

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

4
5 January 15, 2015

6
7 **CALL TO ORDER**
8

9 The regular meeting of the Minnehaha Creek Watershed District Board of Managers was
10 called to order by President Sherry White at 6:50 p.m. in the District offices, 15320
11 Minnetonka Boulevard, Minnetonka, Minnesota 55345.

12
13 **MANAGERS PRESENT**

14
15 Sherry White, James Calkins, Jeffrey Casale, Richard Miller, William Olson, Brian
16 Shekleton.

17
18 **MANAGER ABSENT**

19
20 Pam Blixt.

21
22 **OTHERS PRESENT**

23
24 Jeff Spartz, Interim District Administrator; Becky Christopher, District Lead Planner –
25 Project Manager; Tiffany Schaufler, District Project and Land Program Manager; Darren
26 Lochner, District Education Program Manager; Michael Welch, District Counsel and
27 Chris Meehan, District Consulting Engineer.
28

29 **MATTERS FROM THE FLOOR**

30
31 None.

32
33 **APPROVAL OF THE AGENDA**

34
35 Manager Sherry White requested the addition to the agenda of updates from the
36 Executive Committee and the Citizens Advisory Committee meetings, as well as a
37 resolution designating a depository for financial assurances. Manager Brian Shekleton
38 suggested the addition of a board report on the Minneapolis Park and Recreation Board
39 meeting about restoration of Meadowbrook and Hiawatha golf courses. *Manager*
40 *Shekleton moved, seconded by Manager Calkins, to approve the agenda as amended.*
41 *Upon vote, the motion carried 5-0. (Manager Jeff Casale absent for the vote; Manager*
42 *Casale arrived, 6:55 p.m.)*
43

44 **INFORMATION ITEMS AND CORRESPONDENCE**

45
 46 Manager White noted the Managed Server Provider Recommendation for Server
 47 Upgrades and Minnehaha Creek Canoe Landing and Signage Master Plan on the
 48 information items list and no correspondence. Manager Richard Miller suggested the
 49 addition of a summary report on the canoe landing and signage plan be summarized
 50 briefly later in the agenda.

51
 52 **CONSENT AGENDA**

53
 54 Michael Welch said that counsel will correct a couple of typographical errors in the draft
 55 December 18, 2014, minutes. *Manager Miller moved, seconded by Manager Shekelton,*
 56 *to approve the consent agenda, consisting of approval of the December 18, 2014,*
 57 *minutes of the meeting of the Board of Managers; and adoption of the following:*

58
 59 **Resolution 15-001, 2015 Depository of District Funds**

60
 61 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
 62 *Watershed District Board of Managers hereby names Beacon Bank as*
 63 *the 2015 official depository of District funds.*

64
 65 **Resolution 15-002, 2015 Fee Schedule**

66
 67 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
 68 *Watershed District Board of Managers hereby approves the following*
 69 *2015 fees*

	<u>2015 fee schedule:</u>
District professional staff*	\$ 65.51
District interns*	\$ 40.35
District clerical staff*	\$ 46.69
Consulting Senior Engineer	\$ contracted rate
Consulting Engineer/Technician	\$ contracted rate
District Counsel	\$ contracted rate
Application fee	\$ 10.00
B&W Copy costs (per 8½X 11 page)	\$.25 + actual staff time
Color copies (per 8½X11 page)	\$ 1.00 + actual staff time
Watershed Plan (Paper)	\$ cost of production
Watershed Plan CD	\$ 10.00
Watershed Plan CIP	\$ 10.00
Electronic recording of meetings	\$ cost of production

71
 72 *District expenses for postage, mailing labels, contracted services, and*
 73 *other miscellaneous services will be billed at cost.*
 74

75 **Resolution 15-003, 2015 Official Newspaper**
76 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*
77 *Watershed District Board of Managers name the 2015 official*
78 *newspaper as the Star Tribune.*

