

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

4
5 **June 27, 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 June 27, 2024, at the MCWD
11 offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

12
13 **MANAGERS PRESENT**

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

16
17
18 **MANAGERS ABSENT**

19 None.

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

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

27
28
29 **APPROVAL OF AGENDA**

30
31 *It was moved by Manager Maxwell, seconded by Manager Sando, to approve the*
32 *Agenda as distributed. Upon vote, the motion carried 7-0.*

33
34 **MATTERS FROM THE FLOOR**

35 None.

36
37
38 **CONSENT AGENDA**

39
40 *It was moved by Manager Hejmadi, seconded by Manager Miller, to approve the items*
41 *on the Consent Agenda consisting of approval of the June 13, 2024, Board meeting*
42 *minutes; approval of the General Check Register, including check numbers 42566*
43 *through 42573 in the amount of \$43,123.09, electronic funds withdrawals of*
44 *\$158,988.43, managers per diems and reimbursements of \$1,250.63, employee*
45 *reimbursements of \$0, and payroll electronic funds withdrawals and disbursements of*
46 *\$253,308.88, for a total of \$456,671.03; the Surety Check Register including payment*

47 *of \$55.00 in fees to Bremer Bank, and check numbers 2210-2211, for a total of*
48 *\$8,255.00; no wire transfers; and the following resolutions:*

49
50 *Resolution 24-035: Authorization to distribute Capital Improvement Plan for annual*
51 *review and comment*

52
53 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
54 *Watershed District Board of Managers authorizes staff to distribute the Draft*
55 *CIP and Lake Minnetonka Subwatershed minor plan amendment for 30-day*
56 *review and comment; and*

57
58 *Resolution 24:036: Authorization to Execute Grant Agreement with Hennepin*
59 *County for Greenway to Cedar Trail Connection*

60
61 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
62 *Watershed District Board of Managers authorizes the District Administrator to*
63 *execute the Southwest Community Works Program Grant Agreement for the*
64 *Blake Road Station Area Cedar Trail Connection by the Minnehaha Creek*
65 *Watershed District.*

66
67 *Upon vote, the motion carried 7-0.*

68
69
70 **BOARD, COMMITTEE AND TASK FORCE REPORTS**

71
72 President's Report: None.

73
74 Policy Planning Committee Report: Manager Miller reported that the Committee met
75 earlier in the evening and received another briefing on the 2025 budget.

76
77 Minnesota Watersheds Summer Tour Report: Managers Olson, Hejmadi, Sando and
78 President White reported on the summer tour.

79
80 President White noted the upcoming meeting schedule presented in the agenda.

81
82 **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

83
84 Permit 24-208: 20555 & 20565 Linden Road, Deephaven

85
86 Ms. Veronica Sannes reviewed the permit report. She noted that this application is for a
87 permit for grading and floodplain alteration on two parcels resulting from the subdivision
88 of 20565 Linden Road in the City of Deephaven. This existing parcel is being subdivided
89 into two lots: 20555 and 20565 Linden Road. The applicant proposes to engage in

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

95
96 Ms. Sannes reviewed the site and the application of MCWD rules to the Project. She
97 noted that comments from the representative of concerned neighboring landowners have
98 urged application of the Stormwater Rule, but staff and MCWD counsel have determined
99 that the rule is not applicable to the Project as it involves construction on a single-family
100 lot of record and involves a subdivision of less than three lots. She noted that other
101 comments received to date include concerns that the Project will increase traffic noise,
102 mosquitoes, and flooding, and adversely impact wildlife habitat.

103
104 President White invited members of the public to comment on the permit application.
105 Mr. Bryan Huntington appeared before the Board of Managers. He noted that he is an
106 attorney representing four sets of neighboring property owners and noted the filing of his
107 request for intervention. He stated that the MCWD Stormwater Rule applies to this
108 project because it involves a common plan of development, and he noted that the
109 fundamental purpose of the rule is to protect against flooding. He noted that the Krohn
110 property has a basement elevation that is only one foot above the 100-year high water
111 elevation of the nearby basin, which he contended would violate the flood separation
112 requirement of the Stormwater Rule. He urged that the permit application be denied, or
113 in the alternative approved with the condition of submitting a stormwater management
114 plan.

115
116 Ms. Valerie Anderson appeared before the Board of Managers and expressed concern
117 about an increase in water flow rates and increased volume of water flowing to the
118 wetland.

119
120 Mr. John McGarry stated that he is the property owner and permit applicant, and
121 expressed his agreement with the staff recommendation. He noted that the Hennepin
122 County District Court had dismissed claims brought by the neighboring land owners, and
123 he stated that his project had nothing to do with the existing risk of flooding for the
124 Krohn property. He noted that the Project involves smaller footprints for the homes than
125 is allowed.

126
127 President White invited questions from the managers. Manager Loftus inquired about the
128 purpose of grading between the two parcels, and Mr. McGarry explained the purpose is to
129 provide swale areas to direct water to the wetland.

