

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

**November 9, 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 District Offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

**MANAGERS PRESENT**

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

**MANAGERS ABSENT**

None.

**DISTRICT STAFF AND CONSULTANTS PRESENT**

Lars Erdahl, Administrator; Renae Clark, Planner-Project Manager; Telly Mamayek, Communications and Education Director; Laura Domyancich, Project and Land Technician; David Mandt, Operations and Support Services Director; Anna Brown, Planner-Project Manager; Mike Hayman, Planner-Project Manager; Darren Lochner, Education Program Manager; Kelly Dooley, Water Quality Manager; Chris Meehan, District Consulting Engineer; Chuck Holtman, District Counsel.

**MATTERS FROM THE FLOOR**

Mr. Lochner introduced Terry Hammink, Master Water Steward, and Laura Morris, President, Parkway Place Townhome Association, who made a brief presentation about a raingarden project installed on the townhome property with a \$100,000 cost-share grant from the District and additional funding from Hennepin County. The area of asphalt was reduced by 20 percent. Mr. Hammock noted his Master Water Steward training and its emphasis on keeping stakeholders including homeowners informed and engaged. He noted that ten reports were presented to interested parties over two years with numerous other appearances at events. Ms. Morris added that the District's funding allowed the organization to do what it knew was right and thanked the Board.



**APPROVAL OF AGENDA**

*Manager Becker moved, Manager Olson seconded to approve the agenda. Upon vote, the motion carried 6-0.*

**INFORMATION ITEMS/CORRESPONDENCE**

President White referenced the District's 50<sup>th</sup> Anniversary history brochure in the packet.

**CONSENT AGENDA**

*Manager White moved, Manager Loftus seconded approval of the consent agenda, consisting of the October 26, 2017 Board minutes, with a correction at line 89 changing "exciting" to "existing." Upon vote, the motion carried 6-0.*

**REGULAR AGENDA**

Board, Committee and Task Force Reports

President's Report

President White thanked Ms. Mamayek for the excellent Sunset Celebration 50<sup>th</sup> Anniversary event on November 2 and noted great representation from the community and how impressed she was with the breadth of engagement and accomplishment of the honored Watershed Heroes. She thanked Ms. Mamayek for the year's work including the videos describing the District's history. Ms. Mamayek thanked Sarah Bhimani and Mr. Lochner.

President White also noted the ribbon cutting that occurred today at the Oxford Village development adjacent to Cottageville Park.

Manager Loftus reported on the Operations and Programs Committee meeting. Topics included an update on the 325 Blake Road request for qualifications; a human resources plan update and a discussion of the Big Island conservation easement. A human resources discussion is planned for the December 14 meeting.

Manager Becker attended the Citizens' Advisory Committee (CAC) meeting. A presentation concerned a Lego League competition regarding monitoring buoys. Ms. Dooley and Eric Fieldseth made a presentation on E-Grade with member discussion and there was further discussion as to the CAC purpose going forward. Manager Becker reported that the discussion led to the conclusion that a focus group should be convened, facilitated by District staff and including District staff and board members and CAC members. A motion was passed to form a joint committee for discussion.



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***Manager Becker moved, Manager Miller seconded to endorse and support this undertaking. Upon vote, the motion carried 6-0.***

President White noted the upcoming meeting and event schedule, and that the indicated 4:30 p.m. starting times for committee meetings should be 5:15 p.m. Manager Becker asked that the agenda note which Board member is assigned to attend each indicated CAC meeting, and also include the Metro MAWD meeting.

Release of 325 Blake Road Request for Qualifications

Mr. Hayman reviewed the history of alteration of the natural conditions within the Minnehaha Creek corridor; the history of the District's interest in the 325 Blake Road site and its role in transforming the Greenway; and the partnership planning that has occurred regarding the creek corridor and the broader area. He reviewed the District's and larger public vision as expressed in the request for qualifications (RFQ), the RFQ components and the schedule for review of submittals.

Mr. Hayman related that once the RFQ has been published, staff will continue to work on developing the scoring criteria and the selection process details. He reported that City of Hopkins and Hennepin County staff, the Southwest Community Works Blake Corridor Subcommittee, the Hopkins City Council and the District's advisors all were consulted in developing the RFQ. The intent is to release it in mid-December or early January, with developer selection in the first quarter of 2018. In the meantime, stormwater, decommissioning, grant seeking and demolition planning activities will continue.

