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MINUTES OF THE REGULAR MEETING OF
THE MINNEHAHA CREEK WATERSHED DISTRICT
CITIZEN ADVISORY COMMITTEE
July 22, 2014

1. **Call to Order**

The regular meeting of the Minnehaha Creek Watershed District Citizens Advisory Committee was called to order at 6:36 p.m. in the Big Island Room at the Minnehaha Creek Watershed District offices by Vice Chairperson Rechelbacher.

2. **CAC MEMBERS PRESENT**

Tom Baltutis, Bill Bushnell, Sliv Carlson, Tom Casey, Jerry Ciardelli, Nina Holiday-Lynch, Lee Keeley, Mark Kjolhaug, Steve Mohn, Dave Oltmans, Peter Rechelbacher, Marc Rosenberg, Michael Osterholm, and Susan Diaz Rydstrand

MANAGERS PRESENT

Jim Calkins, Sherry White, Doug Olson, Pam Blixt, Brian Shekleton

OTHERS PRESENT

Interim Executive Director Jeff Spartz, Legal Counsel Andrew Parker, Telly Mamayek, Brett Eidem, Mollie Thompson, Trevor Born

3. **APPROVAL OF AGENDA**

Kelly moved to approve the agenda as amended, seconded by Osterholm. Motion carried, none opposed. Agenda changed as follows:

- A. *Item 8.1, MCWD Education and Communications Overview continued to August meeting.*
- B. *Item 8.2 moved before Item 7, Old Business*
- C. *Under Item 6, Motions to Entertain*
- D. *Under Item 7, Old business, add Discussion of Cost to Taxpayers*
- E. *Under Item 7, Old Business, add Request for Documents*

8. **NEW BUSINESS**

A. **COST SHARE**

- 8.1 **MCWD Education and Communications Overview (Mamayek, Born, Thompson) – continued to the August meeting**
- 8.2 **Cost Share – Ann Jenson and Thomas Elcock, Minneapolis – Action (Eidem)**
- 8.3 **Cost Share – Katherine Hutchinson, Minneapolis – Action (Eidem)**
- 8.4 **Cost Share – Roman Verostko, Minneapolis – Action (Eidem)**
- 8.5 **Cost Share – Michael Russell, Minneapolis – Action (Eidem)**
- 8.6 **Cost Share – Ben and Shari Fraenkel, Richfield – Action (Eidem)**
- 8.7 **Cost Share – Steve Weilock and Louise Waddick, Edina – Action (Eidem)**
- 8.8 **Cost Share – Michelle Hoff, Edina – Action (Eidem)**
- 8.9 **Cost Share – Lutheran Church of Christ the Redeemer, Minneapolis – Action (Eidem)**
- 8.10 **Cost Share – Leslie, Minneapolis – Action (Eidem)**
- 8.11 **Cost Share – Peter Zambrano, Edina – Action (Eidem)**

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- 8.12 Cost Share – Judell Anderson, Plymouth – Action (Eidem)**
8.13 Cost Share – Glen Nelson, Long Lake – Action (Eidem)

Eidem stated there are twelve cost share projects being brought forward. He noted eleven of them are for residential projects. He reviewed the total cost of \$24,536.97 for twelve projects. He indicated they are all being funded at fifty percent. He presented a map showing the location of the twelve projects with the majority of the projects in Minneapolis. He stated requests are gradually coming from other cities in the District.

Eidem reviewed the Lutheran Church of Christ the Redeemer which is a project proposed by one of the Master Water Stewards. He explained the purpose of the project and plans to catch water runoff on the site.

He also reviewed a shoreline stabilization project in Plymouth. It is located in an area where there was a wetland violation, and mitigation of impacts was required. A shoreline buffer of 35-40' is proposed to stabilize the area and minimize the pollutants getting into an existing wetland.

He reviewed a project in the Stubbs Bay area where there are three large houses draining into a wetland area. There is currently minimal treatment and a small grassy area. He stated it will be getting noticeable water quality benefits. He reviewed a drainage map outlining drainage and the rain gardens proposed. He noted the rain gardens aren't very large in size, but they are three feet deep. They are designed to minimize erosion while allowing sediment to settle to the bottom of the rain gardens. He stated it will be one of the larger projects for pollutant removal that we have ever done.

He requested fifty percent funding for the three projects.

