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Resolution 23-016: Authorization to Renew GIS and WISKI Maintenance and Licenses and the Authorization to Submit Annual Report to BWSR and DNR

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the renewal of GIS software maintenance and licenses for an amount of \$15,717.00.

AND, NOW THEREFORE, BE FURTHER RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the renewal of WISKI software maintenance and licenses for an amount of \$14,492.22.

Resolution 23-017: Authorization to Submit Annual Report to the Board of Water and Soil Resources and Department of Natural Resources

NOW, THEREFORE, BE IT RESOLVED, that the District's Board of Managers accepts the 2022 Annual Activity Report and authorizes its release to BWSR and DNR.

Upon vote, the motion carried 7-0.

BOARD, COMMITTEE AND TASK FORCE REPORTS

President's Report: President White noted the upcoming meeting schedule and that the District may consider changing the date of the November 30 meeting given the annual conference of Minnesota Watersheds. President White asked that Managers Hejmadi and Miller provide a report as Board liaisons on the development of the 2D model.

Manager Hejmadi reported that he and Manager Miller met with staff to review progress on the 2D model. He noted that the development of the model has two aspects: 1) data input and automation; and 2) evaluating the models and the need for further calibration. The staff were not satisfied with the level of documentation and will use contingency funding to address this need. The project is still within budget, but these changes to the model will add a little bit of time to the schedule. Manager Hejmadi said he is impressed that the model is only four and a half months behind and that the Staff has embarked on a wonderfully challenging project.

Manager Hejmadi noted the transition from the pilot to the watershed-wide model, and in June staff will report on the pilot. Anticipating the grant from the Legislative Citizens Commission on Minnesota Resources July 1, staff is planning an RFP process for identifying consultants for the next phase of the project and anticipate a project launch sometime in the fall. The staff is also attending to promote the connection of this work to

89 communities in the watershed. The District will likely begin to see results in 2025 and
90 this work will inform the District's development of the 2027 10-year plan.

91
92 Manager Miller stated that he was pleased with the staff's abilities to monitor the work of
93 the consultants and to explain the integration of science and technology with the
94 District's mission.

95

96 **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

97

98 Permit 23-011: CenterPoint Energy, 1360 Morningview Dr., Minnetrista

99

100 Ms. Maria Friedges appeared before the Board of Managers to review the permit
101 application and variance request. Ms. Friedges reviewed the scope of work, location, and
102 application of MCWD rules. CenterPoint energy is replacing a distribution line and will
103 use horizontal directional drilling to install a new pipeline and connect the original
104 natural gas line. They will then abandon the current utility line and replace a property
105 service line on 1360 Morningview Drive. Ms. Friedges illustrated the project location and
106 the elements of the project requiring a variance. She noted water resources of concern,
107 including the streams tributary to Jennings Bay.

108

109 Ms. Friedges noted that CenterPoint has requested a variance from section 3(g) of the
110 waterbody crossing's structure rule. The first criterion for a variance is to prove that
111 special conditions inherent to the property will cause undue hardship. CenterPoint is not a
112 property owner and must work within property rights and rights of way as they exist,
113 using this to demonstrate the undue hardship caused by this project. The second criterion
114 to meet is that the hardship was not created by the landowner, the landowner's agent or
115 representative or a contractor, as economic hardship is not grounds for issuing a variance.
116 CenterPoint is not able to move the proposed location of the natural gas distribution
117 pipeline or service line due to the location of existing CenterPoint Energy infrastructure
118 and the meter location on the property home and because they need to stay within the
119 road right-of-way or easements for the installation. Thus, they did not create the
120 hardship. The third criterion CenterPoint must meet is to prove that the variance is not
121 merely out of convenience to them. Ms. Friedges said that CenterPoint demonstrated that
122 this project and the variance will benefit the property owners as well as CenterPoint. Not
123 installing the distribution line would cause public safety hazards affecting property
124 owners, CenterPoint, and the public. The fourth criterion to be met is that CenterPoint
125 must prove there is no feasible alternative. Ms. Friedges noted that the Applicant has
126 explored alternative options for this location, none of which are feasible or minimal
127 impact options for the project. The fifth criterion is to demonstrate that the variance will
128 not impair or be contrary to the intent of rules. CenterPoint presented evidence that there
129 is no stream work that will disturb ecology and that CenterPoint is doing additional
130 erosion control to ensure this.

