

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

**November 27, 2023**

**CALL TO ORDER**

The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by President Sherry White at 7:00 pm on November 27, 2023, at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

**MANAGERS PRESENT**

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

**MANAGERS ABSENT**

None.

**DISTRICT STAFF AND CONSULTANTS PRESENT**

James Wisker, Administrator; Trey Jonas, Permitting Technician; Josh Wolf, Project Maintenance and Land Management Program Manager; Tiffany Schauffler, Senior Project Maintenance Coordinator; Becky Christopher, Director of Policy and Planning; Kate Moran, Policy Planning Coordinator; 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 7-0.*

**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 November 9, 2023 Board Meeting Minutes; approval of the General Check Register, including check numbers 42422 through 42446 in the amount of \$131,321.92, electronic funds withdrawals of \$36,811.14, Managers Per Diems and Reimbursements of \$2,088.40, employee*

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
11-27-23

*reimbursements of \$1,249.60, and payroll electronic funds withdrawals and disbursements of \$149,760.05. for a total of \$ 321,231.11; the Surety Check Register Bremer Bank fee of \$37.00, and payment of \$1,500.00 to Welch Forsman Associates for permit 21-121; the Wire Check Register in the amount of \$410,068.75 to Hennepin County for bond 2013B, and \$397,000.00 to Hennepin County for bond 2020B; and the following resolution:*

Manager Miller requested that Resolution 23-071: Second Amendment to the School Lake Preserve Conservation Easement be pulled for discussion.

*Upon vote, the motion carried 7-0.*

### **BOARD, COMMITTEE AND TASK FORCE REPORTS**

President White noted that there are no committee reports and directed the Board's attention to the upcoming meeting schedule.

### **PUBLIC HEARINGS AND PRESENTATIONS**

#### **2024 Budget and Levy Public Comment Opportunity**

Mr. Wisker briefly reviewed the budget process and provided summary of the 2024 budget approved by the Board on September 13, and the 2024 levy certified by the Board on September 13. He noted that the Truth in Taxation law provides for local taxing authorities to hold a public meeting in late November or early December to allow for further comment on the budget and levy.

President White invited public comment, and no one appeared to present comments.

### **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

#### **Permit 23-477: Amelia Stormwater Pond Maintenance, Minneapolis**

Mr. Tres Jonas appeared before the Board of Managers to review the MCWD's own application for a permit to conduct maintenance on Amelia Pond, a stormwater pond southwest of Lake Nokomis. He reviewed the project location and noted that the project involves landfill disposal of pond dredging spoils which contain arsenic. The project triggers the MCWD erosion control rule, which typically does not involve board review, but is presented to the Board of Managers because it is a District project.

*It was moved by Manager Hejmadi, seconded by Manager Miller to approve the permit application as recommended by staff.* In response to a question from Manager Miller, Mr. Jonas noted that the project would result in 900 pounds of phosphorus removal.  
*Upon vote, the motion carried 7-0.*

**ACTION ITEMS**

Resolution 23-072: Awarding Construction Contract for 2023-24 Twin Lakes Park Pond and Nokomis-Amelia Pond Dredging

Mr. Josh Wolf appeared before the Board of Managers to review the request for board action. He reviewed the tabulation of bids on the project and noted that the low bidder is Minnesota Dirt Works, Inc. He reviewed the project schedule, noting that dredging is to be completed by February 16 and vegetation restoration completed by July 15. He summarized the MCWD communications plans regarding the project.

