

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

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5                                   **December 14, 2023**

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7                                   **CALL TO ORDER**

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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 December 14, 2023, at the  
11                                   MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

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13                                   **MANAGERS PRESENT**

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15                                   Sherry White, William Olson, Arun Hejmadi, Stephen Sando, Jessica Loftus, and Eugene  
16                                   Maxwell.

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18                                   **MANAGERS ABSENT**

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20                                   Richard Miller.

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22                                   **DISTRICT STAFF AND CONSULTANTS PRESENT**

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24                                   James Wisker, Administrator; Maggie Menden, Permitting Technician; Jill Sweet,  
25                                   Research & Monitoring Technician; Samantha Maul, Acting Outreach Manager; Tiffany  
26                                   Schaufler, Senior Project Maintenance Coordinator; Chris Meehan, District Consulting  
27                                   Engineer; and Louis Smith, District Counsel.

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29                                   **APPROVAL OF AGENDA**

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

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34                                   **MATTERS FROM THE FLOOR**

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36                                   None.

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38                                   **CONSENT AGENDA**

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40                                   *It was moved by Manager Olson, seconded by Manager Sando to approve the items on*  
41                                   *the Consent Agenda consisting of approval of the November 27, 2023 Board meeting*  
42                                   *minutes and approval of the following resolutions:*

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44                                   *Resolution 23-074: Resolution of Recognition for David Oltmans' Service*  
45                                   *on MCWD's Citizens Advisory Committee:*  
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47           ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
48           ***Watershed District Board of Managers hereby formally acknowledges David***  
49           ***Oltmans’ contribution to the organization and expresses its deep gratitude and***  
50           ***thanks for his service;***

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52           ***Resolution 23-075: Recognition of Cassandra Ordway’s Service on MCWD’s Citizens***  
53           ***Advisory Committee***

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55           ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed***  
56           ***District Board of Managers hereby formally acknowledges Cassandra Ordway’s***  
57           ***contribution to the organization and expresses its deep gratitude and***  
58           ***thanks for her service;***

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60           ***Resolution 23-076: Authorization to Execute Contract for Water Quality Lab Analysis***

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62           ***NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers***  
63           ***hereby authorizes the Administrator, on the advice of counsel, to execute a***  
64           ***contract with RMB Environmental Laboratories, Inc. for water quality lab***  
65           ***analysis from January 1, 2024 through December 31, 2025 in an amount not to***  
66           ***exceed \$63,215 per year.***

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68           ***Resolution 23-077: Selection and Authorization to Execute a Contract for Government***  
69           ***Relations Services***

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71           ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed***  
72           ***District Board of Managers hereby selects Joel Carlson as the government***  
73           ***relations consultant and authorizes the District Administrator to execute a new***  
74           ***two-year contract with a termination date of December 31, 2025, on advice of***  
75           ***counsel and with any non-material changes, for government relations services***  
76           ***on retainer for an annual amount not to exceed \$28,000 or \$56,000 for the term***  
77           ***of the contract;***

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79           ***Resolution 23-078: Selection and Authorization to Execute a Contract for Engineering***  
80           ***Services***

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82           ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed***  
83           ***District Board of Managers hereby selects Stantec as the District engineer; and***  
84           ***be it further resolved the Minnehaha Creek Watershed District Board of***  
85           ***Managers hereby authorizes the District Administrator to execute a contract, on***  
86           ***advice of counsel and with any non-material changes, with Stantec to provide***  
87           ***engineering services on retainer for a monthly rate with additional services***  
88           ***provided based on an hourly fee structure;***

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90 ***Resolution 23-079: Selection and Authorization to Execute a Contract for Accounting***  
91 ***Services***

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93 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
94 ***Watershed District Board of Managers hereby selects Abdo Financial Solutions***  
95 ***as the accounting firm for the District; and hereby authorizes the District***  
96 ***Administrator, on advice of counsel, to execute a contract with Abdo Financial***  
97 ***Solutions to provide accounting services through December 31, 2025; and***

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99 ***Resolution 23-080: Authorization to Send Cash Sureties to the State of Minnesota***  
100 ***Unclaimed Property Fund***