131

132 Ms. Friedges concluded that there are no feasible alternatives and that erosion control
133 measures will be implemented to ensure there is no damage caused to waterbodies. The
134 MCWD staff recommends permit approval with the recommended conditions and
135 concurs in the factual statements and technical justifications supporting the variance
136 request. Ms. Melissa Leider appeared before the Board of Managers on behalf of
137 CenterPoint and noted that this project will be coordinated with city road work.

138
139 ***It was moved by Manager Miller, seconded by Manager Olson to approve the variance***
140 ***based on the findings presented by staff.*** Upon a question from Manager Maxwell, Ms.
141 Friedges reviewed the city and CenterPoint responsibilities for vegetation restoration on
142 their respective parts of the work. asked about the erosion control measures. Manager
143 Maxwell inquired wither the old line would be abandoned and removed, and Ms. Leider
144 stated that it typically would not be removed.

145
146 ***Upon vote, the motion to grant the variance carried 7-0.***

147
148 ***It was moved by Manager Miller, seconded by Manager Hejmadi to approve the permit***
149 ***with conditions recommended by staff. Upon vote, the motion carried 7-0.***

150
151 Permit 22-568: St. Louis Park High School, 6425 33rd Street W, St. Louis Park

152
153 Abigail Ernst appeared before the Board of Managers to review the permit application and
154 variance request. The site is within the approximate area of shallow groundwater contamination
155 identified by the Environmental Protection Agency as a Superfund Site, which limits the
156 applicant's ability to infiltrate stormwater runoff. Ms. Ernst illustrated the location and the water
157 discharge from the site, and current conditions of the high school with the existing drainage on
158 site and infiltration. She identified the proposed changes, discussed the proposed improvements
159 to the site, including reconfiguration of the parking lots, converting the athletic field to
160 impervious synthetic turf, and changes to the sidewalk and tennis courts. Ms. Ernst reviewed the
161 different filtration systems that will be added as well as the existing infiltration basin that was
162 permitted in the past.

163
164 Ms. Ernst explained that the groundwater contamination limits the applicant's ability to infiltrate
165 on site. MCWD rules do not prevent applicants from infiltrating on known polluted areas. The
166 District policy is simply to inform the applicant of the risks associated with infiltration. Here,
167 the applicant states that it is unable to provide the required treatment due to inability to intercept
168 runoff from a portion of existing impervious surface, due to the location of existing buildings and
169 surface on the property, spatial constraints, and the location/depth of existing storm sewer
170 facilities. The applicant can provide 8.77 lbs. per year of phosphorous removal, which is 3.86
171 lbs. less than the required amount of 12.63 lbs., but still a still a significant reduction in total
172 phosphorus loading.

173

174 Ms. Ernst reviewed the request for a variance from full compliance with the Stormwater
175 Management rule. The first criterion the applicant must meet to be granted a variance is to prove
176 that special conditions inherent to property would cause undue hardship under the current rule. In
177 this case, Ms. Ernst provided evidence that the building was constructed so roof drains are within
178 the walls and discharge to the northeast corner. As a result, there is no way to provide that
179 treatment without extensive building reconstruction to redirect the roof drains elsewhere and
180 installing a pump to make up for the shallow stormwater depth. The second criterion is that the
181 hardship must not have been created by the applicant. Ms. Ernst stated that the pipes were not
182 created with the stormwater treatment in mind because when the pipes were built, the stormwater
183 management rules as they exist today were not in effect. The third criterion is that the variance
184 must not be merely a convenience to the applicant. Ms. Ernst said the District agrees removal of
185 phosphorus would be physically and economically unfeasible. The fourth criterion is to
186 demonstrate that there is no feasible and prudent alternative to the proposed activity requiring the
187 variance. Given the spatial and elevation constraints and the importance of updating the
188 facilities, the District staff stated this criterion was met. The fifth criterion is that the variance
189 will not be contrary to intent of rule. Ms. Ernst stated that the rooftop runoff carries less
190 pollutants than runoff from sidewalks and roads and that the project still removes almost 40% of
191 the pollutant load. Ms. Ernst stated that the District Staff recommends approval of the variance
192 and the permit with the conditions noted in the permit report.

