

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

December 14, 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 p.m. on December 14, 2023, at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

MANAGERS PRESENT

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

MANAGERS ABSENT

Richard Miller.

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Maggie Menden, Permitting Technician; Jill Sweet, Research & Monitoring Technician; Samantha Maul, Acting Outreach Manager; Tiffany Schaufler, Senior Project Maintenance Coordinator; Chris Meehan, District Consulting Engineer; and Louis Smith, District Counsel.

APPROVAL OF AGENDA

It was moved by Manager Maxwell, seconded by Manager Olson, to approve the Agenda as distributed. Upon vote, the motion carried 6-0 (Manager Miller absent).

MATTERS FROM THE FLOOR

None.

CONSENT AGENDA

It was moved by Manager Olson, seconded by Manager Sando to approve the items on the Consent Agenda consisting of approval of the November 27, 2023 Board meeting minutes and approval of the following resolutions:

Resolution 23-074: Resolution of Recognition for David Oltmans' Service on MCWD's Citizens Advisory Committee:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby formally acknowledges David Oltmans' contribution to the organization and expresses its deep gratitude and thanks for his service;

Resolution 23-075: Recognition of Cassandra Ordway's Service on MCWD's Citizens Advisory Committee

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby formally acknowledges Cassandra Ordway's contribution to the organization and expresses its deep gratitude and thanks for her service;

Resolution 23-076: Authorization to Execute Contract for Water Quality Lab Analysis

NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers hereby authorizes the Administrator, on the advice of counsel, to execute a contract with RMB Environmental Laboratories, Inc. for water quality lab analysis from January 1, 2024 through December 31, 2025 in an amount not to exceed \$63,215 per year.

Resolution 23-077: Selection and Authorization to Execute a Contract for Government Relations Services

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby selects Joel Carlson as the government relations consultant and authorizes the District Administrator to execute a new two-year contract with a termination date of December 31, 2025, on advice of counsel and with any non-material changes, for government relations services on retainer for an annual amount not to exceed \$28,000 or \$56,000 for the term of the contract;

Resolution 23-078: Selection and Authorization to Execute a Contract for Engineering Services

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby selects Stantec as the District engineer; and be it further resolved the Minnehaha Creek Watershed District Board of Managers hereby authorizes the District Administrator to execute a contract, on advice of counsel and with any non-material changes, with Stantec to provide engineering services on retainer for a monthly rate with additional services provided based on an hourly fee structure;

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Resolution 23-079: Selection and Authorization to Execute a Contract for Accounting Services

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby selects Abdo Financial Solutions as the accounting firm for the District; and hereby authorizes the District Administrator, on advice of counsel, to execute a contract with Abdo Financial Solutions to provide accounting services through December 31, 2025; and

Resolution 23-080: Authorization to Send Cash Sureties to the State of Minnesota Unclaimed Property Fund

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorize staff to initiate a wire transfer from the District's Bremer Bank surety funds account in the amount of \$7,275 to the State of Minnesota Unclaimed Property Fund.

Upon vote, the motion carried 6-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: President White noted that she attended the Minnesota Watersheds annual conference, about which Manager Sando will provide a report. She noted that she and Mr. Wisker had a productive meeting recently with Hennepin County Commissioner Goettel. She noted that she attended, along with Managers Hejmadi and Miller, the Policy Steering Committee for the cooperative work with the City of Minneapolis and Minneapolis Park and Recreation Board.

Operations and Programs Committee Report: Manager Loftus reported that the Committee met earlier in the evening. Samantha Maul provided a briefing on the municipal election results within the watershed, and Joel Carlson provided an overview of the upcoming 2024 Legislative Session.

Minnesota Watersheds Annual Conference: Manager Sando reviewed highlights from the annual conference, including many valuable presentations on collaborative watershed planning and flood reduction, as well as a keynote address by Mark Seeley. Manager Olson noted that there were three different presentations on chloride pollution, as well as a presentation on advanced stormwater modelling. President White noted the significance of electing a representative of the Bassett Creek WMO to the Minnesota Watersheds Board from Region 3. The managers also noted and congratulated Mike Hayman for his award as Watershed District Employee of the Year.

President White noted the upcoming meeting schedule presented in the agenda.

PUBLIC HEARINGS & PRESENTATIONS

Annual Public Hearing for Stormwater Pollution Prevention Plan

President White opened the public hearing on the MCWD's stormwater pollution prevention plan to be submitted to the Minnesota Pollution Control Agency. Ms. Maggie Menden appeared before the Board of Managers to review the background on this requirement as part of the MCWD's duties. The MCWD is regulated as a municipal separate storm sewer system (MS4) under the National Pollutant Discharge Elimination System (NPDES) Phase II rules because MCWD is the drainage authority for eight public drainage systems. Ms. Menden reviewed the elements of the MCWD's plan.

No one appeared to provide testimony or comments on the stormwater pollution prevention plan. President White closed the public hearing and thanked Ms. Menden for her presentation.

