the St. Louis Park inspector of defective work on the Minnehaha Preserve Boardwalk as reported to the Board of Managers at the May 11 meeting. She presented photos to illustrate construction concerns, and reviewed the chronology for the construction, oversight and inspection process. Ms. Schaufler reviewed a protocol outlined by counsel reflecting contract requirements to identify deficient construction for remedy. The proposed board action would increase the engineering and design services contract total not-to-exceed amount for SRF Consulting Group by \$26,790, though it remains for the District and SRF to determine to what extent the work does go beyond the scope of SRF's construction observation/administration responsibilities under the existing contract. Further, the District will reserve its right to assess, before final payment to SRF, the extent to which the scope of any defective work, and hence the engineering cost to address it, resulted from inadequate SRF construction oversight.

It was moved by Manager Olson, seconded by President White to adopt Resolution 23-029 as follows:

NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers authorizes the District Administrator, on advice of counsel, to execute a contract amendment with SRF Consulting Group to increase the total contract not-to-exceed amount by \$26,790.

Manager Miller thanked the staff for the detailed report and expressed gratitude for the St. Louis Park inspection. He stated that he would be opposed to the resolution and was not sure it was a good idea to keep working with SRF. Manager Loftus stated that she was surprised that SRF would request more compensation under these circumstances. Ms. Schaufler noted that staff was seeking a solution to get the matter resolved expeditiously. In response to a question from Manager Loftus, Mr. Smith noted that the MCWD had a variety of legal options in terms of its relationship with SRF, and that staff discussions have focused on practical means to get the issues resolved. Managers Sando and Hejmadi stated that they shared the concerns expressed by Managers Miller and

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Loftus. Manager Maxwell stated that he agreed, and felt it was important to keep St. Louis Park staff in the loop of communication. The managers discussed their concerns with the construction problems and apparent lack of proper construction oversight.

It was moved by Manager Miller, seconded by Manager Maxwell to table Resolution 23-029. 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*

It was moved by Manager Maxwell, seconded by Manager Sando to direct staff to communicate promptly to SRF and JTS that the Board of Managers is deeply concerned with the state of construction of the boardwalk and construction oversight, that the Board of Managers is not interested in providing additional compensation to SRF, and the Board expects prompt action to have the boardwalk constructed as designed and specified. Upon roll call vote, the motion carried 5-1-1, as follows:

*Hejmadi: Aye
Loftus: Nay
Sando: Aye
Miller: Abstain
Olson: Aye
Maxwell: Aye
White: Aye*

BOARD INQUIRIES, ISSUES, AND IDEAS

Manager Miller requested that Mr. Wisker review the most recent Minnehaha Preserve Boardwalk construction process and identify how this process can be improved.

STAFF UPDATES

Administrator's Report

Mr. Wisker reported on the following items:

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1. Lake Minnetonka is at the elevation of 929.2. Precipitation year to date is two inches above normal. The MCWD opened Grays Bay dam on May 22. Minnehaha Creek at Grays Bay is flowing at 12 cubic feet per second.
2. After interviewing candidates for operations manager, the decision was made not to extend any offers at this time, and re-launch the process in the future. The MCWD will post for a planning project manager next week. Samantha Maul has agreed to take an interim role as outreach manager.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 8:38 p.m.

Respectfully submitted,



Eugene Maxwell, Secretary