

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

4
5 **September 28, 2023**

6
7 **CALL TO ORDER**

8
9 The regular meeting of the Minnehaha Creek Watershed District Board of Managers was
10 called to order by Vice President William Olson at 7:00 pm on September 28, 2023, at
11 the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

12
13 **MANAGERS PRESENT**

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

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17 **MANAGERS ABSENT**

18 Sherry White, Jessica Loftus, and Eugene Maxwell.

19
20
21 **DISTRICT STAFF AND CONSULTANTS PRESENT**

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23 Becky Christopher, Acting Administrator; Michael Hayman, Director of Project
24 Planning; Alex Steele, GIS Coordinator; Abigail Ernst, Permitting Technician; Chris
25 Meehan, District Consulting Engineer; and Louis Smith, District Counsel.

26
27 **MATTERS FROM THE FLOOR**

28 None.

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31 **APPROVAL OF AGENDA**

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33 *It was moved by Manager Miller, seconded by Manager Hejmadi to approve the*
34 *Agenda as distributed. Upon vote, the motion carried 4-0.*

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36 **CONSENT AGENDA**

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38 Manager Miller requested that Item 7.2, Resolution 23-053: Approval of Cross-easement
39 for Cottageville Park Phase II be pulled from the Consent Agenda. *It was moved by*
40 *Manager Miller, seconded by Manager Hejmadi to approve the remaining items on the*
41 *Consent Agenda consisting of approval of the September 14, 2023 Board Meeting*
42 *Minutes; approval of the General Check Register, including check numbers 42364*
43 *through 42394 in the amount of \$179,158.19, electronic funds withdrawals of*
44 *\$30,462.72 Managers Per Diems and Reimbursements of \$950.56, employee*
45 *reimbursements of \$60.01, and payroll electronic funds withdrawals and disbursements*
46 *of \$146,715.89. for a total of \$ 357,347.27; the Surety Check Register Bremer Bank fee*

47 *of \$37.00; payment of \$5,000 to L&R Landscaping for permit 22-497; and payment of*
48 *\$5,000 to Southwood Shores Homeowners Association for permit 18-464; the Wire*
49 *Check Register in the amount of \$3,028,047.05; and the following resolution:*

50

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

53

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

57

58 *Upon vote, the motion carried 4-0.*

59

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

61

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

66

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

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73 *Upon vote, the motion carried, 4-0.*

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75 BOARD, COMMITTEE AND TASK FORCE REPORTS

76

77 President's Report: None.

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

82

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

86

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

89

90 **ACTION ITEMS**

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

94
95 Mr. Alex Steele appeared before the Board of Managers to review the request for board
96 action. He reviewed how the MCWD is seeking to update its permitting portal software
97 to align with anticipated revisions to the rules. He noted that District staff have worked
98 with Novotx to scope the implementation of technology changes and new workflows to
99 the District’s permitting portal, ElementsXS. The proposed changes in the scope fall into
100 three general categories: new rule trigger logic, general permit automated issuance, and
101 general changes.

102
103 In response to a question from Manager Hejmadi, Ms. Abigail Ernst appeared before the
104 Board of Managers and affirmed that the portal software has made permit review more
105 efficient, improved the permit database and has facilitated prompt responses to
106 applicants’ inquiries.

107
108 ***It was moved by Manager Hejmadi, seconded by Manager Sando to adopt Resolution***
109 ***23-060 as follows:***

110
111 ***NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers***
112 ***authorizes the District Administrator, on the advice of counsel, to execute a***
113 ***contract with Novotx, for software implementation services in an amount not-***
114 ***to-exceed \$19,440.00.***

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116 ***Upon vote, the motion carried 4-0.***

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118 **BOARD DISCUSSION ITEMS**

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120 None.

