

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

4
5 **April 26, 2018**
6

7 **CALL TO ORDER**
8

9 The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called
10 to order by President Sherry White at 7:00 p.m. at the District office, 15320 Minnetonka
11 Boulevard, Minnetonka, Minnesota.
12

13 **MANAGERS PRESENT**
14

15 Sherry White, Brian Shekleton, Richard Miller, Kurt Rogness, William Olson, Bill Becker,
16 Jessica Loftus.
17

18 **MANAGERS ABSENT**
19

20 None.
21

22 **DISTRICT STAFF AND CONSULTANTS PRESENT**
23

24 James Wisker, Administrator; Cathy Reynolds, Operations Manager; Tiffany Schaufler, Senior
25 Project Manager; Eric Fieldseth, Aquatic Ecologist; Renae Clark, Policy and Grants Coordinator;
26 Darren Lochner, Education and Engagement Coordinator; Kim Labo, Education and
27 Engagement Coordinator; Chris Meehan, District Consulting Engineer; Chuck Holtman, District
28 Counsel.
29

30 **MATTERS FROM THE FLOOR**
31

32 Joe Schneider, President, Christmas Lake Homeowners Association, thanked the Board and the
33 District for its work concerning Christmas Lake. He thanked the District for its partnership in
34 funding the aquatic invasive species inspection program. He stated that the association is
35 committed to maintaining the program and is developing other sources of financial support. They
36 have seen a dramatic decrease in Eurasian water milfoil in part following treatment with weevils
37 in concert with the District's research program. The association is developing a kit for other lake
38 associations to address these issues.
39

40 **APPROVAL OF AGENDA**
41

42 *Manager Rogness moved, Manager Shekleton seconded approval of the agenda. Upon vote,*
43 *the motion carried 7-0.*
44

45 **INFORMATION ITEMS/CORRESPONDENCE**

46

47 President White noted the watershed-based funding update in the packet.

48

49 **CONSENT AGENDA**

50

51 *Manager Miller moved, Manager Rogness seconded approval of the consent agenda,*
52 *consisting of the April 12, 2018 minutes; the general check register consisting of checks 38947*
53 *through 39009 totaling \$350,898.73; payroll direct deposits totaling \$196,915.55; and*
54 *electronic fund withdrawals totaling \$113,789.04; the surety account indicating no activity;*
55 *the 325 Blake Road checking account; and Resolution 18-041, Authorization to Submit*
56 *Annual Report, as follows:*

57

58 *NOW, THEREFORE, BE IT RESOLVED, that the Minnehaha Creek*
59 *Watershed District Board of Managers accepts the 2017 Annual Report and*
60 *authorizes its release to BWSR and DNR.*

61

62 *Upon vote, motion carried 7-0.*

63

64 **REGULAR AGENDA**

65

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

67

68 President White summarized the closed session administrator's performance evaluation at the
69 April 12, 2018 Board of Managers meeting as follows:

70

71 At our last meeting of the Board of Managers on April 12, we held a closed session for
72 the purpose of conducting a performance evaluation of the administrator. We anticipate
73 at least for this year that we will continue to hold quarterly evaluation meetings with the
74 administrator. We discussed Mr. Wisker's performance since March 1, and goals,
75 expectations and performance metrics for 2nd, 3rd, and 4th quarters this year. A big part of
76 our conversation was about implementing human resources changes that have been part
77 of our strategic planning process, specifically: quickly and cleanly restructuring work
78 groups; creating high and clear expectations for alignment, performance, and
79 accountability; repositioning the work focus of programs, to a new "baseline"; and
80 investing in organizational energy and culture. The managers will continue to work with
81 Mr. Wisker on a performance evaluation framework and metrics and we plan to review
82 all of this work again at the end of the second quarter.

83

84 President White noted that the Executive Committee met just before the Board meeting, at which
85 time the District's legislative representative Joel Carlson reviewed the legislature's current
86 activity and the status of matters of interest to the District. Administrator Wisker advised that he
87 is working with Mr. Carlson to develop a more regularized process to maintain legislative
88 awareness among the managers.

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90 Manager Miller reported on the meeting of the Policy and Planning Committee prior to the
91 Board meeting. The committee discussed a potential opportunity with Oxford Industrial Partners
92 and received updates on the Meadowbrook Golf Course work with the Minneapolis Park and
93 Recreation Board (MPRB) and the 325 Blake Road property. The latter is on schedule for
94 redevelopment; the former is delayed but progress has been renewed.

