

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

October 12, 2017

CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by President Sherry White at 6:50 p.m. at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

MANAGERS PRESENT

Sherry White, Brian Shekleton, Richard Miller, Kurt Rogness, William Olson, Bill Becker, Jessica Loftus.

MANAGERS ABSENT

None.

DISTRICT STAFF AND CONSULTANTS PRESENT

Lars Erdahl, Administrator; James Wisker, Planning and Projects Director; Becky Christopher, Lead Planner-Project Manager; Tiffany Schaufler, Project and Land Program Manager; Katherine Sylvia, Permitting Program Lead; Chris Meehan, Consulting Engineer; Chuck Holtman, Counsel.

MATTERS FROM THE FLOOR

None.

APPROVAL OF AGENDA

Manager Olson moved, Manager Rogness seconded to approve the agenda with the deletion of Item 4.1, MAWD Resolution Process Update, and the addition of a compliance report as Item 11.4. Upon vote, the motion carried 5-0 (Managers Shekleton, Miller absent from room).

CONSENT AGENDA

Manager Rogness moved, Manager Shekleton seconded to approve the consent agenda consisting of the September 28, 2017 minutes and Resolution 17-063, Authorization to Apply for Funding Assistance for 325 Blake Road, as follows:

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NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes staff to apply for funding assistance through the Metropolitan Council TBRA Program and Hennepin County ERF Program.

Upon vote, the motion carried 7-0.

REGULAR AGENDA

Board, Committee and Task Force Reports

President's Report

President White attended the 50th Anniversary event at Minnehaha Glen today and thanked Darren Lochner and Sarah Bhimani for their good work on the event. Last week, President White attended a hearing held by Senator Torres-Ray concerning the management of the Hiawatha Golf Course by the Minneapolis Park and Recreation Board. The District continues to offer itself as a technical resource as issues are worked through. President White thanked Manager Shekleton, Mr. Erdahl, Mr. Wisker, Telly Mamayek, Mike Hayman, Louis Smith and Joel Carlson for their work on this matter. President White noted that Metro MAWD will meet next week and that the MAWD Resolution Committee will meet on October 24.

Policy and Planning Committee Meeting Report

Manager Miller reported on the meeting just concluded, which focused principally on the 325 Blake Road request for qualifications development and the District's work with the City of Hopkins. The Committee also received a staff report at Manager Becker's request regarding the success ratio on projects developed over the last ten years.

Citizens' Advisory Committee Report

Manager Loftus reported on the October 11 CAC meeting, her first as a manager. The CAC received a report on aquatic invasive species, including the zebra mussel issue at Lake Harriet and Minnewashta Lake. Two staff members made a presentation about the Project Maintenance and Land Management Department. Praise was given for the Gray's Bay Dam operation. Mr. Lochner provided an overview of the Master Water Stewards program. It was learned that the Long Lake Friends Association has achieved organizational status. Manager Loftus reported that now that the watershed management plan and cost-share program matters have been largely moved forward, the CAC would like Board direction as to areas of focus and contribution.

The managers discussed the best way to consider and provide direction. President White asked that a discussion be scheduled for an upcoming agenda.

Public Hearing, Watershed Management Plan

Ms. Christopher reviewed the general approach of the draft Watershed Management Plan revision (WMP), the external and internal processes by which it has been developed, and the status of the formal review process. She noted that 34 comment letters were received and reviewed by the Board at its September meeting, and that Board-approved responses were authorized and sent out on October 2. Ms. Christopher reviewed the hearing notice that was published and transmitted per statute and placed on the District website.

President White opened the public hearing.

Dick Hawley, President of the Zumbra Ridge Homeowners Association, introduced Scott Leonard, a past president and active member of the Association. Mr. Leonard read a statement regarding a long-standing issue concerning water level and drainage in Lake Zumbra.

