



Thursday, September 22, 2011
Minnehaha Creek Watershed District Office
Minnetonka Community Center
14600 Minnetonka Boulevard
Minnetonka, MN 55345
www.minnehahacreek.org

Board of Managers:

**Jim Calkins, President; Brian Shekleton, Vice President; Lee Keeley, Secretary;
Richard Miller, Treasurer; Pam Blixt, Manager; Jeff Casale, Manager; William Olson, Manager**

Note: Indicated times are estimates; actual times may vary considerably. Individuals with items on the agenda or who wish to speak to the Board are encouraged to be in attendance when the meeting is called to order.

- 6:00-6:45pm 1. **Committee Meetings – None**
- 6:45pm 2. **Board Meeting Call to Order and Roll Call**
- 6:45-6:50pm 3. **Matters from the Floor**
Anyone wishing to address the Board of Managers on an item not on the agenda or on the consent agenda may come forward at this time. Comments are limited to two minutes.
- 6:50pm 4. **Approval of Agenda** (*Additions/Corrections/Deletions*)
- 6:50-6:55pm **CONSENT AGENDA**
(The consent agenda is considered as one item of business. It consists of routine administrative items or items not requiring discussion. Items can be removed from the consent agenda at the request of a Board member, staff member, or a member of the audience.)
5. **Approval of Minutes***
5.1 Approval of September 8, 2011 Minutes
6. **Approval of Check Register**
6.1 Checking
6.2 Petty Cash
6.3 Surety
7. **Consent Items**
7.1 Resolution 11-077: Final Feasibility/Ordering for Minnehaha Creek Reach 14 Restoration (2012-2013) capital improvement project – **Wisker**
7.2 Resolution 11-078: Final Feasibility/Ordering for Langdon-Saunders Volume control (2012) capital improvement project – **Cedarleaf Dahl**
7.3 Resolution 11-079: LID opportunity at El Colegio Charter School: 4137 Bloomington Avenue, Minneapolis – **Christopher**

The Minnehaha Creek Watershed District is committed to a leadership role in protecting, improving, and managing the surface waters and affiliated groundwater resources within the District, including their relationships to the ecosystems of which they are an integral part, through regulation, capital projects, education, cooperative endeavors, and other programs based on sound science, innovative thinking, an informed and engaged constituency, and cost effective use of public funds.

- 7.4 Resolution 11-080: Approval of Long Lake Local Water Management Plan – **Wisker**
- 7.5 Resolution 11-081: Approval of the MCWD/MWMO Joint Watershed Research Grant proposal to study the area of infiltration that influences Minnehaha Creek baseflow – **Wisker**
- 7.6 Resolution 11-082: Authorization to begin the major plan amendment process for the aquatic invasive species program – **Evenson**
- 7.7 Resolution 11-083: Recommendation to approve Drug and Alcohol Abuse Policy and corresponding acknowledgement form–**Mandt**
- 7.8 Resolution 11-084: Recommendation to approve Criminal Conviction Policy and corresponding acknowledgement forms - **Mandt**

8. Information Items and Correspondence

- 8.1 None

6:55-10:25pm

REGULAR AGENDA

9. Committee and Task Force Reports

- 9.1 Board Updates:
 - MN Waters Lake Night
 - Citizens Advisory Committee
 - Hydrodata
 - Other
- 9.2 Upcoming Committee and Task Force Meeting Schedule
 - Information Technology Committee : September 27, 2011, 6:00 pm, St. Louis Park City Hall (Shekleton, Blixt, Casale)
 - Building Committee: October 4, 2011, 4:00-8:30, Minnetonka Community Center
- 9.3 To Be Scheduled:
 - None

10. Permits Requiring a Variance or Board Discussion

- 10.1 None

11. Board Action Items

- 11.1 Items removed from the Consent Agenda
- 11.2 Resolution 11-085: Public Hearing: Authorizations for purchase of property in the Minnehaha Creek Sub-Watershed and issuance of bonds to finance this purchase- **Ten Eyck**
- 11.3 Resolution 11-086: Authorization for issuance of bonds to finance purchase or property in the Minnehaha Creek Sub-Watershed – **Ten Eyck**
- 11.4 Resolution 11-087: Richfield Project – **Wisker**
- 11.5 Resolution 11-088: Approval of final design for Dutch Lake Filtration Project (DL-3) and Authorization to Acquire Project Easement – Clark
- 11.6 Resolution 11-090: Authorization to Adopt Concept Plan for Conservation and Residential Development of 7901 & 8015 Halstead Drive, Minnetrista -**Norton**