79
80 *Upon vote, the motion carried 6-0.*

81
82 **REGULAR AGENDA**

83
84 Board, Committee and Task Force Reports

85
86 President's Report

87
88 Manager White stated that she, Manager Jim Calkins and Jeff Spartz met with Aimee
89 Gourlay and her partner in her mediation and conflict resolution practice yesterday. Ms.
90 Gourlay revealed in the meeting that she is close friends with Tom Geng, who has lodged
91 several public complaints regarding the board's handling of the termination of Eric
92 Evenson-Marden and that she had discussed the conflict on the Board of Managers with
93 Mr. Geng. Manager White stated that she believes Ms. Gourlay is a professional and
94 would be able to be a neutral advisor to the Board of Managers, but Manager White is not
95 comfortable with the perception that the mediation may be biased. Her recommendation
96 is that the board move on to select another person to facilitate or mediate the differences
97 among the managers. She asked Manager Calkins if he felt the same. Manager Calkins
98 said that based on what he heard he did not think it would be an issue. Manager
99 Shekleton stated that he also has been impressed with Ms. Gourlay's professionalism, but
100 if he brought a friend to the Board of Managers to serve as facilitator the perception of
101 bias would be inescapable. He supported Manager White's suggestion that the board find
102 another mediator. Manager White noted that no agreement has been entered yet and she
103 believes the board could effectively move on to look for another mediator. **Manager**
104 **Miller moved, seconded by Manager Shekleton, to terminate negotiations with Aimee**
105 **Gourlay as mediator and undertake a search for a new mediator. Upon vote, the**
106 **motion carried 5-1, Manager Olson voting against.**

107
108 Mr. Welch recommended that the managers direct the interim administrator to reset the
109 search and scoping process with the Office of Collaboration and Dispute Resolution and
110 assess its options to utilize the work done to date to the greatest degree possible. The
111 managers concurred.

112
113 Manager Miller offered a report from the January 14 meeting of the Citizens Advisory
114 Committee. He stated that the committee undertook a very thorough review of a cost-
115 share application and accepted all of the Board of Managers' recommendations on its
116 revisions to its bylaws. He said staff presented a new CAC member-orientation plan. He
117 said the CAC suggested that the blinds in the managers meeting room could be maps of
118 the watershed. The CAC reviewed the canoe landing and signage plan that the managers

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119 will review later in the agenda and entertained a resolution that was brought forward that
120 sought, among other things, to recommend that all existing members of the CAC be
121 reappointed. The resolution was not adopted. Some members of the CAC suggested that
122 the resolution be amended, but the maker of the resolution, Tom Casey, declined.

123
124 Manager Shekleton reported on the public meeting held by the Minneapolis Park and
125 Recreation Board on its plans for the Hiawatha and Meadowbrook golf courses, both of
126 which are in the watershed and were heavily damaged by flooding last summer. Manager
127 Shekleton reminded the managers that James Wisker of the District staff and he spoke
128 with staff at MPRB in September and the upshot of the meeting was that the MPRB staff
129 agreed that it needed to bring forward a plan for the golf courses and let the District know
130 if there was an opportunity to form a partnership for floodplain restoration or other water-
131 resource work. MPRB will have two more meetings in coming months to discuss plans
132 for the golf courses with the public, and will deliver a draft proposal at the end of March.
133 He stated that at the public meeting on Tuesday, the architect hired by the MPRB
134 suggested that the District may be heavily involved in whatever plan is developed.
135 Manager Shekleton reached out to members of the MPRB board and found that their
136 impression of the opportunity for District involvement was positive and he confirmed that
137 the District is not pushing any particular plan, instead leaving the lead with the MPRB
138 staff.

139
140 Manager Olson noted that he will be attending the Marine Manufacturers Association
141 meeting in Los Vegas to be involved in discussion of revise boat-design standards to
142 prevent spread of invasive species in late January.

143
144 President White offered a report from the Executive Committee, stating that the
145 committee received a preview of the District financial year. She stated that the committee
146 also reviewed legislative issues, noting the recent development of the potential for a
147 conflict of interest on aquatic invasive species issues with the District's lobbyist, Joel
148 Carlson, who also represent the resort owners' association. She noted that Mr. Carlson
149 sent an email response on the matter to the Board of Managers that has been provided to
150 the managers. She stated it would appear the District needs a plan B in the event that an
151 actual conflict of interest arises. Manager Miller stated that he has confidence in Mr.
152 Carlson, but noted that the potential for conflict is too great to ignore and he recommends
153 that Mr. Spartz and Mr. Carlson work together to come up with a recommended solution
154 to be implemented in the event conflict is manifest. **Manager Miller moved, seconded by**
155 **Manager Shekleton, to direct Mr. Spartz to develop with Mr. Carlson a contingency**
156 **plan to address a conflict of interest in the event it arises.** Manager Shekleton stated that
157 he wished to make clear that he wants to keep Mr. Carlson as the District's lead lobbyist,
158 but that it may be necessary for the District to have a second for AIS issues. Manager
159 Miller agreed, noting that the District wants supplemental representation not an
160 alternative. Manager Calkins said that he is not clear that there will be a conflict because
161 the resort owners association has not taken any action or position yet and it is unclear
162 what the member of the house committee taking the matter up, Denny McNamara, wants

