

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

4  
5                                   **May 9, 2024**

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

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13                                   **MANAGERS PRESENT**

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

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18                                   **MANAGERS ABSENT**

19                                   Arun Hejmadi (monitored the meeting remotely).

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22                                   **DISTRICT STAFF AND CONSULTANTS PRESENT**

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24                                   James Wisker, Administrator; Becky Christopher, Director of Policy Planning; Michael  
25                                   Hayman, Director of Project Planning; Tres Jonas, Permitting Technician; Maggie  
26                                   Menden, Permitting Technician; Kailey Cermak, Planner-Project Manager; Chris  
27                                   Meehan, District Consulting 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 Miller, to approve the*  
32                                   *Agenda as distributed. Upon vote, the motion carried 6-0 (Manager Hejmadi absent).*

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34                                   **MATTERS FROM THE FLOOR**

35                                   None.

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38                                   **CONSENT AGENDA**

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40                                   *It was moved by Manager Olson, seconded by Manager Miller to approve the items on*  
41                                   *the Consent Agenda consisting of approval of the April 25, 2024, Board meeting*  
42                                   *minutes, and approval of the following resolution:*

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44                                   *Resolution 24-029: Citizens Advisory Committee Member Appointment Adjustment*  
45

46 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
47 ***Watershed District Board of Managers hereby appoints Cara Donovan as a***  
48 ***non-resident member of the CAC, with a term expiring on December 31, 2024.***  
49

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

51

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

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

56

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

60

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

65

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

67

68 **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

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

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

74

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

86

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

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

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

102  
103 ***There being no further discussion, upon vote, the motion to approve the exception***  
104 ***carried, 5-0-1, with Manager Miller abstaining.***

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

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111 **ACTION ITEMS**

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113 **Resolution 24-030: Formalizing District’s Exercise of Regulatory Authority within the**  
114 **City of Chanhassen**

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

123  
124 ***It was moved by Manager Olson, seconded by Manager Loftus to adopt Resolution 24-***  
125 ***030: Formalizing District’s Exercise of Regulatory Authority within the City of***  
126 ***Chanhassen as follows:***

127  
128 ***NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers***  
129 ***formally asserts its regulatory authority within its boundaries within the City of***  
130 ***Chanhassen with respect to its Stormwater Management, Floodplain Alteration,***  
131 ***and Wetland Protection rules; and***

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***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

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

178

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

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

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

189

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

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201 *It was moved by Manager Olson, seconded by Manager Loftus, to adopt Resolution 24-*  
202 *032: Authorizing East Auburn Wetland Restoration Design Contract, as follows:*

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

213

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

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

220

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

222

223 **BOARD DISCUSSION ITEMS**

224

225 325 Blake Road, Hopkings, Briefing

226

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

233

234 **BOARD INQUIRIES, ISSUES, AND IDEAS**

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

238

239 **STAFF UPDATES**

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241 Administrator's Report

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243 Mr. Wisker reported on the following items:

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245 1. After two years of drought, we are now only 4 inches away from the wettest  
246 year on record. Towards the end of March, we were still close, within 0.3 inch  
247 of the driest year of record. Since then, we have received 8.7 inches of rain.  
248 Lake Minnetonka is now at 929.6, having risen about one foot due to heavy  
249 precipitation in recent weeks. Minnehaha Creek peaked recently in flow at  
250 Hiawatha of 275 cubic feet per second, and is now back down to 150 cfs.

251

252 2. Citizens Advisory Committee alumni, Bill Bushnell, recently shared  
253 information about the Minnesota Bush Prize, which recognizes innovative  
254 non-profit or government organizations that are highly valued within their  
255 communities and have a track record of successful community problem  
256 solving. Evaluation criteria include considerations for innovative problem  
257 solving and meaningful collaboration. MCWD staff are planning to submit an  
258 application for the award which highlights the District's creative approach to  
259 capital project implementation in MCWD's focal geographies, as well as our  
260 upcoming efforts to engage communities in climate action planning.

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
5/9/24

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

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268           **Adjournment**

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

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273           Respectfully submitted,

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276           Eugene Maxwell, Secretary

DRAFT