

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

June 26, 2014

CALL TO ORDER

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

MANAGERS PRESENT

Sherry White, Brian Shekleton, Richard Miller, Jeffrey Casale, Pam Blixt, James Calkins, William Olson.

MANAGERS ABSENT

None.

OTHERS PRESENT

Jeff Spartz, Interim District Administrator; David Mandt, District Operations Manager; Tiffany Forner, District Natural Resource Technician; Laura Domyancich, District Technician; James Wisker, District Director of Planning; Renae Clark, District Project Manager; Chris Meehan, District Consulting Engineer; Michael Welch, Assistant District Counsel.

MATTERS FROM THE FLOOR

Brad Robinson, 20614 ~~Lynhaven~~Linwood Road, Deephaven, said that he is the past commodore president of the Lake Minnetonka Yacht Club and a current member of the board of the Lake Minnetonka Sailing School, which and the ~~owner of~~ Lighthouse Island. He said there is ~~he has~~ riprap at 930 feet elevation around the island. He stated that much has changed since the Grey's Bay dam was built on Lake Minnetonka in 1979, setting the present elevation. He noted the flow of the creek at 900 cubic feet per second at ~~Minnetonka Boulevard~~the Hiawatha weir and the lack stream of downstream capacity to handle high flows, which are caused by the great amount of impervious surface we have added upstream. He said that next year's flood storage capacity perhaps has already been used up, and he encouraged the board of managers to reconsider the operating policy for the dam; to consider bringing the lake level down to 928 feet in the short term and adding additional capacity for flood storage downstream over the long term. He thanked the board for their attention. Manager White thanked him for his comments.

Tom Geng said that he is a resident on Enchanted Island in Shorewood and a member and former chair of the Shorewood Planning Commission. Mr. Geng read a lengthy statement of support for Eric Evenson-Marden, questioning the decision of the majority of managers to terminate Mr. Evenson-Marden as administrator without cause. He stated that he has discussed the release of Mr. Evenson-Marden from his duties with others and that the opinion is uniformly shared that the termination was unjustified. Mr. Geng noted that Mr. Evenson-Marden is bright, talented, hardworking and visionary, and offered a number of specific examples of Mr. Evenson-Marden's capabilities. He said he encountered no more capable individual during his years as a member of the staff of a member of congress. Mr. Geng stated that he believes there is a campaign to sully Mr. Evenson-Marden's reputation, and that it has been stated that there are embarrassing items in Mr. Evenson-Marden's personnel file. He stated that the release of Mr. Evenson-Marden's release of his personnel file revealed that there was nothing embarrassing in the file and that his prior reviews had all been positive. Mr. Geng called on the managers to explain why Mr. Evenson-Marden had been terminated. Mr. Geng questioned why the District was still paying Mr. Evenson-Marden's full salary without taking advantage of his skills and experience, and asserted that it is costing the District taxpayers \$200,000 to terminate Mr. Evenson-Marden. Further, Mr. Geng called on the Board of Managers to televise or webcast its meetings as other local government entities do. He added that last year the Department of Natural Resources named the District the watershed of the year and from that high point, the District has come to the Citizens Advisory Committee meeting June 25, at which Dr. Michael Osterholm spoke about the damaging effects of the termination of Mr. Evenson-Marden. Mr. Geng called for the reinstatement of Eric Evenson-Marden as the District administrator. Manager White thanked Mr. Geng for his statement.

APPROVAL OF THE AGENDA

Manager Miller moved, seconded by Manager Casale, to approve the agenda.

In response an inquiry from Manager Calkins, Manager White stated that she will address the letter the District received from the Fabian Law Firm in her president's report. *Upon vote, the motion carried.*

CONSENT AGENDA

Manager Calkins requested that the approval of the minutes of June 12, 2014, the acceptance of the 2015 Hydrological Data Monitoring and Research Work Plan, and the acceptance of the 2014 AIS Work Plan be removed from the consent agenda. Michael Welch requested that the managers review a few changes to the June 17 minutes. *Manager Miller moved, seconded by Manager Casale, to approve the consent agenda. Upon vote, the motion carried.*

REGULAR AGENDA

Board, Committee and Task Force Reports

Manager White reported that the contract with Jeff Spartz to serve as the interim District administrator has been signed, so there is no action for the Board of Managers to take on that item on the agenda. She stated that the District has received a letter from John Fabian, counsel for Eric Evenson-Marden. Manager White suggested that the letter be directed to District counsel for appropriate action. ***Manager Miller moved, seconded by Manager Casale, to direct the letter from the Fabian firm to District counsel for appropriate action and advice to the Board of Managers. Upon vote, the motion carried.***