Mr. Leonard stated that the Association has as members 50 homes and one non-profit institution with access to Lake Zumbra. He described the issues concerning Stone, Zumbra, Sunny and Auburn Lakes and the hydraulic system of which they are a part. He noted that the issues go back to the 1960's, as reviewed in the District's 2003 HHPLS study. The Association has sought assistance from the District, as well as the Minnesota Department of Natural Resources (DNR), the Three Rivers Park District (TRPD), Carver County and the City of Victoria, but the issue has not been resolved. He referenced the backflow into Lake Zumbra from Stone Lake that limits the ability of Lake Zumbra to drain. The result is flooding, persistent no-wake conditions and shoreline erosion. He asserted that obstruction by debris and the lack of District maintenance contributes to the issue. He also noted culvert updates in 2012 that have exacerbated the problem, suggesting District involvement in that work. He stated that the Association has requested information from both the DNR and the District but it has not been forthcoming. He further reviewed a recent history in which the District, after study, identified three potential remedies but concluded that none merits implementing. Mr. Leonard said all but three homes comply with the 2017 City Code regarding flood elevation, and all three have taken flood protection steps. Mr. Leonard characterized and disputed several statements of District staff at the April 13, 2017 Board of Managers meeting: first, that concerns stem from the 2014 flooding but, said Mr. Leonard, they have been long-standing and systemic; second, that a solution would affect downgradient properties but, Mr. Leonard stated, this has not been quantified; and third, that there is no permanent solution, but Mr. Leonard offered that this has not yet been demonstrated. The Association would like the Board to amend the draft WMP to include a statement of its resolve to determine and implement a true and permanent solution.

Manager Shekleton asked what a solution might be. Mr. Leonard replied that installation of flap gates, raising of culverts and system maintenance have been discussed, but that the Association looks to the District for its technical expertise. President White replied to Mr. Leonard that the Association commented on the WMP and that the Board has provided a response to those comments. It has directed that District staff convene with other groups and seek to move the

matter forward. Manager Miller noted that there is more water coming down Minnehaha Creek each year and he does not favor putting more water into Lake Minnetonka. Mr. Leonard replied that the Association is not seeking that outcome, but is advising that the designed system for Lake Zumbra is flawed.

Mr. Wisker responded to certain elements of Mr. Leonard's statement. He reviewed the communications from staff to the Board beginning in 2014 regarding staff's work with other relevant government units and property owners. Mr. Wisker emphasized that the District does not own or operate, or have responsibility to maintain, elements of the hydraulic system. Culverts are owned and maintained by the road authorities. He said that the District received a request from the DNR for homeowner permit data to which it responded, and that he is not aware of any request for documents to the District directly from the Association or homeowners. Mr. Wisker further emphasized the Board's awareness that the problem is longstanding and relates principally to the topography in which the several lakes equalize elevation. Accordingly, addressing the system would require increasing the discharge at the effective outlet, which would have impacts downstream mostly on TRPD land. Mr. Wisker noted that at the time the riparian land developed, the DNR advised of potential issues relating to the difficult hydraulics caused by the natural topography. Finally, Mr. Wisker reviewed a recent meeting referenced by Mr. Leonard at the Lowry Nature Center that involved the relevant public agencies and homeowners. It was agreed that the City of Victoria would design a flapgate at the Lake Zumbra outlet and would take it to the TRPD for permitting, with District assistance in coordinating with the DNR and other technical reviews. To Mr. Wisker's knowledge, the authority to contract for design never passed the City Council. In closing, Mr. Wisker suggested that a WMP revision is not needed since the WMP does not limit projects that may arise from collaboration over time.

President White closed the public hearing.

Mr. Hawley reiterated that the problem has existed since the 1960's and is caused in part by culverts and other restrictions.

Manager Miller moved, Manager Shekleton seconded adoption of Resolution 17-06 as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes staff to distribute the revised Plan, including any final non-substantive edits, to the BWSR, Met Council, and state review agencies for final review and BWSR approval.

Ms. Christopher reviewed the proposed substantive revisions and advised of staff's intention to finalize edits and layouts with a goal to distribute the plan and related material to BWSR and state review agencies by October 25.

Upon vote, the motion carried 7-0.

Manager Rogness complimented Ms. Christopher for a remarkable job in bringing the WMP forward. President White offered plaudits to Ms. Christopher for WMP development and particularly for the engagement process and internal strategic planning. President White observed public process and was impressed by the control and respectfulness shown by Ms. Christopher and staff during it. Manager Miller added that the WMP has been very well executed and well received. Mr. Erdahl supported the comments of President White, especially with respect to how Ms. Christopher spearheaded community support and buy-in. Manager Shekleton added that Ms. Christopher led a very sound process to bring on board other units of government that have not always been District allies, gaining their concurrence in the District's approach that itself has been newly developed. Manager Olson concurred in these sentiments. Mr. Wisker offered a lengthy statement to formally recognize and thank Ms. Christopher both for WMP development and for the realignment of all the District's departments and functions around the WMP approach.