163 to do with the legislation. Manager Miller said the District may need to be ready to act
164 very quickly because of the pace at which issues develop in the legislature. Manager
165 Calkins said he thinks it is important that the District not set itself up in opposition to the
166 resort owners. Manager Jeff Casale stated that he favors having a contingency plan and
167 appreciates Mr. Carlson's disclosure of the matter to the Board of Managers.
168

169 **Public Hearings for Arden Park D Neighborhood Cost Share Project**
170

171 Becky Christopher of the District staff appeared before the Board of Managers and stated
172 that under District policy a public hearing is required for the ordering of any cost share
173 project where the District's funding commitment exceeds \$50,000. She stated that the
174 proposed funding for the Arden Park D neighborhood project with the City of Edina is
175 \$92,000 and therefore this evening's agenda includes a public hearing. Manager White
176 opened the public hearing. Ms. Christopher reviewed the three different types best
177 management practices to be deployed in the Arden Park neighborhood and the education
178 and outreach opportunities present by the project, along with the opportunity for the
179 District to learn more about the utility and efficacy of the proposed proprietary PaveDrain
180 system in a street application. She stated that District staff has also engaged the Master
181 Water Stewards program participants and several stewards in the neighborhood have
182 committed to engaging others in the neighborhood regarding the project. Ms. Christopher
183 reviewed the cost of the project and the specific issue of sharing cost on signage with the
184 city. She stated that final details on the signage cost share, which may involve the City
185 manufacturing the signage according to District specifications, will be included in the
186 revised resolution to come before the Board of Managers at the end of the month.
187

188 Manager White called for comments from the public. Seeing none, she closed the public
189 hearing and asked for any thoughts from managers. Manager Miller asked why the
190 infiltration facility will be installed only on half a block in the area. Ms. Christopher
191 stated that the city evaluated opportunities for infiltration in the area and because of soil
192 and high groundwater issues, determined that the area selected is the only viable location
193 for infiltration. In response to a further question from Manager Miller, Ms. Christopher
194 said the city looked at installing a pervious paver system or the PaveDrain system at other
195 locations but they would only provide filtration not infiltration, again because of poor
196 soils and high groundwater. In response to a final question from Manager Miller, Ms.
197 Christopher stated that she was not sure if the city looked at installing additional sumps
198 throughout the redevelopment area, but stated she would look into it. Chris Meehan
199 added that the city selection and location of best management practices reflect that the
200 project will provide treatment to the entire subwatershed draining to the area.
201

202 Manager Olson raised the issue of the potential for standing water in the sumps to be
203 installed to facilitate mosquito breeding, hoping the District could research the issue as
204 part of this project. Mr. Meehan stated that the drawdown time of 48 hours is noted as
205 necessary in order to prevent mosquito breeding. He said that the design of the project
206 addresses the mosquito issue. Manager Calkins said that he would like to see some

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207 analysis of impact the project will have toward addressing the impairment of the creek
208 and Lake Hiawatha. Ms. Christopher stated that that contextual analysis has not yet been
209 provided as relates to prior conditions in the area, but that the 11.5 pound phosphorus-
210 load reduction that will be achieved will count toward the Lake Hiawatha total maximum
211 daily load implementation plan. Manager Calkins said that it is difficult to know – and
212 the District often does not know – what pre-development conditions were, but it would be
213 helpful to know this in assessing the project. James Wisker said that when Ms.
214 Christopher brings project back for action at the end of the month, some contextual
215 analysis can be provided. ***Manager Miller moved, and Manager Calkins seconded, to***
216 ***advance the resolution ordering the Arden Park Cost Share project and authorizing***
217 ***cost-share funding to the consent agenda for the meeting of January 29. Upon vote,***
218 ***the motion carried 6-0.***

