

47 Hejmadi: Aye
48 Loftus: Aye
49 Rogness: Aye
50 Miller: Aye
51 Olson: Aye
52 Maxwell: Aye
53 White: Aye

54

55 **CONSENT AGENDA**

56

57 *It was moved by Manager Miller, seconded by Manager Rogness, to approve the Consent*
58 *Agenda consisting of approval of the April, 2020 Board Minutes; the General Checking*
59 *Account consisting of checks 41105 through 41143 in the amount of \$462,441.64; electronic*
60 *funds withdrawals in the amount of \$15,075.63; manager per diems and reimbursement direct*
61 *deposits in the amount of \$1,666.30; employee reimbursements - direct deposits in the amount*
62 *of \$59.50; and payroll direct deposits in the amount of \$143,548.22; the surety checking*
63 *account indicating no transactions; and the wire transfer of \$52,461.69 in payment to Bremer*
64 *Bank for the District office building refinance, for a total of \$675,252.98; and adoption of the*
65 *following resolutions:*

66 **Resolution 20-034: Authorization to Award Contract to Blackstone Contractors to Fabricate**
67 **and Install New Gray's Bay Dam Plates**

68 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
69 *Watershed District Board of Managers authorizes the District Administrator, on*
70 *advice of counsel, to execute a contract with Blackstone Contractors in the*
71 *amount of \$6,825 and establish a not-to-exceed budget of \$7,507.*

72 **Resolution 20-035: Authorization to Submit Annual Report to BWSR and DNR**

73 *NOW, THEREFORE, BE IT RESOLVED, that the Minnehaha Creek*
74 *Watershed District Board of Managers accepts the 2019 Annual Report and*
75 *authorizes its release to BWSR and DNR.*

76 **Resolution 20-036: Authorization to Submit a Letter of Support to the LCCMR for the**
77 **Minneapolis Park and Recreation Board's Proposed Kenilworth Channel Shoreline**
78 **Restoration and Enhancement Project**

79 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
80 *Watershed District Board of Managers authorizes the Administrator to submit*
81 *the attached letter of support to the LCCMR for the MRPB's proposed*
82 *Kenilworth Channel Shoreline Restoration and Enhancement Project;*

83

84 ***BE IT FURTHER RESOLVED that the District's letter of support for the***
85 ***proposed MPRB Project is non-binding.***
86

87 ***Upon roll call vote, the motion carried, 7-0 as follows:***
88

89 Hejmadi: Aye
90 Loftus: Aye
91 Rogness: Aye
92 Miller: Aye
93 Olson: Aye
94 Maxwell: Aye
95 White: Aye
96
97

98 **BOARD, COMMITTEE AND TASK FORCE REPORTS**
99

100 President's Report: President White noted that the Executive Committee met earlier to
101 review the 2019 audit.
102

103 Policy and Planning Committee Report: Manager Miller reported that the Policy and
104 Planning Committee met and received a briefing on initial planning for the 2021 budget
105 and an update on the status of planning activities for the 325 Blake Road site. He noted
106 that the next meeting of the Operations and Projects Committee will review further
107 details on the 2021 budget plans.
108

109 Upcoming Meeting and Event Schedule: President White directed the managers to the
110 meetings listed on the agenda; all of the meetings to be noticed and held via WebEx. She
111 noted that the Citizens Advisory Committee is not holding meetings due to the pandemic,
112 but is holding electronic meetings of work groups.
113

114 **ACTION ITEMS**
115

116 Resolution 20-037: Review and Accept 2019 Financial Audit
117

118 Mr. Andy Hering of Redpath and Company appeared before the Board of Managers to
119 present the 2019 audit. He noted that the audit reflected a clean opinion, and that the
120 management discussion included a note about legal compliance in the contracting
121 process, a point that staff has duly noted as an anomaly and plans for continued legal
122 review of the contracting process in the future. The managers thanked Mr. Hering for his
123 report.
124

125 ***It was moved by Manager Maxwell, seconded by Manager Miller to adopt Resolution***
126 ***20-037 as follows:***

127 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
128 ***Watershed District Board of Managers hereby accepts the 2019 Annual***
129 ***Financial Report, and directs the District Administrator to transmit it to the***
130 ***Minnesota State Auditor, the Minnesota Board of Water and Soil Resources,***
131 ***Hennepin County, Carver County, and Wells Fargo.***
132

