

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

4
5 **November 27, 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 pm on November 27, 2023, at the
11 MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

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13 **MANAGERS PRESENT**

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

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19 **MANAGERS ABSENT**

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21 None.

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23 **DISTRICT STAFF AND CONSULTANTS PRESENT**

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25 James Wisker, Administrator; Trey Jonas, Permitting Technician; Josh Wolf, Project
26 Maintenance and Land Management Program Manager; Tiffany Schauffler, Senior
27 Project Maintenance Coordinator; Becky Christopher, Director of Policy and Planning;
28 Kate Moran, Policy Planning Coordinator; Chris Meehan, District Consulting Engineer;
29 and Louis Smith, District Counsel.

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31 **MATTERS FROM THE FLOOR**

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33 None.

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35 **APPROVAL OF AGENDA**

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37 *It was moved by Manager Miller, seconded by Manager Hejmadi to approve the*
38 *Agenda as distributed. Upon vote, the motion carried 7-0.*

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40 **CONSENT AGENDA**

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42 *It was moved by Manager Olson, seconded by Manager Miller to approve the items on*
43 *the Consent Agenda consisting of approval of the November 9, 2023 Board Meeting*
44 *Minutes; approval of the General Check Register, including check numbers 42422*
45 *through 42446 in the amount of \$131,321.92, electronic funds withdrawals of*
46 *\$36,811.14, Managers Per Diems and Reimbursements of \$2,088.40, employee*

47 *reimbursements of \$1,249.60, and payroll electronic funds withdrawals and*
48 *disbursements of \$149,760.05. for a total of \$ 321,231.11; the Surety Check Register*
49 *Bremer Bank fee of \$37.00, and payment of \$1,500.00 to Welch Forsman Associates*
50 *for permit 21-121; the Wire Check Register in the amount of \$410,068.75 to Hennepin*
51 *County for bond 2013B, and \$397,000.00 to Hennepin County for bond 2020B; and*
52 *the following resolution:*

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54 Manager Miller requested that Resolution 23-071: Second Amendment to the School
55 Lake Preserve Conservation Easement be pulled for discussion.

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57 *Upon vote, the motion carried 7-0.*

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

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61 President White noted that there are no committee reports and directed the Board's
62 attention to the upcoming meeting schedule.

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64 **PUBLIC HEARINGS AND PRESENTATIONS**

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66 2024 Budget and Levy Public Comment Opportunity

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68 Mr. Wisker briefly reviewed the budget process and provided summary of the 2024
69 budget approved by the Board on September 13, and the 2024 levy certified by the Board
70 on September 13. He noted that the Truth in Taxation law provides for local taxing
71 authorities to hold a public meeting in late November or early December to allow for
72 further comment on the budget and levy.

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74 President White invited public comment, and no one appeared to present comments.

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76 **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

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78 Permit 23-477: Amelia Stormwater Pond Maintenance, Minneapolis

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80 Mr. Tres Jonas appeared before the Board of Managers to review the MCWD's own
81 application for a permit to conduct maintenance on Amelia Pond, a stormwater pond
82 southwest of Lake Nokomis. He reviewed the project location and noted that the project
83 involves landfill disposal of pond dredging spoils which contain arsenic. The project
84 triggers the MCWD erosion control rule, which typically does not involve board review,
85 but is presented to the Board of Managers because it is a District project.

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

89 Mr. Jonas noted that the project would result in 900 pounds of phosphorus removal.

90 *Upon vote, the motion carried 7-0.*

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ACTION ITEMS

Resolution 23-072: Awarding Construction Contract for 2023-24 Twin Lakes Park Pond and Nokomis-Amelia Pond Dredging

Mr. Josh Wolf appeared before the Board of Managers to review the request for board action. He reviewed the tabulation of bids on the project and noted that the low bidder is Minnesota Dirt Works, Inc. He reviewed the project schedule, noting that dredging is to be completed by February 16 and vegetation restoration completed by July 15. He summarized the MCWD communications plans regarding the project.