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102 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed***  
103 ***District Board of Managers authorize staff to initiate a wire transfer from the***  
104 ***District's Bremer Bank surety funds account in the amount of \$7,275 to the***  
105 ***State of Minnesota Unclaimed Property Fund.***

106  
107 ***Upon vote, the motion carried 6-0.***

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109 **BOARD, COMMITTEE AND TASK FORCE REPORTS**

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111 **President's Report:** President White noted that she attended the Minnesota Watersheds  
112 annual conference, about which Manager Sando will provide a report. She noted that she  
113 and Mr. Wisker had a productive meeting recently with Hennepin County Commissioner  
114 Goettel. She noted that she attended, along with Managers Hejmadi and Miller, the  
115 Policy Steering Committee for the cooperative work with the City of Minneapolis and  
116 Minneapolis Park and Recreation Board.

117  
118 **Operations and Programs Committee Report:** Manager Loftus reported that the  
119 Committee met earlier in the evening. Samantha Maul provided a briefing on the  
120 municipal election results within the watershed, and Joel Carlson provided an overview  
121 of the upcoming 2024 Legislative Session.

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123 **Minnesota Watersheds Annual Conference:** Manager Sando reviewed highlights from the  
124 annual conference, including many valuable presentations on collaborative watershed  
125 planning and flood reduction, as well as a keynote address by Mark Seeley. Manager  
126 Olson noted that there were three different presentations on chloride pollution, as well as  
127 a presentation on advanced stormwater modelling. President White noted the  
128 significance of electing a representative of the Bassett Creek WMO to the Minnesota  
129 Watersheds Board from Region 3. The managers also noted and congratulated Mike  
130 Hayman for his award as Watershed District Employee of the Year.

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

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**PUBLIC HEARINGS & PRESENTATIONS**

**Annual Public Hearing for Stormwater Pollution Prevention Plan**

President White opened the public hearing on the MCWD’s stormwater pollution prevention plan to be submitted to the Minnesota Pollution Control Agency. Ms. Maggie Menden appeared before the Board of Managers to review the background on this requirement as part of the MCWD’s duties. The MCWD is regulated as a municipal separate storm sewer system (MS4) under the National Pollutant Discharge Elimination System (NPDES) Phase II rules because MCWD is the drainage authority for eight public drainage systems. Ms. Menden reviewed the elements of the MCWD’s plan.

No one appeared to provide testimony or comments on the stormwater pollution prevention plan. President White closed the public hearing and thanked Ms. Menden for her presentation.

**ACTION ITEMS**

**Resolution 23-082: Authorization to Execute a Winter Carp Removal Contract with WSB**

Ms. Jill Sweet appeared before the Board of Managers to review the request for board action. She reviewed the carp management goals and past successes of the Six Mile Creek Halsted Bay Habitat Restoration Project. Going forward, the work will focus on assessing water quality and vegetation response to carp management through field data collection; maintaining infrastructure and continuing to control carp biomass to ensure continued success; and communicating MCWD's carp story with project partners and other interested public agencies. Continued carp removal is necessary in Parley Lake and Mud Lake. Ms. Sweet reviewed the goals, proposed approach and costs involved in the proposed contract with WSB.

*It was moved by Manager Hejmadi, seconded by Manager Maxwell to adopt Resolution 23-082: Authorization to Execute a Winter Carp Removal Contract with WSB as follows:*

***NOW, THEREFORE, BE IT RESOLVED that the District Administrator is authorized, on advice of counsel, to execute a contract with WSB & Associates, for services to remove common carp in Parley Lake within the Six Mile Creek-Halsted Bay Subwatershed, in an amount not to exceed \$25,748.00.***

175 In response to a question from Manager Sando, Ms. Sweet explained that it is not  
176 necessarily easier to net the carp in Mud and Parley Lakes, and there are challenges also  
177 with winter kill. In response to a question from President White, Ms. Sweet noted that  
178 the netting is planned in February and will require safe ice conditions.

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

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182 Resolution 23-084: Appointment of the 2024 Citizens Advisory Committee

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184 Ms. Samantha Maul appeared before the Board of Managers to review the request for  
185 board action. She reviewed the background of alignment of the CAC with the District's  
186 strategic direction, and the recruiting and application process for next year's committee.  
187 Having briefed the Operations and Programs Committee on November 9, Ms. Maul  
188 reviewed the staff recommendations for committee appointments.

