

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

4
5 September 8, 2016
6

7 **CALL TO ORDER**
8

9 President Sherry White called the regular meeting of the Minnehaha Creek Watershed
10 District Board of Managers to order at 6:55 p.m. at the District offices, 15320
11 Minnetonka Boulevard, Minnetonka, Minnesota.
12

13 **MANAGERS PRESENT**
14

15 Sherry White, Brian Shekleton, Richard Miller, Bill Becker, William Olson.
16

17 **MANAGER ABSENT**
18

19 Pam Blixt, Kurt Rogness.
20

21 **MATTERS FROM THE FLOOR**
22

23 Manager White recognized three members of the Citizens Advisory Committee in
24 attendance – Colin Cox, Brian Girard and Peter Rechelbacher – and asked if they had any
25 items to bring to managers' attention. The CAC members indicated they did not.
26

27 **DISTRICT STAFF AND CONSULTANTS PRESENT**
28

29 Lars Erdahl, Administrator; James Wisker, Planning and Project Director; Telly
30 Mamayek, Communications and Education Director; Tiffany Schaufler, Project and Land
31 Program Manager; Becky Christopher, Lead Planner-Project Manager; Chris Meehan,
32 Engineer; Michael Welch, Counsel.
33

34 **APPROVAL OF AGENDA**
35

36 Manager White noted there would not be Operations and Programs Committee meeting
37 September 22 but rather a Policy and Planning Committee meeting. *Manager Miller*
38 *moved, Manager Olson seconded, approval of the agenda. Upon vote, the motion*
39 *carried 4-0.*
40

41 **CONSENT AGENDA**
42

43 *Manager Becker moved and Manager Miller seconded approval of the minutes of the*
44 *August 25, 2016, meeting.* Michael Welch stated that changes are needed in the minutes
45 to reflect the proper approval of the direct deposit of \$153,553.80 and the electronic fund
46 withdrawal. *Manager White moved and Manager Miller seconded amendment of the*

47 *motion to include changes as specified by legal counsel. Upon vote, the motion to*
48 *amend carried 4-0. Upon vote, the motion as amended carried 4-0.*

49

50 **REGULAR AGENDA**

51

52 **Board, Committee and Task Force Reports**

53

54 President White stated that she appreciated the tremendous effort by the administrator
55 and staff on the budget and levy to prepare for adoption this evening.

56

57 Manager Miller reported that the August 25 Policy and Planning Committee meeting is
58 well described in the minutes included in this evening's meeting packet, and noted that
59 the discussion reflects a comprehensive approach to planning and budgeting for 2017.

60

61 Manager Olson noted the upcoming September 14 Citizens Advisory Committee
62 meeting, noting that Manager Becker is the liaison.

63

64 **Public Hearing: Budget and Levy**

65

66 Manager White opened the public hearing on MCWD's proposed 2017 budget and levy.
67 She asked the administrator to review the budget materials for the purpose. Lars Erdahl
68 stated that staff has been working with managers for the last five months to develop a
69 budget and tonight's meeting will finalize the budget and levy, which need to be adopted
70 tonight and finalized by December. He stated that prospective impacts to the 2018 and
71 2019 budgets were taken into account in preparing the 2017 budget and levy. He noted
72 that the District had a gap between its levy and budget of \$1.6 million in 2009, and that
73 by 2015 because of flat levies that gap had increased to \$5.1 million. He stated that in
74 response and to address this gap, in part, the proposed budget for 2017 shows a 5 percent
75 increase while there is a 7 percent increase in the levy. He noted that to some degree the
76 numbers are affected by scheduled debt-service payments coming due, which causes part
77 of the increase in the levy. He stated that the District's efforts are decreasing the gap
78 between levy and the budget. The final levy for 2017 is \$9,315,286 while the proposed
79 budget is \$13,460,253. Mr. Erdahl noted that for a \$180,000 property in the watershed,
80 the increase in the levy adds a \$1.59 per year in tax.

