

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

4
5 **April 10, 2025**

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 7:04 p.m. on April 10, 2025, at the MCWD
11 offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.
12

13 **MANAGERS PRESENT**
14

15 Sherry White, William Olson, Richard Miller, Jessica Loftus, Arun Hejmadi, Eugene
16 Maxwell, and Steve Sando.
17

18 **MANAGERS ABSENT**
19

20 None.
21

22 **DISTRICT STAFF AND CONSULTANTS PRESENT**
23

24 James Wisker, Administrator; Veronica Sannes, Permitting Technician; Maggie Menden,
25 Permitting Technician; Rachel Baker, Planner-Project Manager; Michael Hayman,
26 Director of Project Planning; Nick Wyers, District Consulting Engineer; and Louis
27 Smith, District Counsel.
28

29 **APPROVAL OF AGENDA**
30

31 President White noted that Item 13 Board Inquiries, Issues and Ideas, and Item 14 Staff
32 Updates would be taken up prior to Item 12.1 Discussion Items. *It was moved by*
33 *Manager Miller, seconded by Manager Olson, to approve the agenda with this change.*
34 *Upon vote, the motion carried 7-0.*
35

36 **MATTERS FROM THE FLOOR**
37

38 None.
39

40 **CONSENT AGENDA**
41

42 *It was moved by Manager Olson, seconded by Manager Hejmadi, to approve the items*
43 *on the Consent Agenda consisting of approval of the March 27, 2025, Board meeting*
44 *minutes and the following resolutions:*
45

Resolution 25-022: Authorization to Submit Annual Activity Report to the Board of Water and Soil Resources and Department of Natural Resources

NOW, THEREFORE, BE IT RESOLVED that the District's Board of Managers accepts the 2024 Annual Activity Report and authorizes its release to BWSR and DNR; and

Resolution 25-023: Authorization to Renew GIS and WISKI Maintenance and License Agreements

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the renewal of GIS software maintenance and licenses for an amount of \$16,466.00.

AND, BE IT FURTHER RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the renewal of WISKI software maintenance and licenses for an amount of \$15,379.03.

Upon vote, the motion carried, 7-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: President White reported that along with Managers Olson and Sando she attended the community information meeting for the County Road 6 Pond Retrofit Project on April 3 at Orono City Hall. The meeting was well attended and provided a helpful information exchange.

Operations and Planning Committee Report: Manager Loftus reported that the Committee met earlier in the evening and received an informative briefing on the MCWD's statewide carp management effectiveness assessment.

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

PUBLIC HEARINGS & PRESENTATIONS

None.

PERMITS REQUIRING A VARIANCE OR DISCUSSION

Permit 24-525: 26275 Smittown Road Project, Shorewood

Ms. Veronica Sannes appeared before the Board of Managers to review the permit application. She noted that this permit application is before the Board of Managers due

to a public request received during the public notice period. She noted that the applicants have applied for a permit to install an approximately 500-foot long and 12-foot wide driveway across Pebble Creek, a first-order stream, and to install water, sanitary sewer, phone, cable, gas, and electric utility crossings beneath the stream at 26275 Smithtown Road in the City of Shorewood. The MCWD's Erosion Control, Waterbody Crossings and Structures, and Floodplain Alteration rules apply to the Project. The Stormwater Management rule is not applicable for this project as the proposed work is single-family residential construction on an existing lot of record creating less than an acre of hard surface. If future house construction, together with the hard surface presently constructed, should exceed one acre, the rule would apply to the total amount of hard surface. MCWD staff and the District engineer have reviewed the project and concluded that it meets the applicable MCWD rules and recommend approval with the conditions noted in the permit report.

President White invited comments from the public. No one came forward to offer comments. ***It was moved by Manager Miller, seconded by Manager Maxwell, to approve Permit 24-525 with the conditions recommended by staff.*** In response to a question from Manager Loftus, Ms. Sannes described the city setback requirements for any structures constructed on the site. In response to a question from Manager Maxwell, Ms. Sannes noted that the MCWD engineer has reviewed the application, and it will be reviewed by the city building permit process. ***There being no further discussion, upon vote the carried, 7-0.***

Permit 25-056: 9501 Lakewood Circle, Laketown Township – Exception Request

Ms. Maggie Menden appeared before the Board of Managers to review the permit application. She noted that this permit is being presented to the Board of Managers for consideration because an Exception is sought, and at the request of a member of the public. Ms. Menden stated that the proposed project is subject to MCWD's rules for Erosion Control, Wetland Protection, and Stormwater Management. The Erosion Control Rule applies due to land disturbance area greater than 5,000 square feet. The Stormwater Management Rule is applicable due to the increase of impervious surface in the aggregate amount of the entire development. The Wetland Protection rule, specifically the requirement to establish and maintain vegetated wetland buffer, applies due to the construction of a new residential structure upgradient from the lower wetland (Wetland 2). Staff and the District Engineer have reviewed and found the application to be compliant with the Erosion Control and Wetland Protection Rules.

