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

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March 22, 2018

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CALL TO ORDER

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The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called to order by President Sherry White at 7:05 p.m. on Thursday, March 22, 2018, at the MCWD offices, 15320 Minnetonka Boulevard, Minnetonka, Minnesota.

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MANAGERS PRESENT

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Sherry White, Brian Shekleton, William Becker, Richard Miller, Kurt Rogness, William Olson, Jessica Loftus.

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MANAGERS ABSENT

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None.

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DISTRICT STAFF AND CONSULTANTS PRESENT

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Laura Domyancich, Project and Land Technician; Eric Fieldseth, Aquatic Ecologist; Michael Hayman, Senior Project Planner; Cathy Reynolds, Operations Manager; Tiffany Schaufler, Project and Land Program Manager; Chris Meehan, Consulting Engineer; Michael Welch, Counsel.

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MATTERS FROM THE FLOOR

None.

APPROVAL OF AGENDA

Manager Miller moved and Manager Olson seconded approval of the agenda. Upon vote, the motion carried 6-0.

INFORMATION ITEMS AND CORRESPONDENCE

Cathy Reynolds introduced herself as the new operations manager. She noted that she comes to the District from Florida and the Marine Corps and is an attorney in addition to having experience with business operations, management and process improvement. The managers welcomed Ms. Reynolds to MCWD.

Manager White noted the receipt of a response from the Board of Water and Soil Resources to the District's comment letter on the watershed-based funding pilot program.

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CONSENT AGENDA

Manager White requested the removal of the minutes of March 8, 2018, meeting from the consent agenda. *Manager Olson moved and Manager Becker seconded adoption of the consent agenda, consisting of approval of the general checking account, with check 38789 voided and checks 38889 to 38946 for a total of \$183,961.27, payroll direct deposits of \$126,651.85 and electronic-fund withdrawals of \$126,106.28 for total expenses of \$516,719.40, and surety checking account, as well as acceptance of the 325 Blake Road checking account; as well as adoption of Resolution 18-023 authorization to award contract for 2018 stormwater pond sediment surveys:*

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator to execute a contract with Wenck Associates, Inc. not-to-exceed \$47,700 and authorize the administrator to execute change orders as necessary up to a not-to-exceed amount of \$52,470 for the survey of eleven ponds, composite sediment samples analyzed for up to eleven ponds, and a technical memo summarizing results of the analysis.

And Resolution 18-024, authorization to submit partnership proposals with Great River Greening to apply for an LCCMR grant:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the Administrator to submit Partnership Proposals with Great River Greening to apply for Outdoor Heritage Fund and Environmental and Natural Resources Trust Fund grants.

(Manager Shekleton arrived, 7:10 p.m.).

Upon vote, the motion carried 7-0.

REGULAR AGENDA

Board Committee and Task Force Reports

Manager White reviewed the list of upcoming events. She noted that she is the liaison for April 11 Citizens Advisory Committee, and that Hennepin County Commissioner Jan Callison will attend the April 12 meeting of the managers. President White said that she hoped to hear more at the April 17 Metro Minnesota Association of Watershed Districts meeting about the future of the watershed-based pilot funding program and watershed-based funding generally.

90

91 For the Policy and Planning Committee Report, Manager Miller noted that the committee
92 met earlier in the evening and reviewed plans for increased accountability for
93 implementing the plan, discussion of which is part of an ongoing conversation, and the
94 matter will be brought to the board of managers when the committee work is completed.
95 He said there was also discussion of realignment of staff positions.

96

97 Manager Rogness reported that he was not able to make it to the Citizens Advisory
98 Committee meeting but received a report on it from Darren Lochner of the District staff,
99 who said that the CAC looked at an overview of the new plan and implementation plans
100 and had a brainstorming session about the kinds of input that the District could get from
101 developers and builders on implementation of the plan, which would be a good metric for
102 the success of implementation of the plan. Manager Miller said it would be good to audit
103 constituencies as to whether they see meaningful change in the District's approach to its
104 work. Manager Rogness said that there is significant skepticism among developers to
105 weigh in on the District's activities because it is a significant departure from simply
106 complying with the District rules.