Manager Calkins said that James Wisker's memo on the June 19, 2014, Policy and Planning Committee meeting provides a good summary of the meeting, at which the committee reviewed the framework for development of an update to the District comprehensive plan and the District's handling of high-water and flooding issues in the past month. Manager Blixt asked whether there is a specific plan for involving and getting input from city representatives in the comprehensive plan revision. Mr. Wisker said staffs have yet to develop the details for the engagement of individuals and representatives because the focus to date has been on refining the scope and structure of the update. But, he said, the specific outline for the development of the plan will come back to the Board of Managers in July and will include such details.

Manager Miller reported on the June 25 meeting of the Citizens Advisory Committee. Noting that Manager Calkins, Manager Blixt and Manager Olson also attended the meeting, he said the committee reviewed the high-water issues, several requests to the cost-share program and questions related to the dismissal of Eric Evenson-Marden. He said there was a presentation by the District's employment counsel, Andrew Parker, about the law concerning Mr. Evenson-Marden's at-will employment with the District, employee privacy and data practices. Members of the CAC stated that they had been provided with a copy of Mr. Evenson-Marden's personnel file, and wanted to engage in a discussion of its contents. Mr. Parker explained that Mr. Evenson-Marden's consent is needed before such a discussion can take place. The CAC adopted a motion requesting and recommending that the District and Mr. Evenson-Marden meet to try to reach agreement that allows for the release of all documents on which the District relied in reaching its decision to terminate Mr. Evenson-Marden. In response to a question from Manager Calkins, Mr. Spartz said that a meeting with Mr. Evenson-Marden and his attorney is set for next week to discuss the release of Mr. Evenson-Marden complete employment and personnel file. Manager Miller added that the comments made earlier in the meeting from the floor regarding the cost to the District to terminate Mr. Evenson-Marden were inaccurate and he wanted that noted.

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Manager Calkins stated that he took issue with Manager White's characterization of his report on the Citizens Advisory Committee meeting in the June 12 minutes. He said he very carefully prepared his description of the proceedings at the CAC meeting and that Manager White's description in the June 12 minutes is not correct. He said he did not inject personal bias into his description and that his report was directly reflected comments made and events that transpired at the CAC meeting. He stated that it is true that Manager White's explanation of the reasons for Mr. Evenson-Marden's departure was not well-received. He said he did not wish to request a change to the minutes but he wanted his comments noted. ***Manager Shekleton moved, seconded by Manager Miller, to approve the minutes of June 12, 2014. Manager Shekleton and Manager Casale called for division. On the motion the role was called: Manager Olson, abstained; Manager Casale, aye; Manager Blixt, aye; Manager Miller, aye; Manager Shekleton, aye; Manager Calkins, aye; Manager White, aye. The motion carried.***

Mr. Welch noted typographical changes to the minutes of June 17, 2014: "BORAD" in the heading should be "BOARD"; the vote should be noted at the page 1, "Upon vote, the motion carried 4-0."; and the submission from the secretary tagline should be added. ***Manager Casale moved, seconded by Manager Shekleton, to approve the minutes as amended. Upon the motion, the role was called: Manager Olson, abstained; Manager Casale, aye; Manager Blixt, abstained; Manager Miller, aye; Manager Shekleton, aye; Manager Calkins, abstained; Manager White, aye. The motion carried.***

2015 Lake Nokomis Biomanipulation Part 2 Work Plan and 2015 Hydrological Data Monitoring and Research Work Plan

Manager Calkins asked whether the District's hydrological and hydraulic model is being updated with information on the high water that has been experienced in the District in the recent months. He asked whether data are being collected for this purpose. Chris Meehan stated that the intent is to collect the data now and integrate them into the H & H model for the purposes of updating the plan. In response to a further question from Manager Calkins, Mr. Meehan stated that District staff will reallocate budget funds in order to cover the additional data collection. ***Manager Miller moved, seconded by Manager Casale, to accept the 2015 Lake Nokomis Biomanipulation Part II Work Plan. On the motion the role was called: Manager Olson, aye; Manager Casale, aye; Manager Blixt, aye; Manager Miller, aye; Manager Calkins, aye; Manager White, aye; Manager Shekleton, absent. The motion carried.***

