

**Minnehaha Creek Watershed District**

**REQUEST FOR BOARD ACTION**

**MEETING DATE:** March 14, 2019

**TITLE:** City of Chanhassen Request to Extend Deadline to Adopt Local Ordinances

**RESOLUTION NUMBER:** 19-030

**PREPARED BY:** Tom Dietrich

**E-MAIL:** tdietrich@minnehahacreek.org

**TELEPHONE:** 952-473-2855

**REVIEWED BY:**  Administrator  Counsel  Program Mgr. (Name): \_\_\_\_\_  
 Board Committee  Engineer  Other: Renae Clark

**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): Not Reviewed at Workshop. Seeking approval at March 14, 2019 Board Meeting.	

**PURPOSE or ACTION REQUESTED:**

Approval of attached request from the City of Chanhassen to extend the Board’s deadline to adopt local ordinances.

**PROJECT/PROGRAM LOCATION:**

The City of Chanhassen

**PROJECT TIMELINE:**

Effective immediately.

**PROJECT/PROGRAM COST:**

N/A

**PAST BOARD ACTIONS:**

- September 13, 2018, RES 18-094: Resolution to Approve the City of Chanhassen Local Water Management Plan.

**SUMMARY:**

Background

The City of Chanhassen is located partially within the MCWD and drains to three different subwatersheds; including Christmas Lake, Lake Virginia, and Lake Minnetonka. Approximately one-quarter of the city (5 sq. mi.) is within the MCWD, including the area west of Hazeltine Boulevard draining to Lake Minnewashta, and an area along the northern border, part of which drains to Christmas Lake and part into Lake Galpin to the north. MCWD waterbodies within Chanhassen include Lake Minnewashta, Lake St. Joe and a portion of Christmas

**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.**

Lake. Existing and future land use within MCWD is single family and parks and recreation, including Lake Minnewashta Regional Park and the Minnesota Landscape Arboretum.

Since approximately 1997, the City of Chanhassen has exercised sole regulatory authority within the City with respect to development permitting for water resource protection and has served as the Local Government Unit responsible to implement the Wetland Conservation Act. The City wishes to continue in this role. City ordinance updates have been pending since the District adopted new water resources regulations in 2011. Since August 2018, the District has exercised its regulatory jurisdiction within the City pursuant to the City's written request, while the City completes development of its ordinances and regulatory implementation program.

#### Summary

On September 13, 2018, the Board adopted Resolution 18-094 approving the City of Chanhassen's LWMP. Under the LWMP, the City requested to continue to exercise sole regulatory authority with respect to Erosion Control, Floodplain Alteration, Wetland Protection, and Stormwater Management. Section 5 of the LWMP outlines a process for ordinance updates to meet the MCWD requirement that City ordinances provide for water resource protection equivalent to MCWD Rules. Resolution 18-094 specifies that within 180 days of approval (by March 11, 2019), the City must complete this process and have District-approved ordinances in place and effective, and that if this is not accomplished, the MCWD will reassume its regulatory authority independent of the City's letter authorization.

On March 11, 2019, the City submitted a letter to the District requesting to extend this deadline. The letter, attached to this document, cites the turnover of multiple staff, as the primary cause of delays in adopting updated ordinances. The City has offered an ordinance adoption deadline of June 12, 2019, which is reflected in its LWMP as adopted by City Council on December 10, 2018.

As noted in the paragraphs above, the City has authorized the District to exercise its permitting authority for individual land use applications. This system has been effective and well-coordinated in the last several months. The City intends to resume sole regulatory authority within its boundaries for the four indicated District rules, as outlined above. There is no indication that the City would withdraw its letter authorization pending its completion of its ordinance development.

#### Recommendation:

Staff recommends approval of the City's request with the requirements that the City: (a) develop ordinances satisfactory to the District with respect to erosion control, floodplain alteration, wetland protection, and stormwater management; and (b) provide for those ordinances, as well as administrative, enforcement, and District review procedures, to be adopted and effective within 180 days of the approval of this action. The Board's approval should provide that if these requirements are not met, the District will reassert its regulatory jurisdiction until such time as the requirements are met.

#### **ATTACHMENTS:**

- Attachment 1: Resolution 18-094: Approval of Chanhassen Local Water Management Plan
- Attachment 2: City of Chanhassen Letter requesting deadline extension.