81

82 Manager White called for comments on the proposed budget and levy. Seeing none, she
83 closed the public hearing.

84

85 ***Manager Miller moved and Manager Becker seconded adoption of Resolution 16-073,***
86 ***adopting a 2017 Minnehaha Creek Watershed District budget of \$13,460,253.*** The
87 managers discussed the fact that Manager Shekleton was on site but not in the meeting
88 room, and that it would be desirable to have all managers present vote on the budget
89 resolution. The managers also discussed the need for a secretary pro tem, given that

90 Manager Rogness, the MCWD secretary, is not present this evening. **Manager Becker**
 91 **moved to table the motion and Manager Miller seconded. Upon vote, the motion**
 92 **carried 4-0. Manager Miller moved and Manager Becker seconded appointment of**
 93 **Manager Olson as secretary pro tem for this evening. Upon vote, the motion carried 4-**
 94 **0. (Manager Shekleton arrived, 7:15 p.m.) Manager White moved to remove the motion**
 95 **adopting resolution 16-073 from the table and Manager Miller seconded. Upon vote,**
 96 **the motion carried 5-0.**

97

98 **Manager White called for the vote:**

99

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
100				
101	Manager Becker	X		
102	Manager Blixt			X
103	Manager Rogness			X
104	Manager Miller	X		
105	Manager Shekleton	X		
106	Manager White	X		
107	Manager Olson	X		

108

109 **The motion carried, 5-0.**

110

111 **Manager Shekleton moved and Manager Miller seconded adoption of Resolution 16-**
 112 **074, setting the 2017 levy for the Minnehaha Creek Watershed District at \$9,315,286.**
 113 **Manager White called for the vote:**

114

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
115				
116	Manager Becker	X		
117	Manager Blixt			X
118	Manager Rogness			X
119	Manager Miller	X		
120	Manager Shekleton	X		
121	Manager White	X		
122	Manager Olson	X		

123

124 **The motion carried, 5-0.**

125

126 Manager White announced that there will be another opportunity for interested parties to
 127 comment on the 2017 budget and levy at a public meeting to be held as part of the
 128 December 8 regular meeting of the board.

129

130 Construction Contract for Highway 101 Causeway Shoreline Reconstruction

131

132 Tiffany Schaufler presented the results of the District's sealed-bidding process to procure
133 a contractor for construction of the Highway 101 shoreline restoration work in Wayzata.
134 Ms. Schaufler handed out a revised copy of the resolution because the version included in
135 the manager's packets had an incorrect title. Ms. Schaufler explained that the District
136 received three bids for the work, the lowest of which was submitted by THN Enterprises
137 in the amount of \$835,943. Staff recommends that the managers award the contract to
138 THN. In response to a question from Manager Olson, Ms. Schaufler stated that the
139 \$385,000 amount for traffic control in the Sunran construction bid has to do with its plan
140 to perform the work from the roadway, which would have required closing portions of
141 the road above the shoreline, as opposed to the THN proposal, which would conduct the
142 work from a barge already maintained in the lake by the bidder. Chris Meehan added that
143 the bids involved to some degree contractors getting more savvy about the strategy they
144 use in bidding for projects and allocating unit costs to prepare the best possible bid.

145 ***Manager Shekleton moved and Manager Miller seconded adoption of Resolution 16-***
146 ***075, awarding the contract for the Highway 101 shoreline restoration work in the***
147 ***amount \$835,943 to THN Enterprises, directing the administrator to enter a contract***
148 ***on advice of counsel for that amount, establishing a project construction budget of not***
149 ***to exceed \$919,537, authorizing the administrator to execute change orders obligating***
150 ***the District up to that amount, and, finally, authorizing the administrator to issue a***
151 ***notice to proceed to THN Enterprises on advice of counsel and after receipt of a signed***
152 ***contract and the required bonds and insurance documentation. Upon vote, the motion***
153 ***carried 5-0.***

154

155 Comprehensive Plan Adoption Extension

156

157 Becky Christopher presented staff's recommendation that MCWD seek an extension
158 from the Board of Water and Soil Resources on the time for completion of the 2017
159 comprehensive plan update. Ms. Christopher explained that under Minnesota law, BWSR
160 can grant extensions on plan-completion dates and that the District expects to experience
161 some delay since the principal author and planner for the work will be on maternity leave
162 in the early part of next year. It is expected that the plan update will be put out for 60-day
163 review in April, followed by the 90-day review period after receipt of comments in the
164 initial period, causing the plan update period to extend through the end of 2017. Ms.
165 Christopher suggested that the request should be to extend the plan-completion timeframe
166 to the end of next year. She noted that the District would remain eligible for state grants
167 and funding with the extension from BWSR. ***Manager Miller moved and Manager***
168 ***Shekleton seconded adoption of Resolution 16-073, authorizing the administrator to***
169 ***request an extension from BWSR for adoption of the 2017 MCWD Comprehensive***
170 ***Plan. Upon vote, the motion carried 5-0.***

