

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

May 9, 2024

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 May 9, 2024, at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

MANAGERS PRESENT

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

MANAGERS ABSENT

Arun Hejmadi (monitored the meeting remotely).

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Becky Christopher, Director of Policy Planning; Michael Hayman, Director of Project Planning; Tres Jonas, Permitting Technician; Maggie Menden, Permitting Technician; Kailey Cermak, Planner-Project Manager; Chris Meehan, District Consulting Engineer; and Louis Smith, District Counsel.

APPROVAL OF AGENDA

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

MATTERS FROM THE FLOOR

None.

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 April 25, 2024, Board meeting minutes, and approval of the following resolution:

Resolution 24-029: Citizens Advisory Committee Member Appointment Adjustment

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby appoints Cara Donovan as a non-resident member of the CAC, with a term expiring on December 31, 2024.

Upon vote, the motion carried 6-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: President White reported that she recently attended the State of the City event in Minnetrista.

Operations and Programs Committee Report: Manager Loftus reported that the Committee met earlier in the evening and received a preliminary overview of the 2025 budget.

Other Meetings: Manager Miller reported that he and Mr. Wisker attended a meeting with the Mill Pond Association in Edina, which was also attended by Mayor Hovland. It was a good discussion that identified possible improvement opportunities in the future in collaboration with the City of Edina and the Minnesota Department of Transportation.

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

PERMITS REQUIRING A VARIANCE OR DISCUSSION

Permit 24-053: Walser, Wayzata Blvd., Minnetonka, Wetland Buffer Width Exception

Manager Miller stated that he would abstain from participating or voting in this matter based on a longstanding relationship with the applicant.

Mr. Tres Jonas appeared before the Board of Managers and reviewed the permit application and request for a wetland buffer width exception. He reviewed the general background on the project, location, and application of MCWD rules to the project. He noted that the applicant has adjusted the site plan to eliminate any proposed direct permanent wetland impacts with this project. However, due to spatial constraints associated with the proposed use of the property, the applicant is seeking an exception to the wetland buffer requirements in one discrete area where minimum wetland buffer width is not met due to an access road. The applicant is seeking an exception to the minimum wetland buffer width requirement in this area, proposing a plan that it contends achieves equal or greater natural resource protection than would strict conformance with the rule.

The applicant proposes to achieve this offset by providing buffer area greater than what is required under the wetland protection rule, and by providing an enhanced planting plan

that includes additional tree and shrub plugs that will increase the diversity of riparian terrestrial habitat of the buffer area and support stabilization of the wetland edges and surrounding slopes. Additionally, the site is designed to minimize and direct runoff from the location of buffer width shortage away from the wetland towards a stormwater BMP for treatment.

It was moved by Manager Loftus, seconded by Manager Sando, to approve the exception based on the findings presented in the permit report. In response to a question from Manager Olson, Mr. Jonas described the functions of the north and south buildings. Mr. Justin Higgins appeared on behalf of the applicant and explained the north building is a parking ramp that responds to the parking requirements of the City of Minnetonka. In response to a question from Manager Maxwell, Mr. Jonas reviewed the plans for snow removal.

There being no further discussion, upon vote, the motion to approve the exception carried, 5-0-1, with Manager Miller abstaining.

It was moved by Manager Olson, seconded by Manager Sando, to approve the permit with the conditions recommended by staff in the permit report. Upon vote, the motion carried, 5-0-1, with Manager Miller abstaining.

ACTION ITEMS

Resolution 24-030: Formalizing District's Exercise of Regulatory Authority within the City of Chanhassen

Ms. Maggie Menden appeared before the Board of Managers to review the request for board action. She explained that the City of Chanhassen has determined that it no longer wishes to exercise sole permitting authority except in the area of erosion control, and it provided a letter from the city administrator concurring in the MCWD's assertion of regulatory authority with respect to its stormwater management, floodplain alteration, and wetland protection rules. Staff is requesting Board approval to concur with the City's proposal.

It was moved by Manager Olson, seconded by Manager Loftus to adopt Resolution 24-030: Formalizing District's Exercise of Regulatory Authority within the City of Chanhassen as follows:

NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers formally asserts its regulatory authority within its boundaries within the City of Chanhassen with respect to its Stormwater Management, Floodplain Alteration, and Wetland Protection rules; and

BE IT FUTHER RESOLVED that the MCWD Board of Managers will not assert its authority under its Erosion Control Rule within the City.

In response to a question from Manager Olson, Ms. Menden explained that this agreement only covered that area within the City and within the MCWD. Manager Olson asked how MCWD rules compare to the other watershed districts in the City of Chanhassen. Ms. Becky Christopher appeared before the Board of Managers and explained that while similar, each watershed district's rules are developed to address conditions in that watershed; districts also develop specific agreements to address projects that cross watershed boundaries.

There being no further discussion, upon vote, the motion carried 6-0.

Resolution 24-031: Authorizing County Road 6 Pond Retrofit Design Contract

Ms. Kaily Cermak appeared before the Board of Managers and reviewed the request for board action. She reviewed the project background, including the Long Lake Creek Roadmap, and the results of the feasibility study. She noted that the Board formally ordered the project on March 28, 2024, advancing the project to the design phase. She reviewed the process of requesting proposals, evaluation of the proposals received, and the staff recommendation that Stantec be selected for project design services.