## RESOLUTION

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**RESOLUTION NUMBER:**    19-030

**TITLE:**            **Extending Deadline for City of Chanhassen to Adopt Local Ordinance**

WHEREAS, in 2017, the MCWD revised its watershed management plan (WMP) under Minnesota Statutes § 103B.231, which details the existing physical environment, land use and development in the watershed, and establishes a plan to regulate water resource use and management to protect water resources, improve water quality, prevent flooding, and otherwise achieve the goals of Minnesota Statutes Chapters 103B and 103D;

WHEREAS, the MCWD's WMP incorporates the Rules adopted by the MCWD to protect water resources, improve water quality, prevent flooding and otherwise achieve the goals of Minnesota Statutes Chapters 103B and 103D;

WHEREAS, the City of Chanhassen (City) developed a local water management plan under Minnesota Statutes § 103B.235 that describes the existing and proposed physical environment and land use within the City and sets forth an implementation plan for bringing local water management into conformance with the MCWD's comprehensive watershed management plan;

WHEREAS, on September 13, 2018, the MCWD Board of Managers approved the City's local water management plan by adoption of Resolution 18-094, which resolution is attached and incorporated herein as Exhibit A;

WHEREAS, the City wishes to retain water resource regulatory authority within the meaning of Minnesota Statutes § 103B.211, subdivision 1(a)(3), and assert sole permitting jurisdiction with respect to activities subject to MCWD Erosion Control; Floodplain Alteration; Wetland Protection and Stormwater Management Rules; and

WHEREAS, MCWD approval of a local plan requires a finding that the official controls of the local government are at least as protective of water resources as the MCWD rules;

WHEREAS, Resolution 18-094 states that within 180 days, the City must adopt ordinances for Erosion Control; Floodplain Alteration; Wetland Protection and Stormwater Management approved by the District Administrator as equally protective of water resources as the District Rules, and provide for those ordinances to be effective, and shall adopt with the concurrence of the District Administrator procedures governing the City's regulatory program administration and enforcement, and governing District review of the City's regulatory program implementation;

WHEREAS, the City, by letter attached and incorporated herein as Exhibit B, has requested an extension of this deadline to June 12, 2019 for reasons set forth therein;

WHEREAS, since the approval of Resolution 18-094, and in accordance with Minnesota Statutes §103B.211, the City has authorized the District to review land development activity within the City through the exercise of its regulatory authority;

WHEREAS, this approach has been effective and well-coordinated, and is anticipated to continue until the City has completed its ordinances, the District has approved them, and they are in effect;

NOW, THEREFORE, BE IT RESOLVED, the Board extends the local ordinance adoption deadline of Resolution 18-094 to September 7, 2019.

Resolution Number 19-030 was moved by Manager \_\_\_\_\_, seconded by Manager \_\_\_\_\_.  
Motion to adopt the resolution \_\_\_ ayes, \_\_\_ nays, \_\_\_ abstentions. Date: \_\_\_\_\_.

\_\_\_\_\_  
Secretary Date: \_\_\_\_\_

## RESOLUTION

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**RESOLUTION NUMBER: 18-094**

**TITLE: Approval of Chanhassen Local Water Management Plan**

WHEREAS, on January 11, 2018, the MCWD adopted its Watershed Management Plan (WMP) pursuant to Minnesota Statutes §103B.231 and Minnesota Rules 8410, which describes how the MCWD will fulfill its responsibilities under the Metropolitan Surface Water Management Act for implementation over the period 2018-2027, and which is guided by the organizational strategy and approach defined through the Balanced Urban Ecology policy; and

WHEREAS, the Balanced Urban Ecology policy prioritizes partnership with the land use community to integrate policy, planning, and implementation in order to leverage the value created when built and natural systems are in harmony; and

WHEREAS, the Balanced Urban Ecology policy rests on the guiding principles of focusing in areas of highest resource needs, being flexible to respond to opportunities that arise through land use changes, and working in partnership to achieve the MCWD's goals; and

WHEREAS, on watershed district adoption of its WMP, cities and towns (local government units or LGUs) within the watershed must prepare local water management plans (LWMPs) that meet content requirements of Minnesota Statutes §103B.235, Minnesota Rules 8410.0160 and the WMP;

WHEREAS, the LWMP is a primary tool to provide a framework for increased early coordination of land use and water planning through the coordination plan that is a required component of the LWMP and the content of which is described in the WMP, Appendix A; and

WHEREAS, the MCWD will prioritize implementation efforts and resource deployment based on its established priorities and LGU commitment to coordination as demonstrated through the coordination plan and its implementation by the LGU; and

WHEREAS, the City of Chanhassen (City) has revised its LWMP and submitted it to the MCWD for review and approval; and

