

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

November 3, 2022

CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District was called to order by President Sherry White at 7:00 p.m. on November 3, 2022.

MANAGERS PRESENT

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

MANAGERS ABSENT

None.

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Kayla Westerlund Permitting Program Manager; Will Roach, Permitting Assistant; Tiffany Schaufler, Senior Project Maintenance Coordinator; Chris Meehan, District Consulting Engineer; Thomas Radio, District Litigation Counsel; and Louis Smith, District Counsel.

MATTERS FROM THE FLOOR

Mr. Mike Kirkwood appeared before the Board of Managers, noting that he was present along with Mr. Dennis Newell as members of the Lake Minnetonka Conservation District to observe the meeting and promote cooperation of the LMCD and MCWD. The managers welcomed Mr. Kirkwood and Mr. Newell.

APPROVAL OF AGENDA

President White recommended that Items 11.1 and 12.1 be addressed first, and then followed by Items 11.2, 11.3 and the remaining agenda items. *It was moved by Manager Miller, seconded by Manager Olson to approve the Agenda with these changes. Upon vote, the motion carried 7-0.*

INFORMATION ITEMS/CORRESPONDENCE

Ms. Kayla Westerlund appeared before the Board of Managers and introduced Ms. Maria Friedges as a new member of the permitting staff. The Board of Managers welcomed Ms. Friedges to the District.

CONSENT AGENDA

It was moved by Manager Miller, seconded by Manager Hejmadi, to approve the items on the Consent Agenda consisting of approval of the October 20, 2022, Board meeting minutes and adoption of the following resolutions:

Resolution 22-062: Authorization to Approve First Amendment to the Temporary Easement for SWLRT Construction

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby approves the first amendment to the temporary easement agreement between MCWD and Metropolitan Council and authorizes the Administrator to execute the amendment with any non-substantive changes in consultation with legal counsel;

Resolution 22-066: Recognition of John Salditt's Service on the MCWD Citizens Advisory Committee

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby formally acknowledges John Salditt's contribution to the organization and expresses its deep gratitude and thanks for his service; and

Resolution 22-067: Recognition of Peter Rechelbacher's Service on the MCWD Citizen's Advisory Committee

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby formally acknowledges Peter Rechelbacher's contribution to the organization and expresses its deep gratitude and thanks for his service.

Upon vote, the motion carried 7-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: President White noted the calendar of upcoming events, and also recommended that she and Manager Loftus again serve as the Board liaisons in the mediation of the Minnehaha Preserve Boardwalk litigation. ***It was moved by Manager Miller, seconded by Manager Hejmadi to confirm President White and Manager Loftus as the liaisons for the Minnehaha Preserve Boardwalk litigation. Upon vote, the motion carried, 7-0.***

Operations and Programs Committee Report: Manager Loftus reported that the Committee met earlier in the evening and received a staff presentation on the applications to the Citizens Advisory Committee. The staff also provided a presentation on the MCWD 2003 Functional Assessment of Wetlands, including the rationale for the assessment, how it has been used in MCWD water resource management, current questions and strategic considerations for wetland management in the future.

Upcoming Meetings: President White noted the upcoming meeting schedule as noted in the Agenda.

PUBLIC HEARINGS & PRESENTATIONS AND ACTION ITEMS

Permit 22-436: Marco McLane LLC, Victoria

Resolution 22-068: Approval of Downtown West Victoria Regional Stormwater Agreement

Mr. Will Roach appeared before the Board of Managers and reviewed the permit application, noting that it was before the Board for consideration of both approval of a regional stormwater management agreement for the Downtown West Victoria Development, and approval of Permit 22-436 for the Marco McLane development.

Mr. Roach noted that the City of Victoria owns the 13.5 acre site and is proposing redevelopment over multiple phases. He reviewed the proposed stormwater management plan for the site, which will involve several filtration ponds constructed by the City of Victoria. Mr. Roach reviewed the proposed project construction schedule and the timing of the construction of the filtration ponds. He reviewed the key terms of the proposed regional stormwater management agreement.

It was moved by Manager Miller, seconded by Manager Olson to adopt Resolution 22-068: Approving Regional Stormwater Management Plan for Downtown West Victoria Development as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District administrator to execute the proposed Regional Stormwater Management Agreement between the City of Victoria and the Minnehaha Creek Watershed District, with any further non-substantive changes and on advice of counsel.

