

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

August 14, 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 August 14, 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; Abigail Couture, Permitting Technician; Veronica Sannes, Permitting Lead; James McDermond-Spies, Project Maintenance & Land Management Manager; Michael Hayman, Director of Project Planning; Gabe Sherman, Planner-Project Manager; Nick Wyers and Erik Megow, District Engineer/Stantec; and Louis Smith, District Counsel.

MATTERS FROM THE FLOOR

Mr. Gabriel Jabbour appeared before the Board of Managers to express his gratitude for the MCWD's helpful and knowledgeable staff and a first-class Board.

Ms. Rosalind Loomis and Mr. Stuart Loomis appeared before the Board of Managers to renew their concerns about floodplain filling along the boundary of their property at 50 Crabapple Lane in Tonka Bay. Ms. Loomis renewed her request to be on the agenda of a Board meeting and mentioned her request to review documents. Manager Miller asked Mr. Wisker for his response to Ms. Loomis' concerns, and he said that he would be coordinating document review and a site visit with Ms. Loomis soon.

APPROVAL OF AGENDA

President White requested that the agenda be revised by deleting Item 12.1. *It was moved by Manager Olson, seconded by Manager Maxwell, to approve the agenda with this change. Upon vote, the motion carried 7-0.*

CONSENT AGENDA

It was moved by Manager Hejmadi, seconded by Manager Sando, to approve the items on the Consent Agenda consisting of approval of the July 24, 2025, Board meeting minutes. 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 a briefing on the stakeholder relations and outreach program.

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

PUBLIC HEARINGS & PRESENTATIONS

None.

PERMITS REQUIRING A VARIANCE OR DISCUSSION

Permit 25-262: Three Rivers Park District Lake Zumbra/Sunny Culvert Replacement, Victoria

Ms. Abigail Couture appeared before the Board of Managers to review the permit application. She provided a project overview, noting that the Three Rivers Park District is planning to replace an existing 24" culvert 50 feet in length that is at the end of its serviceable life underneath a bike trail berm between Lakes Sunny and Zumbra. As a part of the culvert replacement, the new culvert will be repositioned slightly more in the middle of the berm, southeast of the current location, to avoid clogging and maintenance issues which occur now. The new culvert will be a 50-foot, 24" culvert set at the same elevations as the existing culvert. The culvert diameter, material, and invert elevations will be maintained from the existing to proposed conditions. Ms. Couture reviewed the application of the erosion control, waterbody crossings, and floodplain alterations rules to the project. She noted that staff and the engineer have reviewed the permit application and find that it complies with all MCWD rule requirements and therefore recommend approval.

Ms. Couture noted that staff expanded the public notice geography to include all Zumbra Ridge residents, and staff received comments from four property owners in the Zumbra Ridge neighborhood. She reviewed the comments and noted that during the public comment period, MCWD and Three Rivers Park District met with Zumbra Ridge HOA

leadership on July 17, 2025. MCWD and the park district addressed questions about the project's scope, design and regulatory responsibilities. HOA leadership asked if it would be possible to explore installing a flap gate to prevent backflow into Lake Zumbra. The park district has said that due to the culvert's failing condition, the "in-kind" culvert replacement project must proceed as proposed, but they are open to a feasibility analysis of a flap gate retrofit in the future.

President White invited comments on the permit application. Mr. Dick Hawley appeared before the Board of Managers, noting that he has lived on Lake Zumbra for 50 years. He noted historic conditions on the lake and the installation of the culvert as a cross-waterbody structure in the late 1960s. He stated that he felt this culvert would not be allowed under current DNR regulation and he was concerned that riparian rights were being violated. He asked that the MCWD postpone action on this permit to allow for study of options to modify the culvert design to mitigate flooding.

Mr. Brian Vlach of the Three Rivers Park District appeared before the Board of Managers. He stated that he appreciated Mr. Hawley's comments and that the park district is sensitive to the water levels, but that there is also concern with the risk of failure of the existing culvert. Mr. Vlach stated that he has discussed the flap gate idea with the HOA and is open to this idea.

It was moved by Manager Hejmadi, seconded by Manager Loftus to approve the permit with the conditions recommended by staff. In response to a question from Manager Maxwell, Mr. Vlach stated that the park district does not have time to extend discussions given the need to replace the culvert. In response to a further question from Manager Maxwell, Mr. Smith stated that he had not reviewed Mr. Hawley's point concerning DNR regulation and cross-water body structures specifically. He stated that it is also largely a matter of historical inquiry, and he has not reviewed the historical record to evaluate whether such a regulation would apply retroactively to prohibit in-kind replacement of the culvert, though he could do so if requested.

Manager Loftus stated that this is an in-kind replacement of the existing culvert, and the focus should be on the MCWD's rules. She stated that she did not see a role for the MCWD regarding the DNR, site history and larger solutions to flooding problems in the context of this permit. Upon being recognized by President White, Mr. Hawley stated that it is clear in the DNR's database that Zumbra and Sunny are a single lake. President White stated that in her view the permit application meets MCWD rules.