*Attachments enclosed

**Attachments to be sent under separate cover

12. Board Discussion Items

12.1 Resolution 11-089: 2011 Watershed Heroes Award Recipients – **Mamayek**

13. Staff Updates

13.1 None

14. Adjournment

Upcoming Meeting/Event Schedule

Thursday, October 6, 2011, Board of Managers Workshop – MCWD Lower Level Meeting Room, 6:45 pm

Thursday, October 13, 2011, Board of Managers Workshop – MCWD Lower Level Meeting Room, 6:45 pm

Thursday, October 27, 2011, Board of Managers Meeting – MCWD Lower Level Meeting Room, 6:45 pm

*Attachments enclosed

**Attachments to be sent under separate cover

11.2/11.3

Minnehaha Creek Watershed District

REQUEST FOR BOARD ACTION

MEETING DATE: 9-22-11

TITLE: Authorizations for Purchase of Property in the Minnehaha Creek Sub-Watershed and Issuance of Bonds to Finance This Purchase **Date:** 9-22-11

RESOLUTION NUMBERS: 11-085 and 11-086

PREPARED BY: Mark Ten Eyck

E-MAIL: mteneyck@minnehahacreek.org **TELEPHONE:** 952-641-4502

REVIEWED BY: Administrator Counsel Program Mgr. (Name): Mark Ten Eyck
 Board Committee Engineer Other: Public Relations Counsel, Real Estate Counsel, Bond Counsel and Advisors, Property Search & Management Advisors, James Wisker, Telly Mamayek

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date): _____	<input type="checkbox"/> Refer to taskforce or committee (date): _____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other (specify): Board met in closed session, authorized staff to negotiate with landowner.	

PURPOSE or ACTION REQUESTED:

Staff seeks approval by the Board of Managers to enter into and execute an agreement to purchase approximately 16.9 acres owned by Blake Road Partners LLC at 325 Blake Road in Hopkins (Cold Storage Property). The total consideration for acquisition of fee title to the property is \$14,950,000 and will be financed by bonds issued by the District to be paid from annual taxes levied on property within the District and budgeted to the Land Conservation and Restoration Program.

By authorizing the District Administrator to finalize and sign the Purchase Agreement, the Board is committing to perform under the terms of the Purchase Agreement subject to the performance of the Seller in regard to their responsibilities and further subject to the contingencies contained within the agreement. These contingencies include:

1. Seller's representations and warranties remaining true and correct at closing;
2. On the closing date, Seller not being in default under the Agreement or any other agreement relating to the properties;

DRAFT for discussion purposes only and subject to Board approval and the availability of funds.
Resolutions are not final until approved by the Board and signed by the Board Secretary.

E.11/2.11

3. On or before the closing date, receipt by the District satisfactorily showing that all mortgages on the property will be satisfied upon closing; and
4. On or before the closing date, sale of bonds to finance the purchase price.

A copy of the proposed Purchase Agreement, containing the essential terms the District Administrator will be authorized to finalize and sign, is attached. Proposed Resolution Number 11-085 authorizes this action.

Staff also seeks authorization to issue bonds to finance this purchase as authorized by the recommended Resolution Number 11-086: Awarding Sale Of \$15,000,000 Conservation Program Notes Of 2011, Fixing the Form And Specifications Thereof, Providing for Their Execution And Delivery, AND Pledging Taxes For Their Payment.

PROJECT/PROGRAM LOCATION:

See attached maps.

PROJECT TIMELINE:

At the July 7, 2011 and September 8, 2011 Board of Managers' closed sessions (per Minn. Stat. 13D.05, subd. 3(c)), staff briefed the Board on pending negotiations with Blake Road Partners LLC concerning their property at 325 Blake Road, Hopkins, and the Board established the parameters for an offer. Since that time, staff and consultants to the District have negotiated a purchase price and a purchase agreement consistent with the direction provided by the Board. The District has completed survey and title work and environmental due diligence and review by the Technical Advisory Committee was completed on September 20, 2011. Final inspection of the property is in process. If approved, closing will be contingent on issuance of District bonds. Bond advice provided by bond advisors at Springsted indicates that this should happen within two weeks of execution of the Purchase Agreement.

PROJECT/PROGRAM COST:

Fund name and number: Land Conservation, 3201 – 300 – 4540

Current budget: \$2,100,000 for debt service on County financing and, in this case, bonds issued by the District.

Expenditures to date: Since 2007, when the District approved its Comprehensive Water Resources Management Plan, the Land Conservation and Restoration Program has acquired properties at a cost of about \$12,500,000.

Requested amount of funding: Debt service on \$15,000,000 bonds will require payments of interest only in the first three years of about \$560,000, with a payment of \$3,000,000 in the fourth year, and refinancing of the remaining principal amount in year five.