171

172 **BOARD DISCUSSION ITEMS**

173

174 **Buffer Law and Potential District Role**

175

176 Ms. Christopher presented an update on implementation of the new state buffer
177 requirement. She said that BWSR made some changes to the guidance policy documents
178 in response to comments it solicited, but the application of the exemption from the buffer
179 requirement for Municipal Separate Storm Sewer Systems remains uncertain. Staff has
180 determined in that even though the MS4 exemption applies, it may not have a significant
181 effect on application of the buffer law in the watershed. She stated that the soil and water
182 conservation districts are analyzing the requirements and buffer maps that were produced
183 by the Department of Natural Resources this summer in a process that remains ongoing.
184 In Carver County, the SWCD has determined that there are only two or three potentially
185 noncompliant sites in the watershed. And while Hennepin County is further behind with
186 its analysis, she expects that there will be a similarly small number of noncompliant
187 parcels in the Hennepin County portion of the watershed . She noted that BWSR is the
188 default enforcement entity if no other entity steps forward. She stated that staff's analysis
189 results in a recommendation that MCWD continue to decline to take on an enforcement
190 role largely because of the significant number of unknowns about implementation of law.
191 Significantly, she noted that while BWSR may have some funding to assist with
192 implementation of the law there remains uncertainty associated with that funding. Ms.
193 Christopher said MCWD can instead play a technical-assistance role in the watershed.

194

195 Manager Miller stated that given the opportunity to play a technical assistance role the
196 District does not lose any opportunity for outreach and development of relationship with
197 entities subject to the law, therefore he sees no reason to take on the enforcement role. In
198 response to a question from Manager Becker, Ms. Christopher stated that staff has not
199 analyzed the contribution to water-quality degradation from properties that are not
200 compliant with the buffer requirement. Manager Becker pointed out that if it is thought
201 that the contribution is virtually nil, there is really no incentive for the District to engage
202 staff resources in assisting with enforcement of the buffer requirement. James Wisker
203 appeared before the managers and hazarded a guess that the impact of the lack of buffer
204 is virtually nil. He said there is a sedimentation issue in the Turbid-Lunsten
205 subwatershed, but it is much more related to the presence of high numbers of carp than it
206 is noncompliant buffer properties. Mr. Wisker also noted that there are perhaps one to
207 two unvegetated properties adjacent to watercourses in Hennepin County, so that it's safe
208 to say that a great deal of activity on buffer compliance is not likely to significantly
209 benefit the District's efforts to achieve its goals and mission. Ms. Christopher noted that
210 while BWSR is requesting that watershed organizations make a decision about their roles
211 in implementing the buffer law by March, there is an opportunity for the District to get
212 engaged even after that time. The managers thanked Ms. Christopher for her presentation.

213

214 Administrator's Report

215

216 Lars Erdahl noted that there is a planners breakfast set for September 20 to follow up on
217 the NEMO Boat Tour and to initiate and build on the relationships with planning
218 professionals across the district. He said that representatives of the cities of St. Louis
219 Park and Victoria will be sharing their experiences working on planning in conjunction
220 with the District staff as part of the program.