ACTION ITEMS

Resolution 23-082: Authorization to Execute a Winter Carp Removal Contract with WSB

Ms. Jill Sweet appeared before the Board of Managers to review the request for board action. She reviewed the carp management goals and past successes of the Six Mile Creek Halsted Bay Habitat Restoration Project. Going forward, the work will focus on assessing water quality and vegetation response to carp management through field data collection; maintaining infrastructure and continuing to control carp biomass to ensure continued success; and communicating MCWD's carp story with project partners and other interested public agencies. Continued carp removal is necessary in Parley Lake and Mud Lake. Ms. Sweet reviewed the goals, proposed approach and costs involved in the proposed contract with WSB.

It was moved by Manager Hejmadi, seconded by Manager Maxwell to adopt Resolution 23-082: Authorization to Execute a Winter Carp Removal Contract with WSB as follows:

NOW, THEREFORE, BE IT RESOLVED that the District Administrator is authorized, on advice of counsel, to execute a contract with WSB & Associates, for services to remove common carp in Parley Lake within the Six Mile Creek-Halsted Bay Subwatershed, in an amount not to exceed \$25,748.00.

In response to a question from Manager Sando, Ms. Sweet explained that it is not necessarily easier to net the carp in Mud and Parley Lakes, and there are challenges also with winter kill. In response to a question from President White, Ms. Sweet noted that the netting is planned in February and will require safe ice conditions.

Upon vote, the motion carried 6-0.

Resolution 23-084: Appointment of the 2024 Citizens Advisory Committee

Ms. Samantha Maul appeared before the Board of Managers to review the request for board action. She reviewed the background of alignment of the CAC with the District's strategic direction, and the recruiting and application process for next year's committee. Having briefed the Operations and Programs Committee on November 9, Ms. Maul reviewed the staff recommendations for committee appointments.

It was moved by Manager Sando, seconded by Manager Hejmadi to adopt Resolution 23-084: Appointment of the 2024 Citizens Advisory Committee as follows :

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers s hereby appoints the following individuals to the 2024 Citizen Advisory Committee

Serving 2024

Dan Flo

Denise Tennen

Marcy Bean

Rich Nyquist

Robert Glisky

Suzanne Jiwani

Serving 2024-2025

Cara Donovan

Drew McGovern

Emily Balogh

Janet Schaefer

John Iverson

Laurie Goldsmith

Lisa Fowler

Sheri Wallace

President White noted the general goal to have an equal number of members for each year's term, and Ms. Maul agreed, noting that recent events for committee members made achieving that goal difficult this year. *Upon vote, the motion carried 6-0.*

BOARD DISCUSSION ITEMS

None.

BOARD INQUIRIES, ISSUES, AND IDEAS

None.

STAFF UPDATES

Minnehaha Preserve Boardwalk Reconstruction

Ms. Tiffany Schaufler provided a progress report on the boardwalk reconstruction, including the process to document defective work, the status of reviewing proposed corrections of the defective work, and the state of communication and coordination with JTS, the MCWD's contractor. She said that the bottom line is that while there has been some movement within the last week, overall, staff remain frustrated with the pace of progress and lack of proactive communication from JTS. Ms. Schaufler reviewed the background on defective work and the process to have it corrected. Since June 30, JTS has been incurring \$100 per day in liquidated damages, now totaling \$16,800, and JTS is responsible for another \$53,535 in MCWD's engineering and legal costs.

In response to a question from Manager Olson, Ms. Schaufler stated that the MCWD is holding approximately \$240,000 – 280,000 owed to JTS. Manager Loftus stated that it appears that the liquidated damages of \$100 per day was not high enough to motivate JTS to prompt resolution. The managers discussed the range of corrective work to be done, timing considerations, and questions about available remedies. Mr. Smith stated that legal counsel is reviewing all of the options to resolve the matter, beginning with the remedies provided by the construction contract.

Following discussion, it was moved by Manager Loftus, seconded by Manager Maxwell to request that staff and legal counsel prepare a briefing on options for resolving this matter for the December 28, 2023, board meeting. Upon vote, the motion carried 6-0.

Administrator's Report

Mr. Wisker reported on the following items:

1. The managers have a copy of the Land and Water Partnership Program brochure which has been distributed to District partners.
2. As noted by President White, the Policy Steering Committee held on December 6 with the City of Minneapolis and the Minneapolis Park and Recreation Board was positive and productive. Manager Hejmadi noted the enthusiasm of participants and the eagerness to work together. President White noted the desire for more representation of council members, commissioners, and managers. Manager Hejmadi noted the importance of working on a communications plan.
3. Staff updates, in addition to Mike Hayman's award as Watershed District Employee of the Year, include Maggie Menden's promotion as a new permitting technician. Abigail Ernst moved to the Carver County water management organization. Several staff

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members attended an interesting conference of the American Geophysical Union, which included extensive seminars on climate change and climate model downscaling. The conference stimulated great insights to the impacts of climate change, a variety of engineering solutions, and the challenge of public engagement. Staff brought back a variety of insights to apply to the MCWD's work.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 8:35 p.m.

Respectfully submitted,


Eugene Maxwell, Secretary