

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

June 27, 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 June 27, 2024, at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

MANAGERS PRESENT

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

MANAGERS ABSENT

None.

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Veronica Sannes, Permitting Technician; Brian Beck, Research & Monitoring Program Manager; Maia Irvin, Communications Coordinator; Michael Hayman, Director of Project Planning; Chris Meehan, District Consulting Engineer; and Louis Smith, District Counsel.

APPROVAL OF AGENDA

It was moved by Manager Maxwell, seconded by Manager Sando, to approve the Agenda as distributed. Upon vote, the motion carried 7-0.

MATTERS FROM THE FLOOR

None.

CONSENT AGENDA

It was moved by Manager Hejmadi, seconded by Manager Miller, to approve the items on the Consent Agenda consisting of approval of the June 13, 2024, Board meeting minutes; approval of the General Check Register, including check numbers 42566 through 42573 in the amount of \$43,123.09, electronic funds withdrawals of \$158,988.43, managers per diems and reimbursements of \$1,250.63, employee reimbursements of \$0, and payroll electronic funds withdrawals and disbursements of \$253,308.88, for a total of \$456,671.03; the Surety Check Register including payment

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of \$55.00 in fees to Bremer Bank, and check numbers 2210-2211, for a total of \$8,255.00; no wire transfers; and the following resolutions:

Resolution 24-035: Authorization to distribute Capital Improvement Plan for annual review and comment

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes staff to distribute the Draft CIP and Lake Minnetonka Subwatershed minor plan amendment for 30-day review and comment; and

Resolution 24:036: Authorization to Execute Grant Agreement with Hennepin County for Greenway to Cedar Trail Connection

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator to execute the Southwest Community Works Program Grant Agreement for the Blake Road Station Area Cedar Trail Connection by the Minnehaha Creek Watershed District.

Upon vote, the motion carried 7-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: None.

Policy Planning Committee Report: Manager Miller reported that the Committee met earlier in the evening and received another briefing on the 2025 budget.

Minnesota Watersheds Summer Tour Report: Managers Olson, Hejmadi, Sando and President White reported on the summer tour.

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

PERMITS REQUIRING A VARIANCE OR DISCUSSION

Permit 24-208: 20555 & 20565 Linden Road, Deephaven

Ms. Veronica Sannes reviewed the permit report. She noted that this application is for a permit for grading and floodplain alteration on two parcels resulting from the subdivision of 20565 Linden Road in the City of Deephaven. This existing parcel is being subdivided into two lots: 20555 and 20565 Linden Road. The applicant proposes to engage in

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grading and floodplain alteration on both new lots, and to construct a single-family home on the new 20565 Linden Road lot (Project). She noted that while staff recommends approval of this application, the Project is before the Board of Managers due to public request by property owners within 600 feet of the Project parcel, received during the public notice period.

Ms. Sannes reviewed the site and the application of MCWD rules to the Project. She noted that comments from the representative of concerned neighboring landowners have urged application of the Stormwater Rule, but staff and MCWD counsel have determined that the rule is not applicable to the Project as it involves construction on a single-family lot of record and involves a subdivision of less than three lots. She noted that other comments received to date include concerns that the Project will increase traffic noise, mosquitoes, and flooding, and adversely impact wildlife habitat.

President White invited members of the public to comment on the permit application. Mr. Bryan Huntington appeared before the Board of Managers. He noted that he is an attorney representing four sets of neighboring property owners and noted the filing of his request for intervention. He stated that the MCWD Stormwater Rule applies to this project because it involves a common plan of development, and he noted that the fundamental purpose of the rule is to protect against flooding. He noted that the Krohn property has a basement elevation that is only one foot above the 100-year high water elevation of the nearby basin, which he contended would violate the flood separation requirement of the Stormwater Rule. He urged that the permit application be denied, or in the alternative approved with the condition of submitting a stormwater management plan.

Ms. Valerie Anderson appeared before the Board of Managers and expressed concern about an increase in water flow rates and increased volume of water flowing to the wetland.

Mr. John McGarry stated that he is the property owner and permit applicant, and expressed his agreement with the staff recommendation. He noted that the Hennepin County District Court had dismissed claims brought by the neighboring land owners, and he stated that his project had nothing to do with the existing risk of flooding for the Krohn property. He noted that the Project involves smaller footprints for the homes than is allowed.

President White invited questions from the managers. Manager Loftus inquired about the purpose of grading between the two parcels, and Mr. McGarry explained the purpose is to provide swale areas to direct water to the wetland.

It was moved by Manager Miller, seconded by Manager Olson, to approve the permit application as recommended by staff. In response to a question from Manager Olson,

Mr. Meehan described the floodplain area in more detail. At the request of President White, Mr. Smith noted that counsel had worked with staff in the permit application review and concurred that the Stormwater Rule is not applicable for the reasons stated by Ms. Sannes, and that further the 2-foot freeboard requirement only applies of necessity to new structures. *There being no further discussion, upon vote, the motion carried 7-0.*

PUBLIC HEARINGS & PRESENTATIONS

None.

ACTION ITEMS

None.

BOARD DISCUSSION ITEMS

Lost Lake Development Review

Ms. Veronica Sannes appeared before the Board of Managers to introduce and obtain preliminary feedback from the Board of Managers regarding development proposed by Monarch Development Partners at 2400 and 2420 Commerce Boulevard, Mound. She described the project site and the proposal to develop two former single-family parcels into three four-unit two story condominium buildings adjacent to the Lost Lake wetland complex on Lake Minnetonka.

