

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

**September 8, 2022**

**CALL TO ORDER**

The regular meeting of the Minnehaha Creek Watershed District was called to order by Vice President William Olson at 7:15 p.m. on September 8, 2022.

**MANAGERS PRESENT**

William Olson, Jessica Loftus, Eugene Maxwell, Richard Miller, Arun Hejmadi and Stephen Sando.

**MANAGERS ABSENT**

Sherry White.

**DISTRICT STAFF AND CONSULTANTS PRESENT**

James Wisker, Administrator; Abigail Ernst, Permitting Technician; Michael Hayman, Project Planning Manager; Kailey Cermak, Hydrologist; Chris Meehan, District Consulting Engineer; and Louis Smith, District Counsel.

**APPROVAL OF AGENDA**

Mr. James Wisker requested that Item 7.1, Resolution 22-053: Selection and Authorization to Contract for Audit Services, be pulled from the Agenda in order to be considered at the September 22 meeting. *It was moved by Manager Miller, seconded by Manager Maxwell to approve the Agenda with this change. Upon vote, the motion carried, 6-0 (President White absent).*

**MATTERS FROM THE FLOOR**

None.

**CONSENT AGENDA**

*It was moved by Manager Hejmadi, seconded by Manager Miller, to approve the remaining items on the Consent Agenda consisting of approval of the August 22, 2022 Board meeting minutes, and the following resolution:*

*Resolution 22-054: Adoption of the 2023 Minnehaha Creek Watershed District Capital Improvement Plan:*



Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
9-8-22

***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby adopts the attached 2023 CIP.***

*Upon vote, the motion carried 6-0 (President White absent).*

### **BOARD, COMMITTEE AND TASK FORCE REPORTS**

Operations and Programs Committee Report: Manager Loftus reported that the Committee discussed draft organizational principles derived from the study of MCWD's history. Mr. Smith and Mr. Wisker will continue to complete this project and bring the project back to the Board later in the year.

#### Minnesota Association of Watershed Districts (MAWD) Summer Tour

Managers Hejmadi and Olson reported on attending the MAWD Summer Tour in the Red River Valley. Manager Hejmadi noted that it was a very interesting program that showed the scale and challenge of flood mitigation in the face of climate change in a largely flat agricultural landscape. He observed that there are ongoing challenges that pose the question of whether to try to subdue or collaborate with Nature. Manager Olson noted the number of farm ring dikes and the large scale of the Agassiz Valley Impoundment Project.

Upcoming Meeting and Event Schedule: Vice President Olson directed the managers to the meetings listed on the agenda.

### **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

#### Permit 22-349: 325 Blake Road, Building A, Hopkins

Ms. Abigail Ernst appeared before the Board of Managers to review this permit application from Alatus Hopkins LIHTC I LLC for construction of "Building A" Lot 2, Block 2, Mile 14 on Minnehaha Creek (Parcel) which is part of the overall 325 Blake Road Restoration and Redevelopment project. Ms. Ernst explained that the Applicant proposes the construction of a multi-unit residential building, parking, hardscaping, and landscaping. She noted that the proposed project will trigger MCWD regulations for Erosion Control and Stormwater Management. A combination of underground infiltration basins (Underground Facility), pervious pavement, and a regional stormwater management facility (Regional Facility) are proposed to provide permanent volume control for the Parcel's impervious surface. Ms. Ernst explained that the District considers the proposed project to result in 6% decrease in impervious surface when compared to the historic use of the site as a cold storage facility. She noted that due to



Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
9-8-22

*It was moved by Manager Loftus, seconded by Manager Maxwell to adopt Resolution 22-056: Authorization to Execute the Agreement for Use of Regional Stormwater Management Facility and Authorization to Execute the Temporary Easement for Stormwater Management with Alatus Hopkins LIHTC I LLC as follows:*

*NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator to execute the Agreement for Use of Regional Stormwater Management Facility and the Temporary Easement for Stormwater Management with Alatus Hopkins LIHTC I, LLC, with non-substantive changes and on advice of legal counsel.*