130

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

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

138

139

140 **PUBLIC HEARINGS & PRESENTATIONS**

141

142 None.

143

144

145 **ACTION ITEMS**

146

147 None.

148

149 **BOARD DISCUSSION ITEMS**

150

151 **Lost Lake Development Review**

152

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

159

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

165

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

176 with the City’s 2040 Plan, and he explained the “Jellyfish” stormwater treatment system
177 which would be maintained by the homeowners association.

178
179 President White asked about the classification of the wetland and Ms. Sannes noted that
180 the applicant has retained a consultant to analyze potential reclassification from
181 “Preserve” to “Manage 1” which would involve a 40 foot, rather than a 75 foot buffer.
182 Manager Olson expressed his appreciation for the project design changes. In response to
183 a question from President White, Mr. Pavsek explained that the concept for the vegetation
184 plan would involve soil amendments and a native vegetation buffer. The managers
185 thanked the Monarch Development Partners for this discussion.

186
187 President White proposed to defer the discussion of 325 Blake Road until after Board
188 Inquiries and Staff Updates, and the managers concurred.

189
190

191 **BOARD INQUIRIES, ISSUES, AND IDEAS**

192
193 Manager Miller asked whether it is the MCWD’s policy and practice to have Board
194 approval of any grant applications. Mr. Wisker affirmed that prior Board approval is the
195 policy and practice, though on rare occasions a tight deadline may have resulted in staff
196 seeking Board approval after the fact.

197

198 **STAFF UPDATES**

199

200 Administrator’s Report

201

202 Mr. Wisker reported on the following items:

203

204 1. Progress continues in addressing the construction defects of the Minnehaha Preserve
205 Boardwalk. The City of St. Louis Park building officials are reviewing alternative
206 remedies for two categories of defects and a formal submission is planned within two
207 weeks.

208

209 2. Mr. Brian Beck and Ms. Maia Irvin presented information to the Board on water level
210 data and communications. Ms. Irvin noted that precipitation year to date is 19.43” or
211 5.4” above normal. We are approaching a pace of precipitation to exceed the wettest year
212 of record (2014). Lake Minnetonka peaked recently at elevation 929.95, very close to the
213 emergency spillway elevation of 930. Current lake level is 929.87. Minnehaha Creek
214 flow peaked on June 16 at 361 cubic feet per second, and is currently at 215 cfs. The
215 MCWD communications staff have sent four email newsletters recently on the water
216 levels. There are 769 subscribers to this email and the open rate is 65%, most recipients
217 opening within the first hour. Mr. Beck reviewed the data gathered through the MCWD’s
218 RESNET system, which provides an understanding of real-time travel of precipitation

219 and creek flows. This data is very helpful in assisting the MCWD's management
220 decisions with Grays Bay dam. Mr. Wisker noted that this data and analysis is also
221 helpful to MCWD partners, including cities along the Creek.
222

223 **BOARD DISCUSSION ITEMS, continued**

224
225 **325 Blake Road Restoration and Redevelopment Update**
226

227 Mr. Michael Hayman appeared before the Board of Managers to provide a status report on 325
228 Blake Road redevelopment. He noted that at the June 13 meeting, staff reported that Alatus had
229 learned that the Kayne Anderson firm had declined to invest in the project. With the close of the
230 feasibility period on March 31, Alatus had 90 days to close on this phase of the project, or July 1.
231 It is now clear that Alatus will not be able to close on or before July 1. Mr. Hayman noted that
232 staff has been reviewing options with the team of development advisors and would like to
233 discuss these options in closed session. Based on the advice of legal counsel, *it was moved by*
234 *Manager Miller, seconded by Manager Olson, to move into closed session for the purpose of*
235 *discussing potential amendment of terms for the sale of 325 Blake Road in Hopkins. Upon*
236 *vote, the motion carried 7-0.*
237

238 The Board of Managers went into closed session.
239

240 The Board of Managers returned to open session.
241

242 *It was moved by Manager Miller, seconded by Manager Hejmadi to adopt Resolution 24-037*
243 *as follows:*
244

245 ***BE IT RESOLVED that the MCWD Board of Managers authorizes the Administrator,***
246 ***on advice of counsel, to deliver a letter to Alatus Development LLC on June 28, 2024,***
247 ***with accompanying Third Amendment to the Real Estate Purchase Agreement,***
248 ***requiring execution of the amendment by Alatus Development LLC no later than 4:00***
249 ***p.m., July 1, 2024; and***
250

251 ***BE IT FURTHER RESOLVED that, should Alatus neglect to sign the Third***
252 ***Amendment by the deadline, the MCWD Board of Mangers authorizes the***
253 ***Administrator to deliver a Notice of Termination of the Real Estate Purchase***
254 ***Agreement to Alatus Development LLC and the title company, First American Title***
255 ***Insurance Company, by the close of business July 1, 2024.***
256

257 *Upon roll call vote, the motion carried 7-0 as follows:*
258

259 Hejmadi: Aye
260 Loftus: Aye
261 Sando: Aye

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262 Miller: Aye
263 Olson: Aye
264 Maxwell: Aye
265 White: Aye

266
267

268 **Adjournment**

269

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

272

273 Respectfully submitted,

274

275

276 Eugene Maxwell, Secretary

DRAFT