Resolution 17-064: Payment to City of Minnetrista for Road Assessment

Ms. Schaufler presented the proposed resolution to authorize District payment of a road assessment. *Manager Miller moved, Manager Olson seconded adoption of Resolution 17-064 as follows:*

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the District administrator to pay the City of Minnetrista an assessment in the amount of \$29,636.98 for the Halstead Drive Street Improvement Project.

Upon vote, the motion carried 7-0.

Resolution 17-065: Conveyance of Excess Flood Storage Volume to City of Minnetrista

Ms. Schaufler presented the proposed resolution authorizing the District to convey to the City of Minnetrista 750 cubic yards of excess flood storage volume from the Jennings Bay Wetland Restoration/Floodplain Mitigation Project, which includes just under 500 cubic yards that the District previously agreed to convey for the City's use as flood storage replacement for the Enchanted Lane project, as well as the remaining 250.5 cubic yard excess from the project. The City would pay the District the unit construction price for the flood storage volume.

Manager Olson moved, Manager Becker seconded adoption of Resolution 17-065, as follows:

NOW, THEREFORE, BE IT RESOLVED, that the Minnehaha Creek Watershed District Board of Managers concurs in conveying the entire 750 cubic yards of excess flood storage volume from the Jennings Bay Wetland

Restoration/Floodplain Mitigation Project to the City for a payment of \$37,450.33 and authorizes and ratifies that transaction.

Upon vote, the motion carried 7-0.

Wetland Permitting Matter

Ms. Sylvia reported on activity at 19735 Manor Road in Deephaven that is the subject of a communication received regarding potential non-compliance and wetland impact. Ms. Sylvia reported that work was initiated in wetland and associated buffer without a required District permit, principally for the homeowner's purpose of implementing a native vegetative plan. The homeowner does now have a District permit and is performing the work in accordance with it, with District staff oversight.

Replying to Manager Loftus, Ms. Sylvia stated that if the after-the-fact plan had been submitted in a timely way, staff would have found it compliant and approved it. Responding to Manager Olson's question, she clarified that a tree removal issue concerns trees on the northern edge of wetland within the City of Deephaven right-of-way. The trees are not in the wetland and the violation is a matter within the City's jurisdiction. Ms. Sylvia advised that she will respond to the complainant that the Board has been briefed on the matter, that the work is now occurring under a District permit, and that staff is monitoring the activity.

ADMINISTRATOR'S REPORT

Mr. Erdahl noted that the District 50th Anniversary awards event is in three weeks and thanked Ms. Mamayek for her work on event planning. Next week is the Minnesota Water Resources conference; the District will participate in two presentations, one involving Kelly Dooley, Anna Brown and the District engineer, and the second involving Eric Fieldseth and Steve McComas of Blue Water Science.

Mr. Erdahl noted that the District participated in a presentation last Friday at the legislative hearing regarding the Hiawatha Golf Course. On Tuesday he met with Kris Larson and Ann Thies of the Minnesota Land Trust regarding conservation easement monitoring. The Land Trust is not interested in a contractual enforcement role at this time but can assist District staff in managing District land.

Manager Miller asked whether any other third-party land trust entities might be available to provide contractual assistance. Manager Becker said he is not aware of any others. Manager Miller replied that the District therefore needs to develop its own plan for Big Island easement monitoring and enforcement. He emphasized that there are both District and State interests in the conservation purposes of the easement due to the fact that both were funding sources for the easement.

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Manager Olson moved, Manager Miller seconded that the Administrator is to create a plan to enforce the District's easements on Big Island. Upon vote, the motion carried 7-0.

Mr. Erdahl reported that the District has just received bank and police reports regarding an attempted fraudulent wire transfer previously noted to the Board and that was prevented by bank controls. The matter will be included in this year's audit report. Manager Miller noted that he regularly receives fraudulent emails seeking to prompt District wire transfers.

Manager Miller moved, Manager Becker seconded that the Administrator is to give all information regarding this matter to the District auditor and to make sure that present systems are appropriate to prevent the unauthorized transfer of funds.

Mr. Erdahl added that the District soon will be issuing solicitations for accounting and banking services and the RFQ will speak to this. He noted that Springsted has offered guidelines.

Upon vote, the motion carried 7-0.

Mr. Erdahl advised managers to contact staff if they would like reservations made for the MAWD conference.

ADJOURNMENT

There being no further business, the regular meeting of the Minnehaha Creek Watershed District Board of Managers was adjourned at 8:30 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Kurt Rogness". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Kurt Rogness, Secretary