*Upon vote, the motion carried, 6-0 (President White absent).*

### **ACTION ITEMS**

Resolution 22-056: Authorization to Contract for Pilot Model Scenario File Development  
Ms. Kailey Cermak appeared before the Board of Managers to review the request for board action. She noted that a critical first step within MCWD's Climate Action Framework is building a new, high resolution, 2D watershed model to quantitatively assess the impact of climate change on this watershed. This tool will also support policy development and long-range planning with communities, by allowing MCWD to evaluate the impact of different adaptation strategies and projects, under future climate forecasts. She explained the need for consulting to develop land use scenarios to be used in the pilot 2D model; staff asked Stantec to prepare a scope of work based on its strong understanding of the hydraulic and hydrologic conditions within the subject areas and of the District's stormwater management rules, which together should allow Stantec to create scenario files efficiently and effectively.

*It was moved by Manager Miller, seconded by Manager Hejmadi to adopt Resolution 22-056 as follows:*

*NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator, on advice of counsel, to execute a contract with Stantec Consulting Services Inc. to develop pilot model scenario files, in accordance with the submitted scope of work and in an amount not to exceed, \$26,963.*

Upon a question from Manager Miller, Ms. Cermak affirmed that Stantec has performed this work in the past. Manager Loftus asked if staff had quantified the amount of duplication that would be involved in having another firm do this work, and Ms. Cermak



the logistics of project phasing, land acquisition, and the necessity of stormwater treatment, the Applicant's ability to meet the rule requirements rests on its use of the District's Regional Facility and its temporary use of other land within the 325 Blake Road site still under District ownership. Two agreements to address these needs are listed as recommended conditions of permit approval. The agreements are as follows- 1) Agreement for Use of Regional Stormwater Management Facility; and 2) Temporary Easement for Stormwater Management.

Upon a question from Manager Olson, Ms. Ernst reviewed the details of the MCWD treatment facility, and phasing to assure that construction will not be in the way of the future MCWD project. Upon a question from Manager Maxwell, Mr. Meehan explained that the pipe would be buried and would not freeze in the winter. In response to a question from Manager Loftus, Mr. Michael Hayman reviewed the demolition process and the sedimentation basin's creation in relation to that process.

Resolution 22-055: Authorization to Execute the Agreement for Use of Regional Stormwater Management Facility and Authorization to Execute the Temporary Easement for Stormwater Management with Alatus Hopkins LIHTC I LLC

Ms. Ernst explained that Mr. Hayman would review the proposed agreement for use of the regional stormwater management facility and the proposed temporary easement for stormwater management, so that the Board of Managers would be briefed on these recommended conditions of permit approval before acting on the application. Mr. Hayman reviewed the agreement and easement terms, and the planned sequencing of phases in the project. In response to a question from Manager Miller, Mr. Hayman noted that if for any reason Alatus abandons the project, possession of the site would be returned to the MCWD by January 31, 2024. Upon a question from Manager Maxwell, Mr. Hayman reviewed the terms of the letter of credit.

*It was moved by Manager Miller, seconded by Manager Hejmadi to approve Permit Application 22-349 with the following conditions recommended by staff:*

- 1. Signing of Agreements 1 and 2 (Agreement for Use of Regional Stormwater Facility and Temporary Easement for Stormwater Management)*
- 2. Payment of permit review fees*
- 3. Submission of financial assurance*
- 4. Submission of proof of NPDES permit*
- 5. Recordation of maintenance declaration for the Parcel's stormwater facilities (Underground Facility, pervious pavement, and interim infiltration basin)*

*Upon vote, the motion carried, 6-0 (President White absent).*



Minutes of the Regular Meeting  
 Minnehaha Creek Watershed District  
 Board of Managers  
 9-8-22

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
MAXWELL	X			
OLSON	X			
MILLER	X			
SANDO	X			
LOFTUS	X			
HEJMADI	X			
WHITE				X

