

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

June 26, 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 7:05 p.m. on June 26, 2025, at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

MANAGERS PRESENT

Sherry White, William Olson, Richard Miller, Eugene Maxwell, and Steve Sando.

MANAGERS ABSENT

Jessica Loftus, Arun Hejmadi (both monitoring the meeting remotely).

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Abigail Couture, Permitting Technician; Michael Hayman, Director of Project Planning; Gabe Sherman, Planner – Project Manager; Chris Meehan, District Consulting Engineer; and Louis Smith, District Counsel.

MATTERS FROM THE FLOOR

None.

APPROVAL OF AGENDA

President White suggested moving Items 12.1 and 12.2 to the end of the agenda. *It was moved by Manager Maxwell, seconded by Manager Olson, to approve the Agenda with these changes. Upon vote, the motion carried, 5-0 (Managers Loftus and Hejmadi absent for vote).*

CONSENT AGENDA

It was moved by Manager Olson, seconded by Manager Sando, to approve the items on the Consent Agenda consisting of approval of the June 12, 2025, Board meeting minutes, approval of the General Check Register, including check numbers 42682 through 42686 in the amount of \$30,316.93, electronic funds withdrawals of \$270,506.05, credit card charges of \$8,283.33, managers per diems and reimbursements of \$1,841.26, employee reimbursements of \$64.41, and payroll electronic funds withdrawals and disbursements of \$286,833.78, for a total of

\$597,845.76; the Surety Check Register with payment of \$30.00 in fees to Bremer Bank; wire transfers of \$0; and the following resolutions:

Resolution 25-037: Authorization to distribute Capital Improvement Plan for annual review and comment

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes staff to distribute the Draft CIP for 30-day review and comment; and

Resolution 25-038: Approval of City Agreement and Easement for East Auburn Wetland Restoration Project

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers approves the Project Agreement and Easement for the East Auburn Wetland Restoration Project and authorizes the Administrator to execute the Project Agreement, and the Board President to execute the Easement, with any non-substantive changes on advice of counsel.

Upon vote, the motion carried, 5-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: none.

Policy and Planning Committee Report: Manager Miller reported that the Committee met earlier in the evening and received a staff briefing on the MCWD's Flood Response Summit.

MN Watersheds Summer Tour: Manager Olson reported that he and President White had just returned from the Minnesota Watersheds Summer Tour in the Roseau River Watershed, which included tours of large-scale flood mitigation projects.

President White noted the schedule of upcoming meetings presented in the agenda.

PERMITS REQUIRING A VARIANCE OR DISCUSSION

Permit 24-544: Idyllvale Shores, Orono

Ms. Abigail Couture appeared before the Board of Managers to review the permit application. She explained that the Pass Family Trust has applied for a permit to subdivide three parcels into a five-parcel subdivision. As part of the subdivision, building pads will be constructed for future single-family homes. This permit is for erosion

control, wetland protection, floodplain alteration, waterbody crossings, and stormwater management related to the subdivision. The applicant does not intend to develop each lot with a single-family home but instead plans to sell the lots to individual developers or builders for construction. This subdivision permit extends to all lots, and one of its proposed conditions includes a maintenance declaration containing notations allowing the District to verify that the individual lot developments comply with this permit and MCWD rules.

Ms. Couture explained that the staff and engineer have concluded that the application meets all of the criteria for all applicable rules, and therefore recommend approval of the permit application, with the conditions listed at the beginning of the permit report. She noted that neighboring property owners have expressed concerns about the proposed development, including that stormwater drainage from the increase in impervious surface could result in increased runoff and decreased water quality; potential negative impacts to the on-site wetlands; the need for monitoring requirements during and post construction; and whether future house development would be subject to adequate MCWD permitting. Ms. Couture reviewed the staff response to each of these concerns.

President White thanked Ms. Couture for her presentation and invited comments from the public. Mr. Randall Ward, 100 Bayside Trail, appeared before the Board of Managers. He stated that he did not have a problem with the proposed development per se and appreciated the work with MCWD staff to address the concerns that were expressed by neighbors. One concern remaining for him regards the long driveway into Lot 4, which has extensive clay soil and a steep slope. At the invitation of President White, Mr. Meehan noted that it is indeed a steep slope, and the driveway will need to meet city requirements.

Ms. Melissa Demeuse, 350 North Arm Lane, appeared before the Board of Managers. She expressed her appreciation for the work of the MCWD staff but was concerned that the stormwater modelling was based on past data, though weather patterns are changing. She noted that the most recent storm flooded their backyard, and she expressed concern that new stormwater runoff would adversely impact Lake Minnetonka.

Ms. Mandy Little, 4620 North Arm Drive, appeared before the Board of Managers. She expressed appreciation for MCWD staff and noted that the developer for this project is new to the area. She noted the swampy area and hoped that just because the proposed project meets the rules, we will not regret the project in the future.

