

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

4  
5                                   **September 12, 2024**

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 President Sherry White at 7:00 p.m. on September 12, 2024, at the  
11                                   MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

12  
13                                   **MANAGERS PRESENT**

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

16  
17  
18                                   **MANAGERS ABSENT**

19                                   Arun Hejmadi.

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

23                                   James Wisker, Administrator; Michael Hayman, Director of Project Planning; Veronica  
24                                   Sannes, Permitting Technician; Chris Meehan, District Consulting Engineer; and Louis  
25                                   Smith, District Counsel.

26  
27  
28                                   **APPROVAL OF AGENDA**

29  
30                                   *It was moved by Manager Olson, seconded by Manager Miller, to approve the Agenda*  
31                                   *as distributed. Upon vote, the motion carried, 6-0 (Manager Hejmadi absent).*

32  
33                                   **MATTERS FROM THE FLOOR**

34                                   None.

35  
36  
37                                   **CONSENT AGENDA**

38  
39                                   *It was moved by Manager Sando, seconded by Manager Maxwell, to approve the items*  
40                                   *on the Consent Agenda consisting of approval of the August 22, 2024, Board meeting*  
41                                   *minutes, and the following resolutions:*

42  
43                                   *Resolution 24-049: Authorization to Release RFP for Audit Services*

44  
45                                   ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
46                                   ***Watershed District Board of Managers hereby authorizes***

47 *the District Administrator to issue a request for proposals for financial audit*  
48 *services.*

49  
50 ***Resolution 24-050: Citizens Advisory Committee Member Appointment Adjustment***

51  
52 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
53 ***Watershed District Board of Managers hereby appoints Emily Balogh as a non-***  
54 ***resident member of the CAC, with a term expiring on December 31, 2024.***

55  
56 ***Upon vote, the motion carried 6-0.***

57  
58 **BOARD, COMMITTEE AND TASK FORCE REPORTS**

59  
60 President’s Report: President White reported that she recently joined Mr. Wisker and Ms.  
61 Hoppe in meeting with Hennepin County Commissioner Heather Edelson to brief her  
62 about the work of the District.

63  
64 President White noted the upcoming meeting schedule presented in the agenda.

65  
66 **PUBLIC HEARINGS & PRESENTATIONS**

67  
68 None.

69  
70  
71 **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

72  
73 Permit 23-367: Forest Lake Hydraulic Dredging

74  
75 Ms. Veronica Sannes appeared before the Board of Managers to review the permit  
76 application. She reviewed the background on the location and proposed scope of the  
77 dredging project, the proposed hydraulic method for dredging, the application of MCWD  
78 rules to the proposed project, and the requested rule exception to allow use of a geofabric  
79 bag to contain dredging spoils instead of the required earthen dike. Ms. Sannes noted  
80 that historic aerial imagery indicates that the channel was first dredged for navigation  
81 between 1957 and 1964. The Minnesota Department of Natural Resources issued a  
82 dredging permit in 1989, and an application was submitted for an MCWD permit,  
83 but there is no evidence that an MCWD permit was issued or that dredging occurred at  
84 that time. Over time, lakebed material and/or sediment has moved into the  
85 originally dredged area, impeding navigational access and prompting the Applicant’s  
86 proposal for the Project.

87  
88 ***Following discussion, it was moved by Manager Miller, seconded by Manager Olson to***  
89 ***approve the requested exception, finding that the Applicant has provided sufficient***

90 ***evidence that the proposed project will achieve water resource outcomes at least***  
91 ***equivalent to an earthen dike, within the meaning of section 5(a) of the Dredging rule.***

92 In response to a question from Manager Olson, Mr. Corey Truebenbach of Twin City  
93 Outdoor Services appeared before the Board of Managers to discuss their preparation and  
94 planning for using the geofabric bag. In response to a further question from Manager  
95 Olson, Ms. Sannes explained that the landlocked parcel owner was not a part of the  
96 application because they did not have riparian access. Manager Maxwell asked about the  
97 removal of the dredging spoils and Ms. Sannes and Mr. Truebenbach explained that it  
98 takes two to six weeks for the sediment to dry and there is an incentive for everyone to  
99 remove the spoils as soon as possible.