95

96 Manager Becker reported on the April 17, 2018 meeting of Metro MAWD (Minnesota
97 Association of Watershed Districts). The meeting was attended by President White, Managers
98 Olson and Becker, Becky Christopher and District counsel. The BWSR representative gave an
99 update on the watershed-based funding program and noted that in conjunction with the
100 Metropolitan Council, a metro round table will be formed to work on policy issues. The
101 Minnesota Pollution Control Agency (MPCA) representative discussed the metro cycle for the
102 Watershed Restoration and Protection Strategy (WRAPS). MAWD Executive Director Emily
103 Javens gave an update on the legislative effort to integrate Total Maximum Daily Load (TMDL),
104 WRAPS and watershed district plans. A water reuse update was given by the Minnesota
105 Department of Health representative and Phil Belfiori, Rice Creek Watershed District
106 administrator. There also was a legislative update and discussion of the MAWD summer tour.

107

108 Manager Shekelton noted that at the end of March, he and Mike Hayman attended a meeting of
109 the newly formed Nokomis/Hiawatha citizens' advisory committee along with about 125 other
110 people. Ground rules were discussed and comments were taken. Manager Shekleton introduced
111 himself and Mr. Hayman as District representatives and offered the District as a resource. The
112 committee will meet again next Monday at MPRB headquarters.

113

114 President White referenced the upcoming meetings and events schedule on the agenda. She noted
115 that Manager Olson will represent the Board at the next Citizens' Advisory Committee meeting.

116

117 Public Hearing, Minnehaha Creek FEMA Repair Project

118

119 President White opened the public hearing.

120

121 Ms. Schaufler reviewed the completed and ongoing collaborative planning process among the
122 District, the MPRB and the City of Minneapolis. The history of the effort relates back to 2014
123 flooding. In 2017, the three parties approved a memorandum of understanding for coordination
124 on flood management and corridor restoration issues. The Board of Managers then authorized a
125 professional services request for qualifications associated with stream channel and corridor
126 repairs and planning and selected a team consisting of Wenck Associates, Hoisington Kogler
127 Group Inc. and Inter-Fluve, Inc. In the first phase of work, 47 damage sites were identified. In
128 fall 2017, 28 of these sites were removed as either self-repaired or deferred for later corridor
129 master planning by the MPRB. In December 2017, six of the remaining 19 sites were deferred,
130 leaving 13 sites for immediate repair under the FEMA funding program. The District held open
131 houses on April 12 and 17 regarding the proposed work at these sites.

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133 Ms. Schaufler than reviewed each of the thirteen sites and comments offered at the open houses.
134 The estimated design and construction cost for the 13 sites is \$1.2 million. FEMA funding of
135 \$336,459 is available, though funding eligibility was determined prior to certain design
136 adjustments and so continuing eligibility needs to be confirmed. Ms. Schaufler reviewed the
137 benefits of the work as outlined in the packet materials. Construction is intended over a fairly
138 wide period, from September 2018 through June 2019, to afford the selected contractor
139 flexibility. The MPRB and the City have submitted letters of support.
140

141 Manager Shekleton referenced repair sites in the Minnehaha Glen and noted that the boardwalk
142 metal materials are peeling and that these issues should be addressed if work is done on the
143 boardwalk sections. Ms. Schaufler replied that District staff is reviewing the boardwalk condition
144 as a whole based on its operation and maintenance history in that area. Manager Shekleton added
145 that the District was the entity that pressed for the boardwalk and so it is timely to review the
146 decision and insure that the project element is of good quality.
147

148 Responding to Manager Olson, Ms. Schaufler said that about \$140,000 is the amount of FEMA-
149 eligible work that needs to be reconfirmed.
150

151 Manager Becker asked whether the repairs will be designed to be structurally sound in the face
152 of recurring circumstances similar to the 2014 flooding. Ms. Schaufler replied that District staff
153 has looked carefully at bioengineering solutions and that such approaches have improved since
154 the time of the original design.
155

156 Katrina Kessler, City of Minneapolis Director of Surface Water and Sewers, appeared and stated
157 that the project goals align well among the three parties. She stated on behalf of the City that the
158 District's role is appreciated and the City looks forward to continuing to collaborate on this and
159 other projects.
160

161 President White determined that no members of the public wished to offer comments and closed
162 the public hearing.
163

164 Resolution 18-042: Ordering Minnehaha Creek FEMA Repair Project and Authorizing Design
165 Contract
166

167 Ms. Schaufler presented the proposed recommendation. She reminded the Board that the project
168 has been divided into two stages, with stage one encompassing FEMA streambank repairs, a
169 stormwater management study and an integrated creek corridor concept plan, and stage two, led
170 by the MPRB, consisting of shared capital improvement plan development for the Minnehaha
171 Creek corridor and master planning for the regional parkland. In turn, stage one was split into
172 two phases, with phase one consisting of FEMA project development and phase 2 involving final
173 design and construction oversight. Finally, phase two involves two tracks, one associated with
174 the FEMA repairs and the second feeding into the interagency creek and corridor planning work.
175 The request for board action tonight is to order the project and authorize the Wenck team to
176 proceed with phase 2- track 1 design and construction oversight.