Mohn asked if there are any plans to keep screens from clogging up. Eidem reviewed plans to restore the wetland area to its original condition. He stated the rain gardens are separate from the project but will have a two-year maintenance agreement. He stated it was unknown how often the screens would need to be cleaned, but it will be spelled out in the maintenance agreement.

Baltutis stated it is a very small area and will fill up. Eidem stated they will need specific recommendations for maintenance.

Carlson stated signage should also be required and asked if the property owners are aware of this. Eidem stated the property owners are aware of the signage requirement. He stated there will also be wetland buffer signage, and this project will be promoted to the surrounding properties.

Kjolhaug asked where the Nelson project is located. Eidem reviewed the project location and indicated where aquatic invasive plants will be removed. He explained treatment will also be done to open up the water, and he discussed the different types of plants which will be added to the site.

Kjolhaug asked if the open water would be excavated. Eidem stated it is unknown how we would allow them to remove plantings. He stated buffers around the area will be required.

Osterholm was concerned about what would be done in an environment like this to keep invasive species from growing back. He was concerned about how the project could easily become overwhelmed after the first year. He stated there

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are long term challenges. He stated it is not what is done now but the results in the long term.

Holiday-Lynch asked if there is a perpetuity clause where the MCWD would come back if it is not maintained. Eidem stated with the upland buffers, there will be a recorded declaration on the property that will require them to remain. Beyond that, he was unsure how inspections are done.

Osterholm discussed the importance of assessment over time in order to learn what works and what does not work. He believed the District needs to assess what is happening.

Bushnell stated there was an easement recorded against the project. Eidem stated the old District rules required a recorded declaration on the property when there are biological plantings. He stated these rules have been revised where that is no longer the case.

Bushnell moved to approve the block of cost share projects as recommended, seconded by Oltmans. Motion carried, none opposed.

Bushnell asked if the group has a problem with approving a block of items. Casey suggested there be a consent agenda. Eidem agreed. He stated there are still many projects coming forward.

Osterholm agreed the consent agenda would be a good idea. He suggested a subcommittee for cost share projects meet prior to the meeting. Oltmans believed that was a good approach.

Rechelbacher stated a similar process is used for the Cynthia Krieg award.

Casey moved to create a subcommittee to review cost share projects, seconded by Bushnell. Motion carried, none opposed.

Oltmans explained how the committee would operate. Eidem suggested a monthly meeting would be the best option. Bushnell asked if it would be done a week before or an hour before the regular meeting. Eidem stated it could be done either way at the Committee's discretion.

5. REPORT FROM STAFF

Mamayek reported on the following:

1. Clean the Creek has been rescheduled for another time to Sunday, September 7 due to the continuing high water conditions.
2. Wednesday, July 23 is the Workshop on the Water. There is an excellent response.
3. Education and Communications discussion will be continued to August and will include a presentation on the Master Water Stewards program. There will be an update on the Cost Share program.

Molly Thompson updated the Committee on the Cynthia Krieg Grant program. She explained the application form revision and new on-line application. The plan is to streamline the process in the future.

Trevor Born updated the Committee on the Sub watershed based outreach program to help educate people about where the water in their yard ends up. He discussed the use of postcards as an outreach source. A magnet will also be mailed that discusses what

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the MCWD is doing near their water body. A report will be compiled of the results. He also stated National Night Out is in August and information and handouts are available for Committee members.

Ciardelli asked how many households will be reached with the mailings. Born stated there are 1500. Mamayek stated a 3-5% response is good. The message is wherever you live, you have an impact on water bodies.

4. APPROVAL OF MINUTES

4.1 April 23, 2014

Casey moved to approve the meeting minutes from April 23, 2014, seconded by Mohn. Motion carried, none opposed.

4.2 June 25, 2014

This item was continued to the August meeting for approval.

6. REPORT FROM CAC MEMBERS

6.1 Motions to Entertain

Casey stated he has been on the CAC since before Evenson-Marden got here and hoped we could deal with this issue tonight. He reported he attended the July 17 Board of Managers meeting which was difficult to watch. He asked for comments from the CAC about Mr. Monson's comments made at the meeting relating to Evenson-Marden's dismissal. He also asked if anyone had not read Monson's e-mail regarding what happened at the July 17 meeting and disagreed with his description of Casale's behavior.

