MINUTES OF THE REGULAR MEETING OF
THE MINNEHAHA CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

March 13, 2025

CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by President Sherry White at 7:00 p.m. on March 13, 2025, at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

MANAGERS PRESENT

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

MANAGERS ABSENT

None.

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Maggie Menden, Permitting Technician; Chris Meehan, District Consulting Engineer; and Louis Smith, District Counsel.

OATH OF OFFICE

Mr. Smith administered the oath of office to Managers Olson and Maxwell who were recently reappointed to the Board of Managers.

APPROVAL OF AGENDA

President White noted that Item 13 Board Inquiries, Issues and Ideas, and Item 14 Staff Updates would be taken up prior to Item 12.1 Discussion Items. ***It was moved by Manager Miller, seconded by Manager Maxwell, to approve the agenda with this change. Upon vote, the motion carried 7-0.***

MATTERS FROM THE FLOOR

None.

CONSENT AGENDA

It was moved by Manager Olson, seconded by Manager Hejmadi, to approve the items on the Consent Agenda consisting of approval of the February 27, 2025, Board meeting minutes and the following resolution:

> ***Resolution 25-018: Authorization to Extend the Contract with Solution Builders for IT Managed Services***
>
> ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the District Administrator to negotiate and execute an extension of the District's IT managed services contract with Solution Builders, Inc., for a period of two years.***

Upon vote, the motion carried, 7-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: None.

Operations and Planning Committee Report: Manager Loftus reported that the Committee met earlier in the evening and received an excellent briefing on the permitting program. The Committee anticipates similar regular briefings on the permitting program in the future.

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

PUBLIC HEARINGS & PRESENTATIONS

None.

PERMITS REQUIRING A VARIANCE OR DISCUSSION

Permit 24-560 Highway 11 Road Project, Carver County

Ms. Maggie Menden appeared before the Board of Managers to review the permit application. She noted that the district administrator had directed this permit application be presented to and considered by the Board of Managers for decision, due to long-standing interest of Zumbra Lake homeowners in high water level issues and concerns raised by these residents during the permit's public notice period regarding the configuration of the culvert under Highway 11 which conveys drainage from Stone, Sunny and Zumbra Lakes, west into Auburn Lake. Ms. Menden noted that staff have determined that the application complies with MCWD Rules and recommends approval of the permit with the conditions noted in the permit report. She reviewed the background on the project and the application of the MCWD Rules to the proposed project.

President White invited comments from the public. Mr. Chip Kemppainen appeared before the Board of Managers and expressed his concern that he did not want to repeat the flooding of 2014. He had built a berm to prevent further flooding and then removed it. He said that he was concerned about backflow from Stone Lake to Sunny Lake to Lake Zumbra.

Mr. Kevin Lohmann appeared before the Board of Managers and expressed concern that the current 24-inch culvert will be downsized to an 18-inch culvert. He requested that the Board deny the permit application to allow for an opportunity to design a larger culvert. In response to a question from President White, Mr. Meehan reviewed the design considerations to replace the 24-inch corrugated metal culvert with an 18-inch culvert with a design and material to facilitate smooth flow and hence a greater capacity. Mr. Meehan also noted that the MCWD's collaboration with other partners to review local watershed conditions in this area in 2014-2017 has included a focus on in-kind replacement of highway culverts so as to not exacerbate conditions. Mr. Wisker reviewed the time that MCWD has taken with Carver County, Three Rivers Park District, the Department of Natural Resources, City of Victoria and area residents to review the flow dynamics and hydraulic conditions in this area. The group reviewed a range of potential improvements with various benefits and impacts. A backflow flap concept would have provided the most relief in highwater conditions, significantly more than enlarging culverts. This alternative was ultimately not adopted and was outside of the MCWD's role and authority, as it does not own the pertinent infrastructure.

Mr. Scott Leonard appeared before the Board of Managers and stated that he felt Mr. Wisker was correct in saying that many alternatives have been evaluated, but in Mr. Leonard's view, none of these alternatives would have a significant effect. Mr. Leonard said that Lake Zumbra is serving as the storage basin in highwater conditions and cannot drain. These conditions infringe on property owners' rights to use the lake. Mr. Leonard said that MCWD rules aside, this is a longstanding problem, with human-created issues and it needs correction. He asked that MCWD and other parties reconvene and solve the problem with everyone at the table.

Mr. Wisker noted that the previous studies identified a range of flood reduction options on Lake Zumbra, but these options also often involved impacts on other water bodies and other landowners. While the backflow flap or flapgate was not embraced by all parties and not advanced, the options with larger benefit to Lake Zumbra had larger impacts on others.

Mr. Scott Pikovsky appeared before the Board of Managers and stated that he had reviewed DNR information on lake bounce. Lake Zumbra has a bounce of eight feet, whereas other lakes in the area have a bounce of more like four feet. He stated that the goal should be to reduce Lake Zumbra's bounce in highwater conditions.