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108 **PUBLIC HEARINGS AND PRESENTATIONS**

109

110 Review 2017 Audit Report

111

112 Mark Gibbs from Tautges Redpath appeared before the managers and reviewed the
113 District's draft 2017 audit report, which he provided to the managers. He said that the
114 audit has already been presented to the management team and to the Executive
115 Committee, and the purpose of this evening's presentation is to provide a report on the
116 principal purpose of the audit process, which is to assemble evidentiary material to
117 support the reporting to the State of Minnesota. Mr. Gibbs said that on page 8 of the
118 report the District receives the most desirable opinion of its financial status, and said that
119 the District's budgeting process is solid. He cited a finding on page 64 that employees'
120 timesheet is some instances did not have the proper supervisor signature of approval and
121 four employees used paid time off or sick leave without completing the proper request
122 for. Compliance with the associated protocols is an area in which the District should
123 improve. He said otherwise the District has good financial processes in place and has the
124 proper controls in place for disbursement of public funds.

125

126 In response to a question from Manager Becker regarding analysis of compliance with
127 statutory contracting requirements, Mr. Gibbs stated that in analyzing the contracts, the
128 auditors select contracts from the past year to review at random, though the audit tends to
129 focus on larger contracts. Manager Becker advanced the idea that instead of a random
130 sample the auditor review a judgmental sample of contracts, meaning those that are more
131 likely to be the subject of cutting corners or the kind of contracting shortcuts that might

132 trigger a need for process improvement. Mr. Gibbs noted that the audit team would take
133 suggestion into consideration.

134

135 In response to a question from Manager Loftus, Mr. Gibbs noted that Tautges Redpath
136 also provides accounting services for the District, however a different person at Redpath,
137 Nancy Martinson, actually does the work. More important, he said, Redpath remains able
138 to perform the audit because in providing accounting services Redpath does not make any
139 management decisions, such as coding bills or making budgeting decisions or
140 recommendations. Mr. Gibbs stated that Redpath maintains a checklist that the firm
141 follows to ensure that it maintains its independence to be able to conduct the audit.
142 Manager Loftus said that she would like to have a report on a regular basis on how the
143 District is performing against its budget. Mr. Gibbs said the accounting team could
144 provide such a report and he would pass on the request to the accounting team. There was
145 a discussion of the timing of financial reporting, with Michael Welch noting that the state
146 deadline is 180 days from the end of the fiscal year. Manager Miller said that it is his
147 understanding that the bank holding the note on the loan for 325 Blake Road needs to see
148 the financial reporting earlier than that. Lacking definitive information on a deadline for
149 accepting the audit and given that the managers had not seen the audit prior to the
150 meeting, the managers deferred taking action to accept the audit until the meeting of
151 April 12.

152

153 **ACTION ITEMS**

154

155 Resolution 18-025: Authorization to Release Request for Qualifications for Professional
156 Services

157

158 Ms. Reynolds appeared again before the board of managers and noted that based on the
159 prior discussion she will add quarterly reporting to the board to the accounting request for
160 qualifications that is going out if the proposed and recommended resolution is adopted.

161 ***Manager Miller moved and Manager Olson seconded adoption of Resolution 18-025,***
162 ***as amended to include quarterly reporting of performance against budget in the***
163 ***accounting request.*** The managers discussed the scope of the services that are subject to
164 the solicitation requirement, and Mr. Welch noted that counsel has consistently
165 recommended a broad interpretation of the statutory requirement that the District issue a
166 solicitation for services every two years, advising that it covers any ongoing technical or
167 professional service for which the District contracts. Manager Miller wondered whether
168 the information technology services contracts are really rightly subject to this
169 requirement. Michael Hayman appeared before the board of managers and clarified that
170 the District has a various information-technology contracts, some of which are short-term
171 project-based contracts while the managed-services contract is an ongoing service to
172 maintain the District's IT system. Mr. Welch concurred in Mr. Hayman's assessment,
173 noting that it is only the managed-services contract that is like other ongoing contracts

