

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

September 28, 2023

CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by Vice President William Olson at 7:00 pm on September 28, 2023, at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

MANAGERS PRESENT

William Olson, Richard Miller, Arun Hejmadi, and Stephen Sando.

MANAGERS ABSENT

Sherry White, Jessica Loftus, and Eugene Maxwell.

DISTRICT STAFF AND CONSULTANTS PRESENT

Becky Christopher, Acting Administrator; Michael Hayman, Director of Project Planning; Alex Steele, GIS Coordinator; Abigail Ernst, Permitting Technician; 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 Hejmadi to approve the Agenda as distributed. Upon vote, the motion carried 4-0.

CONSENT AGENDA

Manager Miller requested that Item 7.2, Resolution 23-053: Approval of Cross-easement for Cottageville Park Phase II be pulled from the Consent Agenda. *It was moved by Manager Miller, seconded by Manager Hejmadi to approve the remaining items on the Consent Agenda consisting of approval of the September 14, 2023 Board Meeting Minutes; approval of the General Check Register, including check numbers 42364 through 42394 in the amount of \$179,158.19, electronic funds withdrawals of \$30,462.72 Managers Per Diems and Reimbursements of \$950.56, employee reimbursements of \$60.01, and payroll electronic funds withdrawals and disbursements of \$146,715.89. for a total of \$ 357,347.27; the Surety Check Register Bremer Bank fee*

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of \$37.00; payment of \$5,000 to L&R Landscaping for permit 22-497; and payment of \$5,000 to Southwood Shores Homeowners Association for permit 18-464; the Wire Check Register in the amount of \$3,028,047.05; and the following resolution:

Resolution 23-059: Authorization to Release Request for Proposals for Government Relations Services

NOW, THEREFORE, BE IT RESOLVED, that the MCWD Board of Managers authorizes staff to post the Request for Proposals for Government Relations Services and to forward the requests to firms in the metro area.

Upon vote, the motion carried 4-0.

Resolution 23-053: Approval of Cross-easement for Cottageville Park Phase II

Upon a question from Manager Miller, Mr. Hayman appeared before the Board of Managers and reviewed the request for board action. He explained that this is a new agreement to allow cross access for the next phases of work. ***It was moved by Manager Miller, seconded by Manager Sando to adopt Resolution 23-053 as follows:***

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers approves the Easement on the Property of the Minnehaha Creek Watershed District and the City of Hopkins, and authorizes the Board President to execute the easement, with any non-substantive changes on advice of counsel.

Upon vote, the motion carried, 4-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: None.

Planning and Policy Committee Report: Manager Miller reported that the committee received a staff briefing on the Land and Water Partnership program outcomes. Staff will seek the Board's formal adoption of the program later in the fall.

Citizens Advisory Committee Report: Manager Sando reported that the CAC met and received a briefing on the MCWD's diversity, equity and inclusion initiative. The CAC members asked good questions and provided helpful feedback.

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

ACTION ITEMS

Resolution 23-060: Authorization to Contract with Novotx for Software Implementation Services for Permitting Rule Revisions

Mr. Alex Steele appeared before the Board of Managers to review the request for board action. He reviewed how the MCWD is seeking to update its permitting portal software to align with anticipated revisions to the rules. He noted that District staff have worked with Novotx to scope the implementation of technology changes and new workflows to the District’s permitting portal, ElementsXS. The proposed changes in the scope fall into three general categories: new rule trigger logic, general permit automated issuance, and general changes.

In response to a question from Manager Hejmadi, Ms. Abigail Ernst appeared before the Board of Managers and affirmed that the portal software has made permit review more efficient, improved the permit database and has facilitated prompt responses to applicants’ inquiries.

It was moved by Manager Hejmadi, seconded by Manager Sando to adopt Resolution 23-060 as follows:

NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers authorizes the District Administrator, on the advice of counsel, to execute a contract with Novotx, for software implementation services in an amount not-to-exceed \$19,440.00.

Upon vote, the motion carried 4-0.

BOARD DISCUSSION ITEMS

None.