***Manager Rogness moved, Manager Becker seconded to adopt Resolution 17-068, as follows:***

***NOW THEREFORE BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the District Administrator to release the Request for Qualifications for Master Developer for the 325 Blake Road – Hopkins Cold Storage redevelopment site, with non-substantive edits to the document and schedule based on advice of MCWD legal counsel, Hopkins City Council and the Southwest Community Works Blake Road Station Subcommittee.***

Manager Miller commended Mr. Hayman on the excellent and knowledgeable presentation and the inclusion of community partners in the process. He commended Mr. Hayman, James Wisker and Louis Smith for their work.

***Upon vote, the motion carried 6-0.***



Ordering Arden Park Restoration Project, Approving Project Agreement and Authorizing Design Contract

Ms. Clark introduced Ann Kattreh, City of Edina Parks and Recreation Director, who is present in the event of any questions. She reviewed the District's Balanced Urban Ecology strategy and the history of the project as an outgrowth of that strategy. She reviewed the issues, drivers and strategies defined for the Minnehaha Creek subwatershed within the District's watershed management plan, principally treating regional stormwater, restoring the creek corridor and expanding greenspace within the built environment. She related these to the Arden Park project goals. Ms. Clark then reviewed the project history, beginning with the 54<sup>th</sup> Street Bridge reconstruction in which the City first engaged the District. Ms. Clark noted that the project integrates the Edina 2015 strategic plan for parks with District goals for the corridor. She reviewed the public process that has occurred to date regarding the project and noted that the City Council approved the concept plan, project agreement and design scope of work at its September 19, 2017 meeting.

Ms. Clark reviewed issues that were raised at the October 26, 2017 public hearing. Land title issues were raised, but on followup the City has advised that there are no issues. Regarding the historic creek alignment, Ms. Clark responded that there is evidence that the original channel was moved for dam location and also filling related to creating the park. The proposed realignment is not strictly to reproduce the historic alignment but to maximize ecological lift, limit tree removal, preserve specimen trees, and accommodate the City's recreation design. As to project efficacy monitoring, the District has existing data that it will supplement next year, and this will allow the District to assess project performance through subsequent data collection.

Ms. Clark then reviewed the concept plan, including the park improvement goals derived from community involvement. She showed the area of approximate impact and noted a tree survey finding 90 trees may be affected. The District believes the design can limit impact below that number. She reviewed stream health summary criteria and compared existing versus proposed conditions with respect to those criteria. She then reviewed the proposed project agreement and the thinking underlying the allocation of roles between the District and the City. Mr. Holtman noted that the agreement in the Board packet differs slightly from the agreement as approved by the City Council, specifically in that Section 17 applies up to the date of contract award, not bid opening, and Section 17 A should be considered deleted.

(Manager Shekleton arrived at this time.)

Ms. Clark then reviewed the staff recommendation to enter into a design contract with Inter-Fluve, with Wenck Associates and Hart Howerton as subconsultants, without undertaking a competitive process as contemplated by Board policies. The reason for this is the prior experience of the consultant team working within the Minnehaha Creek corridor, including developing the concept plan for this project, as well Inter-Fluve's national reputation for this specialized work. Staff has negotiated a proposed scope and price to align with prior work and



Ms. Clark notes that the design cost, as 14 percent of estimated construction cost, meets benchmarks.

Ms. Clark noted that the City Council has asked City and District staff to develop a public engagement process. This proposed process will be reviewed by the Parks Committee and then City Council. The proposal is to use the Parks Committee as the locus for communications and reporting to the public, followed by briefings to the City Council and the District Board.

*Manager Rogness moved, Manager Miller seconded adoption of Resolution 17-069 as follows:*

***NOW THEREFORE BE IT RESOLVED that pursuant to Minnesota Statutes §103B.251 and the WMP, the MCWD Board of Managers orders the Project, with a total estimated MCWD cost (including design, construction, and construction oversight) of \$2,350,590.***

***BE IT FURTHER RESOLVED the Board of Managers hereby approves the presented Cooperative Agreement with the City of Edina providing for coordination and cost sharing in design and construction of the Arden Park Restoration Project, integrating creek restoration, creek corridor improvements, stormwater management and park improvements, and authorizes the Board President to execute the agreement, with any further non-material changes and on advice of counsel, and authorizes the MCWD Administrator to implement the agreement, including developing and carrying out the public information plan and cooperating with the City to seek grant funding;***

***BE IT FINALLY RESOLVED the Board of Managers hereby authorizes the District Administrator to execute a project design contract with Inter-Fluve in accordance with the presented scope of work, with non-material changes and on advice of counsel, for the not to exceed amount of \$440,265.***

Manager Olson inquired about the trail leading from the bridge on the concept design. Ms. Clark replied that conceptually the trail is asphalt on what is presently an eroded slope but the intent is more naturalizing with the use of boulders. Also responding to Manager Olson, Ms. Clark reviewed the proposed bioretention ponds and the catchments that they will treat. The pond to the northeast is the largest catchment of about 80 acres. Altogether, the bioretention ponds are estimated to remove 26 pounds of phosphorus per year from a total area of about 100 acres.