174 subject to the solicitation requirement. *Upon vote, the motion carried 6-1 (Manager*
175 *Miller voting against).*

176
177 Resolution 18-026: Authorization to Execute a Contract with Wenck Response Services
178 for Decommissioning and Removal of Refrigeration Equipment at 325 Blake Road
179

180 Mr. Hayman came before the managers to explain that there are actually four scopes of
181 work with Wenck Response Services encompassed within the proposed action before the
182 managers this evening. He stated that the District has found that the decommissioning of
183 the refrigeration equipment specifically and the 325 Blake Road facility overall has
184 proven more complicated than anticipated, leading to the multiple scopes of work in the
185 item before the managers. He said that the \$78,000 shown for transfer and disposal of the
186 refrigeration piping is an estimate and that the actual cost will not be definitively known
187 until testing on the piping for residual mercury and other contaminants can be completed.
188 Mr. Hayman confirmed that permitting is included in the scopes, and he recommended
189 that the managers approve the total scope of work. *Manager Rogness moved and*
190 *Manager Shekleton seconded adoption of Resolution 18-026:*

191
192 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
193 ***Watershed District Board of Managers hereby authorizes the District***
194 ***Administrator, on advice of counsel, to execute a contract with Wenck Response***
195 ***Services for the decommission and removal of refrigeration equipment at 325***
196 ***Blake Road for an amount of \$314,123;***

197
198 ***BE IT FURTHER RESOLVED that the District Administrator, in his***
199 ***judgment, is authorized to amend the contract up to 10% of the total cost, for a***
200 ***not-to-exceed amount of \$345,535.***
201

202 Manager Shekleton said that Hennepin County has an extensive regime for recycling
203 building materials and wondered if the District is attempting to recycle as much as
204 possible. Mr. Hayman said that the staff and Wenck had looked at capacity for recycling
205 materials, but there are only two facilities in the United States that can take the mercury
206 and it is not clear yet whether that will be viable. In response to a question from Manager
207 Miller, Chris Meehan appeared before the board of managers and stated that Wenck
208 Response Services is a division of Wenck, the District's consulting engineering firm, and
209 that the District's liabilities are covered under the contract with Wenck. In response to a
210 question from Manager Olson, Mr. Hayman said that the District is not clear year how
211 much mercury there is in the building, but he characterized it as a substantial amount.
212 *Upon vote, the motion carried 7-0.* In response to a follow up question from Mr. Welch,
213 Mr. Meehan said that even though regulatory compliance is excluded from the Wenck
214 Response Services scopes of work, regulatory compliance will be handled through
215 documentation and adherence to the necessary reporting requirements.
216

217 Resolution 18-027, Authorization to Execute a Contract with Wenck Associates for
218 Demolition Services for 325 Blake Road

219

220 Mr. Hayman continued his presentation of the proposed decommissioning of 325 Blake
221 Road, noting that the scope with Wenck Associates before the managers represents the
222 next step in the phased approach the District is taking and that the cost of demolition
223 itself is eligible for reimbursement from a grant that the District has received from
224 Hennepin County. *Manager Olson moved and Manager Shekleton seconded adoption*
225 *of the Resolution 18-027:*

226

227 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
228 ***Watershed District Board of Managers hereby authorizes the District***
229 ***Administrator to execute a contract with Wenck Associates for demolition***
230 ***services for the 325 Blake Road property for an amount of \$102,355;***

231

232 ***BE IT FURTHER RESOLVED that the District Administrator is authorized to***
233 ***amend the contract up to 5% of the total cost, for a not-to-exceed amount of***
234 ***\$107,473.***

235

236 Manager Olson wondered whether it was possible that the District could get too far along
237 in the work to get reimbursement from the grant. Mr. Hayman said that that is a
238 possibility, but that staff has been managing that and securing grants funds for the work.
239 In response to a question from Manager White, Mr. Hayman said that construction on
240 Blake Road adjacent to the 325 Blake Road property will take place this summer. ***Upon***
241 ***vote, the motion carried 7-0.*** Manager Miller complimented Mr. Hayman on his
242 presentation of very complicated material in a straightforward and understandable way.