177

178 *Manager Shekleton moved, Manager Olson seconded adoption of the proposed resolution as*
179 *follows:*

180

181 *NOW, THEREFORE, BE IT RESOLVED, that pursuant to Minnesota Statutes*
182 *§103B.251 and the WMP, the MCWD Board of Managers orders the Project.*

183

184 *BE IT FURTHER RESOLVED that the Minnehaha Creek Watershed District*
185 *Board of Managers authorizes the District Administrator, on advice of counsel,*
186 *to execute a contract with Wenck, with HKGi and Inter-Fluve as*
187 *subconsultants, for design and construction oversight services for an amount*
188 *not to exceed \$330,112, and further authorizes the District Administrator, in*
189 *execution of the work, to increase the contract price by 10 percent of the not-to-*
190 *exceed, in aggregate, as in his judgment circumstances require.*

191

192 Manager Miller reminded those present of the regulatory issues that arose in the Minnehaha glen
193 work under the U.S. Army Corps of Engineers (USACE) permit. Ms. Schaufler replied that staff
194 has done prescreening with the USACE and has retained expertise specifically for the Section
195 106 cultural resources review.

196

197 *Upon vote, the motion carried 7-0.*

198

199 Resolution 18-043: Authorization to Execute Partnership Agreement for Long Lake Carp
200 Assessment

201

202 Mr. Fieldseth presented the proposed resolution authorizing the District to enter into an
203 agreement with the Cities of Long Lake, Medina and Orono and the Long Lake Waters
204 Association (LLWA) and to contribute up to \$7,000 for carp assessment work in Long Lake. Mr.
205 Fieldseth reviewed the history of the partnership, originating in a 2016 coordinated effort by the
206 three cities to address regional infiltration, wetland-stream restoration and carp management
207 within the subwatershed. The LLWA was formed shortly thereafter and the parties approached
208 the District in recognition that carp management within the subwatershed is an element of the
209 TMDL implementation plan. An application was made for a Hennepin County Natural Resource
210 Opportunity Grant for \$100,000 as part of a \$205,000 carp management project, but the
211 application was unsuccessful as the proposal focused more on assessment than on
212 implementation. The partners have scaled back to an assessment program with a scope of work
213 costing \$37,350 that would include a biomass estimate, carp movement tracking and assessment
214 of carp recruitment frequency and also would include removal of bed debris that obstructs
215 harvesting as well as a carp removal attempt. The District's interest is in the assessment data
216 more than the actual physical removal activity. The District would contribute \$7,000 to the work
217 and benefit from the assessment data. The Long Lake and Medina City Councils are scheduled to
218 consider the agreement on May 1, and the Orono City Council will do the same on May 14.

219

220

221 ***Manager Olson moved, Manager Rogness seconded adoption of the resolution, as follows:***

222

223 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
224 ***Watershed District Board of Managers hereby authorizes the District***
225 ***Administrator to enter into an agreement with the Cities of Long Lake, Medina***
226 ***and Orono, and the Long Lake Waters Association, on advice of counsel and***
227 ***without substantive change, to contribute up to \$7,000 to conduct carp***
228 ***assessment work in Long Lake.***

229

230 Manager Olson appreciates the cooperation of the parties. Manager Miller said he would like to
231 see a stronger commitment to partnership among the involved parties. Mr. Wisker noted that
232 there has been good coordination with City staff. Manager Miller noted the District policy of
233 obtaining formal action of cities involved and considers such action a prerequisite for District
234 participation. Mr. Holtman noted the agreement structure that requires all five parties to approve
235 before the agreement is effective.