In response to a question from Manager Olson, Mr. Roach stated that the agreement is scheduled for final city council approval on the recommendation of the city engineer.
Upon vote, the motion carried 7-0.

It was moved by Manager Olson, seconded by Manager Maxwell to approve Permit 22-436 with the conditions recommended by staff. Upon vote, the motion carried 7-0.

BOARD DISCUSSION ITEMS

Minnehaha Preserve Boardwalk Update

It was moved by Manager Olson, seconded by Manager Maxwell to move to closed session for the purpose of receiving confidential legal advice concerning litigation strategy in the Minnehaha Preserve Boardwalk litigation. Upon vote, the motion carried 7-0.

The Board of Managers went into closed session. The Board of Managers returned to open session.

ACTION ITEMS, CONTINUED

Resolution 22-069: Authorize Seasonal Closure of the Minnehaha Preserve Boardwalk

Ms. Tiffany Schaufler appeared before the Board of Managers to review the request for board action. She noted that with winter weather approaching, staff is again requesting authorization of the seasonal closure of the Minnehaha Preserve boardwalk to ensure user safety in accordance with MCWD's inspection and repair policy. She noted that the same barriers would be used as last winter, and closure would be authorized until the reconstruction of the boardwalk commences, at which time the area would be fully fenced by the contractor.

It was moved by Manager Sando, seconded by Manager Hejmadi to adopt Resolution 22-069: Authorize Seasonal Closure of the Minnehaha Preserve Boardwalk, as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the seasonal closure of the Minnehaha Preserve boardwalk system for the winter of 2022-2023, with wood barriers and signage, to limit safety and liability concerns.

Upon vote, the motion carried 7-0.

Resolution 22-070: Award of Construction Contract for the Minnehaha Preserve Boardwalk Reconstruction

Ms. Schaufler reviewed the bidding results for the reconstruction of the boardwalk, noting that JTS Construction was the low bidder and staff recommends awarding the

contract to JTS Construction for the Minnehaha Preserve Boardwalk Reconstruction project in the amount of \$1,858,182 and that the Board of Managers authorize the District Administrator to execute change orders in an aggregate amount not to exceed 10 percent of the bid price, for a total not-to-exceed construction amount of \$2,044,000.

It was moved by Manager Sando, seconded by Manager Hejmadi to adopt Resolution 22-070: Award of Construction Contract for the Minnehaha Preserve Boardwalk Reconstruction, as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers finds the bid submitted by JTS Construction is the low bid, and is responsive, and JTS Construction is a responsible contractor; and awards the construction contract to JTS Construction for a contract price of \$1,858,182, and directs the District Administrator to issue the notice of award, and administer the bid bonds of other bidders in accordance with the terms of the request for bids;

BE IT FURTHER RESOLVED that the MCWD Board of Managers establishes a contract budget in the not-to-exceed amount of \$2,044,000 and authorizes the District Administrator, in his judgment and on the recommendation of the construction manager, to authorize change orders obligating the MCWD up to that amount;

BE IT FINALLY RESOLVED that the District Administrator is authorized to issue a notice to proceed to JTS Construction in accordance with the terms of this resolution, on advice of counsel and after receipt of a signed contract and required bonds and insurance documentation.

Upon vote, the motion carried 7-0.

BOARD INQUIRIES, ISSUES AND IDEAS

None.

STAFF UPDATES

Administrator's Report

Mr. Wisker reported on the following items:

1. Precipitation year to date has been 10.25 inches below normal and Lake Minnetonka is at 927.4, 14 inches below the runout elevation.

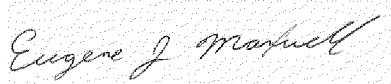
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2. President White and Mr. Wisker are scheduling briefings of county commissioners in the coming months.
3. Several Personnel changes are underway. Interviews are scheduled for filling the Project Maintenance and Land Manager position; Helen Schnoes has been supporting a transition on the Education and Outreach team as she will be completing her service with the MCWD on November 4. The Operations Manager position will be posted soon, and Mr. Wisker is evaluating the timing of posting for a new Outreach Manager.
4. The Long Lake Creek roadmap will be presented to the Board of Managers on November 17. It will identify potential project priorities which may complement work in the Six Mile Creek subwatershed.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 8:15 p.m.

Respectfully submitted,



Eugene Maxwell, Secretary