Mssrs. Carl Runk, Jim Gooley, and Matt Pavek appeared on behalf of Monarch Development Partners. They noted changes in project design in response to MCWD policy guidance, including that the project would no longer propose dredging in Lost Lake. They expressed their appreciation for working with the staff and the early opportunity to discuss the project with the Board of Managers.

In response to a question from Manager Olson, Mr. Runk described the boardwalk, docks and parking arrangements. In response to a question from Manager Maxwell, Mr. Runk clarified that the project proposes 12 units. President White asked whether any variances would be needed, and Ms. Sannes reviewed a variance involved with placing new structures in the wetland buffer. She reviewed the application of MCWD rules to the project and noted that the applicant was proposing to provide more stormwater volume and rate control than is required, along with an enhanced buffer. Manager Miller expressed his appreciation for a good process and early discussions about the project. In response to questions from Manager Loftus, Mr. Gooley confirmed that the City of Mound is comfortable with the increased density proposed at the site as it is consistent

with the City's 2040 Plan, and he explained the "Jellyfish" stormwater treatment system which would be maintained by the homeowners association.

President White asked about the classification of the wetland and Ms. Sannes noted that the applicant has retained a consultant to analyze potential reclassification from "Preserve" to "Manage 1" which would involve a 40 foot, rather than a 75 foot buffer. Manager Olson expressed his appreciation for the project design changes. In response to a question from President White, Mr. Pavsek explained that the concept for the vegetation plan would involve soil amendments and a native vegetation buffer. The managers thanked the Monarch Development Partners for this discussion.

President White proposed to defer the discussion of 325 Blake Road until after Board Inquiries and Staff Updates, and the managers concurred.

BOARD INQUIRIES, ISSUES, AND IDEAS

Manager Miller asked whether it is the MCWD's policy and practice to have Board approval of any grant applications. Mr. Wisker affirmed that prior Board approval is the policy and practice, though on rare occasions a tight deadline may have resulted in staff seeking Board approval after the fact.

STAFF UPDATES

Administrator's Report

Mr. Wisker reported on the following items:

1. Progress continues in addressing the construction defects of the Minnehaha Preserve Boardwalk. The City of St. Louis Park building officials are reviewing alternative remedies for two categories of defects and a formal submission is planned within two weeks.
2. Mr. Brian Beck and Ms. Maia Irvin presented information to the Board on water level data and communications. Ms. Irvin noted that precipitation year to date is 19.43" or 5.4" above normal. We are approaching a pace of precipitation to exceed the wettest year of record (2014). Lake Minnetonka peaked recently at elevation 929.95, very close to the emergency spillway elevation of 930. Current lake level is 929.87. Minnehaha Creek flow peaked on June 16 at 361 cubic feet per second, and is currently at 215 cfs. The MCWD communications staff have sent four email newsletters recently on the water levels. There are 769 subscribers to this email and the open rate is 65%, most recipients opening within the first hour. Mr. Beck reviewed the data gathered through the MCWD's RESNET system, which provides an understanding of real-time travel of precipitation

and creek flows. This data is very helpful in assisting the MCWD's management decisions with Grays Bay dam. Mr. Wisker noted that this data and analysis is also helpful to MCWD partners, including cities along the Creek.

BOARD DISCUSSION ITEMS, continued

325 Blake Road Restoration and Redevelopment Update

Mr. Michael Hayman appeared before the Board of Managers to provide a status report on 325 Blake Road redevelopment. He noted that at the June 13 meeting, staff reported that Alatus had learned that the Kayne Anderson firm had declined to invest in the project. With the close of the feasibility period on March 31, Alatus had 90 days to close on this phase of the project, or July 1. It is now clear that Alatus will not be able to close on or before July 1. Mr. Hayman noted that staff has been reviewing options with the team of development advisors and would like to discuss these options in closed session. Based on the advice of legal counsel, *it was moved by Manager Miller, seconded by Manager Olson, to move into closed session for the purpose of discussing potential amendment of terms for the sale of 325 Blake Road in Hopkins. Upon vote, the motion carried 7-0.*

The Board of Managers went into closed session.

The Board of Managers returned to open session.

It was moved by Manager Miller, seconded by Manager Hejmadi to adopt Resolution 24-037 as follows:

BE IT RESOLVED that the MCWD Board of Managers authorizes the Administrator, on advice of counsel, to deliver a letter to Alatus Development LLC on June 28, 2024, with accompanying Third Amendment to the Real Estate Purchase Agreement, requiring execution of the amendment by Alatus Development LLC no later than 4:00 p.m., July 1, 2024; and

BE IT FURTHER RESOLVED that, should Alatus neglect to sign the Third Amendment by the deadline, the MCWD Board of Managers authorizes the Administrator to deliver a Notice of Termination of the Real Estate Purchase Agreement to Alatus Development LLC and the title company, First American Title Insurance Company, by the close of business July 1, 2024.

Upon roll call vote, the motion carried 7-0 as follows:

Hejmadi: Aye
Loftus: Aye
Sando: Aye

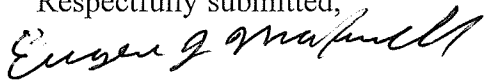
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Miller: Aye
Olson: Aye
Maxwell: Aye
White: Aye

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 10:16 p.m.

Respectfully submitted,



Eugene Maxwell, Secretary