Mr. Wisker expressed his appreciation for the frustration and concern expressed by Mr. Hawley and noted the history with high water conditions at Lake Zumbra. He noted the study included in the record here of the 2016-17 by the MCWD with the DNR, City of Victoria, and Three Rivers Park District and noted ongoing discussions with the HOA leadership and the park district to evaluate possible retrofits.

Manager Miller stated that he was impressed with Mr. Hawley's presentation and so will vote no on the application. ***There being no further discussion, upon vote the motion carried 6-1, with Manager Miller voting against the motion.***

Permit 25-106 Edina Public Schools Tennis Court Reconstruction

Ms. Veronica Sannes appeared before the Board of Managers to review the permit application. She explained that the Edina Public School District has applied for a permit to reconstruct the two areas consisting of seven total existing tennis courts and conduct associated grading at 5701 Normandale Road in the City of Edina. Ms. Sannes noted that construction commenced in June 2025 without a permit, and the applicant is therefore requesting an after-the-fact permit, as well as an Exception under the MCWD variances and exceptions rule.

Ms. Sannes reviewed the application of the erosion control and stormwater management rules to the project. She explained that the applicant plans to meet the stormwater management requirements through construction of a regional facility. They seek an Exception from section 10(a) of the Stormwater Management rule, which requires that stormwater facilities be constructed and functional within 24 months of the start of construction of the regulated impervious surface. The Applicant instead proposes to partner with the City and MCWD to have the required stormwater management capacity be provided by a larger regional facility, built by the City, that will provide a greater amount of treatment once constructed. The facility would provide additional stormwater management capacity that the City would own and could use to meet requirements for future projects. The Project does not meet section 10(a) requirements as construction on the tennis courts began in 2025 while the City regional facility is currently planned to be constructed in 2028.

In response to President White's invitation no one appeared to offer comments on the application. ***It was moved by Manager Miller, seconded by Manager Hejmadi to approve the requested Exception and the permit application as recommended by staff in the permit report.*** In response to a question from Manager Miller, Ms. Sannes stated that the project primarily provides stormwater storage in addition to providing water quality treatment. President White asked for an explanation of why work had started without an MCWD permit, and Ms. Sannes explained that work began in June due to a misunderstanding of permit requirements. In response to a further question from President White, Mr. Wisker reviewed the enforcement process for after the fact permits. Manager Loftus expressed concern with the delay in benefits from stormwater treatment and noting that generally this delay is not a good precedent, but the circumstances here are unique given the cooperation of the applicant, the City of Edina and MCWD.

There being no further discussion, upon vote, the motion carried, 7-0.

ACTION ITEMS

Resolution 25-040: Adoption of the 2026 Capital Improvement Plan

Mr. Gabe Sherman appeared before the Board of Managers to review the request for board action. He explained that each year, MCWD revises and distributes its 10-year CIP to its member cities and counties for 30-day review and comment. The purpose of this annual process is to allow MCWD to adjust its 10-year CIP based on feasibility analysis of projects described in the Watershed Management Plan, identification of new project opportunities through coordination with MCWD's Land and Water Partnership program, shifts in District priorities, and assessment of staff and financial capacity. As projects are continually being developed, this process also allows MCWD to provide its stakeholders with a greater level of specificity. MCWD uses the annual distribution of its CIP to remind its communities of MCWD's implementation approach and its desire to coordinate and align its plans and investments with its member communities.

It was moved by Manager Hejmadi, seconded by Manager Miller, to adopt Resolution 25-040: Adoption of the 2026 Capital Improvement Plan as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby adopts the attached 2026 CIP..

There being no further discussion, upon vote the motion carried 7-0.

Resolution 25-041: Authorization to Contract with Stantec for Design, Bid Support, and Construction Oversight for Maintenance of Twin Lakes Pond

Mr. James McDermond-Spies appeared before the Board of Managers to review the request for board action. He explained that staff have requested the design engineer, Stantec, to provide a scope of services to separate the plans of Twin Lakes Park Pond from the Nokomis-Amelia Pond, solicit bids, and conduct construction oversight.

It was moved by Manager Miller, seconded by Manager Hejmadi, to adopt Resolution 25-041: Authorization to Contract with Stantec for Design, Bid Support, and Construction Oversight for Maintenance of Twin Lakes Pond_ as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the MCWD Administrator, on advice of legal counsel, to negotiate and execute a contract with Stantec Consulting, in an amount not to exceed \$25,860, and authorizes the Administrator to execute any amendments to the contract that he finds warranted, up to an additional 10 percent of the contract price, in aggregate.