219
220 Ms. Christopher added an update on the planned 54th Street fish-bypass channel project,
221 the location of which is near the Arden Park neighborhood. She said that she met with
222 members of the paddling group that used to ride a standing wave in the creek, and they
223 confirmed that the wave is no longer forming. The group was supportive of the concept
224 of removing the grade-control structure and implementing a full-stream restoration that
225 incorporates whitewater features, and the group was supportive. They indicated that they
226 would bring a letter of support for the group’s board to sign at its next meeting and would
227 also recommend the formation of a subcommittee to help advance the project. She said
228 she has also discussed the concept with city staff, and they have indicated that the city
229 will be satisfied if the community is satisfied. The city has incorporated the fish-bypass
230 culvert in the bid package for the 54th St. project, and she wants to provide an answer to
231 the city as to whether or not the pipe should be included. She stated that in light of the
232 fact that there is no longer a need to preserve the structure for its recreational value, she
233 would likely recommend abandoning the bypass channel option in favor of removing the
234 structure. She indicated that she would talk to a few more residents and come back with a
235 recommendation at the end of the month.

236
237 Joint Funding Agreement with United States Geological Survey for Stage Gage on Lake
238 Minnetonka

239
240 Tiffany Schaufler of the District staff stated that the item before the Board of Managers is
241 the extension of the contractual relationship with the United States Geological Survey for
242 operation and maintenance of a stage gage on Lake Minnetonka through September 2015.
243 She clarified one item in the resolution in the board packet, noting that September 30 is
244 the end of the USGS fiscal year. She said that if the Board of Managers approves the
245 plan, the resolution authorizing the agreement for the stage gage will be on the January
246 29 consent agenda. She said that the gage provides continuous year-round data that can
247 be displayed in pretty-near real time on the District’s website through a link to the USGS
248 website. She stated that this will likely reduce the number of calls staff receives regarding
249 water levels. Ms. Schaufler clarified, in response to questions from the managers, that the
250 stage gage would provide more frequently updated data and specified that the gage would

251 be very close to the Gray's Bay dam. In response to a question from Manager Olson, Ms.
252 Schaufler clarified that the public will have access to the same data that the District gets
253 from the USGS gage. **Manager Miller moved, and Manager Olson seconded, to place**
254 **authorization to enter an agreement with the USGS for operation of the stage gage on**
255 **the consent agenda for the meeting of January 29. Upon vote, the motion carried 6-0.**
256

257 2015 Citizens Advisory Committee Appointments
258

259 Darren Lochner of the District staff appeared before the Board of Managers and
260 presented background on the appointment of Citizens Advisory Committee members for
261 2015. He said that he had solicited applications from all existing CAC members and new
262 individuals interested in serving on the CAC. He provided the Board of Managers with an
263 updated list of existing CAC members who have indicated an interest in returning and
264 new applicants. He said the list notes the six CAC members who have either resigned or
265 stated that they do not wish to continue. He said Phillip Lowry and James Prom are new
266 applicants whose names appear on the candidate list but staff has determined that they are
267 not in fact eligible because they neither live in the watershed nor represent one of the
268 specific interest groups identified in statute to be represented on the CAC. He directed the
269 managers to remove their names from the list.
270

271 Mr. Lochner stated that the managers also have his background memo on how other
272 watersheds in the metro area run their CACs, highlighting the number of members and
273 operation of each. In response to a question from Manager Olson, Mr. Lochner confirmed
274 that there would be no alternate members of the CAC; all would be full members. Mr.
275 Lochner said that in 2014 the CAC enjoyed good attendance – most of the members came
276 on a regular basis.
277

278 Manager White said she believes 15 is a good number and that with the two individuals
279 removed because of ineligibility, the Board of Managers has eighteen on its list of
280 candidates. Manager Calkins stated that over the years the District encouraged maximum
281 participation while ensuring that the CAC not become unwieldy. He sees no reason why
282 the Board of Managers would reduce the number of individuals on the CAC now, and he
283 does not wish to turn anyone away unless the District has simply too many members.
284 **Manager Calkins moved, seconded by Manager Olson, to reappoint all eligible**
285 **returning members of the CAC and all those who have applied and are eligible.**
286