2015 AIS Work Plan

Manager Calkins said he is unsure with regard to the base and supplemental budget descriptions in the work plan how the budget for 2015 will be determined. Manager White explained that whether or not the alternative plans are to be included will be

determined when the work plans are presented in final form next month. He further requested whether a literature review would be conducted prior to the District's investing in aquatic plant research and study. Mr. Wisker stated that he will look into the question. ***Manager Miller moved, seconded by Manager Shekleton, to accept the 2015 AIS Work Plan. On the motion the role was called: Manager Olson, aye; Manager Blixt, aye; Manager Casale, aye; Manager Miller, aye; Manager White, aye; Manager Casale, aye; Manager Shekleton, aye; Manager Calkins, aye. The motion carried.***

Resolution 14-052: Agreement for Project Easement /Powell Road Pipe Diversion Project

Rena Clark appeared before the Board of Managers and stated that the resolution in the packet for this evening was out of date, and she handed out an updated version that included the changes to the resolution that was presented at the meeting of June 12. ***Manager Miller moved, seconded by Manager Shekleton to adopt resolution 14-052. On the motion the role was called: Manager Olson, aye; Manager Casale, aye; Manager Blixt, aye; Manager Miller, aye; Manager Shekleton, aye; Manager Calkins, aye; Manager White, aye;. The motion carried.***

High-Water Update

Tiffany Forner and Laura Domyancich appeared before the Board of Managers and presented an update on the high water and flooding that the District has experienced this spring and summer. She stated that the District is experiencing the wettest January 1 through June 30 on record. She provided a report with illustrations on the overall statistics on the recent flooding. She also reviewed the District staff's responses and activities in each of several program areas: hydrodata, permitting, communications and operations and maintenance. Responding to a question from Manager Olson, Ms. Forner said she would investigate the level of Lake Zumbro and provide it to Manager Olson, who has an upcoming meeting with representatives from the area. In response to a question from Manager Miller, Mr. Wisker said that he had a meeting with City of Edina staff today and that 56th Street in the city is still closed. The city is pumping and storing excess stormwater flows and that a few homes have been affected by sanitary backups, but not many.

Ms. Forner showed the District's monitoring sites and reported on water levels recorded at each of the sites. She reported on the activities of permitting department in responding to the high water, noting that structures have been affected and the District is tracking sandbags distributed by cities. Manager Blixt noted that the City of Minneapolis is providing sandbags and Ms. Forner said that she will add that information to the report. Mr. Wisker stated that the report right now is based on preliminary data and that as the water recedes staff will compile and update all the information received during the last month or so. He encouraged the managers to let staff know what other data should be collected and finalized. Manager Calkins noted the importance of determining the excess nutrient flows into waters of the watershed from the sanitary sewer overflows. He said

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that wherever possible, the phosphorus increases to specific waterbodies should be determined. Mr. Wisker stated that District staff is attempting to compile that information. Manager Calkins expressed concern that the District's work and projects completed in areas such as Dutch Lake have been negated by the effects of the sanitary overflows. Mr. Wisker stated that staff will be identifying problems and needs and will help identify repair work needed to be undertaken with District partners. Manager Miller noted that at the Citizens Advisory Committee meeting, Michael Osterholm the former state epidemiologist discounted the impact of the sanitary flows. He stated that the impacts to the waterbodies in the watershed are much less, than when wastewater treatment plants were operating on Lake Minnetonka. Manager Calkins noted that observation specifically pertained to fecal coliform discharges. Manager Blixt said that of greater concern is the phosphorus in the sewage discharges. She stated that she gets reports of these releases and has been forwarding them to Brandon Wisner.

Ms. Forner continued, stating that the District is aware of seven slope failures to date. Staff is tracking this information and the city responses. With regard to a failure along Highway 44, Manager Olson noted that the city paved from the road to the lake. Mr. Meehan noted that such a solution is disfavored and that riprap at the toe of a slope is a much better approach. With regard to communications, Ms. Forner mentioned that a number of press releases have been issued and the District has been working closely with a number of partner agencies to issue communications. With regard to the District's operations and maintenance program, Ms. Forner showed a number of pictures of District and other facilities and properties. She said that right now the McGinty Road culvert is the control point for the water level in Lake Minnetonka. The managers discussed the risk of the culvert blowing out at McGinty Road, and directed staff to follow up with Hennepin County emergency response staff to ensure that the culvert can withstand the additional pressure on it right now. Mr. Meehan noted that water is not overtopping the road, and therefore the culvert is not being subject to the kind of force that would cause it to blow out. He added that there is still room in the culvert approximately 1.5 feet for additional flow. Staff noted that Gray's Bay Road is closed and that the Hennepin County engineer is assessing the embankment and its ability to sustain high water levels. Manager Casale said that Michael Panzer has noted that the armored channel under Highway 494 is significantly over-engineered, and would also provide a control point for excess water levels. With regard to the Gray's Bay Dam that the District operates, Mr. Panzer has stated that he is not concerned about its structural integrity in light of the high water flows.