236

237 ***Manager Miller moved, Manager Shekleton seconded to amend the main motion to***
238 ***incorporate into the resolution that the District Administrator may not sign the agreement***
239 ***until it has been formally approved by all parties. Upon vote, the motion carried 7-0.***

240

241 ***Upon vote, the main motion, as amended, carried 7-0.***

242

243 **Resolution 18-044: Support for Commercial Salt Applicator Liability Legislation**

244

245 Mr. Lochner and Ms. Labo together reviewed the recent history of increased attention,
246 particularly within the metro area, to chloride water pollution, principally from deicing
247 practices on roadways and private surfaces. The effort to advance proposed legislation
248 has been led by a number of public and private entities, including Stop-Over-Salting
249 (SOS), a grassroots organization made up primarily of District Master Water Stewards.
250 SOS has asked the District to support the proposed legislation, which would provide a
251 defense to liability claims for commercial deicing applicators that complete MPCA
252 training and document use of best practices. Mr. Lochner stated that staff recommends
253 support for the legislation for four reasons stated in the request for board action: It targets
254 commercial salt use, which contributes 10 to 20 percent of total salt applied in the metro
255 area; it addresses the primary barrier to commercial applicator adoption of salt
256 application best management practices; it complements District policy and programming
257 work to address chloride pollution; and it positions the District as a leader on the issues.

258

259 ***Manager Rogness moved, Manager Olson seconded adoption of the proposed***
260 ***resolution as follows:***

261

262 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek District***
263 ***Board of Managers expresses its support for state commercial salt applicator***
264 ***liability legislation and directs staff to add MCWD's logo to the Coalition for***

265 ***Applicator Liability Reform statement, write a letter of support and engage in***
266 ***other strategic support as needed.***
267

268 Manager Miller noted that the proposed legislation is not part of the District’s program and also
269 that the legislative session is nearing its conclusion. He asked whether the proposed action is
270 simply symbolic and on a matter that has not been established as an important District policy. He
271 is concerned that the proposed action would actually diminish the District’s leadership role. Mr.
272 Lochner replied that the timing is the result of a communication from SOS seeking District
273 support. Ms. Labo also clarified that the legislation remains active and is moving through the
274 legislature.

275
276 Manager Shekleton’s thoughts are similar to those of Manager Miller. He noted that the District
277 first was asked to support the legislation in January, when there was no Senate author; now there
278 is a Senate author but it is late in the process. He supports the concept but questions adding it so
279 late in the process without any direction to Mr. Carlson for specific action.

280
281 Administrator Wisker said that staff approached him several meetings ago on the matter and that
282 he asked staff to take the time to frame the recommendation within the District’s policy context,
283 which staff now has done. He stated that his request and related internal discussion is what
284 resulted in the delay in bringing the matter forward.

285
286 President White supports the action. Chloride impairment is an important issue and the District
287 should not be concerned about putting its name with those of responsible organizations. She
288 observes a tremendous amount of salt overuse and the District should work to move the issue
289 forward. Manager Shekleton commented that his position on the issue is not the same as his
290 position on the District’s voicing of support for this specific legislation.

291
292 Responding to Manager Loftus, Administrator Wisker said that Mr. Carlson did not speak to the
293 bill in his Executive Committee briefing. Time was short and he believes Mr. Carlson forgot.
294 President White added that the Board did discuss the matter in committee at the time it reviewed
295 the MAWD legislative agenda. Manager Olson emphasized that commercial applicators have
296 said they won’t change their practices unless their risk profile changes. Manager Shekleton
297 reemphasized that he is not opposed to the concept, but he believes it is important for such
298 District positions to come out of a policy discussion. Mr. Lochner offered that District staff did
299 participate in policy development in discussion of the metro task force. Manager Olson also
300 noted that the District representative voted in favor of the item as part of the MAWD legislative
301 agenda.

302
303 Mr. Holtman offered, as context, that public road authorities currently can move toward best
304 practices by virtue of certain liability protections that they enjoy under law as public authorities,
305 whereas commercial applicators don’t have such protections and therefore have incentives only
306 toward excessive salt use. The legislation would tend to balance the incentives for commercial
307 applicators so that, similar to public authorities, they could move toward best practices. Exactly

308 what effect the legislation would have on the comparative incentives and, consequently, on the
309 change in public safety, is not readily judged.

310

311 *Upon vote, the motion carried 4-3 (Managers Shekleton, Miller, Becker opposed).*

312

313 Manager Shekleton stated he would like more advance communication on legislative matters.
314 Administrator Wisker replied that he will be working to develop such structure but noted also
315 that a part of legislative involvement necessarily is reactive and on a short time-line. President
316 White affirmed that the District will pursue the issue with Mr. Carlson.

317

318 (Manager Shekleton left the room at this time.)