133 ***Upon roll call vote, the motion carried, 7-0 as follows:***
134

135 Hejmadi: Aye
136 Loftus: Aye
137 Rogness: Aye
138 Miller: Aye
139 Olson: Aye
140 Maxwell: Aye
141 White: Aye
142

143 **Resolution 20-038: Authorization of 2019 End of Year Fund Transfers and Closures**
144

145 The managers noted that staff has identified a number of transfers between sub-funds for the
146 purposes of closing out sub-funds that are no longer needed or to remove negative balances, as
147 summarized in the table below;
148

149 Fund Code /Fund Name /Transfers In /Transfers Out /Notes
150

151 1002 General Operations \$34,988.00 Transfer made to balance budget from other transfers
152 2001 Permit Administration \$25,107.00 Transfer made to remove negative balance
153 3149 Highway 101 Causeway \$(19,109.00) Transfer made to zero out balance for fund closure
154 4003 Communications \$(60,361.00) Transfer made to zero out balance for fund closure
155 5007 SMCHB-Carp Management \$19,375.00 Transfer made to remove negative balance
156

157 Totals Transfers in: \$ 79,470.00 Transfers Out: \$(79,470.00)
158

159 ***It was moved by Manager Miller, seconded by Manager Olson to adopt Resolution 20-038 as***
160 ***follows:***
161

162 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
163 ***Watershed District Board of Managers hereby accepts the proposed transfers***
164 ***and fund closures within Management Planning Fund.***
165

166 ***Upon roll call vote, the motion carried, 7-0 as follows:***
167

168 Hejmadi: Aye
169 Loftus: Aye

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170 Rogness: Aye
171 Miller: Aye
172 Olson: Aye
173 Maxwell: Aye
174 White: Aye

175

176 Resolution 29-039: Authorization to Award 2020 Vegetation Maintenance Contracts

177

178 Ms. Janna Jonely appeared before the Board of Managers to review the request for board action.
179 She noted that the District has a total of 30 sites where vegetation maintenance is required, and
180 the District is now able to consolidate this work into groups of sites. Proposed maintenance for
181 these sites has been divided among three contracts in an effort to group sites geographically, to
182 group similar management approaches and required equipment, and to align technical abilities of
183 individual contractors with specific management techniques. In addition, organizing the work
184 into three separate contracts as defined will facilitate staff's oversight and administration of the
185 work.

186

187 *It was moved by Manager Rogness, seconded by Manager Miller to adopt Resolution 20-039*
188 *as follows:*

189

190 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
191 ***Watershed District Board of Managers authorizes the District Administrator, on***
192 ***advice of District Counsel, to execute a contract with Landbridge Ecological in***
193 ***the amount of \$99,846 for vegetation maintenance at the five Minnehaha Creek***
194 ***Greenway Sites and establish a project maintenance budget in the not-to-exceed***
195 ***amount of \$109,830.60 and authorizes the District Administrator, in his***
196 ***judgment, to authorize change orders obligating the District up to that amount;***

197

198 ***BE IT FURTHER RESOLVED that the Minnehaha Creek Watershed District***
199 ***Board of Managers authorizes the District Administrator, on advice of District***
200 ***Counsel, to execute a contract with Natural Shore Technologies in the amount***
201 ***of \$8,000 for vegetation maintenance at the Highway 101 / Bushaway Road***
202 ***Shoreline Restoration and Jennings Bay Wetland Restoration Sites and***
203 ***establish a project maintenance budget in the not-to-exceed amount of \$8,800***
204 ***and authorizes the District Administrator, in his judgment, to authorize change***
205 ***orders obligating the District up to that amount; and***

206

207 ***BE IT FINALLY RESOLVED that the Minnehaha Creek Watershed District***
208 ***Board of Managers authorizes the District Administrator, on advice of District***
209 ***Counsel, to execute a contract with Applied Ecological Services in the amount***
210 ***of \$38,187 for vegetation maintenance at the Six Mile Marsh Prairie***
211 ***Restoration & Laketown Wetland and establish a project maintenance budget***
212 ***in the not-to-exceed amount of \$42,005.70 and authorizes the District***