Is a budget amendment requested? No.

Is additional staff requested? No.

PAST BOARD ACTIONS AND IMPLEMENTATION:

At the July 7, 2011 and September 8, 2011 Board of Managers Closed Sessions (per Minn. Stat. 13D.05, subd. 3(c)), staff briefed the Board on pending negotiations with Blake Road Partners LLC concerning their property at 325 Blake Road in Hopkins, and the Board established the parameters for an offer. Since that time, staff and consultants to the District have negotiated a purchase price and a purchase agreement consistent within the direction provided by the Board. They have also completed survey and title work and

environmental due diligence and review by the Technical Advisory Committee. Final inspection of the property is in process.

A copy of the proposed purchase agreement is attached.

SUMMARY:

MCWD staff believes restoration and conservation opportunities on the Cold Storage property, if carried out, will help accomplish Plan goals and merit significant District investment. The sub-watershed section of the District's Comprehensive Water Resources Management Plan (Plan), identifies three goals and opportunities: A) connecting or expanding existing public land, B) being part of a restoration project; or C) leveraging redevelopment opportunities. The proposed Cold Storage acquisition will accomplish all three.

The District's effort to improve Minnehaha Creek is one of the most significant environmental restoration projects being undertaken in the Twin Cities. A few key principles are guiding this Minnehaha Creek restoration effort are:

1. Develop cost-effective projects that can have a measureable impact on improving water quality, enhancing natural environments along the creek watershed and providing important stormwater and flood management benefits.
2. Work in partnership with other local governments, homeowners and businesses.
3. Implement the projects with a financially responsible approach and minimize impacts to other parties.

The proposed Cold Storage acquisition meets all of these principles. Specifically, some details include:

- The property is 16.9 acres, adjacent to Minnehaha Creek, located at 325 Blake Road, Hopkins. The parcel is an older industrial property with cold storage buildings currently occupying the site.
- Our plan is to restore about 1,000 feet of shoreline in one of the most degraded sections of the creek. The area will become a natural buffer to help clean and slow run-off water before it enters the creek, provide reasonable public access and improve water quality.
- The cost of the 16.9 acre acquisition is \$14.95M to be financed by MCWD bond proceeds with repayment through the MCWD watershed tax levy. Since we will retain the existing businesses on the property until some future time, the lease payments by the existing storage businesses will help cover annual financing costs.
- Consistent with watershed plans, we will explore opportunities to return the balance of the property to private development when current leases expire, which will allow us to recover a good portion of the original property acquisition costs.
- The proposed acquisition by the MCWD is one component of a larger partnership with the Cities of Hopkins and St. Louis Park aimed at restoring creek watershed areas between Hwy. 169 and Methodist Hospital. As stated in a resolution of support adopted by the City of Hopkins on September 13, 2011, copy attached, this purchase supports redevelopment goals for Hopkins while helping achieve the MCWD's goals. Staff has begun discussing this project with area landowners and feedback to date has generally supported proceeding with this acquisition and restoration project.

FINANCIAL JUSTIFICATION:

An appraisal of the Cold Storage Property prepared for the District by The Shenhon Company supports the purchase price of \$14,950,000. There may be an opportunity for resale of part of the property for residential or

commercial uses, with a conservation easement, if necessary, to enable the District to protect and restore the Creek and connected upland areas.

Regarding the value of the Cold Storage Property fee title, Counsel advises that the MCWD is under no external legal obligation to document value when acquiring a fee-title property. In his view, documentation of value is prudent simply to ensure that the MCWD is making a sound expenditure and to be able to document to the MCWD's constituencies, if necessary, that the Board affirmatively adjudged the expenditure to be sound before going forward.

DISTRICT BOND FINANCING

The District will finance its purchase of the Cold Storage property with bonds issued pursuant to the proposed resolution number 11-086. Debt service on these bonds will be payable from taxes levied on property within the District as a special taxing district levy of the District.

STAFF RECOMMENDATION: Approve Resolutions Number 11-085 and 11-086.

EXPLANATION OF FISCAL IMPACT: Debt service on the \$14,950,000 purchase price plus related acquisition costs such as survey, environmental hazards assessment, appraisal, legal fees, purchase negotiation and closing costs, and relocation costs will be paid with funds budgeted for the Land Conservation and Restoration Program. Consistent with watershed plans, we will explore opportunities to return the balance of the property to productive use when current leases expire, which will allow us to recover a good portion of the original property acquisition costs. Debt service on the bonds issued to finance the purchase will require payments of interest only in the first three years of about \$560,000 per year, with a payment of \$3,000,000 in the fourth year, and refinancing of the remaining principal amount in year five.