Responding to questions, Mr. Meehan depicted the entire drainage area as encompassing an area north to 50<sup>th</sup> and France. He noted that the City has installed facilities to capture stormwater as a part of its roadwork, with the proposed practices here intended to capture remaining areas.

Responding to Manager Olson, Ms. Clark stated that any grants received would be allocated between the City and District in proportion to the cost allocation for the grant-eligible work.



Manager Miller commented that the high quality work of the District's consultants was important to obtaining City approval. He noted that the project has been somewhat controversial and that Ms. Clark's professional demeanor and patience have been critical to its successful advance.

Manager Becker and President White extended their thanks to the City for working with its constituents and the District to move the project forward.

#### Information Technology (IT) Plan

Mr. Erdahl introduced Carolyn Adams, North Point GIS, who has worked with the District for several years and helped to develop the IT plan. Mr. Erdahl reviewed the goals of the IT Plan to coordinate on a common interface and improve the website as a portal for staff, managers and the public. An important element of this is to move towards a device-friendly format.

Ms. Adams reviewed the approach of the plan and some choices that the District could make, as well as a proposed roadmap and schedule to implement the plan over the years 2018-20. Mr. Erdahl added that staff would come to the Board for approval as individual phases and projects are launched.

Manager Shekleton inquired about the mobile compatibility of Arc GIS and Laserfiche. Ms. Adams replied that these elements are mobile compatible, though the website itself is not fully so, meaning that the portal may not be fully formed to mobile access but the elements themselves would be. The website updating is scheduled for 2019 but the Board could advance that.

Manager Rogness asked if the WISKI data program is web accessible. Mr. Erdahl replied that it isn't used that way now, but rather is shared with specialists and other specifically interested parties through other mode of access. In 2020, the District would look at what parts of WISKI may be more generally available and useful. Ms. Dooley added that the Board did authorize the purchase of a web-based WISKI but that staff chose not to pursue that aspect yet.

Mr. Erdahl said that with Board approval of the plan, staff would intend to return in December with a work plan that incorporates the plan. He reviewed the budget breakdown in the plan, with estimated annual costs of \$121,000 to \$130,000 (2018), \$114,000 (2019) and \$107,000 to \$123,000 (2020). The next steps would be a staff updating of the 2018 work plan, initiation of the 2018 first-phase work elements, and ongoing implementation of the plan with Board approval of each project and committee updates.

Ms. Adams replied to Manager Olson that Amazon currently is hosting the District's GIS data. Regarding system security, she stated that Arc GIS has sophisticated authentication, as should the District's website. The District should have standard firewalls in place and Amazon has them also.



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Responding to Manager Olson, Ms. Adams noted where the plan and budget includes staff training. Manager Rogness asked staff where the District might advance or defer certain projects. Mr. Mandt replied that permitting presently is by far the most interconnected and developed element and is “shovel ready” to be further developed under the plan. In addition, he would recommend an emphasis on advancing those elements of the District system that are currently operating below their licensed level. Probably the biggest priority is capital project management, which needs to be digitized.

Manager Miller asked about staff engagement in plan development. Mr. Erdahl replied that the staff IT working group had many meetings, including a recent meeting on implementation priorities. The permitting staff in particular has been very involved as permitting has been identified as an early priority. Manager Miller cautioned that the District not do more than it needs to and create a bigger risk than necessary in the event that the system as developed encounters unexpected problems. Mr. Mandt noted that to a large extent the District is investing in technology that has already been installed and conformed to the District’s needs, principally GIS and Laserfiche.

Manager Shekleton offered that he is uncertain of the efficiencies that will be gained. He would ask the question of how staff will function more effectively or how the public will have its needs served and questions answered more efficiently. Manager Loftus noted \$176,000 in available funds versus \$350,000 in needs for the three-year plan. Mr. Erdahl replied that typically the District budgets annually, with the existing available funds cited by Manager Loftus from carryover.