221

222 Mr. Erdahl reported on the imminent implementation of a rapid response to the discovery
223 of zebra mussels in Lake Minnewashta. He said the treatment should start August 18 and
224 that a 29-acre area has been isolated for treatment within the lake. He said Eric Fieldseth
225 of the District staff is coordinating the treatment work and a zebra mussel control group
226 will be placed in the treatment area in accordance with a Department of Natural
227 Resources requirement to ensure that the application of the copper-based molluscicide to
228 be used is effective. Manager Miller and other managers questioned the notion that as
229 part of its treatment effort the District would bring zebra mussels into a waterbody. Mr.
230 Erdahl explained that the zebra mussels would be in enclosures made of a mesh that is
231 too small for the zebra mussels to escape from, but that the zebra mussels in the
232 enclosures would be nonproductive. In response to a question from Manager Shekleton,
233 Mr. Erdahl stated that the zebra mussels are known to be non-reproductive because of
234 their size. In response to a question from Manager Olson, Craig Dawson appeared before
235 the managers and explained that damage to a membrane that the District placed in Lake
236 Minnewashta on another occasion was from a boat running over it and no boats will be
237 allowed within the proposed treatment area. In further discussion with the managers, Mr.
238 Dawson emphasized that DNR is requiring the control group as part of the permitting
239 process for the molluscicide application and that the purpose is to test the lethality of the
240 treatment. In response to further question from Manager Shekleton, Mr. Erdahl explained
241 that the area where the treatment will take place is controlled by Carver County and is at
242 a location where the county owns the shoreline and controls the dock, access to which is
243 restricted right now.

244

245 Mr. Erdahl reported on high water levels in the watershed as a result of recent rains. He
246 noted that the creek is flowing at a rate and volume that make it unsafe for paddling. He
247 invited Tiffany Schaufler to add further information about how District staff is working
248 with the National Weather Service, United State Geological Survey and Hennepin
249 County Emergency Management to provide information to citizens with regard to water
250 levels and creek flow, and the communications warning program that's being developed
251 for the purpose. Ms. Schaufler presented the ongoing work with the entities mentioned by
252 Mr. Erdahl and noted that August 2016 was the sixth wettest on record. She explained
253 how the District and its colleagues use data on and analysis of upcoming weather
254 conditions to operate the dam to, when necessary, create additional storage in the lake to
255 buffer high flows downstream. Ms. Schaufler noted that the District wants eventually to
256 put in place warning systems for downstream residents who are interested in receiving

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257 them with regard to flow rates. She reminded the managers that the District recently gave
258 easements to Hennepin County Emergency Management for weather stations, and staff is
259 working with these partners to check expectations and anticipate actual creek levels. She
260 added that right now the water is somewhat higher than the District is comfortable with
261 but a dryer period is expected through the end of the month, which should provide some
262 additional comfort. She stated that staff are working on the communications piece to
263 make the information available in a more automatic way so it takes less staff time to
264 advise property owners of high-water conditions. She said staff is also looking at adding
265 additional information to measure soil water content to anticipate possible landslides.

266
267 The managers discussed the status of the District's Minnehaha Glen project and how it
268 has held up under the high water conditions. Mr. Meehan stated that it has held up as well
269 or better than it did during the 2014 flooding. He said the District has not received any
270 calls about high water in that area. Manager Shekleton noted that he was down in the glen
271 recently and that it generally looks very good. Manager Miller commended the idea of
272 getting automated email notices out to property owners who are particularly at risk, if
273 they chose to receive same. In response to a question from Manager White, Ms. Schaufler
274 noted that repair work planned for the dam can be put off to next year without raising
275 significant concern. Manager Miller suggested that staff look at the subwatershed that he
276 lives in because he is finding higher water than ever in the past. He noted to the managers
277 for the record that he would be calling staff to follow up on this.

278
279 In response to a question from Manager Becker, Ms. Schaufler stated that the predictive
280 and simulation model that the District is working on will indeed account for spring snow
281 melt. She said that the National Weather Service is particularly good at figuring out such
282 rates. She also noted also that the District engineer has good experience and capability in
283 predicting the amount of water in the snow pack. Mr. Meehan added that the District is
284 building temperature models into the predictive model for water flow volume and rate. In
285 response to a question from Manager Becker, Ms. Schaufler noted that in 2014 the dam
286 basically was non-issue given that water was flowing up over it and that the flow rate in
287 the creek was above 500 cubic feet per second. The maximum creek capacity is 250-300
288 cubic feet per second. The managers thanked Ms. Schaufler for the information and
289 presentation.

290

291 **ADJOURNMENT**

292

293 There being no further business, the regular meeting of the Board of Managers adjourned
294 at 8:17 p.m.

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295
296 Respectfully submitted,
297
298
299
300
301 Kurt Rogness
302 Secretary

DRAFT