100  
101 President White noted that 1989 was a drought year and that is a likely explanation for  
102 why the permitted dredging project did not proceed at that time. In response to a  
103 question from Manager Olson, Ms. Sannes noted that the three alternative locations for  
104 disposal of the spoils will depend on the contents and existence of any contamination. In  
105 response to a question from Manager Loftus, Ms. Sannes and Mr. Meehan reviewed the  
106 3:1 side slopes, the 15 foot width of the channel, and the volume calculations for  
107 sediment removal. In response to a further question from Manager Loftus, Mr.,  
108 Truebenbach noted that his company had no prior experience with such a project but was  
109 undertaking a similar project now for a commercial client. Manager Miller expressed his  
110 appreciation for Ms. Sannes' presentation and review of the application; he stated that he  
111 felt comfortable that all relevant aspects of the project had been reviewed. Mr. Smith  
112 noted that while this appears to be the first application for hydraulic dredging in recent  
113 memory, he recalled a few such projects in the 1980s. ***There being no further***  
114 ***discussion, upon vote, the motion to approve the exception carried 6-0.***

115  
116 ***It was moved by Manager Olson, second by Manager Maxwell to approve the permit***  
117 ***application with the conditions recommended by staff. Upon vote, the motion carried***  
118 ***6-0.***

119

120

## 121 **ACTION ITEMS**

122

### 123 **Adoption of the 2025 Budget and Certification of the 2025 Tax Levy**

124

125 Mr. James Wisker appeared before the Board of Managers to review the request for board  
126 action. He reviewed the MCWD budget process and provided a summary of the  
127 proposed 2025 budget and tax levy.

128

129 ***It was moved by Manager Sando, seconded by Manager Loftus, to adopt Resolution 24-***  
130 ***051: Adoption of the 2025 Budget and Workplan, and Notice of November 21, 2024***  
131 ***Public Meeting as follows:***

132

133 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
134 ***Watershed District Board of Managers hereby adopts the 2025 budget of***  
135 ***\$14,420,445 and associated workplans and fund transfers, presented to the***  
136 ***Board on September 12, 2024; and***

137  
138 ***BE IT FURTHER RESOLVED that the Minnehaha Creek Watershed District***  
139 ***Board of Managers hereby announces a public meeting for further comment on***  
140 ***the 2025 budget, scheduled for November 21, 2024.***

141  
142 ***Upon roll call vote, the motion to adopt Resolution 24-051 carried, 6-0 as follows:***

143  
144 **Maxwell: Aye**  
145 **Olson: Aye**  
146 **Miller: Aye**  
147 **Sando: Aye**  
148 **Loftus: Aye**  
149 **Hejmadi: Absent**  
150 **White: Aye**

151  
152 ***It was moved by Manager Loftus, seconded by Manager Sando to adopt Resolution 24-***  
153 ***052: Minnehaha Creek Watershed District Board of Managers Certified 2025 Tax***  
154 ***Levy as follows:***

155  
156 ***NOW, THEREFORE, BE IT RESOLVED that the Secretary, in accordance***  
157 ***with Minnesota Statutes, shall certify to the Auditors of Hennepin and Carver***  
158 ***Counties, in amounts bearing the same proportion to the total levy as the net tax***  
159 ***capacity of the area of county within the watershed bears to the net tax capacity***  
160 ***of the entire watershed district, the following sums to be raised by a levy on all***  
161 ***taxable property in the Minnehaha Creek Watershed District Number 3 for the***  
162 ***year 2025 and the purposes noted below.***

163  
164 ***2025 Levy: \$9,869,513 for the purpose of paying the cost of watershed***  
165 ***management and implementation as provided by Minnesota Statutes, Sections***  
166 ***103B.241 and 103B.251.***

167  
168  
169 ***Upon roll call vote, the motion to adopt Resolution 24-052 carried, 6-0 as follows:***

170  
171 **Maxwell: Aye**  
172 **Olson: Aye**  
173 **Miller: Aye**  
174 **Sando: Aye**  
175 **Loftus: Aye**

176 **Hejmadi:** *Absent*  
177 **White:** *Aye*

178  
179 Prior to the closed session on 325 Blake Road, President White turned to the other  
180 remaining agenda items.

181  
182

183 **STAFF UPDATES**

184

185 **Administrator's Report**

186

187 Mr. Wisker reported on the following items:

188

189 1. With warm and dry weather recently, Lake Minnetonka elevation is now at  
190 929.12. The Gray's Bay Dam is now discharging at 50 cubic feet per second  
191 in anticipation of bringing the Lake Minnetonka level to 928.6 for the winter.  
192 Minnehaha Creek is flowing at 111 cubic feet per second at Hiawatha.

193

194 2. Mr. Wisker recently participated in a panel discussion on stormwater  
195 infrastructure pressures and climate action at a conference sponsored by the  
196 Minnesota Stormwater Coalition and the St. Anthony Falls Laboratory.