RESOLUTION

RESOLUTION NUMBER: 11-085

TITLE: **Authorization to Purchase Cold Storage Property at 325 Blake Road in Hopkins in the Six-Mile Marsh Sub-Watershed**

WHEREAS, District's Comprehensive Water Resources Management Plan includes a Land Conservation Program;

WHEREAS, District staff have identified a property for sale at 325 Blake Road and owned by Blake Road Partners LLC that staff finds to meet the objectives and policy guidance of the Land Conservation Program;

WHEREAS, the District's *Comprehensive Water Resources Management Plan* provides that the District's Land Conservation and Restoration Program's focus in the Minnehaha Creek Sub-Watershed will be on connecting or expanding existing public land, B) being part of a restoration project; or C) leveraging redevelopment opportunities;

WHEREAS, the Cold Storage property is identified in the *Comprehensive Water Resources Management Plan* as within a priority area;

WHEREAS, the District's plan is to restore about 1,000 feet of shoreline in one of the most degraded sections of the creek and the area will become a natural buffer to help clean and slow run-off water before it enters the creek, provide reasonable public access and improve water quality;

WHEREAS, consistent with watershed plans, we will explore opportunities to return the balance of the property to productive use when current leases expire, which will allow us to recover a good portion of the original property acquisition costs;

WHEREAS, the District's purchase of the Cold Storage Property is one component of a larger partnership with the Cities of Hopkins and St. Louis Park aimed at restoring creek watershed areas between Hwy. 169 and Methodist Hospital;

WHEREAS, the City of Hopkins has adopted a resolution support the District's purchase of the Cold Storage Property as part of a joint effort to maximize public benefits including community livability, economic enhancement of land values, water quality and access to Minnehaha Creek for recreational and educational purposes;

WHEREAS, the District's purchase of the Cold Storage Property supports both the redevelopment goals established by the City of Hopkins and the District's water quality, land conservation and flood damage mitigation goals;

WHEREAS, in a closed sessions on July 7, 2011 and September 8, 2011, the Board of Managers developed the parameters of an offer to the Blake Road Partners LLC and staff, real estate advisors, and legal counsel have negotiated a purchase price of \$14,950,000 and proposed the essential terms of a purchase agreement consistent with the Board's parameters; and

WHEREAS, The Shenehon Company has completed an appraisal for the District that supports the purchase price of \$14,950,000;

WHEREAS, utilizing the extensive information in the appraisal, Staff has determined, legal counsel has concurred, and the Board concludes on the basis of that information that the fair market value of fee title to the Cold Storage Property is not less than \$14,950,000;

WHEREAS, the essential terms of the Purchase Agreement including contingencies protecting the District's interest;

WHEREAS, the Technical Advisory Committee met on September 20, 2011, and discussed acquisition of the Cold Storage property;

WHEREAS, in accordance with Minnesota Statutes § 103B.251, subdivision 3, the District held a duly noticed public hearing on acquiring the Halverson Property on September 22, 2011, at which time all interested parties had the opportunity to speak for and against the acquisition;

WHEREAS, the Board finds that the acquisition will be conducive to public health and promote the general welfare, and is in compliance with Minnesota Statutes §§103B.205 to 103B.255 and the RWMP adopted pursuant to §103B.231;

THEREFORE, ALSO BE IT RESOLVED that pursuant to Minnesota Statutes § 103B.251 and the WRMP, acquisition of the Cold Storage Property is ordered and the District Administrator is directed to finalize and sign a Purchase Agreement consistent with the essential terms as proposed to the Blake Road Partners LLC and acquire the fee title to the Cold Storage Property for \$14,950,000. The Administrator, on advice of counsel, may make minor, non-substantive changes to the documents as warranted in completing the transaction. Be it further resolved that the Board of Managers takes the following additional actions to execute the transaction:

1. Authorizes payment of earnest money to the Seller in the amount of \$150,000;
2. Upon satisfaction to the District Administrator of all requirements and responsibilities within the Purchase Agreement, authorizes final payment in the amount of \$14,800,000 plus associated transactional costs related to title, escrow, closing costs, environmental hazard assessment, appraisal, legal, property acquisition and the like;
3. Authorizes the District Administrator to sign and record the fee title ownership subject to the parameters set by the Board of Managers;
4. Authorizes the District Administrator to sign all necessary documents pertaining to the execution and closing of the Purchase Agreement;

5. Authorizes the District Administrator to have the property added to the District's insurance policy; and
6. Authorizes the District Administrator to take all steps necessary to execute and ensure District performance of its rights and responsibilities under the Purchase Agreement.

Resolution Number 11-085 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution __ ayes, __ nays, __ abstentions. Date: September 22, 2011.

Date: _____
Secretary