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2
3 **MINUTES OF THE REGULAR MEETING OF**
4 **THE MINNEHAHA CREEK WATERSHED DISTRICT**
5 **BOARD OF MANAGERS**
6

7 March 26, 2015
8

9 **CALL TO ORDER**

10
11 The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called
12 to order by President Sherry White at 6:45 p.m., at the District offices, 15320 Minnetonka
13 Boulevard, Minnetonka, Minnesota 55345.
14

15 **MANAGERS PRESENT**

16
17 Sherry Davis White, Brian Shekleton, Richard Miller, Jeffrey Casale, Pamela Blixt, James
18 Calkins, William Olson.
19

20 **MANAGERS ABSENT**

21
22 None.
23

24 **OTHERS PRESENT**

25
26 Lars Erdahl, District Administrator; James Wisker, District Planning and Projects Director;
27 David Mandt, District Operations and Support Services Director; Telly Mamayek, District
28 Communications and Education Director; Craig Dawson, District Research and Monitoring
29 Director; Laura Domyancich, District Project and Land Technician; Tiffany Schaufler, District
30 Project and Land Program Manager; Renae Clark, District Planner-Project Manager; Courtney
31 Hall, District Permitting Technician; Brett Eidem, District Cost Share Grant Administrator; Chris
32 Meehan, District Consulting Engineer; Chuck Holtman, District Counsel.
33

34 **MATTERS FROM THE FLOOR**

35
36 None.
37

38 **APPROVAL OF AGENDA**

39
40 *It was moved by Manager Miller, seconded by Manager Shekleton to approve the agenda with*
41 *the addition of an Executive Committee report and potential board action regarding*
42 *correspondence from the Hennepin County Board of Commissioners as item 12.6. Upon vote,*
43 *the motion carried 7-0.*
44

45 **CONSENT AGENDA**

46

47 *It was moved by Manager Miller, seconded by Manager Calkins to approve the consent*
48 *agenda consisting of the March 12, 2015 board minutes; approval of the general checking*
49 *account and surety account check registers, with the general checking account register*
50 *encompassing items 35409 through 35489 for a total of \$372,339.98, payroll direct deposits*
51 *totaling \$130,687.24 and electronic fund withdrawals totaling \$159,719.07, for a total expense*
52 *amount for the period February 27 through March 26, 2015 of \$662,746.29; acceptance of the*
53 *325 Blake Road checking account report; the amended 2015 Lake Nokomis biomanipulation*
54 *project work plan; and adoption of the following resolutions:*

55

56 **Resolution 15-020, Realtor Workshop**

57

58 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
59 *Watershed District Board of Managers authorizes the District Administrator to*
60 *execute an agreement with Terramark to develop a continuing education course*
61 *for realtors in an amount not to exceed \$8,976.*

62

63 **Resolution 15-021, MCWD Brand Manual Update**

64

65 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
66 *Watershed District Board of Managers accepts the 2014 MCWD Brand Manual*
67 *updates.*

68

69 **Resolution 15-022, Authorization to Award Contract for 2015 Stormwater Pond Sediment**
70 **Surveys**

71

72 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
73 *Watershed District Board of Managers authorizes the District Administrator to*
74 *execute a contract with Wenck Associates, Inc. for the not-to-exceed amount of*
75 *\$59,567 for the survey of ten ponds, composite sediment samples analyzed for*
76 *up to ten ponds, and a technical memo summarizing results of the analysis.*

77

78 **Resolution 15-023, Authorization to Enter Into DNR Delegation Agreement for Watercraft**
79 **Inspections**

80

81 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
82 *Watershed District Board of Managers approves entering into the Minnesota*
83 *DNR's Delegation Agreement for Aquatic Invasive Species (AIS) Prevention*
84 *Inspection of Water-related Equipment, and authorizes the District*
85 *Administrator to execute the Agreement.*

86

87

88 **Resolution 15-024, Authorization to Enter Into an Agreement with Blue Water Science to**
89 **Complete Aquatic Plant Surveys**

90

91 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
92 *Watershed District Board of Managers hereby authorizes the District*
93 *Administrator to enter into an agreement with Blue Water Science, upon*
94 *approval of District counsel as to form and execution, to complete aquatic plant*
95 *surveys and Flowering Rush Assessment on District waterbodies for a cost not*
96 *to exceed \$16,350.*