213 *Administrator, in his judgment, to authorize change orders obligating the*
214 *District up to that amount.*

215
216 *Upon roll call vote, the motion carried, 7-0 as follows:*

217
218 Hejmadi: Aye
219 Loftus: Aye
220 Rogness: Aye
221 Miller: Aye
222 Olson: Aye
223 Maxwell: Aye
224 White: Aye

225
226 Minnehaha Preserve Boardwalk; Resolution 20-040: Authorization to Retain Contractor for
227 Partial Decking and Rail Replacement; Resolution 20-041: Authorization for Limited
228 Engagement of Construction Litigation Counsel

229
230 Mr. Michael Hayman and Ms. Janna Jonely appeared before the Board of Managers to review
231 the request for board action. Mr. Hayman reviewed the history of this project and the problem
232 with failing boardwalk materials. He reviewed the proposal for repairs in the short term, and an
233 update on the status of evaluating long term replacement options, including potential litigation or
234 other routes to resolve the matter. Manager Miller stated that he has visited the site and is very
235 concerned with the failing condition of the boardwalk.

236
237 *It was moved by Manager Miller, seconded by Manager Olson to adopt Resolution 20-040,*
238 *authorizing retention of a contractor for partial decking and rail replacement.* Manager Miller
239 stated that he questioned whether it was wise to proceed with the proposed contractor, given the
240 history of the problems with this boardwalk, and how this action would relate to any potential
241 litigation to seek a remedy for these problems.

242
243 Mr. Smith noted the need to review the legal options before the District, and legal strategies to
244 seek a remedy for this problem from one or more responsible parties; Mr. Smith noted the need
245 for absolute confidentiality in order for counsel to have an effective discussion with the Board of
246 Managers on this matter. *It was moved by Manager Olson, seconded by Manager Rogness to*
247 *move the meeting into closed session for the purpose of having confidential discussion with*
248 *legal counsel on the options and strategies to pursue legal resolution of the boardwalk*
249 *problem. Upon roll call vote, the motion carried 7-0 as follows:*

250
251 Hejmadi: Aye
252 Loftus: Aye
253 Rogness: Aye
254 Miller: Aye
255 Olson: Aye

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256 Maxwell: Aye
257 White: Aye

258

259 The Board of Managers went into closed session. The Board of Managers returned to open
260 session.

261

262 ***It was moved by Manager Loftus, seconded by Manager Miller to adopt Resolution 20-041:***
263 ***Authorization for Limited Engagement of Construction Litigation Counsel, as follows:***

264

265 ***THEREFORE BE IT RESOLVED that the Administrator, on advice of MCWD***
266 ***Counsel, is authorized to retain Thomas Radio of Felhaber Larson for an***
267 ***hourly fee not to exceed \$320, and total fees and expenses not to exceed \$7,500.***

268

269 ***Upon roll call vote, the motion carried, 7-0 as follows:***

270

271 Hejmadi: Aye
272 Loftus: Aye
273 Rogness: Aye
274 Miller: Aye
275 Olson: Aye
276 Maxwell: Aye
277 White: Aye

278

279 ***It was moved by Manager Miller, seconded by Manager Olson to table Resolution 20-040:***
280 ***Authorization to Retain Contractor for Partial Decking and Rail Replacement. Upon roll call***
281 ***vote, the motion carried, 7-0 as follows:***

282

283 Hejmadi: Aye
284 Loftus: Aye
285 Rogness: Aye
286 Miller: Aye
287 Olson: Aye
288 Maxwell: Aye
289 White: Aye

290

291

292 Administrator's Report

293

294 Mr. Wisker provided a further update on working arrangements in light of the Board's direction
295 through Resolution 20-033. Mr. Wisker continues to review District needs, the ability to
296 perform work from home and necessity for work to be performed at the District office or in the
297 field. Pursuant to Resolution 20-033, he is reviewing those steps with President White and legal
298 counsel Smith.

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299

300 Mr. Wisker noted that the May meetings would likely still need to be held electronically via
301 WebEx.

302

303 **Adjournment**

304

305 There being no further business, President White declared the meeting of the Board of Managers
306 adjourned at 9:21 p.m.

307

308 Respectfully submitted,

309

310

311

312 Kurt Rogness, Secretary

313

DRAFT