319

320 Resolution 18-045: Accepting Tort Liability Limits

321

322 Ms. Reynolds noted that it is time for the District's annual renewal of its League of Minnesota
323 Cities Insurance Trust coverage and therefore that the Board must make a judgment on
324 preserving or waving monetary limits on liability. *Manager Becker moved, Manager Miller*
325 *seconded adoption of the proposed resolution as follows:*

326

327 ***NOW, THEREFORE, BE IT RESOLVED, that the District does not waive the***
328 ***monetary limits on tort liability established by Minnesota Statutes 466.04 and***
329 ***authorizes the Administrator to advise the LMCIT accordingly.***

330

331 *Upon vote, the motion carried 6-0.*

332

333 (Manager Shekleton returned at this time.)

334

335 **DISCUSSION AGENDA**

336

337 Arden Park Pre-60% Design Briefing

338

339 Ms. Clark reviewed upcoming events with respect to the project: a May 5 public open house,
340 May 8 review by the City of Edina Parks and Recreation Commission, City Council review of
341 the 60 percent design on May 15, and Board review on May 24.

342

343 Ms. Clark reviewed the project design goals and proposed outcomes. She noted that one outcome
344 of design to date is to relocate the pavilion away from the creek toward the non-riparian green
345 space, based on a public desire to emphasize that connection. She reviewed proposed bridge
346 materials and natural rock at creek access points. Ms. Clark then reviewed the proposed creek
347 meander alignment, proposed tree loss numbers and the specific matter of ash tree management.
348 The District will intend to defer to the City on the last matter. The City forester is advising the
349 City Council that it should remove all ash trees.

350

351 With respect to permitting, the USACE permit process could take up to 180 days, which is right
352 up to the bid schedule. This includes Section 106 cultural resource review. The City is the
353 “responsible government unit” for preparation of an environment assessment worksheet.
354

355 Ms. Clark noted that the 60 percent cost estimate is similar to the pre-design estimate. She
356 reviewed grants being pursued and considered, but as yet no grant funding has been obtained.
357 With respect to the design budget, staff has used \$16,000 of the \$20,000 contingency, principally
358 on stormwater review and the pavilion relocation. Finally, Ms. Clark reviewed the public process
359 that has occurred and that is planned. She noted that there is a good amount of public
360 communications and review, not atypical of what the District ordinarily endeavors to do.
361

362 Manager Miller asked about the individuals who during previous concept discussions were
363 concerned about removal of the dam. Ms. Clark replied that the District is aware of four or five
364 such individuals. She has specifically maintained contact with three of them, one of whom is on
365 the advisory committee.
366

367 2018 Employee Benefit Renewal

368

369 Ms. Reynolds reviewed the District’s current employee benefits package and general numbers
370 for payroll and benefit cost in 2017 and as expected for 2018. She advised that the District will
371 be reviewing the benefits package when it does the compensation analysis with Springsted.
372

373 Manager Miller is interested in what percentage of payroll is benefits. He noted that the
374 insurance premium appears high and cautioned that the District should be sure to maintain some
375 parity with other organizations. Administrator Wisker noted that a discussion on the subject
376 occurred in the last Operations and Programs Committee meeting and that similar themes were
377 expressed. The conclusion was to retain the present framework for the 2018 budget, review the
378 Springsted outcomes in fourth quarter 2018, and have an informed discussion and decision on
379 salary and benefits to be reflected in 2019.
380

381 ADMINISTRATOR’S REPORT

382

383 Administrator Wisker announced that the Gray’s Bay dam is now open and flowing. He thanked
384 the operations and communications staff who worked hard to initiate the operability of the dam
385 and communicate conditions to the community. Present release rates and creek flows appear to
386 be in balance but staff will continue to monitor.
387

388 Administrator Wisker told Board members to expect to receive an updated Minnehaha Creek
389 map within the next two weeks. He asked managers to advise him and Ms. Reynolds if they wish
390 to attend the MAWD summer tour. He advised that President White, along with Ms. Schaufler,
391 himself, Ms. Kessler from the City of Minneapolis and County staff will meet tomorrow with
392 County Commissioner McLaughlin regarding the Hiawatha issues. The Wasserman Lake project
393 will come to the Policy and Planning Committee soon and staff also is working with the City of
394 Victoria for its comprehensive plan, with a focus on the western growth area. Finally, there is no

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395 present closing date for the Farmhill Circle acquisition but it is expected to be within the next
396 two weeks.

397

398 **ADJOURNMENT**

399

400 There being no further business, the regular meeting of the Minnehaha Creek Watershed District
401 Board of Managers was adjourned at 9:10 p.m.

402

403 Respectfully submitted,

404

405

406

407 Kurt Rogness, Secretary

DRAFT