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

February 13, 2020

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CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by President Sherry White at 7:15 p.m. on February 13, 2020, at the District offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

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MANAGERS PRESENT

Sherry White, William Olson, Richard Miller, Jessica Loftus, Eugene Maxwell, Arun Hejmadi.

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MANAGERS ABSENT

Kurt Rogness.

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DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Anna Brown, Planner-Project Manager; Thomas Langer, Aquatic Ecologist; Heidi Quinn, Permitting Technician; Cathy Reynolds, Operations Manager; Chris Meehan, Consulting Engineer; Michael Welch, Counsel.

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MATTERS FROM THE FLOOR

None.

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APPROVAL OF AGENDA

Manager White noted the need to add item 11.3, a motion to increase the administrator's salary. *Manager Olson moved and Manager Miller seconded approval of the agenda as amended. Upon vote, the motion carried 5-0.*

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CONSENT AGENDA

Manager Miller moved and Manager Maxwell seconded approval of the consent agenda, consisting of the approval of the January 23, 2020, minutes and Resolution 20-008: LMCIT Insurance Renewal Waiver, as follows:

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46 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
47 ***Watershed District Board of Managers accepts the statutory tort liability limits***
48 ***as set out in Minnesota Statute 466.04 and authorizes the Administrator to***
49 ***advise the LMCIT accordingly.***

50
51 ***Upon vote, the motion carried 5-0.***

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53 **REGULAR AGENDA**

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

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57 President White presented the president’s report, noting that she attended a legislative
58 preview held by the Environmental Initiative that was limited as to water issues. There
59 was acknowledgement of the need to keep water on the land and Representative Jean
60 Wagenius stated that the creek should not be flooding. President White also noted that
61 she attended a meeting with staff and Manager Maxwell with the City of Hopkins to
62 advance collaboration and partnership with the City. The managers conducted the
63 performance review of the administrator at the January 23 meeting, found very
64 satisfactory performance of Mr. Wisker, and are recommending increasing his salary, as
65 added to the agenda.

66
67 Manager Loftus reported on the meeting of the Operations and Programs Committee
68 from earlier in the evening, stating that Michael Hayman provided an update on and
69 overview of the Hopkins collaboration. The committee also reviewed the outreach plan
70 and hiring program for implementation thereof, which will be coming forward to the
71 board for a decision sometime soon. (*Manager Hejmadi arrived, 7:18 p.m.*)

72
73 Manager Maxwell reported from the Citizens Advisory Committee meeting held last
74 Wednesday, noting that there were nine to 10 members in attendance and new officers
75 were elected including Peter Rechelbacher as chair and Bill Bushnell as vice chair. He
76 said the committee devoted some time to looking at the operations program and the
77 District’s new website, and noted a push to include more news on the website instead of
78 just information. He said that the committee will have four volunteers to help with the
79 Minnesota Association of Watershed Districts’ tour of the Minnehaha Creek watershed in
80 June and that the next meeting is going to be moved to March 3 to accommodate a
81 presentation on climate from Kenny Blumenfeld, Minnesota State Climatology Office.

82
83 Manager White noted that Manager Hejmadi will attend the next CAC meeting, not
84 Manager Miller, and other than the moving of that meeting to March 3, the upcoming
85 meeting and event schedule is as printed in the agenda.

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90 **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

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92 Permit 19-614 and Wetland Conservation Act Decision for 3537 Zenith Avenue South,
93 Bakken Museum Minneapolis

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95 Heidi Quinn presented background on the Bakken Museum's request for a Wetland
96 Conservation Act de minimis exemption, an exception from the District's wetland buffer
97 rule and permit 19-614. Ms. Quinn provided background on the buildout of the property
98 in 1987 and the District permit associated with that. She stated that this past fall the
99 District approved a Wetland Conservation Act boundary and type determination, which
100 found that the wetland has expanded from what was on site in 1987. She explained that
101 the applicant will be providing excess stormwater treatment, but fails to meet the
102 minimum buffer width in accordance with the District's requirement along the western
103 edge of the onsite wetland. Ms. Quinn reviewed the applicant's request for an approval of
104 a de minimis exemption application and noted that staff recommends approval, given that
105 the 370 square feet of fill in the wetland is under the allowable amount for a type 1/5
106 wetland in the shoreland setback zone and outside the building setback, short of the 400
107 square feet of fill allowed. She analyzed the District's wetland rule, noting that the
108 minimum buffer-width shortfall notwithstanding, overall the applicant is providing more
109 buffer area than is required under the rule. She said staff finds that the applicant has
110 provided the necessary biological integrity replacement and will meet the stormwater
111 treatment function of the buffer area through the excess stormwater treatment capacity
112 provided. She noted, finally, that the recommendation for approval should have one
113 additional condition, namely that the applicant submit a financial assurance. Ms. Quinn
114 noted that there are three items before the managers for approval tonight: the WCA
115 exemption, the District permit and the exception from the District buffer requirement.
116 ***Manager Miller moved and Manager Maxwell seconded approval of the exception.***
117 ***Upon vote, the motion carried 6-0.***