193

194 ***It was moved by Manager Miller, seconded by Manager Maxwell to approve the***
195 ***variance based on the findings presented in the staff permit report.***

196

197 Manager Miller stated that he is concerned that this project will result in downstream
198 impacts like Morningside Park project in Edina. He stated that he appreciates the
199 MCWD's great relationship with the City of St. Louis Park, but he is frustrated with the
200 collective impacts posed by such variances. Manager Miller asked how much more
201 impervious surface this project will create and how much more volume of runoff as a
202 result. He stated that he understands that infiltration is not the answer here, but he
203 believes more water storage should be considered.

204

205 Bill Diede, consulting engineer for the St. Louis Park School District said that the volume
206 of runoff will increase but that the project will also provide rate control. Manager Miller
207 then asked if the School District has discussed this project with the neighborhood.

208 Thomas Braun, representative of St. Louis Park School District, stated that at a meeting
209 with members of the neighborhood, there was support for the project and no concerns
210 were expressed.

211

212 Manager Miller asked James Wisker directly whether Mr. Wisker was convinced that the
213 issues seen in the Morningside project will not arise in this scenario. Mr. Wisker said he
214 is confident that the Staff has given this variance a thorough examination. It is impossible
215 to create impervious surface without increasing volume. Mr. Wisker stated that he feels
216 confident that alternatives have been exhausted and that worthwhile options are not being

217 left on the table. Manager Loftus asked whether storage in the northwest corner of the
218 site would be possible. Ms. Ernst responded that the building runoff currently drains to
219 that corner.

220
221 Manager Olson clarified that Manager Miller is concerned more about flooding rather than the
222 issue of water quality. Manager Miller expressed his concern that we need more imagination in
223 exploring solutions to downstream impacts. Upon a question from Manager Maxwell, Mr. Braun
224 stated that the project is on a tight timeline and the hope is to begin construction in June.

225
226 *Upon vote, the motion to grant the variance carried 6-1 with Manager Miller voting*
227 *nay.*

228
229 *It was moved by Manager Maxwell, seconded by Manager Sando to grant the permit*
230 *with conditions recommended by staff. Upon vote, the motion carried 6-1, with*
231 *Manager Miller voting against the motion.*

232
233 **ACTION ITEMS**

234
235 **Resolution 23-018: Authorization to Execute a Contract for the County Road 6**
236 **Stormwater Pond Retrofit Feasibility Study**

237
238 Mr. Josh Wolf appeared before the Board of Managers to review the request for board action. He
239 noted that the County Road 6 Pond is located within the Long Lake Creek Subwatershed. The
240 Wolsfeld and Holy Name tributaries combine upstream of the pond and it drains directly into
241 Long Lake. Mr. Wolf gave a brief history of the Subwatershed, stating that the Long Lake Creek
242 Partnership roadmap was presented to the Board in a meeting in January of 2023. Ultimately, the
243 Partnership recommended that the Pond retrofit be prioritized to enhance phosphorus reduction
244 to Long Lake.

245
246 The scope of the project includes refining the P8 Model and calibrating combined models of the
247 Wolsfeld and Holy Name Tributaries. The project also includes adding live storage, then running
248 the model and refining results. Site investigation will be necessary as well as identifying
249 alternatives via modeling. Mr. Wolf stated that for alternatives, there are three to five different
250 retrofit options carried through modeling and evaluations. He also stated that the evaluation
251 matrix for the model has been completed. Mr. Wolf discussed the timeline for the project and
252 staff's recommendation to approve a feasibility study for CR 6 Stormwater Pond retrofit.