In response to a question from Manager Olson, Mr. Megow explained that runoff coefficients used to project sediment and pollutant loading do distinguish between road and roof surfaces but are basically established based on land use types. *There being no further discussion, upon vote, the motion carried, 7-0.*

Resolution 25-042: Award Construction Contract for the East Auburn Wetland Restoration Project

Resolution 25-043: Authorization to Amend Moore Design Contract to Include Construction Oversight Services for the East Auburn Wetland Restoration Project

Mr. Michael Hayman appeared before the Board of Managers to review the requests for board action. He noted Rachel Baker's contributions to this project and noted that she was unavailable for the meeting so he would be presenting the project to the Board. He reviewed the results of the public bidding process and the finding by District staff and Moore Engineering that Pember Companies is the lowest and responsible bidder. He noted that the City of Victoria has elected to include the add/alternate reconstruction of the boardwalk. Mr. Hayman noted that for Moore Engineering, the contract amendment includes an adjustment for additional work incurred in the design process.

It was moved by Manager Olson, seconded by Manager Maxwell to adopt Resolution 25-042: Award Construction Contract for the East Auburn Wetland Restoration Project as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers awards the contract for the construction of East Auburn Wetland Restoration Project to Pember Companies, Inc., including the Base Bid and Add Alternate, for the contract price of \$489,076.20;

BE IT FURTHER RESOLVED that the MCWD Administrator is authorized, on advice of MCWD legal counsel, to enter into a contract with Pember Companies, Inc. for construction services for the stated contract price, and further is authorized to execute change orders in his discretion up to an additional 10 percent, in aggregate, of the contract price; and

BE IT FINALLY RESOLVED that the Administrator is authorized to issue a formal notice to proceed to Pember Companies, Inc., on advice of counsel and after receipt of a signed contract and required bonds and insurance documentation.

Manager Olson noted the project involves work at the pinch point between two water bodies with a bridge and a weir, which is a fascinating comparison to the Zumbra-Sunny situation considered earlier in the meeting. Manager Olson said that he was okay with this project design but fascinated with the comparison. Mr. Hayman noted the differences in stormwater volume between the two sites.

In response to a question from Manager Miller, Mr. Hayman stated that MCWD has had good experience with Pember constructing the boardwalk at Lake Wassermann. Manager Miller also noted the construction oversight duties of Moore Engineering and asked how the MCWD could be assured of accountability. Mr. Hayman stated that Moore would be responsible for reviewing submittals from the contractor and for observing the means and methods of construction in the field but not dictating the means and methods. Manager Miller asked if the city building inspector could be called to inspect the project earlier in the process and Mr. Hayman stated that typically the inspector does not appear until the end of the project. In response to Manager Miller's question, Mr. Smith noted that while the engineer does not dictate means and methods for the contractor, the engineer has a duty to the District to report observed failure of the contractor to conform to project specifications. *There being no further discussion, upon vote the motion carried 7-0.*

It was moved by Manager Maxwell, seconded by Manager to adopt Resolution 25-043: Authorization to Amend Moore Design Contract to Include Construction Oversight Services for the East Auburn Wetland Restoration Project as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the MCWD Administrator, on advice of counsel, to amend the design contract with Moore Engineering to include construction oversight services for the East Auburn Wetland Restoration Project in an amount not to exceed \$54,000.

Upon vote, the motion carried 7-0.

BOARD DISCUSSION ITEMS

None.

BOARD INQUIRIES, ISSUES, AND IDEAS

None.

STAFF UPDATES

Administrator's Report

Mr. Wisker reported on the following items:

1. Lake Minnetonka is currently at an elevation of 929.36 and Minnehaha Creek is flowing at around 100 cubic feet per second;
2. The MCWD will participate in a mediation session on August 22 concerning the litigation with Alatus and the City of Hopkins and the 325 Blake Road project.
3. Staff recently received a letter from the Cedar Isles Dean Neighborhood Association expressing concerns with flash flooding; staff will continue to work in coordination with the City of Minneapolis and the Minneapolis Park & Recreation Board on this and related issues.
4. Staff had a recent meeting with representatives of the Minneapolis Park & Recreation Board and the Three Rivers Park District to discuss possible collaboration at Meadowbrook Golf Course and will keep the Board apprised of any further developments.
5. The process continues with the MCWD's bond claim for the Minnehaha Preserve Boardwalk. Granite Re has retained an engineering firm to inspect the boardwalk, and the City of St. Louis Park will be meeting with them as part of this process. Meanwhile, staff and SRF are working to construct bid specifications to repair and reconstruct the project where necessary.
6. Staff received a large data practices request concerning the 325 Blake Road project and is working to respond to that request.
7. The Policy & Planning team is reaching out to various agency and municipal partners to discuss the ten year planning process and opportunities.
8. In response to a question from Manager Olson, Mr. Wisker noted that he just received word that the Minnesota Department of Natural Resources has granted a permit for cattail vegetation removal in Lost Lake.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 9:14 p.m.

Minutes of the Regular Meeting
Minnehaha Creek Watershed District
Board of Managers
8/14/25

Respectfully submitted,

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

Eugene Maxwell, Secretary