118
119 With regard to the de minimis exemption request, Ms. Loftus asked about the increased
120 flooding risk of placing the proposed patio into the wetland. Ms. Quinn noted that a
121 retaining wall will be constructed that will eliminate risk of flooding. Manager Loftus
122 asked about the rationale for the applicant building the proposed patio into the wetland
123 area. Ms. Quinn stated that staff worked with the applicant to minimize the impact, and it
124 has been pulled back to a degree possible, but to provide the programming space that is
125 desired, the applicant is requesting approval of the de minimis exemption. Ms. Quinn
126 noted that the city approved the construction plans with the wetland incursion. In
127 response to a question from Mr. Welch, Ms. Quinn clarified that the financial assurance
128 requirement is \$400.

129
130 Michael Sanders, the president of the Bakken Museum, came before the managers and
131 explained that to accomplish the programming that the museum wishes to accomplish the
132 proposed configuration of the patio is necessary. He stated that there will be a new
133 entrance and walkway, as well as program space. He said that the design will highlight

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134 the wetland area and allow classes to use the building as well as the outdoor space, and
135 students will see the wetland. Manager Loftus stated that she does not see this design as
136 protecting the wetland and that the wetland could be avoided. She stated that she does not
137 understand the hardship that the applicant has incurred such as requires this incursion into
138 the wetland. Ms. Quinn explained that there are pinch points around the wetland that
139 make this design the best available option for avoiding wetland impact. In response to a
140 question from Manager Maxwell, Mr. Sanders stated that he did not know how much of
141 the programming space on the patio the museum would lose if it avoided the wetland
142 altogether. In response to a question from Manager Miller, Mr. Sanders stated that the
143 walkway area is not going to flood around the museum. **Manager Miller moved and**
144 **Manager Olson seconded approval of the de minimis exemption. Upon vote, the motion**
145 **carried 5-1, Manager Loftus voting against. Manager Miller moved and Manager**
146 **Olson seconded approval of the permit 19-614. Upon vote, the motion carried 6-0.**

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148 *(At 7:48 Manager Hejmadi left the meeting.)*

149
150 Resolution 20-009: Authorization to Contract for Winter Commercial Seines in Six Mile
151 Creek-Halsted Bay Subwatershed

152
153 Thomas Langer of the District staff provided the managers with background on staff's
154 work to control carp in the Six Mile Creek subwatershed. In response to a question from
155 Mr. Welch, Mr. Langer clarified that there are two separate contracts in front of the
156 managers for approval. Mr. Langer stated that the work the District is undertaking in this
157 subwatershed is part of the program supported by a 2017 Lessard-Sams Outdoor Heritage
158 Council grant. He stated that staff has been implementing aeration and has installed three
159 of four planned barriers to reduce carp damage to the subwatershed. He stated that while
160 the efforts have proven effective, carp remain in significant oversupply in the
161 subwatershed. He stated that the District's 2020-21 focus will be to continue to remove
162 carp and to meet targets for maintaining water quality in the system. He said that the item
163 on the agenda this evening is removal of carp in Lake Zumbra and Parley Lake through
164 winter seining. In Parley, the District has one of the highest abundances of carp in the
165 subwatershed. The box-netting the District has done in the past accomplished just a small
166 measure of carp removal. A commercial fisherman is interested in removing carp from
167 Lake Parley and the contract with WSB is informed by that, and calls for WSB to manage
168 the commercial fisherman in the area. The proposal from the subcontractor includes
169 additional payment if the seining is successful.

170
171 At Lake Zumbra, there is also a very high abundance of carp, though there is no
172 migration into Lake Zumbra. He said the lake is not known to commercial fishermen and
173 they are not necessarily interested in it. The subcontractor who will perform the removal
174 at Parley Lake did not propose an added payment based on outcome. Mr. Langer stated
175 that there would be more permitting requirements associated with getting another
176 fisherman to work on it and that the proposal from Jeff Riedemann does not include an
177 added payment because of the unknowns in removing carp from the system. He stated

178 that in the spring the District probably will be pursuing more removals after ice out.
179 ***Manager Olson moved and Manager Loftus seconded adoption of Resolution 20-009.***

180
181 Manager Miller stated that he will not approve any contracts with WSB for any work until the
182 District gets a clear understanding of how the Richfield project that WSB worked on will be
183 fixed. He said that the District is going to be paying for that project for the next 15 years and we
184 still have no viable plan that he is aware of to make that project work. In response to a question
185 from Manager Loftus, Mr. Langer stated that the work proposed is in the overall budget for the
186 subwatershed and represents 13% of that budget. In response to a question from Manager Olson,
187 Mr. Langer stated that the District is still using the RF tags to track carp and that's how they
188 know whether the carp will be aggregated under the ice in such a manner that the winter seining
189 will work. ***Up on vote the motion carried 5-1, Manager Miller voting against.***