It was moved by Manager Sando, seconded by Manager Hejmadi to adopt Resolution 23-072 as follows:

NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers awards the contract for construction maintenance of Twin Lakes Park Pond and Nokomis-Amelia Pond to Minnesota Dirt Works, Inc., including the Base Bid and Alternate #1, for the contract price of \$567,099.25;

BE IT FURTHER RESOLVED that the District Administrator is authorized, on advice of MCWD legal counsel, to enter into a contract with Minnesota Dirt Works, Inc. for construction services for the 2023-2024 Twin Lakes Park Pond and Nokomis-Amelia Pond dredging, for the stated contract price, and further is authorized to execute change orders in his discretion up to an additional 10 percent, in aggregate, of the contract price; and

BE IT FINALLY RESOLVED that the Administrator is authorized to issue a formal notice to proceed to Minnesota Dirt Works, Inc., on advice of counsel and after receipt of a signed contract and required bonds and insurance documentation.

In response to questions from Manager Miller, Mr. Wolf stated that 6,000 cubic yards of sediment would be removed from Twin Lakes pond, and he noted that District Engineer reports timely and responsive experience with Minnesota Dirt Works on other projects. In response to a question from Manager Olson, Mr. Wolf noted that the sediment was tested not only for arsenic, but a panel of 24 contaminants. The ponds to be dredged in this project have arsenic and PAHs (poly aromatic hydrocarbons). Following the dredging, the ponds will have an average depth of three to four feet, though it will vary. In response to a question from Manager Loftus, Mr. Meehan noted that the pace of sediment cumulation in stormwater ponds varies widely, that the MCWD's pond study helps to predict when maintenance is needed. Manager Miller asked about the proximity of the Twin Lakes pond to Cedar Lake, and Mr. Meehan noted that there are other ponds before discharge to Cedar Lake. In response to a question from Manager Maxwell, Mr.

135 Wisker noted that colder weather is most conducive to the dredging, which explains the
136 February 16 deadline.

137

138 ***Upon vote, the motion carried 7-0.***

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140 Mr. Wisker noted that there were members of the public present who had an interest in
141 the project. President White invited them to come forward with any questions or
142 comments. Ms. Joan Soholt appeared before the Board of Managers and expressed her
143 appreciation of the MCWD's collaboration with the University of Minnesota in study of
144 groundwater in the area. She suggested that more data collection in the Nokomis area
145 could be beneficial, and also noted concerns with invasive cattails. Mr. Wisker said that
146 he would reach out to the University of Minnesota on data collection and follow up with
147 the Minneapolis Park and Recreation Board on vegetation management.

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149 Ms. Monica McNaughton appeared before the Board of Managers and noted concerns
150 with traffic management in the area; asked whether the other pond on the west side of
151 Lake Nokomis is also in need of maintenance; and noted other vegetation maintenance
152 concerns with the spreading of willows. Mr. Wisker noted that we would follow up on
153 these concerns. Mr. Meehan said that the pond identified by Ms. McNaughton is 20%
154 full of sediment and accumulating at a slower pace, so still not in need of maintenance.
155 President White thanked Ms. Soholt and Ms. McNaughton for their interest and
156 comments.

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158 Resolution 23-073: Adoption of the Land & Water Partnership Program

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160 Ms. Kate Moran appeared before the Board of Managers to review the request for board
161 action. She noted that staff presented the program in detail at the September 28 Policy
162 and Planning Committee meeting. The background for this program is the MCWD's
163 recognition that land use changes such as public infrastructure projects and
164 private development create a window of opportunity for water resource improvements
165 that may not reoccur for years. The Board of Managers directed MCWD staff to develop
166 a responsive model to effectively identify and leverage these changes to the landscape.
167 The LWP program is designed to provide technical and financial resources to support
168 partner-led projects that provide significant, regional water resource benefit.

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170 Ms. Moran reviewed the pilot testing of this program, and the valuable feedback and
171 recommendations from the Technical Advisory Committee. ***It was moved by Manager***
172 ***Miller, seconded by Manager Maxwell to adopt Resolution 23-073: Adoption of the***
173 ***Land & Water Partnership Program, as follows:***

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NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby adopts the LWP program and directs the District Administrator and staff to take steps necessary to implement the program on January 1, 2024.