BOARD INQUIRIES, ISSUES, AND IDEAS

Vice President Olson noted that he had discussed with Mr. Smith the legislation to address chloride impacts on water resources and asked the managers about general interest in expressing support for this legislation. Manager Miller stated that he would not want the MCWD to become entangled in road management decisions of municipal public works departments. Mr. Smith explained that the legislation focuses on private commercial applicators of chloride, provides for training and certification in “smart salting” practices, and provides for some liability protection for certified applicators who document compliance with these practices. *It was moved by Manager Miller, seconded*

*by Manager Hejmadi that the Board of Managers expresses support for this legislation.
Upon vote, the motion carried 4-0.*

STAFF UPDATES

Administrator's Report

Ms. Christopher reported on the following matters:

1. Communications materials: staff recently prepared two booklets that were shared with the Board at this evening's meeting. The Six Mile Creek Halsted's Bay Habitat Restoration booklet provides a concise report on this carp management project. The Climate Action Framework booklet was distributed at a climate briefing hosted last Thursday.
2. Climate briefing: the MCWD hosted a climate briefing for cities and other partners as an early touchpoint to introduce the Climate Action Framework, provide an update on the building of the watershed-wide model, and gather input on partners' priorities. The briefing was very successful, as staff heard a lot of positive feedback and support for the District's role and interest in the model and planning process.
3. MCWD's 325 Blake Road project was recently featured in an article by Jon Commers in ENTER magazine, a publication produced by the American Institute of Architects. The project was highlighted as a "landmark case study" for how Minnesota communities can prepare stormwater infrastructure for the impacts of climate change.
4. Personnel updates: MCWD recently hired a new Communications Coordinator. Maia Irvin will start on Tuesday, October 17th. She is a recent graduate of the University of Minnesota where she studied journalism, and served as the Editor in Chief of the Minnesota Daily. Tessa Vacek has been hired as a new Administrative Services Manager, and she will start on October 24. Tessa comes to the District with a strong HR background and experience in both the private and public sectors.
5. Water level update: The Twin Cities has received 21.21 inches of precipitation this year, which is 4.76 inches below normal for the year. The upper watershed received 4-6 inches of rain over the past week; and the lower watershed received 2-4 inches. MCWD is in severe drought, which currently covers 46.65% of the state; 100% of the state is in some sort of drought designation. The wet weather has helped to give water levels a small boost. Lake Minnetonka's level went up 4.5 inches from the rain and is at 928.12 feet, which is 15.36 inches below the OHW of 929.4 feet; and 5.76 inches below the runout elevation of 928.60 feet. The dam is currently closed, as is required when the lake falls

below 928.60 feet. Minnehaha Creek is currently flowing 16 cubic feet per second at Hiawatha Avenue.

6. Statewide Carp Effectiveness Assessment: MCWD staff convened a meeting with the Minnesota Department of Natural Resources and Minnesota Pollution Control Agency as part of the Six Mile Creek-Halsted Bay Carp assessment study. The goal of the initial meeting was to identify if there was interest from State agencies to develop a better understanding of the effectiveness of carp management on aquatic vegetation management. The initial meeting has led to several discussions between MCWD, MnDNR, and the MPCA to identify ways to leverage MCWD's carp dataset along with statewide carp data to inform where carp management is most effective. This group has identified the need for a Memorandum of Understanding (MOU) to solidify the shared need for a carp effectiveness study to help improve our understanding of where carp management will be most effective statewide.

7. Minnehaha Preserve Boardwalk: Mr. Michael Hayman provided the following update on the “defective work notice” process with JTS, after identifying a series of construction defects at the Minnehaha Preserve Boardwalk. Eleven categories of defective work were identified. JTS has proposed to correct nine of the 11 defective work categories to the original design specifications. Regarding the remaining two defective work categories, JTS has indicated it will propose engineered solutions to these issues. To do so, and in accordance with the contract documents, JTS must formally submit its proposed solution to SRF, the engineer of record, for review and conformance with the design. Once JTS submits proposed solutions to the two remaining defective work categories, SRF will review for design and specification conformance. If SRF agrees that the proposed solution meets the design intent, it will formally accept the correction. Doing so will require the contract documents and design of record to be updated via change order.

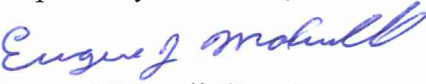
Prior to finalizing the contract change, acceptance of the engineered solution must also be reviewed by the City of St. Louis Park for code compliance. This must occur after the engineer of record has reviewed and approved proposed solutions, thus creating gates that the parties are moving through in sequence. If the proposed solutions are outside of the present State code, St. Louis Park administers a code variance process to review if a proposed solution is equal to or better than the State code. If the correction is found to be “equal to or better,” it is generally approved by the City. If a solution lacks detail demonstrating that it conforms in a manner that is “equal to or better” than the design, it can be rejected by the City, thus requiring the contractor to correct the site to the original design specification. Ultimately, once staff has clarity on these final two defective work categories, staff will be back in front of the Board to discuss potential contract changes, and describe the reviewed solutions.

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Adjournment

There being no further business, Vice President Olson declared the meeting of the Board of Managers adjourned at 7:56 p.m.

Respectfully submitted,


Eugene Maxwell, Secretary