Casey introduced the following motion: The CAC makes the finding that Mr. Casale's behavior at the July 17, 2014 Board of Managers meeting was inappropriate and adversely affects the ability of the Minnehaha Creek Watershed District to carry out its functions. Therefore, the CAC requests that Mr. Casale issue a written public apology to: Mr. Jon Monson, the public at large, staff, Board of Managers and the Citizens Advisory Committee. The public apology shall specifically state: 1) the exact behavior; 2) the behavior was inappropriate; 3) this is no excuse or justification for the behavior; and 4) the steps he will take to ensure that this does not happen again.

Bushnell seconded the motion. He stated he was not at the meeting but read written statements. He was concerned that there will be media attention at some point and this would put the MCWD into a bad light.

Shekleton stated the entire meeting is available for viewing.

Spartz discussed comments made by Monson and Casale during the Board meeting and an altercation which followed in the hallway.

Osterholm stated Monson sent e-mail to all the Mayors in the MCWD. He stated it is not about what happened during the meeting but what happened in the hallway. He asked that the people who heard it comment. He stated Monson's e-mail addresses exactly what happened.

Rechelbacher stated the exchange was very inappropriate, and it disturbed him.

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Osterholm supported the motion.
Monson was available for questions.

Osterholm called the question. He stated it is important for tonight's meeting that anyone with a conflict of interest recuses themselves from voting.

Monson clarified that Spartz's characterization that it was a shouting match was not accurate. He made no comments to Casale in the hallway.

Kjolhaug was concerned about the motion and whether it can be whittled down.

Casey restated the motion.

Mohn stated he was troubled with the behavior but was also troubled that Casale was not present. He suggested the motion be delayed until Casale can attend. Casey stated we are just asking for him to act.

Motion carried, none opposed.

Casey reviewed the Hennepin County volunteer manual which addresses behavior.

Casey introduced the following motion: The CAC makes the finding that Mr. Casale's behavior was abusive and does not comply with the Hennepin County Volunteer Manual (page 4), which states in part: "Among the infractions for which a volunteer may be immediately dismissed are...Abusive behavior towards staff, clients/customers, volunteers..." Therefore, the CAC requests that Mr. Casale's behavior be reported to Hennepin County for consideration as to whether or not he should be dismissed from the Board of Managers. Keeley seconded the motion.

Bushnell asked who will be charged with doing the reporting to Hennepin County. Casey stated it could be a staff member or a manager.

Spartz stated it might be worthwhile to determine whether Casale is a volunteer or a public official.

Shekleton discussed the difference between a volunteer and a public official. He stated it could be discussed with the County Attorney. He recognized the need to address the issue but wasn't sure he was a volunteer.

Baltutis stated as a public official, it is reprehensible behavior. Whatever the status or position, it was unacceptable.

Casey discussed his concerns about nitpicking and stonewalling.

Keeley believed it is the CAC's responsibility to move forward with the action. Casey stated staff should be responsible for contacting Hennepin County.

Bushnell suggested Casey streamline the motion on the table. He stated someone at the MCWD needs to own this and call it to the attention of Hennepin County.

Motion carried, Ciardelli Kjolhaug Oltmans and Rechelbacher abstained.

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Casey stated Monson was interrupted and not allowed his time to speak at the July 17 meeting. He indicated he was not recognized at the Board meeting when he wished to speak as well.

Casey introduced the following motion: To encourage citizen participation in our democratic institutions, the CAC requests the Board of Managers: 1) fully honor the citizens comment period on their agenda; and 2) allow CAC members to speak at any open Board meeting. Osterholm seconded the motion.

Bushnell asked if it is normal procedure to take comments from the floor. White stated it was during a portion of the meeting when public comments were not taken. Osterholm stated the CAC members present were not allowed to speak when it was subject matter directly related to what was being discussed.

Parker discussed the Chair's discretion when a closed meeting becomes an open meeting. He stated the Board meeting was not related to the CAC's request issue. He discussed the Board action relating to Evenson-Marden's personnel file.

Motion carried, none opposed.