190
191 Resolution 20-010: Approval of Wasserman Lake Park Amendment to Purchase Agreement

192
193 Anna Brown came before the Board of Managers and provided background on the progress on
194 the Wasserman Lake project and the specific item before the managers this evening. She noted
195 that she's handed out a revised version of the resolution that makes a correction to show that the
196 amendment of the purchase agreement was predetermined through the cooperative agreement
197 that the District has entered with the City of Victoria, and that closing on the property will follow
198 the construction bidding and award of contract. She stated that the revisions to the easement
199 provide only that there was a wetland modification to include the stream channel. She stated that
200 the City has incorporated natural areas into the easement and that the City may terminate that
201 part of the easement applicable to the natural areas after 30 years. She stated that the City
202 Council approved the amendment to the purchase agreement on Monday night and that if Board
203 of Managers approves the amendment, the closing on the easement will occur within 21 days
204 after the construction contract is awarded. ***Manager Miller moved and Manager Olson***
205 ***seconded adoption of Resolution 20-010.*** Ms. Brown noted that the City has changed the name
206 of Wasserman Park to Wasserman Lake Preserve which is more with keeping with the District's
207 interest and involvement in the project and she thinks it is a nice change. She stated that bids for
208 the construction work were received and opened on Tuesday and have come out favorably. Staff
209 will be bringing forward a resolution for action on the award of contract on February 27. ***Upon***
210 ***vote, the motion carried 5-0.***

211
212 Administrator Salary Increase

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214 ***Manager Miller moved and Manager Olson seconded approval of an increase in the***
215 ***Administrator's salary to \$137,913.37. Upon vote, the motion carried 5-0.***

216
217 Carp Barrier Construction Update

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219 Anna Brown provided the managers an update on the quote process for the fourth barrier to be
220 constructed in the Six Mile Creek Halsted Bay Subwatershed at Auburn and Langdon Lakes. She
221 said that the area is underwater but needs some retrofitting and maintenance. She stated that the

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222 District received one quote for the fourth barrier and it was \$20,000 over budget. Staff is led to
223 understand that the overage is because of the site conditions, with continued open water at the
224 location instead of ice, making it more difficult for the contractor to get into the site. She stated
225 that the District might change its approach but would like to postpone the installation of the
226 barrier for a year to look at options. She stated that one option is to re-budget the request to the
227 Lessard Sams Outdoor Heritage Council and to amend the agreement with the Council which she
228 believes the Council would approve. She said before taking that step though the District would
229 like to look at options to manage site conditions or take a different approach. In the meantime,
230 there is a temporary barrier that is in place that will control carp.

231

232 Administrator's Report

233

234 Mr. Wisker stated that he Chris Meehan, Louis Smith and he will attend the International Low
235 Impact Development Conference to hold a ninety-minute panel discussion on the District's work
236 to create a green corridor and the partnership business model. He provided an update on the
237 operations program transition, noting that Ms. Cathy Reynolds will be leaving the District on
238 February 20 and thanking her for her service to the District. He stated that rather than re-staffing
239 the position immediately he will be working with staff to look at facility management,
240 information technology budgeting, human resources and accounting and reorganizing those
241 functions. He stated that Ms. Deb Johnson is likely to take on additional tasks in accounting, and
242 in coordinating with the accountant and auditor to keep the District on track and schedule for the
243 audit this spring. He believes the biggest change discussed concerning the reorganization would
244 be an accounting and finance role that Ms. Johnson will fill. He said that Ms. Reynolds position
245 will not be immediately backfilled but that the District will take a 30-60-90 day timeframe to
246 assess options. Finally, Mr. Wisker noted that Chase Vanderbilt, research assistant, will be
247 leaving and that he's working with Brian Beck in the research and monitoring program to review
248 performance and make minor adjustments. Manager White extended her thanks to Ms. Reynolds
249 for her service to the District.

250

251 Manager Miller noted pending items about which he would like a report soon One is the
252 Richfield project report, and another concerns the District's Arboretum project signage, which is
253 embarrassingly degraded and obsolete. Mr. Wisker stated that with regard to the Richfield
254 project, the City's trouble-shooting that was supposed to take place in 2019 has not been
255 satisfactorily completed and he and Ms. Becky Christopher met with the City Engineer and
256 Manager and a public works department representative to transition to Barr Engineering as a new
257 service provider. He said that the investigation will be in completed in 2020 and the District can
258 make a decision about its involvement in the project by the end of the year.

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260 Adjournment

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262 There being no further business, the meeting of the Board of Managers was adjourned at 8:31
263 p.m.

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265 Respectfully submitted,

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269 Kurt Rogness, Secretary

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