197

198 3. Three new staff will be starting at the MCWD in the coming weeks: Eva  
199 Bacmeister (Water Resource Scientist), Andrew Stephenson (Permitting  
200 Program Manager) and James O'Brien (Outreach Coordinator).

201

202

203 **BOARD INQUIRIES, ISSUES, AND IDEAS**

204

205 None.

206

207 **BOARD DISCUSSION ITEMS**

208

209 **325 Blake Road Restoration and Redevelopment**

210

211 Mr. Michael Hayman appeared before the Board of Managers to provide an update on  
212 redevelopment and the MCWD project at 325 Blake Road in Hopkins. He noted an  
213 upcoming meeting of the project liaisons with Hopkins and Alatus representatives in the  
214 next week, and a looming November 1 deadline for Alatus under the 3<sup>rd</sup> Amendment to  
215 the Purchase and Sale Agreement.

216

217 Mr. Hayman noted that MCWD acquired this site to treat regional stormwater, restore  
218 Minnehaha Creek, create access to the Creek and the Minnehaha Creek Greenway. He

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
9/12/24

219 reviewed the developer selection process which led to selection of Alatus in June 2021  
220 and identified Wellington as an alternative developer. The MCWD hosted a design  
221 charette in July 2021 in partnership with the City of Hopkins and Hennepin County in  
222 order to have key agency partners inform a master plan and the negotiation of a purchase  
223 and sale agreement with Alatus. The Purchase and Sale Agreement was executed May 9,  
224 2022, and provided a 12-month feasibility period for due diligence inquiry. Pursuant to  
225 the agreement Alatus exercised a right to a first extension of this period from May 9,  
226 2023, to August 7, 2023, and then a second extension from August 7, 2023, to November  
227 5, 2023. The agreement was first amended on June 23, 2022, to accommodate Alatus’  
228 request to proceed with the purchase and development of the Chorus affordable housing  
229 development parcel out of sequence with the original phased process provided under the  
230 Purchase and Sale Agreement. In order to provide Alatus additional time to pursue the  
231 city bonding and to facilitate development of the project components by secondary  
232 developers Ron Clark and Artessa, a second amendment was negotiated effective  
233 November 3, 2023, to July 1, 2024. Alatus did not obtain necessary project financing  
234 within this period provided in the second amendment. Not receiving any communication  
235 from either Alatus or Hopkins as the Agreement was set to expire, the MCWD  
236 unilaterally elected to provide a third amendment to the Agreement to offer Alatus one  
237 further opportunity to obtain necessary financing by November 1, 2024, and provided for  
238 MCWD to have exploratory discussions with other developers.

239  
240 Mr. Hayman noted that Alatus has \$1 million in earnest money at risk if they are unable  
241 to deliver the project as provided in the agreement. Ron Clark Townhomes have  
242 committed in a letter of intent to pay MCWD \$2 million to acquire and develop the  
243 townhome parcel of Phase 1B, and Artessa has committed in a letter of intent to pay  
244 MCWD \$2 million to acquire and develop the senior housing parcel of Phase 1B. The  
245 MCWD is ready to proceed with its stormwater management project with funding  
246 provided through the Minnesota Public Facilities Authority. In order for MCWD, Ron  
247 Clark and Artessa to proceed, however, a road must be constructed through the site. This  
248 road construction is supported by bonds issued by the City of Hopkins and paid through  
249 assessments on Buildings C and D, which includes the tower development in Phase 2 of  
250 the project. As this finance arrangement is currently structured there will be no road and  
251 no development at the site until the Buildings C and D are financed and ready to go.

252  
253 Mr. Hayman noted that the MCWD now needed to consider its options to consider how  
254 much longer the District should defer its stormwater management and creek restoration  
255 project. He recommended that the Board of Managers ask counsel to guide them into  
256 closed session to consider the ongoing negotiations, the upcoming meeting with project  
257 liaisons on September 18, and the potential termination of the Agreement on November  
258 1. ***Pursuant to legal counsel’s recommendation, it was moved by Manager Maxwell,  
259 seconded by Manager Loftus for the Board to go into a closed session for the purpose  
260 of discussing the potential expiration or revision of terms of the Purchase and Sale  
261 Agreement of 325 Blake Road in Hopkins. Upon vote, the motion carried 6-0.***

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
9/12/24

262  
263 The Board of Managers went into closed session.

264  
265 The Board of Managers returned to open session.

266  
267 **Adjournment**

268  
269 There being no further business, President White declared the meeting of the Board of  
270 Managers adjourned at 9:16 p.m.

271  
272 Respectfully submitted,

273  
274  
275  
276 Eugene Maxwell, Secretary

DRAFT