President White thanked the residents for their comments. In response to a question from Manager Miller, Ms. Couture reviewed the maintenance declaration as a means to follow up on compliance post construction. In response to a question from Manager Maxwell, Ms. Couture traced responsibility for stormwater facility maintenance from the developer to the homeowners in the future.

It was moved by Manager Miller, seconded by Manager Maxwell, to approve the permit application based on the recommendations set forth in the permit report. Manager Olson noted that the MCWD's jurisdiction is focused on flooding and water quality issues, and that the District pursues excellence within its jurisdiction. He noted that the staff work in addressing the residents' concerns was a sign of the District's commitment. ***There being no further discussion, upon vote, the motion carried, 5-0.***

PUBLIC HEARINGS AND PRESENTATIONS

None.

ACTION ITEMS

Resolution 25-039: Minnehaha Preserve: Work Status, Contract Termination, Use of Bond

Mr. Wisker appeared before the Board of Managers and reviewed the request for board action. He presented a chronology of the discovery and notice of deficient work at the Minnehaha Preserve boardwalk, the process for seeking approval of alternative remedial methods, field testing of remedial methods, and the time that has passed awaiting an installation plan from JTS. He reviewed the notice of consideration of default and conference with JTS' bond issuer, Granite Re. Mr. Wisker noted that to date, there is not a satisfactory agreement with JTS to address the deficiencies. He noted the presence of JTS principal Jeff Smith and his attorney Mark Kemper.

Mr. Jeff Smith and Mr. Jesse Demmers appeared before the Board of Managers on behalf of JTS Construction. Mr. Smith offered a demonstration of the challenge in fastening hangers to the pile cap and the concern that the fasteners would split the pile cap. He explained the adjustments his team made in the construction to adjust to this problem and stated that the MCWD staff and SRF representative in the field concurred with his alternative approach.

It was moved by Manager Miller, seconded by Manager Sando, to adopt Resolution 25-039: Minnehaha Preserve: Work Status, Contract Termination, Use of Bond as follows:

NOW, THEREFORE, BE IT RESOLVED that MCWD counsel is delegated authority and directed, on behalf of the Board, and on the basis of the above findings, to terminate the Contract, declare a contractor default, provide all notices to the Bond issuer, commit MCWD to pay the balance of the Contract price, and take all other actions counsel deems necessary or prudent under the Contract and Bond to protect MCWD's legal and financial interests as set forth in the Contract and Bond. This authority does not encompass the resolution of any claim or the initiation of litigation, which remain within the Board's sole authority.

Mr. Wisker noted that the pile cap split issue with fastening hangers mentioned by Mr. Smith was not the only deficiency, and that other hangers had not been fastened properly. In response to a question from Manager Olson, Mr. Hayman noted that the previous boardwalk that was demolished and removed by JTS had been constructed using different materials and methods.

There being no further discussion, upon vote, the motion carried, 5-0.

BOARD INQUIRIES, ISSUES, AND IDEAS

None.

STAFF UPDATES

Administrator's Report

Mr. Wisker reported on the following items:

1. With the recent heavy rains, Lake Minnetonka is currently at an elevation of 929.7, with maximum discharge to the Creek. Minnehaha Creek is flowing at 420 cubic feet per second. The managers thanked Mr. Wisker for this report.
2. Mr. Wisker expressed appreciation to the Board, staff and consultants for the recognition and celebration of his 20th year anniversary of service to MCWD.

BOARD DISCUSSION ITEMS

Land Acquisition along Minnehaha Creek, St. Louis Park

Mr. Gabe Sherman appeared before the Board of Managers and asked that counsel guide the Board into closed session. Mr. Smith recommended that the Board of Managers go into closed session for the purpose of developing or considering potential terms for the purchase of the following properties:

7831 Edgebrook Drive, St. Louis Park
7837 Edgebrook Drive, St. Louis Park

The Board of Managers went into closed session.

The Board of Managers returned to open session.

Minutes of the Regular Meeting
Minnehaha Creek Watershed District
Board of Managers
6/26//25

325 Blake Road Restoration and Redevelopment

Mr. Smith recommended that the Board of Managers go into closed session for the purpose of receiving confidential legal advice on litigation strategy to respond to the lawsuit of Alatus v. MCWD, City of Hopkins. ***Pursuant to legal counsel's recommendation, it was moved by Manager Olson, seconded by Manager Maxwell for the Board to go into closed session for the purpose of receiving confidential legal advice on litigation strategy to respond to the Alatus lawsuit. Upon vote, the motion carried 5-0.***

The Board of Managers went into closed session.

The Board of Managers returned to open session.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 9:18 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Eugene Maxwell".

Eugene Maxwell, Secretary