97

98 **Resolution 15-025, Authorization to Enter Into an Agreement with Freshwater Scientific**
99 **Services to Complete Aquatic Plan Surveys**

100

101 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
102 *Watershed District Board of Managers hereby authorizes the District*
103 *Administrator to enter into an agreement with Freshwater Scientific Services,*
104 *upon approval of District Counsel as to form and execution, to complete aquatic*
105 *plant surveys on District waterbodies for a cost not to exceed \$9,470.*

106

107 **Resolution 15-026, 2015 Watercraft Inspection Cost-Share Grant with Minneapolis Park**
108 **and Recreation Board**

109

110 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
111 *Watershed District Board of Managers authorizes the execution of an*
112 *agreement with the Minneapolis Park and Recreation Board to provide AIS*
113 *education through these watercraft inspection services at public accesses to*
114 *Lakes Calhoun, Harriet and Nokomis, with the District's cost-share grant not to*
115 *exceed \$88,500.*

116

117 *BE IT FURTHER RESOLVED that the Board of Managers authorize the*
118 *District Administrator to enter into this agreement contingent that applicant*
119 *demonstrate its AIS and lake management plans and related activities are*
120 *consistent with the goals of the MCWD's Comprehensive Water Resource*
121 *Management Plan and upon advice of counsel and with such further minor*
122 *revisions as may be necessary to effect the intent of the parties.*

123

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

125

126 **REGULAR AGENDA**

127

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

129

130 Manager White gave the President's report. She noted that the April 2, 2015 meeting of the
131 Operations and Programs Committee is canceled and will be rescheduled.

132

133 Manager Calkins reported on the Policy and Planning Committee meeting held last week. The
134 focus was the history and future of the Land Conservation Program with respect to preparation
135 for the District's watershed management plan revision. He noted that the program as developed
136 had two tracks, one of acquiring fee interest in conservation lands and a second encompassing a
137 variety of avenues including easement acquisition and forms of technical assistance. There was
138 further discussion about the Stonegate Farm memorandum of understanding with a committee
139 recommendation that staff continue its pursuit of District goals for that property. There was also
140 a discussion of the potential acquisition of easements and flood management activities on
141 Katrina marsh and a review of the Diercks property, with a committee recommendation not to
142 pursue allowing the adjacent developer to place a cul de sac on the property. Manager Miller
143 noted that he learned that the District can use easements as a local match for federal and state
144 grant funds.

145

146 Manager Casale reported that he attended the Lake Minnetonka Conservation District Save the
147 Lake Banquet, which was well attended and had a good program.

148

149 Manager White noted the upcoming meetings and events on the agenda.

150

151 **2015 Audit**

152

153 Mark Gibbs, Redpath and Company, Ltd., presented the District's financial report. It was
154 reviewed with the District Treasurer and Administrator and the Audit Review Committee. His
155 firm rendered a clean opinion on the District's financial statements. He reviewed with the Board
156 the District's net position, compared budgeted revenues and expenditures and otherwise provided
157 a brief overall survey of the report along with proposed fund transfers.

158

159 ***It was moved by Manager Casale, seconded by Manager Olson to adopt resolution 15-027***
160 ***providing as follows:***

161

162 ***BE IT RESOLVED that the MCWD accepts the 2014 Annual Financial Audit***
163 ***and releases it to the Minnesota State Auditor, the Board of Water and Soil***
164 ***Resources, Hennepin County, and Wells Fargo.***

165

166 ***BE IT FURTHER RESOLVED the following Project Funds excess balances***
167 ***will be transferred within the Management Planning Fund or other designated***
168 ***funds effective December 31, 2014.***