243

244 Resolutions 18-028 to -032 – 2018 AIS Watercraft Inspection Cost-Share Partnerships

245

246 Eric Fieldseth came before the managers to present five proposed cost-share agreements
247 for District support of other local governmental entities' watercraft-inspection efforts at
248 various waterbodies and entry points around the watershed. Mr. Fieldseth said that the
249 District is steadily reducing the percentage rate of support to these entities and this year's
250 array of contracts represent the District contributing 36 percent of the cost, as opposed to
251 the 50 percent that the District has provided in the past. ***Manager Olson moved and***
252 ***Manager Shekleton seconded adoption of the five resolutions:***

253

254 ***Resolution 18-028 – NOW, THEREFORE, BE IT RESOLVED that the***
255 ***Minnehaha Creek Watershed District Board of Managers authorizes the***
256 ***Administrator, on advice of counsel, to execute an agreement with Carver***
257 ***County providing \$18,812 in District cost-sharing funds to support County***
258 ***watercraft inspection services in accordance with a mutually agreed scope.***

259 ***Resolution 18-029 – NOW, THEREFORE, BE IT RESOLVED that the***
260 ***Minnehaha Creek Watershed District Board of Managers authorizes the***
261 ***Administrator, on advice of counsel, to execute an agreement with Lake***
262 ***Minnetonka Conservation District providing \$9,000 in District cost-sharing***
263 ***funds to support Lake Minnetonka Conservation District’s watercraft***
264 ***inspection services in accordance with a mutually agreed scope.***

265 ***Resolution 18-030 – NOW, THEREFORE, BE IT RESOLVED that the***
266 ***Minnehaha Creek Watershed District Board of Managers authorizes the***
267 ***Administrator, on advice of counsel, to execute an agreement with Three Rivers***
268 ***Park District providing \$5,504 in District cost-sharing funds to support Three***
269 ***Rivers Park District’s watercraft inspection services in accordance with a***
270 ***mutually agreed scope.***

271 ***Resolution 18-031 – NOW, THEREFORE, BE IT RESOLVED that the***
272 ***Minnehaha Creek Watershed District Board of Managers authorizes the***
273 ***Administrator, on advice of counsel, to execute an agreement with City of***
274 ***Shorewood providing \$23,304 in District cost-sharing funds to support City***
275 ***watercraft inspection services in accordance with a mutually agreed scope.***

276 ***Resolution 18-032 – NOW, THEREFORE, BE IT RESOLVED that the***
277 ***Minnehaha Creek Watershed District Board of Managers authorizes the***
278 ***Administrator, on advice of counsel, to execute an agreement with Minneapolis***
279 ***Park and Recreation Board providing \$65,160 in District cost-sharing funds to***
280 ***support Minneapolis Park and Recreation Board’s watercraft inspection***
281 ***services in accordance with a mutually agreed scope.***

282 In response to Manager Olson’s question about the much higher cost of the Shorewood
283 scope and cost share, relative to the other entities with whom the District works, Mr.
284 Fieldseth said that the Shorewood uses a private firm to provide inspection services and
285 provides services over a longer period of each day, driving costs up. Manager Shekleton
286 asked whether the District is getting real value from supporting the inspections . Mr.
287 Fieldseth said the inspection certainly slow down invasive species transport but they are
288 not perfect and not the favored approach for the District, which is why the District is
289 ramping down the portion of funding is provides for the programs. He said that the
290 District’s partners view these inspections as very high value and a critical element of their
291 AIS-management approach. ***Upon vote the motion carried 7-0.***

292
293 Resolution 18-033 – Appoint a Community Advisory Committee Member to the
294 Minneapolis Park Board’s Minnehaha Parkway Regional Trail Master Plan CAC
295