*It was moved by Manager Sando, seconded by Manager Hejmadi to adopt Resolution 23-072 as follows:*

***NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers awards the contract for construction maintenance of Twin Lakes Park Pond and Nokomis-Amelia Pond to Minnesota Dirt Works, Inc., including the Base Bid and Alternate #1, for the contract price of \$567,099.25;***

***BE IT FURTHER RESOLVED that the District Administrator is authorized, on advice of MCWD legal counsel, to enter into a contract with Minnesota Dirt Works, Inc. for construction services for the 2023-2024 Twin Lakes Park Pond and Nokomis-Amelia Pond dredging, for the stated contract price, and further is authorized to execute change orders in his discretion up to an additional 10 percent, in aggregate, of the contract price; and***

***BE IT FINALLY RESOLVED that the Administrator is authorized to issue a formal notice to proceed to Minnesota Dirt Works, Inc., on advice of counsel and after receipt of a signed contract and required bonds and insurance documentation.***

In response to questions from Manager Miller, Mr. Wolf stated that 6,000 cubic yards of sediment would be removed from Twin Lakes pond, and he noted that District Engineer reports timely and responsive experience with Minnesota Dirt Works on other projects. In response to a question from Manager Olson, Mr. Wolf noted that the sediment was tested not only for arsenic, but a panel of 24 contaminants. The ponds to be dredged in this project have arsenic and PAHs (poly aromatic hydrocarbons). Following the dredging, the ponds will have an average depth of three to four feet, though it will vary. In response to a question from Manager Loftus, Mr. Meehan noted that the pace of sediment cumulation in stormwater ponds varies widely, that the MCWD's pond study helps to predict when maintenance is needed. Manager Miller asked about the proximity of the Twin Lakes pond to Cedar Lake, and Mr. Meehan noted that there are other ponds before discharge to Cedar Lake. In response to a question from Manager Maxwell, Mr.

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
11-27-23

Wisker noted that colder weather is most conducive to the dredging, which explains the February 16 deadline.

*Upon vote, the motion carried 7-0.*

Mr. Wisker noted that there were members of the public present who had an interest in the project. President White invited them to come forward with any questions or comments. Ms. Joan Soholt appeared before the Board of Managers and expressed her appreciation of the MCWD's collaboration with the University of Minnesota in study of groundwater in the area. She suggested that more data collection in the Nokomis area could be beneficial, and also noted concerns with invasive cattails. Mr. Wisker said that he would reach out to the University of Minnesota on data collection and follow up with the Minneapolis Park and Recreation Board on vegetation management.

Ms. Monica McNaughton appeared before the Board of Managers and noted concerns with traffic management in the area; asked whether the other pond on the west side of Lake Nokomis is also in need of maintenance; and noted other vegetation maintenance concerns with the spreading of willows. Mr. Wisker noted that we would follow up on these concerns. Mr. Meehan said that the pond identified by Ms. McNaughton is 20% full of sediment and accumulating at a slower pace, so still not in need of maintenance. President White thanked Ms. Soholt and Ms. McNaughton for their interest and comments.

Resolution 23-073: Adoption of the Land & Water Partnership Program

Ms. Kate Moran appeared before the Board of Managers to review the request for board action. She noted that staff presented the program in detail at the September 28 Policy and Planning Committee meeting. The background for this program is the MCWD's recognition that land use changes such as public infrastructure projects and private development create a window of opportunity for water resource improvements that may not reoccur for years. The Board of Managers directed MCWD staff to develop a responsive model to effectively identify and leverage these changes to the landscape. The LWP program is designed to provide technical and financial resources to support partner-led projects that provide significant, regional water resource benefit.

Ms. Moran reviewed the pilot testing of this program, and the valuable feedback and recommendations from the Technical Advisory Committee. ***It was moved by Manager Miller, seconded by Manager Maxwell to adopt Resolution 23-073: Adoption of the Land & Water Partnership Program, as follows:***

***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby adopts the LWP program and directs the District Administrator and staff to take steps necessary to implement the program on January 1, 2024.***

Manager Miller expressed his appreciation for the job well done in developing this program. He said that his only concern is whether the budget can be flexible enough when opportunities arise. Ms. Moran noted that staff have considered this need and created various budget check points to track program needs and available resources. Manager Olson noted that road improvement projects present project opportunities and emphasize the MCWD's interest in reaching beyond regulation to achieve greater shared benefits. Manager Miller agreed, and asked if the program map might also add main roads to orient managers better to project locations.