Manager Miller expressed his appreciation for the job well done in developing this program. He said that his only concern is whether the budget can be flexible enough when opportunities arise. Ms. Moran noted that staff have considered this need and created various budget check points to track program needs and available resources. Manager Olson noted that road improvement projects present project opportunities and emphasize the MCWD’s interest in reaching beyond regulation to achieve greater shared benefits. Manager Miller agreed, and asked if the program map might also add main roads to orient managers better to project locations.

Manager Hejmadi asked if there would be a process to capture project ideas from community and not rely solely on permits. Ms. Moran noted that the 2D model and the MCWD’s climate action framework provide additional opportunities to identify projects. Manager Miller commended staff for engaging with policy makers and basing the program on science. ***Upon vote, the motion carried 7-0.***

Resolution 23-071: Second Amendment to the School Lake Conservation Easement

Manager Miller noted that he had requested that this item be pulled from the consent agenda in order to hear more detail on the request. Mr. Wolf appeared before the Board of Managers to review the request for board action. He reviewed the history and explained that the proposed re-drawing of the plat in this amendment to the easement will result in no net loss of conservation area.

It was moved by Manager Miller, seconded by Manager Olson to adopt Resolution 23-071: Second Amendment to the School Lake Conservation Easement as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorize the Board President to execute the Second Amendment to the School Lake Preserve Conservation easement, with nonmaterial changes and on the advice of counsel.

Upon vote, the motion carried 7-0.

BOARD DISCUSSION ITEMS

Review of Proposed Resolutions for Minnesota Watersheds Annual Meeting

Minutes of the Regular Meeting
Minnehaha Creek Watershed District
Board of Managers
11-27-23

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224 Ms. Becky Christopher appeared before the Board of Managers to review the proposed
225 policy resolutions to be considered at the annual conference of Minnesota Watersheds.
226 She noted that staff and legal counsel have reviewed the proposed resolutions and the
227 Minnesota Watersheds Resolution Committee's recommendations.

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229 Resolution #1 would require watershed district permits for the Department of Natural
230 Resources. Staff and legal counsel recommend that the proposed language of the
231 resolution be revised to provide that all state agencies must obtain watershed district
232 permits. Mr. Smith stated that based on a recent conversation, he believed that this
233 change is acceptable to the sponsor of the resolution, Wild Rice Watershed District.

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235 Resolution #2 would clarify budget adoption deadlines and certification for watershed
236 districts. The Resolutions Committee and staff/legal counsel do not recommend adoption
237 of this resolution, and rather support providing best practices to support clarity and
238 consistency in the budget and levy adoption process.

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240 Resolution #3 would support new legislation regarding DNR regulatory authority over
241 public drainage maintenance and reports. Staff note and legal counsel note that this
242 resolution does not directly impact MCWD, but would support the resolution.

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244 Resolution #4 would support streamlining the DNR Flood Hazard Mitigation Grant
245 Program. The Resolutions Committee recommends adoption, and staff and legal counsel
246 concur.

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248 Resolution #5 would support increased flexibility in the Open Meeting Law to utilize
249 interactive technology. The Resolutions Committee recommends adoption.

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251 Resolution #6 would support Minnesota Watersheds outreach and education to encourage
252 formation of watershed districts in unserved areas. The Resolutions Committee
253 recommends adoption.

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255 Manager Hejmadi asked Mr. Smith to comment on the likelihood that the Open Meeting
256 Law change in Resolution #5 would be adopted by the Legislature. Mr. Smith noted
257 divided opinion and the evolution of greater reliance on interactive technology for
258 meetings since the pandemic. He said that this may be the type of legislation that
259 eventually passes, but may take more time before there is adequate support. The
260 managers noted the merits of in person meeting to facilitate better communication and
261 building of relationships.

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263 **BOARD INQUIRIES, ISSUES, AND IDEAS**

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265 Manager Miller noted for the record that he has engaged Stantec to address flooding
266 issues at his residence.

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STAFF UPDATES

Administrator’s Report

Mr. Wisker noted that he had a brief report this evening concerning water levels. Precipitation year to date is 27.5 inches, about 3 inches below normal. Lake Minnetonka is at about two inches below the runout elevation of 928.6, and the creek is flowing at 6 cubic feet per second at Lake Hiawatha.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 8:37 p.m.

Respectfully submitted,

Eugene Maxwell, Secretary