169

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170	<i>CODE FUND</i>	<i>FROM</i>	<i>TO</i>
171			
172	<i>1001 General Fund</i>	<i>72,955</i>	
173	<i>1002 General</i>		<i>72,955</i>
174	<i>2101 Permit Administration</i>		<i>115,142</i>
175	<i>2102 Rule Revisions</i>		<i>8,026</i>
176	<i>2406 Government Relations</i>		<i>2,399</i>
177	<i>2407 Joint Watershed Research</i>	<i>14,125</i>	
178	<i>3101 Lake Nokomis</i>		<i>3,700</i>
179	<i>3121 Low Impact Redevelopment</i>	<i>888,911</i>	
180	<i>3130 Cost Share Program</i>		<i>773,769</i>
181	<i>3133 Minnehaha Creek Reach 19-21</i>		<i>1,349,156</i>
182	<i>3201 Land Conservation</i>	<i>1,349,156</i>	
183			
184	<i>TOTAL</i>	<i>2,325,147</i>	<i>2,325,147</i>

185
 186 *The above transfers will close out the following funds*

187 *1001 General Fund*

188 *3121 Low Impact Redevelopment*

189
 190 Manager Miller asked how the District's financial oversight systems compare with those of other
 191 watershed districts with which Mr. Gibbs is familiar. Mr. Gibbs replied that the District's use of
 192 an outside accountant provides three levels of oversight and that the District is superior in the
 193 procedures that it uses.

194
 195 *Upon vote, the motion carried 6-0* (Manager Shekleton temporarily absent).

196
 197 Public Hearing: Metro Blooms Nokomis Neighbors for Clean Water Project

198
 199 Manager White opened the public hearing.

200
 201 Mr. Eidem reviewed the project development history including the areas where installations have
 202 been done and are planned. Manager Miller asked if there has been performance monitoring of
 203 the prior installations. Mr. Eidem replied that the installations have been inspected after rain
 204 events and are functioning properly, but that water quality sampling has not been done. He noted
 205 that the measurement effort for the program has been orientated more toward measuring
 206 community impact as opposed to water quality performance. Manager Miller asked for staff to
 207 better investigate whether performance measurement is feasible.

208
 209 Manager White invited public comment. None was offered. Manager White closed the public
 210 hearing.

211
 212 *It was moved by Manager Shekleton, seconded by Manager Olson to adopt the proposed*
 213 *resolution numbered as 15-032 and providing as follows:*

214
215 ***NOW, THEREFORE, BE IT RESOLVED, that the MCWD Board of***
216 ***Managers, pursuant to Minnesota Statute Section § 103B.251 and the***
217 ***Comprehensive Water Resources Management Plan, orders the project, with a***
218 ***total cost-share contribution from the MCWD of not-to-exceed \$100,000, and;***
219

220 ***NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of***
221 ***Managers authorizes the Administrator to execute, on advice and consent of***
222 ***counsel, a Cost Share funding agreement with Metro Blooms, providing***
223 ***reimbursement of 75 percent of the documented costs for construction of***
224 ***stormwater BMPs on fifteen blocks around Lake Nokomis, not to exceed 75***
225 ***percent of the documented eligible costs of construction of a BMP on each***
226 ***individual property, from the stormwater BMP Cost Share fund, contingent on***
227 ***a signed maintenance agreement with each property owner that includes a final***
228 ***landscape design plan approved for Cost Share purposes by District staff; total***
229 ***cost-share reimbursement not to exceed \$100,000, which will be reimbursed in***
230 ***5 installments at the completion of each of five phases of construction and***
231 ***contingent on receipt of an annual outreach report on the community impact of***
232 ***the Project.***
233

234 ***Upon vote, the motion carried 7-0.***
235

236 **ACTION ITEMS**
237

238 **Authorization to Award Construction Contract, Powell Road Stormwater Diversion Project**
239

240 Ms. Clark presented the proposed resolution to award the contract to Minger Construction. She
241 noted that the District succeeded in securing a 50 percent cost-share grant encompassing design,
242 easement cost and construction from the Public Facilities Authority (PFA) Point Source
243 Implementation Grant program. Manager Miller noted that the PFA also has a loan program and
244 asked if the District has examined it. Mr. Wisker replied that the loan program contains certain
245 commitments regarding final land disposition and in the present circumstances the District
246 applied for the grant instead.
247

248 ***It was moved by Manager Miller, seconded by Manager Calkins to adopt resolution 15-028***
249 ***providing as follows:***
250

251 ***NOW, THEREFORE, BE IT RESOLVED, the MCWD Board of Managers***
252 ***authorizes the contract award for construction to Minger Construction; and***
253