Manager White asked what the District would be able to do in a year that it can’t do now. Ms. Adams replied that one capacity would be full life-cycle permitting. Manager Rogness asked if WISKI is now an effective tool. Mr. Dooley emphasized that staff uses it every day for connections from the field, trend graphing, data sharing and QA/QC.

Manager Shekleton questioned whether the District policy of competitive professional services retention for contracts over \$25,000 would be undermined by the implementation being broken up into many smaller projects. Mr. Erdahl replied that in each case the District can ask whether competition is appropriate regardless of the project budget or whether there are unique capabilities in a particular consultant. Manager Shekleton said further that he doesn’t understand the vision for how everything should be linked. He believes that data architecture should follow from answers as to how the data should flow and for whom. Mr. Erdahl replied there is a need to weave the system as the District proceeds, based on the needs and as developed through each project. Responding to Manager Becker, Ms. Adams emphasized that she begins each project by looking at the business function to be accomplished and the work flow. Manager Becker said he is less concerned than Manager Shekleton that the full structure is not yet conceived, and believes that proceeding more dynamically pushes an organization forward.

Manager Loftus asked how the District would retain the flexibility and capacity to select better product components than those already proposed to be incorporated. President White offered that



she is comfortable proceeding with a recommendation from staff and the District's professional consultant.

***Manager Becker moved, Manager Olson seconded to direct the Administrator to incorporate implementation of the Information Technology Plan to update the 2018 IT Workplan and Budget, present the individual elements of the 2018 Workplan to the Board of Managers for review and approval, and initiate the scoping for the Capital Project, Project Management and Land Management database.***

Manager Miller said he is not convinced that staff has been sufficiently involved. Manager Loftus offered that she doesn't see a need to rush into implementation. Manager Shekleton would like more Board engagement through the committee structure. ***Upon vote, the motion failed 3-3-1 (Managers Shekleton, Loftus, Rogness opposed; Manager Miller abstaining).***

***Manager Shekleton moved, Manager Becker seconded to move the matter to the appropriate committee and to work further with staff. Upon vote, the motion carried 7-0.***

#### MAWD Delegation Selection

***Manager Rogness moved, Manager Shekleton seconded to name President White and Manager Olson as the Board delegates. Upon vote, the motion carried 7-0.***

#### BOARD DISCUSSION ITEMS

##### MAWD Resolution Consideration

***Manager Miller moved, Manager Olson seconded to authorize the Board's delegates to determine the Board's position on resolutions. Upon vote, the motion carried 7-0.***

##### Wasserman West Design Scope

Ms. Brown presented the proposed design scope for the recreational and conservation development of the Lake Wasserman property in coordination with the City of Victoria. No action is requested for tonight.

Ms. Brown said that the scope is to be considered by the City Council on November 27. She reviewed the subwatershed implementation strategy under the District's watershed management plan, the history of District interest in the property and coordination with the City, the history of Board involvement and the preceding actions of the District to acquire the property and to develop a cooperative agreement with the City for District transfer of the property to the City after partnered development of preliminary plans. The District and City signed a cooperative agreement in the spring; subsequently the District closed on its acquisition, and now it holds fee title.



Ms. Brown reviewed the concept design for development of the park space and District water quality and vegetation enhancement work on the associated wetland and riparian area. The estimated cost for alum treatment of the basin is an initial \$50,000 cost with another \$10,000 every several years thereafter. The concept estimate for the upland parkland development is about \$1.9 million.

Staff will recommend that the District retain Hart Howerton and Wenck Associates as uniquely qualified, in part through their development of the concept plan. The goal of the scope is to generate a robust cost estimate for purposes including grant applications. The scope has three phases: data collection, an alum treatment plan and a 30-percent park design. Ms. Brown reviewed the schedule of the design process and public engagement that is anticipated, the design cost for each phase subtask and the timeline, with Board and City Council approval and property transfer in Spring 2018.

Manager Miller asked whether this is a priority project because of its location in the subwatershed or whether it is prompted by opportunity. Ms. Brown replied that the property is situated midway within the subwatershed and will not result in a direct impact on water quality in Halsted Bay, but that it is a real estate opportunity in concordance with previous identified opportunities and will result in a significant load reduction to Lake Wassermann. Mr. Meehan added that it will remove about 76 pounds per year of phosphorus, which is about seven percent of the necessary load reduction.