296 Tiffany Schaufler stated that the Minneapolis Park and Recreation Board is undertaking
297 the planning process for all of the parkland along the creek in Minneapolis. She stated
298 that this request from MPRB for the District to appoint a member to the citizens advisory
299 committee emanates from the memorandum of understanding the District entered into

300 with the MPRB last year. She said staff has reviewed the committee's scope of work and
301 thought that appointing a member of the District's Citizens Advisory Committee would
302 be a good way for the District to be represented and added that staff recommends the
303 appointment of Richard Nyquist. **Manager Becker moved and Manager Rogness**
304 **seconded adoption of Resolution 18-033:**

305
306 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
307 ***Watershed District Board of Managers appoints Richard Nyquist to serve on the***
308 ***MPRB Community Advisory Committee for the Minnehaha Parkway Regional***
309 ***Trail Master Plan.***

310
311 In response to a question from Manager Olson, Ms. Schaufler stated that the project
312 should be a 12- to 24-month planning endeavor. Manager Shekelton suggested that the
313 District put in place a process for naming such representatives that accounts for the fact
314 that planning efforts often last more than a year and CAC members are appointed
315 annually. Ms. Schaufler noted that staff would make a note of that recommendation and
316 pursue it. **Upon vote, the motion carried 7-0.**

317
318 Resolution 18-034 – Authorization to Enter into Contract for Vegetation Maintenance

319
320 Laura Domyancich came forward and presented for the managers' consideration a
321 resolution to enter into contract with Applied Ecological Services for maintenance work
322 at four District properties. Ms. Domyancich said that the District has 23 existing
323 maintenance contracts, all of which are due to be renewed at the end of the year. She said
324 that there are four new properties at which the District is obligated to maintain
325 vegetation: the Laketown Wetland Restoration, Six Mile Marsh Prairie Restoration, Long
326 Lake Creek Wetland Restoration and Methodist Hospital. She said the District solicited
327 quotes for the maintenance work and of the three received Applied Ecological Services
328 was the lowest at \$29,365. **Manager Rogness moved and Manager Shekelton seconded**
329 **adoption of Resolution 18-034:**

330
331 ***NOW, THEREFORE, BE IT RESOLVED that the District Administrator is***
332 ***authorized, on advice from District Counsel, to enter into a contract with***
333 ***Applied Ecological Services in the amount of \$29,365 for Laketown Wetland,***
334 ***Six Mile Marsh Prairie, Long Lake Creek Wetland, and Methodist Hospital***
335 ***Wetland, and***

336 ***BE IT FURTHER RESOLVED that the Board establishes a project***
337 ***maintenance budget in the not-to-exceed amount of \$32,302 and authorizes the***
338 ***District Administrator, in his judgement, to authorize change orders obligating***
339 ***the District up to that amount.***

340
341 **Upon vote the motion carried 7-0.**

342

343 Resolution 18-035 – Authorization to Execute an Agreement with Great River Greening
344 to Perform Vegetation Management and Research at the Six Mile Marsh Prairie

345

346 Ms. Domyancich continued before the managers, explaining that Great River Greening
347 has received \$111,900 from the Environment and Natural Resources Trust Fund to work
348 with land owners and easement holders to restore and enhance natural systems in the
349 Twin Cities. She said that building on the District’s established partnership with Great
350 River Greening, a nonprofit organization, staff proposes to enter into an agreement to
351 implement vegetative management and research at the Six Mile Marsh Prairie. *Manager*
352 *Miller moved and Manager Olson seconded adoption of Resolution 18-035:*

353

354 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
355 ***Watershed District Board of Managers authorizes the Administrator, on the***
356 ***advice of counsel, to execute an Agreement with Great River Greening to***
357 ***perform vegetation management and research at the Six Mile Marsh Prairie***
358 ***and to supply the local cost-share element for that work, not to exceed \$25,000.***
359