254 ***BE IT FURTHER RESOLVED that the MCWD Board of Managers authorizes***
255 ***the Administrator to execute a construction contract for the Powell Road***
256 ***Stormwater Diversion Project, authorizes the Base Bid work for the total***

257 *amount of \$798,014.00, and directs that the Administrator return and otherwise*
258 *administer bid bonds in accordance with the terms of the request for bids; and*
259

260 *BE IT FURTHER RESOLVED that the MCWD Board of Managers establishes*
261 *a project construction budget in the not-to-exceed amount of \$877,815.00 and*
262 *authorizes the District Administrator, in his judgment and on the*
263 *recommendation of the construction manager, to authorize change orders*
264 *obligating the District up to that aggregate amount; and*
265

266 *BE IT FURTHER RESOLVED that the MCWD Board of Managers authorizes*
267 *the Administrator to issue a formal notice to proceed to Minger Construction in*
268 *accordance with the terms of this resolution on advice of counsel, receipt of a*
269 *signed contract and required bonds and insurance documentation; and*
270

271 *BE IT FINALLY RESOLVED that the MCWD Board of Managers authorizes*
272 *the Administrator, on advice of counsel, to enter into a contract for*
273 *construction oversight with Wenck Associates for the amount of \$54,150.00.*
274

275 *Upon vote, the motion carried 7-0.*
276

277 Ordering Highway 101 Causeway Reconstruction Project
278

279 Bridgett Anderson, Wayzata City Council, appeared and expressed to the Board her appreciation
280 for the long cooperative effort on this project.
281

282 Ms. Schaufler reviewed the project development process and noted that a public hearing on
283 project ordering was held on February 26, 2015. She presented the proposed resolution to order
284 the project. Ms. Schaufler reviewed drawings of proposed plantings and treatments for each
285 reach along the causeway.
286

287 *It was moved by Manager Casale, seconded by Blixt to adopt resolution 15-029 as follows:*
288

289 *NOW, THEREFORE, BE IT RESOLVED, that pursuant to Minnesota Statutes*
290 *§ 103B.251 and the WMP, the MCWD Board of Managers orders the Project.*
291

292 Manager Blixt asked if the District had levied for the project yet. Mr. Wisker replied that under
293 the project plan and the cooperative agreement with Hennepin County, the District will initiate
294 the shoreline restoration work once the County is done with the causeway reconstruction, which
295 means a District construction period of 2016-17. Therefore, the District intends to fund the
296 project with a levy spread over those two years. Mr. Wisker noted that there presently are funds
297 in the planning department budget to cover 30-40 percent of the design, so that could begin in
298 2015 once the County drives sheet piling to allow for the precise location of the District's work.
299

300 ***It was moved by Manager Miller, seconded by Manager Shekleton to amend the main motion***
301 ***to add that District staff is directed to include 50 percent of the project cost in the 2016 levy.***
302 ***Upon vote, the motion to amend carried 7-0. Upon vote, the main motion as amended carried***
303 ***7-0.***

304
305 Manager Miller commended the Board, particularly Manager Casale, and staff on the work it has
306 put in with the City of Wayzata, Hennepin County and the Bushaway Road Task Force.

307
308 Memorandum of Understanding with City of Victoria

309
310 Ms. Hall presented a proposed resolution to enter into a memorandum of understanding (MOU)
311 with the City of Victoria. Ms. Hall described the City's current planning process and how staff
312 believes the District can collaborate with the City toward its own water resource goals. She
313 reviewed the three areas of coordination as laid out in the MOU: coordinated planning, assessing
314 specific water management issues, and regulatory coordination and support.

315
316 Manager Miller suggested that the MOU is very significant, demonstrating the creativity and
317 energy of staff and reflecting the improvement in the District's relationship with the City after a
318 period marked by a lack of cooperation.