#### Big Island Nature Park Easement Enforcement

Mr. Erdahl noted that several people from Orono are in the audience and introduced Ms. Domyancich.

Ms. Domyancich reviewed the District's standard approach as to easement monitoring, which includes an inspection at least annually, documentation and communication with the owner if there are issues. The District also will inspect if there is a complaint or other information suggesting an inspection is needed. In the case of Big Island, 30 to 40 trees had their limbs cut and shoreline vegetation was cut. Here, staff notified the Interim City Administrator and gave a timeframe for the City to chip the limbs and spread the chips on existing trails. City staff was responsive. Ms. Domyancich also noted mutual recognition of City Council and staff turnover. The City now is recognizing its lack of institutional knowledge. District and City staff have made strides over the past two months and have agreed to meet twice a year.

Mr. Erdahl added that he and Ms. Domyancich met with the Interim City Administrator and the Public Works Director to understand the role of the Big Island Committee as an advisory body to the City Council and the Council's posture of directing staff management. Mr. Erdahl and Ms. Domyancich have communicated several times to the City the value of the easement to the District, and Mr. Erdahl believes the City has heard that. The District has asked for early contact and recently received a commitment from the City that District staff will be included proactively in discussion of City activity.



Victoria Seals, Orono City Council, stated that she agrees that the City did not communicate properly with the District but that it was not willful. She believes there is now a good understanding, including specifically what constitutes the scope of trail maintenance. She said that the City certainly is able to plant more trees if that should be an appropriate restoration step. She would like the two bodies to work together to achieve resource goals and to be effective in making small management decisions. She believes that the City shares the District's conservation goals. As a City Council member she would like better communications and would like to understand more effectively.

Gabriel Jabbour asked that the City Council recognize that the City did not act properly and will take restoration actions as are determined to be needed. He is concerned about future coordination and has asked Councilmember Seals to work to achieve a Council majority to support the posture that she describes. He asked that the District maintain its diligence still. He also suggested that there would be private funds available to partner, including for vegetative restoration activity.

Manager Becker offered that he appreciates Council Member Seals' thoughts and tends to think that a lot of the issue probably is due to ineffective communication.

***Manager Becker moved, Manager Miller seconded to direct staff to prepare a generic stewardship plan for Board approval for application to all District easements consistent with guidance published by the Land Trust Alliance, and to direct that a letter to the City be drafted and presented for Board review and approval stating the District's intent to enforce the easement including but not limited to court action, as necessary to protect ecosystem services secured by the easement.***

Manager Becker explained that the concept of ecosystem services includes preventing erosion, maintaining soil capacity and similar functions served by the easement and that the stewardship plan should include contacting landowners on a regular basis, defining action for violations in a hierarchical fashion and providing for the resources to carry out the program.

***Manager Olson requested division of the question.*** President White recognized the division.

Manager Miller stated that he does not live on the lake but is willing to spend the funds in order to secure the broad public benefits. The easement belongs to the District's taxpayers. President White expressed frustration at the challenge of conveying the District's vision to the City Council, which she sees as a prerequisite to successful long-term cooperation. She noted to Councilmember Seals that in May she and Mr. Erdahl met with the Councilmember and that copies of the easement and management plan were in front of the parties at that time. Councilmember Seals said that she will advocate the necessary restoration to the City Council. It was not her intent to say that the District did not communicate properly and she would like to strengthen communication going forward.



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Manager Shekleton emphasized that the easement is a legally binding agreement and that the City did not uphold its legal obligation under the easement at a time when it was aware of the document. He appreciates the Council member's good will in coming to the Board, but the City has to uphold its obligations both in letter and in spirit or there will be a problem. Manager Miller added that the District is a trustee, as well, of the substantial state funds that went into the acquisition.

Tom Kohler, Orono, asked for more specifics regarding the violations. Ms. Domyancich reiterated that they included shoreline vegetation cut from the riprap, the cutting of tree limbs and a burn scar from an illegal bonfire.

Mr. Jabbour added that there are issues concerning dock maintenance and the use of the property for a wedding, among other violations.

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

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

#### **ADMINISTRATOR'S REPORT**

Mr. Erdahl reported that many compliments have been received regarding the Sunset Celebration. He is in the process of scheduling an Executive Committee meeting.

#### **ADJOURNMENT**

There being no further business, the regular meeting of the Minnehaha Creek Watershed District Board of Managers was adjourned at 11:10 p.m.

Respectfully submitted,

  
Kurt Rogness, Secretary