Ms. Forner showed photos of two undersized culverts on residential properties at Lake Katrina are causing high-water threats to nearby residences and noted that the District is assessing its responsibilities as the ditch authority in the area to ensure flow from these properties. She also showed photos of other District properties and areas of interest, including Painter Creek. She stated that the City of Plymouth was pumping water from Mooney Lake, but after being advised that Wayzata, downstream, was experiencing some flooding Plymouth discontinued the pumping. Ms. Forner showed the District project at

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Steiger Lake and stated that the shrubs and trees the District planted are holding up. She noted that debris has collected in the vegetation, but the weir also is holding up. She said that the Reach 14 project in Edina is largely underwater and it is unclear what survival rates for the plants planted as part of that project will be. Ms. Forner stated that Hennepin County would have to have assessed damage worth \$2.9 million receive emergency relief funds, and that right now the county is estimating \$5.9 million in damages. The District may be able to obtain some funds to repair damage to some of its projects.

Manager Calkins stated that there are a number of streams that experience above-the-bank flows without degradation. He said that the circumstances warrant a review of design techniques used in some of the stream restorations and perhaps a return to more natural designs that seem to be holding up under the circumstances. Ms. Forner continued, noting that the Six Mile Creek area is in good shape. Lake Nokomis is experiencing very high waters, but that no water has backed up from the creek into Lake Nokomis. She stated that the District's ponds around Lake Nokomis have been affected by high water. In response to a request from Manager Miller with regard to Pamela Park, she said staff has no specific information but there may be standing water in that area. Staff noted that many questions had been received about why the golf courses in the watershed are still underwater and the waters are not receding. There is some uncertainty about how the golf courses will continue to be operated in the future given high-water damage. Ms. Forner said that District staff has developed a very strong working relationship with Hennepin County emergency response staff, and that a meeting establishing the partnership in February has proven to be a very valuable first step. Manager Blixt reported that in her discussions with Hennepin County staff, they have expressed a strong appreciation for District staff.

The managers discussed, in response to question from Manager Blixt, the need for sand bagging around pumps in sanitary lift stations that were part of the systems involved in sanitary overflows such as the one experienced in Mound. Mr. Meehan said he did not have specific information about the circumstances, but that it is likely that in adding new equipment or replacing equipment in the sanitary system the cities used existing wet wells and that pump stations typically would be at low elevations. Manager Blixt stated that in the future the District should look at discussing with city representatives whether these pumps should be located above the high-water mark. In response to a question from Manager Calkins, Mr. Meehan stated that staff is compiling a record of all structures that have been flooded.

The managers discussed the number of phone calls District staff have been receiving and the sometimes-significant demands citizens are making in light of the extreme conditions. Mr. Spartz noted that it is not reasonable for District staff to respond to abusive individuals on the phone, and that some preparation for handling these types of calls should be developed. Manager Shekleton stated that there is good relevant training available. Manager Blixt stated that she is also concerned about the time taken away from staff members' regular responsibilities. Ms. Forner said that staff collectively has done a

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good job of taking calls and routing them to the appropriate person, and that the added burden has not been untoward.

Concluding the review, Ms. Forner showed a series of aerial photos taken by Erdahl Aerial Photos. The managers thanked Ms. Forner for her extra and diligent work in recent months dealing with the high water, and thanked her for her presentation.

Administrator's Report

Mr. Spartz handed out copies of the contract he has entered with the District to serve as the interim administrator. He noted that the University of Minnesota extension service's NEMO Program is conducting a workshop on July 23 on the Queen of Excelsior. He stated that in his first few days here at the District, he has been impressed by how hard-working, professional and sincere the District staff are. He said that when an organization has employees who are hewing to the mission of the organization, the organization's goals are achieved. ***Manager Miller moved, seconded by Manager Shekleton to adjourn the meeting. Upon vote, the motion carried 7-0.***

ADJOURNMENT

There being no further business, the regular meeting of the Minnehaha Creek Watershed District Board of Managers adjourned at 9:35 p.m.

Respectfully submitted,

Jeff Casale
Secretary