319
320 ***It was moved by Manager Miller, seconded by Manager Shekleton to adopt resolution 15-030***
321 ***providing as follows:***

322
323 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
324 ***Watershed District Board of Managers hereby authorizes the Board President***
325 ***to execute a Memorandum of Understanding in its final form between MCWD***
326 ***and the City of Victoria.***

327
328 ***NOW, THEREFORE, BE IT RESOLVED, that the MCWD Board of Managers***
329 ***hereby authorizes minor non-substantive revisions to be made to the MOU prior***
330 ***to execution, on advice of District counsel.***

331
332 Manager Shekleton asked how this MOU framework could be replicated with other
333 cities. Ms. Hall replied that regulatory coordination is a good place to start. ***Upon vote,***
334 ***the motion carried 7-0.***

335
336 Manager Miller asked whether the Board should appoint liaisons to the Six Mile Task
337 Force. Mr. Wisker offered that staff would be initiating planning within the next couple
338 of months so it would be timely to do so.

339
340 ***It was moved by Manager Miller, seconded by Manager Shekleton to name Managers***
341 ***Calkins, White and Olson to the task force.*** Manager White asked as to the timing for
342 the advisory committee. Mr. Wisker replied that it probably would occur within the next
343 45 days and that Becky Christopher is working on that. Manager Olson suggested that his

344 name be changed more generally to the “Carver County manager” because he likely
345 would be stepping down from the Board in light of his travel schedule. *The motion was*
346 *amended by unanimous consent.*

347
348 *Upon vote of the main motion as amended, the motion carried 6-0* (Manager Casale
349 temporarily absent).

350
351 Memorandum of Understanding with Rechelbechers
352

353 Ms. Domyancich reviewed the land setting and the initial discussion with Peter and
354 Mindy Rechelbecher about working collaboratively to introduce conservation practices
355 into intended development of their property.

356
357 *It was moved by Manager Casale, seconded by Manager Olson to adopt resolution 15-*
358 *031 stating as followings:*

359
360 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
361 ***Watershed District Board of Managers hereby authorizes the execution of a***
362 ***Memorandum of Understanding between the District and Peter and Mindy***
363 ***Rechelbecher; and***

364
365 ***NOW, THEREFORE, BE IT FURTHER RESOLVED that the Minnehaha***
366 ***Creek Watershed District Board of Managers hereby authorizes minor non-***
367 ***substantive revisions to be made to the Memorandum of Understanding prior to***
368 ***execution, on advice of District counsel.***

369
370 *Upon vote, the motion carried, 7-0.*

371
372 Report on Executive Committee Meeting
373

374 Manager White reported that at the last workshop, the Board asked the Executive Committee to
375 meet regarding the inquiry of the Hennepin County Board of Commissioners into the District’s
376 governance issues. At Manager White’s request, Mr. Holtman reviewed with the Board an
377 inquiry received from Dan Rogan, Senior Assistant County Attorney, asking to review the
378 memorandum prepared by District counsel regarding concerns expressed about certain
379 interactions between Manager Casale and District staff and the District engineer. District counsel
380 had advised Mr. Rogan that the memorandum is an attorney-client privileged document. Mr.
381 Rogan advised that he wished to see it, as did individual commissioners. He agreed with District
382 counsel that if the Board were to waive the privilege in order for this review to be facilitated, the
383 memorandum still would be classified as a nonpublic document under the Minnesota Data
384 Practices Act.

385
386 Manager Blixt asked if managers could see the memorandum. Manager White replied that any
387 manager could have access to the memorandum. She suggested that by the Board’s delegating to

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388 counsel the authority to waive the privilege, Board members would have time to review the
389 memorandum before it is read by Hennepin County Commissioners and the County Attorney.
390

391 *It was moved by Manager White, seconded by Manager Miller to authorize District counsel to*
392 *waive the attorney-client privilege with respect to the memorandum to the extent of allowing*
393 *the memorandum to be shared with the County Attorney, County Commissioner and, if it*
394 *requests, the state auditor. Upon vote, the motion carried 7-0.*

395
396 Administrator's Report

397
398 Mr. Erdahl suggested that the Metropolitan Council Environmental Services permit application
399 for sanitary sewer replacement above Camp Coldwater Springs could come forward to the Board
400 as early as April 9. Mr. Erdahl also reported on progress under the Mader MOU.

401
402 **ADJOURNMENT**

403
404 There being no further business, the regular meeting of the Minnehaha Creek Watershed District
405 Board of Managers was adjourned at 7:55 p.m.

406
407 Respectfully Submitted,

408
409
410
411 Jeff Casale, Secretary