Manager Hejmadi asked if there would be a process to capture project ideas from community and not rely solely on permits. Ms. Moran noted that the 2D model and the MCWD's climate action framework provide additional opportunities to identify projects. Manager Miller commended staff for engaging with policy makers and basing the program on science. ***Upon vote, the motion carried 7-0.***

Resolution 23-071: Second Amendment to the School Lake Conservation Easement

Manager Miller noted that he had requested that this item be pulled from the consent agenda in order to hear more detail on the request. Mr. Wolf appeared before the Board of Managers to review the request for board action. He reviewed the history and explained that the proposed re-drawing of the plat in this amendment to the easement will result in no net loss of conservation area.

***It was moved by Manager Miller, seconded by Manager Olson to adopt Resolution 23-071: Second Amendment to the School Lake Conservation Easement as follows:***

***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorize the Board President to execute the Second Amendment to the School Lake Preserve Conservation easement, with nonmaterial changes and on the advice of counsel.***

***Upon vote, the motion carried 7-0.***

**BOARD DISCUSSION ITEMS**

Review of Proposed Resolutions for Minnesota Watersheds Annual Meeting

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
11-27-23

Ms. Becky Christopher appeared before the Board of Managers to review the proposed policy resolutions to be considered at the annual conference of Minnesota Watersheds. She noted that staff and legal counsel have reviewed the proposed resolutions and the Minnesota Watersheds Resolution Committee's recommendations.

Resolution #1 would require watershed district permits for the Department of Natural Resources. Staff and legal counsel recommend that the proposed language of the resolution be revised to provide that all state agencies must obtain watershed district permits. Mr. Smith stated that based on a recent conversation, he believed that this change is acceptable to the sponsor of the resolution, Wild Rice Watershed District.

Resolution #2 would clarify budget adoption deadlines and certification for watershed districts. The Resolutions Committee and staff/legal counsel do not recommend adoption of this resolution, and rather support providing best practices to support clarity and consistency in the budget and levy adoption process.

Resolution #3 would support new legislation regarding DNR regulatory authority over public drainage maintenance and reports. Staff note and legal counsel note that this resolution does not directly impact MCWD, but would support the resolution.

Resolution #4 would support streamlining the DNR Flood Hazard Mitigation Grant Program. The Resolutions Committee recommends adoption, and staff and legal counsel concur.

Resolution #5 would support increased flexibility in the Open Meeting Law to utilize interactive technology. The Resolutions Committee recommends adoption.

Resolution #6 would support Minnesota Watersheds outreach and education to encourage formation of watershed districts in unserved areas. The Resolutions Committee recommends adoption.

Manager Hejmadi asked Mr. Smith to comment on the likelihood that the Open Meeting Law change in Resolution #5 would be adopted by the Legislature. Mr. Smith noted divided opinion and the evolution of greater reliance on interactive technology for meetings since the pandemic. He said that this may be the type of legislation that eventually passes, but may take more time before there is adequate support. The managers noted the merits of in person meeting to facilitate better communication and building of relationships.

#### **BOARD INQUIRIES, ISSUES, AND IDEAS**

Manager Miller noted for the record that he has engaged Stantec to address flooding issues at his residence.

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
11-27-23

### **STAFF UPDATES**


#### **Administrator's Report**

Mr. Wisker noted that he had a brief report this evening concerning water levels. Precipitation year to date is 27.5 inches, about 3 inches below normal. Lake Minnetonka is at about two inches below the runout elevation of 928.6, and the creek is flowing at 6 cubic feet per second at Lake Hiawatha.

#### **Adjournment**

There being no further business, President White declared the meeting of the Board of Managers adjourned at 8:37 p.m.

Respectfully submitted,

  
Eugene Maxwell, Secretary