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190 *It was moved by Manager Sando, seconded by Manager Hejmadi to adopt Resolution*  
191 *23-084: Appointment of the 2024 Citizens Advisory Committee as follows :*

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193 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*  
194 *Watershed District Board of Managers s hereby appoints*  
195 *the following individuals to the 2024 Citizen Advisory Committee*

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197	<i>Serving 2024</i>	<i>Serving 2024-2025</i>
198	<i>Dan Flo</i>	<i>Cara Donovan</i>
199	<i>Denise Tennen</i>	<i>Drew McGovern</i>
200	<i>Marcy Bean</i>	<i>Emily Balogh</i>
201	<i>Rich Nyquist</i>	<i>Janet Schaefer</i>
202	<i>Robert Glisky</i>	<i>John Iverson</i>
203	<i>Suzanne Jiwani</i>	<i>Laurie Goldsmith</i>
204		<i>Lisa Fowler</i>
205		<i>Sheri Wallace</i>
206		

207 President White noted the general goal to have an equal number of members for each  
208 year's term, and Ms. Maul agreed, noting that recent events for committee members  
209 made achieving that goal difficult this year. *Upon vote, the motion carried 6-0.*

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211 BOARD DISCUSSION ITEMS

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213 None.

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215 BOARD INQUIRIES, ISSUES, AND IDEAS

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217 None.

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**STAFF UPDATES**

**Minnehaha Preserve Boardwalk Reconstruction**

Ms. Tiffany Schaufler provided a progress report on the boardwalk reconstruction, including the process to document defective work, the status of reviewing proposed corrections of the defective work, and the state of communication and coordination with JTS, the MCWD’s contractor. She said that the bottom line is that while there has been some movement within the last week, overall, staff remain frustrated with the pace of progress and lack of proactive communication from JTS. Ms. Schaufler reviewed the background on defective work and the process to have it corrected. Since June 30, JTS has been incurring \$100 per day in liquidated damages, now totaling \$16,800, and JTS is responsible for another \$53,535 in MCWD’s engineering and legal costs.

In response to a question from Manager Olson, Ms. Schaufler stated that the MCWD is holding approximately \$240,000 – 280,000 owed to JTS. Manager Loftus stated that it appears that the liquidated damages of \$100 per day was not high enough to motivate JTS to prompt resolution. The managers discussed the range of corrective work to be done, timing considerations, and questions about available remedies. Mr. Smith stated that legal counsel is reviewing all of the options to resolve the matter, beginning with the remedies provided by the construction contract.

***Following discussion, it was moved by Manager Loftus, seconded by Manager Maxwell to request that staff and legal counsel prepare a briefing on options for resolving this matter for the December 28, 2023, board meeting. Upon vote, the motion carried 6-0.***

**Administrator’s Report**

Mr. Wisker reported on the following items:

1. The managers have a copy of the Land and Water Partnership Program brochure which has been distributed to District partners.
2. As noted by President White, the Policy Steering Committee held on December 6 with the City of Minneapolis and the Minneapolis Park and Recreation Board was positive and productive. Manager Hejmadi noted the enthusiasm of participants and the eagerness to work together. President White noted the desire for more representation of council members, commissioners, and managers. Manager Hejmadi noted the importance of working on a communications plan.
3. Staff updates, in addition to Mike Hayman’s award as Watershed District Employee of the Year, include Maggie Menden’s promotion as a new permitting technician. Abigail Ernst moved to the Carver County water management organization. Several staff

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261 members attended an interesting conference of the American Geophysical Union, which  
262 included extensive seminars on climate change and climate model downscaling. The  
263 conference stimulated great insights to the impacts of climate change, a variety of  
264 engineering solutions, and the challenge of public engagement. Staff brought back a  
265 variety of insights to apply to the MCWD's work.

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267 **Adjournment**

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269 There being no further business, President White declared the meeting of the Board of  
270 Managers adjourned at 8:35 p.m.

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272 Respectfully submitted,

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275 Eugene Maxwell, Secretary