The applicant is proposing to meet the Stormwater Management Rule via an Exception pursuant to the MCWD's Variances and Exceptions rule. The applicant proposes an alternative approach that would achieve a greater degree of volume control and water quality treatment than would strict compliance with the volume control standard. An earlier phase of work under permit 23-272 involved construction of three infiltration

basins and one filtration basin. Rather than seek to locate new filtration practices to capture runoff from the new hard surface, the applicant requests recognition for the water quality treatment of 5.87 acres of row cropped land provided by the infiltration and filtration basins constructed earlier. Ms. Menden said that because the two phases constitute a Common Plan of Development, MCWD staff and the MCWD Engineer are comfortable to recognize the treatment of cropped land stormwater runoff provided under Phase 1 in determining whether stormwater requirements for the two phases combined are met. Therefore, staff and the District Engineer recommend that the Exception request be approved.

Ms. Menden reviewed the comments of concern about the project that were received, including tree protection, endangered species, indigenous burial mounds, and lakeshore setbacks, and staff responses as noted in the permit report. President White invited comments. Mr. Mike Klingelhutz appeared before the Board of Managers and stated that he knew the property well and said that he opposed granting the Exception. He noted the area topography and said that there should be a stormwater pond near the lake, rather than rely on the upland basins. He expressed concern that the water from the swimming pool would be discharged into the swales and enter the lake. President White thanked Mr. Klingelhutz for his comments.

It was moved by Manager Loftus, seconded by Manager Hejmadi to approve the Exception request for Permit 25-056. In response to a question from Manager Maxwell, Ms. Menden and Mr. Wisker acknowledged that Basin 3 does not drain to Pierson Lake but drains to a low spot and eventually to Reitz Lake, but the basins altogether provide 14.1 pounds per year of phosphorus removal, far in excess of the 1.73 pounds required. President White asked about Mr. Klingelhutz's suggestion that a stormwater pond be located near the lake. Ms. Menden noted that the MCWD does not dictate the location of stormwater facilities and that the applicant found the soils in that area not suitable for infiltration. In response to a further question from President White, Ms. Menden noted that the wetland area disturbed during construction would be restored. Mr. Wisker noted that in response to Mr. Klingelhutz's concern with the discharge of water from the swimming pool, the MCWD does not regulate this issue, but the MPCA recommends that swimming pools not be chlorinated for a period of three or four days and then the water drained onto a lawn.

Manager Loftus asked whether it would be possible to memorialize and record this phased development where phase two is relying on stormwater treatment capacity from phase one. Ms. Menden and Mr. Wisker stated that the allocation of treatment capacity can be memorialized in the maintenance declaration for the stormwater facilities and recorded, and that this could be an additional condition of approval of the permit. ***Upon vote, the motion to grant the Exception carried, 7-0. It was moved by Manager Miller, seconded by Manager Hejmadi, to approve the permit application with the conditions recommended by staff in the permit report, and further that the stormwater***

maintenance declaration include a record of the treatment capacity allocated to this permit. Upon vote, the motion carried 7-0.

Permit 25-117: East Auburn Wetland Restoration

Ms. Rachel Baker and Ms. Maggie Menden appeared before the Board of Managers to review this project and the permit application. Ms. Baker explained that this is the MCWD's East Auburn Wetland Restoration Project and noted the presence of Jeff Madejczyk of Moore Engineering who has worked on the design of the Project. She noted that MCWD convened a community meeting about the Project on March 25 with fifteen residents in attendance.

Ms. Menden reviewed the application of the MCWD's Floodplain Alteration, Waterbody Crossings and Structures, and Wetland Protection Rules to the Project. She noted that the proposed project fully complies with the District's Floodplain Alteration, and Wetland Protection Rules. The project meets the requirements of the Waterbody Crossings & Structures rule, except that it will increase flood stage above and below the weir, contrary to Section 3(b). A waiver of this standard is requested pursuant to Section 4(a), to allow for a slight increase in the flood stage of Cells 1 and 2 in order to reduce nutrient export and improve ecological function. MCWD staff find that the criteria for the waiver are met, and staff and the District Engineer recommend that the Board approve the permit application.