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122 **BOARD INQUIRIES, ISSUES, AND IDEAS**

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

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

134

135 **STAFF UPDATES**

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137 Administrator's Report

138

139 Ms. Christopher reported on the following matters:

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- 141 1. Communications materials: staff recently prepared two booklets that were shared with
142 the Board at this evening's meeting. The Six Mile Creek Halsted's Bay Habitat
143 Restoration booklet provides a concise report on this carp management project. The
144 Climate Action Framework booklet was distributed at a climate briefing hosted last
145 Thursday.
- 146
- 147 2. Climate briefing: the MCWD hosted a climate briefing for cities and other partners as an
148 early touchpoint to introduce the Climate Action Framework, provide an update on the
149 building of the watershed-wide model, and gather input on partners' priorities. The
150 briefing was very successful, as staff heard a lot of positive feedback and support for the
151 District's role and interest in the model and planning process.
- 152
- 153 3. MCWD's 325 Blake Road project was recently featured in an article by Jon
154 Commers in ENTER magazine, a publication produced by the American Institute of
155 Architects. The project was highlighted as a "landmark case study" for how Minnesota
156 communities can prepare stormwater infrastructure for the impacts of climate change.
- 157
- 158 4. Personnel updates: MCWD recently hired a new Communications Coordinator. Maia
159 Irvin will start on Tuesday, October 17th. She is a recent graduate of the University of
160 Minnesota where she studied journalism, and served as the Editor in Chief of the
161 Minnesota Daily. Tessa Vacek has been hired as a new Administrative Services Manager,
162 and she will start on October 24. Tessa comes to the District with a strong HR
163 background and experience in both the private and public sectors.
- 164
- 165 5. Water level update: The Twin Cities has received 21.21 inches of precipitation this year,
166 which is 4.76 inches below normal for the year. The upper watershed received 4-6 inches
167 of rain over the past week; and the lower watershed received 2-4 inches. MCWD is in
168 severe drought, which currently covers 46.65% of the state; 100% of the state is in some
169 sort of drought designation. The wet weather has helped to give water levels a small
170 boost. Lake Minnetonka's level went up 4.5 inches from the rain and is at 928.12 feet,
171 which is 15.36 inches below the OHW of 929.4 feet; and 5.76 inches below the runout
172 elevation of 928.60 feet. The dam is currently closed, as is required when the lake falls

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

175
176 6. Statewide Carp Effectiveness Assessment: MCWD staff convened a meeting with the
177 Minnesota Department of Natural Resources and Minnesota Pollution Control Agency as
178 part of the Six Mile Creek-Halsted Bay Carp assessment study. The goal of the initial
179 meeting was to identify if there was interest from State agencies to develop a better
180 understanding of the effectiveness of carp management on aquatic vegetation
181 management. The initial meeting has led to several discussions between MCWD,
182 MnDNR, and the MPCA to identify ways to leverage MCWD's carp dataset along with
183 statewide carp data to inform where carp management is most effective. This group has
184 identified the need for a Memorandum of Understanding (MOU) to solidify the shared
185 need for a carp effectiveness study to help improve our understanding of where carp
186 management will be most effective statewide.

187
188 7. Minnehaha Preserve Boardwalk: Mr. Michael Hayman provided the following update on
189 the “defective work notice” process with JTS, after identifying a series of construction
190 defects at the Minnehaha Preserve Boardwalk. Eleven categories of defective work were
191 identified. JTS has proposed to correct nine of the 11 defective work categories to the
192 original design specifications. Regarding the remaining two defective work categories,
193 JTS has indicated it will propose engineered solutions to these issues. To do so, and in
194 accordance with the contract documents, JTS must formally submit its proposed solution
195 to SRF, the engineer of record, for review and conformance with the design. Once JTS
196 submits proposed solutions to the two remaining defective work categories, SRF will
197 review for design and specification conformance. If SRF agrees that the proposed
198 solution meets the design intent, it will formally accept the correction. Doing so will
199 require the contract documents and design of record to be updated via change order.

200
201 Prior to finalizing the contract change, acceptance of the engineered solution must also be
202 reviewed by the City of St. Louis Park for code compliance. This must occur after the
203 engineer of record has reviewed and approved proposed solutions, thus creating gates that
204 the parties are moving through in sequence. If the proposed solutions are outside of the
205 present State code, St. Louis Park administers a code variance process to review if a
206 proposed solution is equal to or better than the State code. If the correction is found to be
207 “equal to or better,” it is generally approved by the City. If a solution lacks detail
208 demonstrating that it conforms in a manner that is “equal to or better” than the design, it
209 can be rejected by the City, thus requiring the contractor to correct the site to the original
210 design specification. Ultimately, once staff has clarity on these final two defective work
211 categories, staff will be back in front of the Board to discuss potential contract changes,
212 and describe the reviewed solutions.

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216 **Adjournment**

217

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

220

221 Respectfully submitted,

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223

224 Eugene Maxwell, Secretary

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226

DRAFT