It was moved by Manager Miller, seconded by Manager Sando, to adopt Resolution 24-031: Authorizing County Road 6 Pond Retrofit Design Contract, as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator, on advice of legal counsel, to execute a contract with Stantec for design and engineering services for the County Road 6 Pond Retrofit Project, in accordance with the developed scope of work as the Administrator may refine it, and in an amount not to exceed the amount set forth in the proposal, and authorizes the Administrator to execute contract amendments in his discretion up to an additional 10 percent, in aggregate, of the contract amount.

In response to a question from Manager Loftus, Ms. Cermak provided further information on cost comparison of the respective proposals and the staff sense that Stantec provided clear signs and detailed delivery of the necessary work. In response to a question from Manager Olson, Ms. Cermak noted legal counsel's advice to omit the dollar amounts and related details from the public meeting packet until a contract is executed. President White asked about necessary permitting for the project, and Ms. Cermak noted further analysis of the historical work for the original pond and further discussion with the Department of Natural Resources will be in order. Manager Miller noted the cumulative

effect of this project along with historic nutrient removal from the Highway 12 ponds, benefiting Tanager Bay. He asked if it is possible to estimate the cumulative impact and Mr. Wisker said that would require further research.

There being no further business, upon vote, the motion carried 6-0.

Resolution 24-032: Authorizing East Auburn Wetland Restoration Design Contract

Mr. Michael Hayman appeared before the Board of Managers to review the request for board action. He traced the background for the project, including analysis of historical water quality data to determine the extent to which the wetland system between Wassermann Lake and East Auburn Lake exports phosphorus. That analysis revealed that the phosphorus was higher at the outlet of the wetland complex rather than the inlet, exporting an approximate 135 pounds of phosphorus per year to East Auburn Lake.

A feasibility report identified hydrologic restoration of the wetland through the installation of an outlet control structure as an opportunity to reduce nutrient export to East Auburn Lake by 50% while restoring the wetland to a more natural hydrologic condition. He noted that when compared to other approaches to nutrient reduction in wetland systems, hydrologic restoration is viewed as a cost-effective option with both lower regulatory obstacles, and total design and construction costs. The Board of Managers formally ordered the project on March 14, 2024, and advanced the project to the design phase. Mr. Hayman reviewed the request for proposals, evaluation of proposals, and the staff recommendation to contract with Moore Engineering and its partners for final design.

It was moved by Manager Olson, seconded by Manager Loftus, to adopt Resolution 24-032: Authorizing East Auburn Wetland Restoration Design Contract, as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator, on advice of legal counsel, to execute a contract with Moore Engineering for design and engineering services for the East Auburn Wetland Restoration Project, in accordance with the developed scope of work as the Administrator may refine it, and in an amount not to exceed the amount set forth in the proposal, and authorizes the Administrator to execute contract amendments in his discretion up to an additional 10 percent, in aggregate, of the contract amount.

In response to a question from Manager Olson, Mr. Hayman reviewed the range of possibilities in bridge and boardwalk design concepts for the project. Manager Miller inquired about the cumulative impact of this project along with other projects in the Six Mile Creek - Halsted Bay subwatershed. Mr. Hayman noted that the impacts of projects

from lake to lake are monitored, but it would require further analysis to determine the cumulative impact.

There being no further discussion, the motion carried 6-0.

BOARD DISCUSSION ITEMS

325 Blake Road, Hopkings, Briefing

Mr. Michael Hayman appeared before the Board of Managers and reviewed the status of discussions with Alatus Development LLC. He noted that the visit from Alatus' potential financial partner Kayne Anderson had been delayed and was now taking place today and tomorrow. Staff is hoping to arrange a site visit tomorrow and is also working with Hopkins staff to schedule a liaisons meeting. A follow up meeting with Alatus is scheduled for May 13. The managers thanked Mr. Hayman for this report.

BOARD INQUIRIES, ISSUES, AND IDEAS

President White noted Manager Miller's inquiries concerning cumulative downstream impacts of District projects.

STAFF UPDATES

Administrator's Report

Mr. Wisker reported on the following items:

1. After two years of drought, we are now only 4 inches away from the wettest year on record. Towards the end of March, we were still close, within 0.3 inch of the driest year of record. Since then, we have received 8.7 inches of rain. Lake Minnetonka is now at 929.6, having risen about one foot due to heavy precipitation in recent weeks. Minnehaha Creek peaked recently in flow at Hiawatha of 275 cubic feet per second, and is now back down to 150 cfs.
2. Citizens Advisory Committee alumni, Bill Bushnell, recently shared information about the Minnesota Bush Prize, which recognizes innovative non-profit or government organizations that are highly valued within their communities and have a track record of successful community problem solving. Evaluation criteria include considerations for innovative problem solving and meaningful collaboration. MCWD staff are planning to submit an application for the award which highlights the District's creative approach to capital project implementation in MCWD's focal geographies, as well as our upcoming efforts to engage communities in climate action planning.

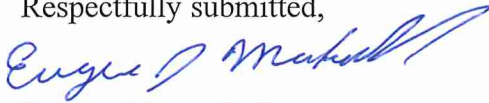
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3. Alex Steele will be leaving the District to work for the City of St. Paul to lead its Geographic Information Systems work. Mr. Wisker expressed his deepest gratitude for Mr. Steele's work and his enormous impact on the District. Mr. Steele expressed his appreciation to Ms. Christopher and Mr. Wisker, as well as the Board of Managers. The managers each thanked Mr. Steele for his service and significant contributions to the technology capacity of the District.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 8:33 p.m.

Respectfully submitted,



Eugene Maxwell, Secretary