Ms. Mary Dolan appeared before the Board of Managers and stated that the flap alternative appeared too small to provide the necessary relief.

Mr. Scott Leonard appeared again before the Board of Managers and stated that he felt that Lake Zumbra's bounce could be reduced without harming the park and that the flapgate was not a good solution. He stated that he felt the earlier outreach efforts by Carver County did not highlight the water issues but rather focused on the general road project.

Ms. Amy Siefker appeared before the Board of Managers. She noted that the lake level fluctuates every year and she asked what was the obstacle to a larger culvert in the project. She urged that everyone take advantage of this opportunity to get this right.

Noting no one else wishing to offer public comment, President White invited a motion on the permit application. ***It was moved by Manager Miller, seconded by Manager Maxwell to approve Permit 24-560 with the conditions recommended by staff.***

Manager Olson asked legal counsel to comment on the application before the Board. Mr. Smith noted that the Board's task is to review the permit application, staff analysis of the application, and all the comments presented in order to determine whether the application meets the requirements of the MCWD rules. The Board's action is subject to legal review, and the question on review will be whether the decision is arbitrary and capricious and whether it is supported by substantial evidence. So, unless there is a basis and evidence to find that the application does not comply with the rules, the Board's obligation is to approve the permit.

Manager Loftus asked Mr. Wisker to comment on the range of alternatives that were considered in the 2014-2017 discussions. Mr. Wisker noted that leading into the study, there had been requests to have a culvert as large as six feet. In the course of the study, the engineers focused on a range of achievable options that would not have large adverse impacts downstream. Three Rivers Park District was opposed to great increases in the culvert size and had litigated over other highwater impacts that had impacted trees in the park. So, all of these alternatives involve balancing upstream and downstream impacts. The study had indicated that even a larger increase in the culvert size did not significantly impact the conditions at Lake Zumbra.

There being no further discussion, upon vote the motion to approve the permit with the conditions recommended by staff carried, 6-1 (Manager Miller opposed). Manager

Miller stated that he voted no because he felt that the citizens had not been properly notified and engaged in the course of the development of the project.

ACTION ITEMS

None.

BOARD INQUIRIES, ISSUES, AND IDEAS

Manager Hejmadi noted the experience of "weather whiplash" with various extremes of fires, drought, and floods and asked if staff might consider how this dynamic could impact the watershed.

STAFF UPDATES

Administrator's Report
Mr. Wisker reported on the following items:

1. The MCWD has hired a new Geographic Information Systems coordinator, Owen Stucky, who will start work on April 7;

2. The MCWD is submitting a letter of support to the Legislative Citizens Commission on Minnesota Resources for an application by the University of Minnesota to develop high resolution land cover maps, which will assist in climate resilience and watershed management planning;

3. A recent article in the Sun Patriot covered Carver County water management and included the MCWD's presentation to the Carver County Board;

4. New audiovisual equipment has been acquired and should be installed by the March 27 meeting;

5. Community meetings are planned in the coming month on the County Road 6 and East Auburn projects, with the East Auburn project meeting on March 25 and the County Road 6 project meeting on April 3;

6. Staff attended a Lake Hiawatha design charette held by the Minneapolis Park & Recreation Board held earlier in the day;

7. The MCWD has received correspondence from Campbell-Sevey's attorney concerning the ongoing discussion about the existing easement and the

MCWD's need for campus improvements. Staff and counsel will review this correspondence and report back to the Board.

BOARD DISCUSSION ITEMS

325 Blake Road Restoration and Redevelopment

Mr. Wisker requested that the Board of Managers go into closed session for staff to provide an update on redevelopment and the MCWD project at 325 Blake Road in Hopkins. ***Pursuant to legal counsel's recommendation, it was moved by Manager Maxwell, seconded by Manager Olson for the Board to go into a closed session for the purpose of discussing the potential expiration or revision of terms of the Purchase and Sale Agreement of 325 Blake Road in Hopkins. Upon vote, the motion carried 7-0.***

The Board of Managers went into closed session.

The Board of Managers returned to open session.

President White made the following statement: The Board of Managers just held a closed session for the purpose of discussing the potential expiration or revision of terms of the Purchase and Sale Agreement of 325 Blake Road in Hopkins. I wish to note for the record that given the amount of time that the developer has been out of compliance with the terms of the purchase and sale agreement, and that MCWD has a fully designed and funded water resource project that can no longer reasonably be delayed to fulfill the MCWD's mission, the Board has directed that staff prepare a notice of termination of the purchase and sale agreement for the Board's consideration at its regularly scheduled meeting of March 27, 2025, and further has directed staff to take additional action as discussed in closed session.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 8:58 p.m.

Respectfully submitted,

Eugene J Maxwell

Eugene Maxwell, Secretary