*It was moved by Manager Loftus, seconded by Manager Hejmadi to adopt Resolution 22-058: Certified 2023 Tax Levy, as follows:*

*NOW, THEREFORE, BE IT RESOLVED that the Secretary, in accordance with Minnesota Statutes, shall certify to the Auditors of Hennepin and Carver Counties, in amounts bearing the same proportion to the total levy as the net tax capacity of the area of county within the watershed bears to the net tax capacity of the entire watershed district, the following sums to be raised by a levy on all taxable property in the Minnehaha Creek Watershed District Number 3 for the year 2023 and the purposes noted below.*

*2023 Levy: \$9,869,513 for the purpose of paying the cost of watershed management and implementation as provided by Minnesota Statutes, Sections 103B.241 and 103B.251.*

*The question was on the adoption of the resolution and there were 6 yeas and 0 nays as follows:*

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
MAXWELL	X			
OLSON	X			
MILLER	X			
SANDO	X			
LOFTUS	X			
HEJMADI	X			
WHITE				X

**BOARD INQUIRIES, ISSUES, AND IDEAS**

None.

**STAFF UPDATES**



stated that no such quantification per se had been done. *Upon vote, the motion carried, 5-1, with Manager Loftus voting against the motion.*

*It was moved by Manager Miller, seconded by Manager Maxwell to reconsider the vote on this motion. Upon vote, the motion to reconsider carried, 6-0.* Manager Miller asked Manager Loftus why she opposed the motion, and Manager Loftus stated that she supports competitive bidding for services and felt that other quotes should be obtained in this situation. Manager Maxwell stated that he agreed with this general approach, and Manager Miller stated that he felt that this work was within the province and expertise of the District Engineer. Mr. Wisker noted that Manager Loftus had shared her concern and that staff will undertake due diligence in these situations going forward.

*It was moved by Manager Miller, seconded by Manager Sando to adopt Resolution 22-056 as recommended by staff. Upon vote, the motion carried, 5-1, with Manager Loftus voting against the motion.*

Resolutions 22-057 and 22-058: Adoption of the 2023 Budget and Workplan, and Certification of the 2023 Tax Levy

Mr. Wisker reviewed the process for development of the 2023 budget. *It was moved by Manager Loftus, seconded by Manager Miller to adopt Resolution 22-057: Adoption of the 2023 Budget and Workplan, and Notice of November 17, 2022 Public Meeting as follows:*

***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby adopts the 2023 budget of \$14,309,193, and associated workplans and fund transfers, presented to the Board on September 8, 2022; and***

***BE IT FURTHER RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby announces a public meeting for further comment on the 2023 budget, scheduled for November 17, 2022.***

***The question was on the adoption of the resolution and there were 6 yeas and 0 nays as follows:***



Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
9-8-22

Administrator's Report

Mr. Wisker reported on the following items:

1. Water levels are declining and will likely continue to do so due to below normal precipitation. Lake Minnetonka is at 928.13, and the control structure is closed, with no flow (less than 1 cfs) in the Creek.
2. Plans are underway for a groundbreaking event at the Alatus project at 325 Blake Road for October 12 at 4 p.m.
3. Staff appreciates the cooperation of Board members in photos for the new web site.
4. There will be a vacancy on the Citizens Advisory Committee as one member is stepping down, and plans are underway to recruit for 2023.
5. The Legislative Citizens Commission on Minnesota Resources has recommended full 100% funding of the MCWD request for the 2D Model Project.
6. Staff met with leadership of the St. Anthony Falls Laboratory to discuss a second phase of research on wake boats impact on water resources. MCWD can provide some in-kind use of monitoring equipment for this study.
7. Staff is preparing for the bidding process for reconstruction of the Minnehaha Preserve Boardwalk.
8. The American Council of Engineering Companies awarded national recognition to the Arden Park project.

Adjournment

There being no further business, Vice President Olson declared the meeting of the Board of Managers adjourned at 8:37 p.m.

Respectfully submitted,

Eugene Maxwell, Secretary