It was moved by Manager Olson, seconded by Manager Sando to approve the permit application with the conditions recommended by staff and set forth in the permit report. In response to a question from Manager Olson, Ms. Baker described the quality of vegetation in the wetland as "mixed" and that it does not require active vegetation management at this time. Manager Loftus expressed her appreciation for the process the MCWD has followed for the Project. In response to a question from Manager Olson, Mr. Smith noted that it is not unusual for a government agency to issue itself a permit for its own project, and it reflects a commitment to apply the rules equally. *There being no further discussion, upon vote the motion carried 7-0.*

ACTION ITEMS

Resolution 25-024: Approval of 90% Design Plans for the East Auburn Wetland Restoration Project and Authorization to Solicit Bids

Ms. Baker reviewed the 90% design for the Project and noted the estimated costs for the Weir (\$336,855, plus \$33,000 for construction engineering) and Boardwalk (\$227,830, plus \$113,000 for construction engineering) for a total estimated cost of \$610,685. She noted the outline of terms of a cooperative agreement with the City of Victoria and reviewed next steps for bid solicitation, contract award, and construction. *It was moved*

*by Manager Olson, seconded by Manager Hejmadi, to adopt Resolution 25-024:
Approval of 90% Design Plans for the East Auburn Wetland Restoration Project and
Authorization to Solicit Bids as follows:*

***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek
Watershed District Board of Managers approves the 90 percent design for the
East Auburn Wetland Restoration Project and directs the engineer to prepare
conforming final plans for the purpose of soliciting bids;***

***BE IT FURTHER RESOLVED that the MCWD Board of Managers authorizes
the District Administrator, on advice of counsel, with the condition that City
Agreement be signed prior to bid solicitation, to solicit bids for construction
during the appropriate bid period in order to contract and complete
construction of the Project during the winter of 2025-2026.***

Manager Olson expressed his appreciation for staff work on this project. Mr. Jeff
Madejczyk commented that in response to the earlier question about vegetation
management, once construction is completed, the permanent pool should foster more
native vegetation. He noted that as to the permit for the Project, throughout this process,
MCWD staff has pressed the engineers to hold the District to a higher standard than
typical applicants. ***There being no further discussion, upon vote the motion carried 7-0.***

STAFF UPDATES

Administrator's Report

Mr. Wisker reported on the following items:

1. The MCWD received a letter from the attorney for JTS, the contractor for the
Minnehaha Preserve Boardwalk; this letter provided a response to the change
order requirements presented to JTS five weeks ago; the draft implementation
presented by JTS is incomplete; JTS is requesting all outstanding payments
and additional payment to complete the outstanding and defective work; Mr.
Wisker is working with legal counsel on review and response, which will
include focus on completion of the implementation plan;
2. Outreach staff are working to plan a field trip for the Board of Managers and
Citizen Advisory Committee; it will be sometime in May and in Minneapolis;
3. MCWD received notice through Minnesota Watersheds that Attorney General
Ellison is forming an advisory task force on the future of Minnesota's water;

- 260 4. As noted at the last meeting, the Minnesota Climate Adaptation Partnership
261 notified MCWD and that it, along with Hennepin County Emergency
262 Management, has been awarded the 2025 Climate Adaptation Award. The
263 award ceremony will be on May 8 at the Bell Museum.
264

265 **BOARD INQUIRIES, ISSUES, AND IDEAS**
266

267 Manager Miller asked that staff explore an update of the “story board” displayed at the
268 Edina mill pond area, perhaps in cooperation with the City of Edina and of the quality of
269 educational signage at Wassermann Park.
270

271 President White asked how many interest letters have been received for the Land &
272 Watershed Partnership program.
273

274 **BOARD DISCUSSION ITEMS**
275

276 **325 Blake Road Restoration and Redevelopment**
277

278 Mr. Michael Hayman appeared before the Board of Managers and requested that the
279 Board go into closed session for staff to provide an update on redevelopment and the
280 MCWD project at 325 Blake Road in Hopkins. *Pursuant to legal counsel’s*
281 *recommendation, it was moved by Manager Olson, seconded by Manager Olson for the*
282 *Board to go into a closed session for the purpose of discussing the potential expiration*
283 *or revision of terms of the Purchase and Sale Agreement of 325 Blake Road in*
284 *Hopkins. Upon vote, the motion carried 7-0.*
285

286 The Board of Managers went into closed session.
287

288 The Board of Managers returned to open session.
289

290 **Adjournment**
291

292 There being no further business, President White declared the meeting of the Board of
293 Managers adjourned at 9:27 p.m.
294

295 Respectfully submitted,
296
297

298
299 Eugene Maxwell, Secretary