287 Manager Miller stated that he will not support the motion because of his concern that in
288 the last year some CAC members engaged in and fostered controversy that did not accrue
289 to the watershed's benefit. Manager Shekleton said he wished to encourage vigorous
290 participation, but that last year featured a great deal of political theater by CAC members
291 that did not contribute to the improvement of the watershed. He said the CAC needs to
292 focus on water-resource issues, so he also will not support reinstatement of all existing
293 and appointment of all new members of the CAC. In response to a question from
294 Manager Casale, Mr. Lochner stated that the discussion at the CAC meeting was that the

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295 members recognize their role and leaves the appointments to the Board of Managers. He
296 added that the resolution supporting reinstatement of all members of the CAC failed on a
297 2 to 8 vote at the CAC meeting. Manager Olson added that the CAC has changed the date
298 of its meetings to the second Wednesday of each month, so the next meeting of the CAC
299 will be February 11. ***Upon vote, the motion failed 2 to 4, Manager White, Manager***
300 ***Shekleton, Manager Casale and Manager Miller voting against.***

301
302 ***Manager Shekleton moved, seconded by Manager White, to have each manager vote***
303 ***for eligible CAC candidates individually, with any candidate receiving four or more***
304 ***votes appointed to the CAC. Upon vote, the motion carried, 4-2, Manager Olson and***
305 ***Manager Calkins voting against.*** The managers considered individual ballots. Mr.
306 Lochner reported that he recommends that the CAC appointment process be moved to
307 November, with appointments in December, so that the full CAC can be in place to start
308 the year. Manager Miller commended Mr. Lochner on his work with the CAC and his
309 ability to keep its meeting focused and running smoothly. Mr. Welch tallied the votes of
310 the managers and reported that the following members were appointed to the Citizens
311 Advisory Committee for 2015: Bill Bushnell, Sylvia Carson, Jerry Ciardelli, Colin Cox,
312 Jacqueline Di Giacomo, Chris Dovolis, Brian Girard, Joe Lofgren, Richard Manser, Steve
313 Moh, David Oltmans, Cristina Palmisano, Peter Rechelbacher, Marc Rosenberg and Neil
314 Weber.

315
316 Canoe Landing and Signage Summary

317
318 Mr. Lochner provided a summary of the report in the packet on the District's work to
319 develop a consistent signage program canoe-landing designs for the entire creek and. He
320 stated that the District's standard circular logo is not always legible on signs that
321 canoeists would see as they paddle past, and therefore an alternative was developed that
322 he showed the Board of Managers. He provided drawings and conceptual plans for the
323 canoe landings and explained the logic for the development of the plans. Manager White
324 stated that the plans have come a long way, and Mr. Lochner explained that the
325 individual installations will evolve over time and be implemented with local partners
326 rather than being implemented up and down along the creek at one time. He said that
327 specific designs will come back to the Board of Managers project-by-project. The
328 managers thanked Mr. Lochner for his presentation.

329
330 Selection of 2015 Depository for Financial Assurances

331
332 Mr. Welch explained that in addition to naming its bank each year, the Board of
333 Managers needs to review and approve the location for holding financial assurance
334 instruments submitted to the District for permits and for capital projects. He said that
335 legal counsel has maintained bonds and letter of credit, but not cash escrows, submitted
336 by permit applicants, in a locked cabinet at Smith Partners for a number of years and
337 reports regularly to District staff on the status of these assurances. He stated that he's
338 unclear but assumes that District staff maintain financial assurances for capital projects in

339 project files. Mr. Spartz suggested that counsel should look into acquiring a fireproof safe
340 to store the financial assurances in. *Manager Shekleton moved, seconded by Manager*
341 *Miller, to advance the resolution naming Smith Partners as the depository for District*
342 *financial assurances to the January 29 consent agenda. Upon vote, the motion carried*
343 *6-0.*

344

345 **STAFF UPDATES**

346

347 Administrator's Report

348

349 Mr. Spartz reported that David Mandt is close to bringing in a terminal for setup and
350 initial demonstration at the District offices. Mr. Spartz reported that he and District legal
351 counsel will be meeting with Lars Erdahl, the incoming District administrator, to start the
352 transition process on Tuesday. Mr. Spartz said he will not be able to attend the meeting of
353 January 29.

354

355 **ADJOURNMENT**

356

357 There being no further business, the regular meeting of the Minnehaha Creek Watershed
358 District Board of Managers adjourned at 8:30 p.m.

359

360 Respectfully submitted,

361

362

363

364

365 Jeff Casale

366 Secretary

367