359

360 In response to a question from Manager Shekleton about the scope of work including
361 “haying,” Ms. Domyancich said that haying involves mowing and removing cuttings off
362 site. She said haying reduces nitrogen in the soil such that it doesn’t run off site. She said
363 that the effectiveness and cost effectiveness of the technique is one of the areas the
364 District staff would like more information on and why the work by Great River Greening
365 is proposed. In response to a question from Manager Becker, Ms. Domyancich said that
366 the purpose of the research work proposed is to find management strategies that are most
367 cost effective where District properties are very weedy. She said that the premises is that
368 haying is probably more expensive then prescribed burning, which the District has gained
369 some fair amount of expertise in, but staff wishes to explore the possibility of selling
370 prairie hay, which is very desirable and see if it significantly off-sets costs. *Upon vote,*
371 *the motion carried 7-0.*

372

373 **STAFF UPDATES**

374

375 In the absence of the administrator, Tiffany Schaufler provide the staff update. She said
376 that at a recent meeting at the Nokomis Community Center in south Minneapolis, two
377 representatives from the United States Geological Service talked about the possibility of
378 USGS leading a study of groundwater levels in the Lake Nokomis area. She said that
379 Representative Jean Wagenius and Representative Torres-Ray attended, along with
380 members of the Minneapolis City Council. Ms. Schaufler stated that the USGS offered
381 that since it does not have a regulatory role in the area, its research and review of
382 conditions would be unbiased. She said that the USGS cited two prerequisites to its being
383 able to conduct the work – that it needs clarity on what is being asked by the stakeholders
384 in the area, and two, funding. Ms. Schaufler said that Rep. Wagenius stated that the

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385 Department of Natural Resources would take the lead on the research and estimated that
386 the cost would be \$500,000. The representatives from DNR who attended stated that not
387 much is known about subsurface water movement and water levels and this would be a
388 key aspect of the research. Ms. Schaufler said she presented the District's perspective on
389 the work and echoed the uncertainty around underground conditions at this time. Ms.
390 Schaufler said that the next meeting is a staff work session with the DNR and MPRB
391 representatives. She said that there are community meetings on April 12 and April 17.
392 She said that staff will also be discussing with its partners the status of the Federal
393 Emergency Management Agency-funded repairs and master planning for the parks along
394 the creek. Manager Shekleton stated that he may skip the next board meeting to attend the
395 community meeting that Ms. Schaufler notes. In response to a question from Manager
396 White, Ms. Schaufler stated that the area that is the subject of the contemplated research
397 is around Lake Hiawatha and extends down to Taft Lake. In response to a question from
398 Manager Becker, Ms. Schaufler said that it's not clear whether the surface area is also the
399 groundwater-shed, and that is one of the things that will need to be determined. Manager
400 Shekleton said that residents in the area are pulling the Minneapolis Airports Commission
401 into the discussions because of snow storage in the area, which causes runoff from
402 melting into surface waters. It is understood that the USGS research will take two to five
403 years. In response to a question from Manager Miller emanating from the article in the
404 *StarTribune* today regarding the area and issues, Ms. Schaufler said that describing some
405 of the landscape features as sink holes is perhaps overly dramatic and these are just
406 natural depressions related to settling of the land. In response to further question from
407 Manager Miller, Ms. Schaufler stated that some of the damage to sanitary-sewer laterals
408 that has been experienced in the area cannot be addressed by installation of a sump pump
409 because it doesn't relate to water in basements but rather has to do with ground
410 conditions. She said that these conditions are experienced to some degree all across the
411 watershed where groundwater is high. Chris Meehan came forward to note that aging
412 infrastructure is a factor as well.

413
414 Ms. Schaufler reported that the Lake Minnetonka surface elevation is still under 929 feet
415 and that the dam is not yet open.

416
417 Unemployment Compensation Matter

418
419 Manager White stated that the board of managers would enter closed session under the
420 attorney-client privilege to discuss options for recovery of funds paid to address an
421 unemployment-insurance claim. The board convened in closed session.

422
423 The managers reconvened in open session.

424

425 **ADJOURNMENT**

426

427 There being no further business, the meeting of the board of managers adjourned at 9:45
428 p.m.

429

430 Respectfully submitted,

431

432

433

434 Kurt Rogness

435 Secretary

DRAFT