WHEREAS, MCWD staff reviewed the draft LWMP, provided detailed written comments on the LWMP, and thereafter worked with City staff to achieve the development of a proposed LWMP for consideration by the MCWD Board of Managers; and

WHEREAS, the Metropolitan Council has reviewed the LWMP and provided its written comments to the MCWD in a letter on March 16, 2018, and the MCWD has fully considered the comments; and

WHEREAS, the LWMP states that the City elects to continue to act as the Local Government Unit responsible to implement the Minnesota Wetland Conservation Act; and



WHEREAS, the City of Chanhassen wishes to retain water resource regulatory authority within the meaning of Minnesota Statutes §103B.211, subd. 1(a)(3), and assert sole permitting jurisdiction with respect to activities subject to MCWD Erosion Control; Floodplain Alteration; Wetland Protection and Stormwater Management Rule; and

WHEREAS, the MCWD will continue to exercise its present authority with respect to its rules for Appropriations, Illicit Discharge, Dredging; Shoreline and Streambank Stabilization; and Water Body Crossings and Structures under authority provided by MCWD Rules and the Minnesota Department of Natural Resources, and otherwise exercise its permitting and approval authority in accordance with the terms of Minnesota Statutes §103B.211(a)(3) and the WMP; and

WHEREAS, the LWMP contains a coordination plan that meets the standards set forth in the MCWD WMP, Appendix A; and

WHEREAS, the MCWD has determined that the final revised LWMP meets the requirements of Minnesota Statutes § 103B.235, Minnesota Rules 8410.0160, and is consistent with the MCWD WMP including Appendix A, "Local Water Plan Requirements".

NOW, THEREFORE, BE IT RESOLVED, that the MCWD hereby approves the City of Chanhassen Local Surface Water Management Plan;

BE IT FURTHER RESOLVED, that the Board approves the associated coordination plan and adopts it on behalf of the MCWD;

BE IT FURTHER RESOLVED that the City is to adopt and implement its LWMP within 120 days, and to notify the MCWD within 30 days thereafter that it has done so;

BE IT FURTHER RESOLVED that within ~~one-year~~ **180 days** of this action, the City shall adopt ordinances for Erosion Control; Floodplain Alteration; Wetland Protection and Stormwater Management approved by the District Administrator as equally protective of water resources as the District Rules, and provide for those ordinances to be effective, and shall adopt with the concurrence of the District administrator procedures governing the City's regulatory program administration and enforcement, and governing District review of the City's regulatory program implementation; and

BE IT FINALLY RESOLVED that if the actions in the foregoing paragraph are not timely accomplished, the District will reassert its regulatory jurisdiction in the indicated areas within City boundaries.

Resolution Number 18-0 94 was moved by Manager Olson, seconded by Manager Shekleton.  
Motion to adopt the resolution 7 ayes, 0 nays, 0 abstentions. Date: September 13, 2018.

Kurt Rogness Date: 9/13/18  
Secretary





# CITY OF CHANHASSEN

Chanhassen is a Community for Life - Providing for Today and Planning for Tomorrow

3/11/2019

Minnehaha Creek Watershed District  
15320 Minnetonka Blvd., Minnetonka, MN 55345  
Chanhassen, MN 55317-8654

**Re: Request for Extension for Rule Authority**

Dear: Minnehaha Creek Watershed District Managers

Minnehaha Creek Watershed District (District) approved the City of Chanhassen's local water management plan (LWMP) in September of 2018. Subsequently, the District passed Resolution 18-094 outlining a deadline for transfer of rule authority to the City by 3/13/2019. This transfer was contingent on the City updating ordinances to reflect the LWMP's approved goals and policies. In December of 2018 the City Council formally approved and adopted the LWMP, which mandated the revision of ordinances within six months after adoption (by 6/8/2019).

While the City has continually strived to meet the District's deadline, **the City is requesting an extension to 6/12/2019**. The reason for this extension is that since the Council's adoption of the LWMP, the City has experienced staff fluctuations in key departments critical to completing the code amendments. In particular, the Water Resource Coordinator instrumental in authoring the LWMP left the City at the end of December 2018. As of today, this role is still vacant. However, in an effort to continue the ordinance update process and meet the mandated deadline, City staff is working with the private consultant who assisted with the drafting of the LWMP.

If this extension is granted, the City acknowledges that the District will assume authority if revised ordinances are not in place by the District's updated deadline. The City appreciates the District Managers' consideration of this extension request.

Sincerely,

CITY OF CHANHASSEN

Todd Gerhardt, City Manager