7. OLD BUSINESS

7.1 Request for Documents

Osterholm distributed handouts from the MN Association of Watershed District Manager's Handbook. He stated the duties of the Citizens Advisory Committee and role of the Manager are outlined in detail. He summarized statements made from an attorney relating to what Evenson-Marden's rights are with regards to data practices. ***He proposed a resolution with the following findings: 1) the CAC has no confidence in the current Board to conduct the business of the District based on principles of good governance and fiduciary responsibility to the citizens living in the District; the CAC respectfully requests that the Hennepin County and Carver County Boards of Commissioners jointly and immediately initiate an independent review of the Board actions and their adherence to good governance practices and principles over the past several years; and 3) the CAC is requesting a suspension of the search for a new District Administrator until such time as the independent investigation of the Board by the County Boards of Commissioners is completed, findings reviewed, and recommendations from that investigation acted upon.***

Gen Olson discussed her survey of MCWD Mayors' reactions to the dismissal of Eric Evenson-Marden and the Mayors' concerns about the future of the MCWD as a result.

Casey seconded the motion.

Shekleford reviewed Evenson-Marden's job description. He welcomed the idea of people examining what the Board does.

Commissioners discussed the Evenson-Marden dismissal.

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Carlson stated numerous community leaders, elected officials, and concerned citizens were surprised by the dismissal of Evenson-Marden by the District's Board of Managers in April. The general appraisal of his job performance has been positive with consistent mention of improved community relations, excellent staffing choices, and increased responsiveness of staff to community concerns. Questions concerning the grounds for his dismissal seem reasonable and have yet to be addressed by the Board of Managers. Unfortunately, the Board has persisted in its unwillingness to disclose the basis for Evenson-Marden's dismissal and the personnel process following in arriving at the termination decision. She questioned the basis for the Board's reticence and if Evenson-Marden was informed of his shortcomings and given a reasonable period to improve his performance. In an effort to move forward and clear the questions that are growing in the community, the CAC requests the Board of Managers present an explanation for the dismissal or a reasonable justification for their continued unwillingness to disclose pertinent information.

Osterholm discussed his concerns about Carlson's comments. He had no confidence that this will be resolved moving forward.

Parker discussed the difficult nature of this issue. He stated none of the members of the Board has reticence to come forward and say why they voted the way they did. He stated he represents the Board to make sure they do not get sued. He stated no illegal conduct occurred. The release is prepared so we can move ahead and respond to questions. He discussed the status of the release.

Rechelbacher asked if the resolution would go forward if the personnel documents are released. Osterholm stated the issue is much bigger than the personnel issue.

Rechelbacher discussed his concerns about the resolution. He suggested it be looked at before there is a vote.

Baltutis called the question.

Aye: Keeley, Casey, Mohn, Baltutis, Osterholm, Diaz Rydstrand
Nay: Ciardelli, Oltmans, Kjolhaug
Abstain: Bushnell, Carlson, Holiday Lynch
Rechelbacher recused himself from voting

Motion carried

7.2 Discuss of Cost to Taxpayers

Casey moved that the MCWD render an itemized accounting of costs related (directly or indirectly) to the dismissal of Eric Evenson-Marden, including but not limited to out-of-pocket costs and staff time. In the event that staff finds that it does not have the authority to render said accounting, then this motion shall be considered a formal request pursuant to the Minnesota Government Data Practices Act for documents sufficient to indicate costs. Keeley reviewed the costs she knows about which totaled \$212,141 plus 50,000. Keeley seconded Motion carried, Ciardelli opposed.

Casey moved that the CAC reaffirms its request that the MCWD and Eric Evenson-Marden work together to release all documents relied upon by the Board of Managers to fire Eric Evenson-Marden and that the release of said

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documents shall not be conditioned upon Eric Evenson-Marden's release of the MCWD from all liability. Bushnell seconded.

Motion carried, Ciardelli and Rechelbacher opposed.

Blixt suggested the CAC have someone talk about what a conflict would be during a vote.

Bushnell suggested seeing what response the other motions have before we move forward with the resolution.

They discussed tabling the forwarding of the resolution to the County Boards.

Osterholm discussed the need for transparency. Shekleford discussed working with the Board.

9. SPECIAL ITEM TO ADDRESS BY CAC/STAFF BEFORE NEXT MEETING

Casey asked for a copy of the bylaws.

10. ADJOURNMENT

Bushnell moved to adjourn the CAC meeting at 9:40 p.m., which was seconded by Mohn. Motion carried, none opposed.