253
254 Manager Miller asked if the District has fee title to the site to which Mr. Wisker responded that
255 the District has access to the site via an easement. Upon a question from Manager Miller, Mr.
256 Wolf explained that the site is constrained, and it is not feasible to expand the pond footprint.

257
258 Manager Olson asked about the isthmus in the pond and whether it was built by the District. Mr.
259 Wolf stated that the isthmus was built to help with drainage.

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It was moved by Manager Miller, seconded by Manager Olson to approve the resolution as recommended by staff:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator, on advice of counsel, to enter into a contract with Stantec Consulting Services, Inc. to conduct a feasibility study for the retrofit of the County Road 6 pond, in an amount not to exceed \$23,975.96, and further authorizes the Administrator thereafter to amend the contract in his discretion up to an additional 10% of this fee.

Upon vote, the motion carried 7-0.

BOARD DISCUSSION ITEMS

None.

BOARD INQUIRIES, ISSUES, AND IDEAS

Manager Miller said he already expressed his concerns with the St. Louis Park High School project, but feels it is worth the MCWD’s financial investment to explore long term solutions to such increases in downstream volume.

Manager Sando raised an inquiry regarding a beaver that has cut down over 150 trees in Arden Park. Mr. Wisker stated that the Staff will be in contact with the City Forester and see what can be done.

Manager Sando noted that the members of the Edina Community Lutheran Church on 54th Street have removed buckthorn and are planting wildflowers.

President White mentioned that the Nature Center at Carver Park has received a grant to document Dakota community history. Manager Hejmadi suggested that the District seek engagement with Dakota leaders in its planning process. Mr. Wisker stated that this outreach could be helpful with the District’s climate action framework.

Mr. Wisker spoke clarify the Board’s focus on downstream volume impacts such as with the St. Louis Park High School project. He noted that the climate action framework and the capital improvement program are the primary policy opportunities to address volume and flooding concerns strategically. In response to a question from Manager Olson, Mr. Wisker noted that flood risk analysis will be one benefit of the 2D model, which could provide metrics to identify volume storage opportunities.

302 Manager Loftus asked whether the MCWD needs a flood reduction policy. Mr. Wisker
303 noted that the 2D model development would assist in developing tools to address flood
304 reduction, along with potential changes in MCWD rules.

305

306 **STAFF UPDATES**

307

308 **Administrator's Report**

309

310 Mr. Wisker reported on the following items:

311

312 1. then discussed current water levels, stating that the Twin Cities are sitting at 7.5 inches of
313 precipitation year to date, which is about 3 inches more than normal, but 2022 ended with
314 8.5 inches below normal. Lake Minnetonka is at 928.3 feet and Minnehaha Creek at
315 Hiawatha is flowing at 48 cubic feet per second.

316

317 2. Michael Hayman met with Susan Du, a Star Tribune reporter is working on a project to
318 report on "re-wilding" Minnehaha Creek.

319

320 3. Discussions exploring collaboration with the City of Minneapolis and the Minneapolis
321 Park and Recreation Board have been productive, and seem to be leading to a focus on
322 three pilot projects and a funding framework. More discussion will follow, and Mr.
323 Wisker will be briefing the manager liaisons.

324

325 4. Staff have been meeting with City of St. Louis Park representations on Light Rail Transit
326 station planning at Beltline, Wooddale, and Louisiana stations.

327

328 5. Staff have met with Carver County and the Minnesota Department of Transportation
329 representatives regarding Highway 5 reconstruction, partnership opportunities, and
330 chloride concerns.

331

332 6. Staff are planning a field outing for the Board of Managers and Citizens Advisory
333 Committee on April 28.

334

335 **Adjournment**

336

337 There being no further business, President White declared the meeting of the Board of
338 Managers adjourned at 8:51 p.m.

339

340 Respectfully submitted,

341

342

343 Eugene Maxwell, Secretary