

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

4
5 June 9, 2016

6
7 **CALL TO ORDER**

8
9 President Sherry White called the meeting of the Minnehaha Creek Watershed District
10 Board of Managers to order at 6:53 p.m. at the District offices, 15320 Minnetonka
11 Boulevard, Minnetonka, Minnesota.

12
13 **MANAGERS PRESENT**

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15 Sherry White, Brian Shekleton, Richard Miller, Kurt Rogness, William Olson, Pam Blixt,
16 Bill Becker.

17
18 **MANAGERS ABSENT**

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20 None

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22 **MATTERS FROM THE FLOOR**

23
24 None.

25
26 **DISTRICT STAFF AND CONSULTANTS PRESENT**

27
28 Lars Erdahl, Administrator; Anna Brown, Planner-Project Manager; Becky Christopher,
29 Lead Planner-Project Manager; Tiffany Schaufler, Project and Land Program Manager;
30 James Wisker, Planning and Projects Director; Michael Welch, Counsel.

31
32 **APPROVAL OF AGENDA**

33
34 Manager White stated that permit 16-228: Park-Nicollet Floodwall should be removed
35 from the agenda. Manager Becker requested the addition of a report from the investment
36 task force. *Manager Shekleton moved and Manager Olson seconded approval of the*
37 *agenda. Upon vote, the motion carried, 7-0.*

38
39 **INFORMATION ITEMS AND CORRESPONDENCE**

40
41 Manager White noted the inclusion of a WISKI system implementation update in the
42 packet materials.

43

44 **CONSENT AGENDA**

45

46 *Manager Miller moved and Manager Rogness seconded approval of the consent*
47 *agenda, consisting of the approval of the May 26, 2016, minutes of the meeting of the*
48 *Board of Managers. Upon vote, the motion carried 7-0.*

49

50 **REGULAR AGENDA**

51

52 **Board, Committee and Task Force Reports**

53

54 Manager White reported that she attended a meeting of Long Lake-area residents, who
55 are alarmed about the poor water quality in the lake. Michael Hayman of the District staff
56 provided a presentation. She said she also attended a presentation by the Board of Water
57 and Soil Resources about the implementation of the state buffer law as revised in the last
58 legislative session. She said BWSR will consider issuing the draft policies for review at
59 its June meeting, but implementation will not begin until November of 2017. The District
60 should determine when the policies are issued whether it has any comments. She said the
61 meeting also included a report on data analysis showing that there are minimal areas of
62 the state covered by the buffer requirement that do not in fact have buffers and that the
63 amended buffer law shifts responsibility for implementation to soil and water
64 conservation districts in the state, with other local governmental units such as watershed
65 districts participating are not at their discretion. She also noted that the exemption for
66 Municipal Separate Storm Sewer System areas is not as straightforward as had been led
67 to understand. Once the current implementation policies are finalized, additional
68 implementation-assistance material would be developed.

69

70 Manager White also noted the Minnesota Association of Watershed Districts summer
71 tour in late June and wondered if the managers didn't wish to move the June 23 meeting
72 to June 30 to avoid a conflict. Manager Rogness noted that he will be attending the
73 summer tour and supported the move to June 30. The managers concurred that the
74 meeting date should be changed to June 30.

75

76 Manager Miller reported on the Program and Policy Committee meeting that took place
77 prior to this evening's board meeting. He said all managers accept Manager Blixt attend,
78 and there was a long and robust discussion of the District's purposes as being developed
79 and refined for the plan update. The committee is endeavoring to develop frameworks for
80 decisionmaking that provide a more transparent and strategic process. He said that the
81 new framework should enhance understanding of the implications of the decisions that
82 are made by the Board of Managers.

83

84 Manager White reported on the most recent meeting of the Citizens Advisory Committee,
85 noting that 11 members attended and reviewed one homeowner cost-share agreement and
86 discussed the upcoming round of 30 more in July. The committee recommended approval

87 of the application. She said that Darren Lochner of the District staff reviewed the recent
88 and future events that the District has been involved in and showcased District education
89 resources. She noted that the Board of Managers will see this presentation on an
90 upcoming agenda. She said that one of the CAC members reported that Diamond Lake
91 has seen a great influx and expansion of its goldfish population. She said that she
92 reported to the CAC on the budget process the Long Lake and buffer meetings.
93

94 Manager Becker reported on the initial meeting of the Investment Task Force, noting that
95 they members shared their perspectives on the opportunities for and costs to the District
96 from efforts to attract new investment in activities, and the need to document efforts in a
97 manner that will facilitate reporting to the board.
98

99 **Public Hearings and Presentations**

100
101 **Public Hearing on Stormwater Pollution Prevention Plan**
102

103 Becky Christopher appeared before the Board of Managers and noted the need for the
104 District to present each year its stormwater pollution prevention plan, a requirement of its
105 Municipal Separate Storm Sewer System permit with the Minnesota Pollution Control
106 Agency. Ms. Christopher stated that no written comments have been received and noted
107 that no members of the public are in attendance to comment on the SWPPP this evening.
108

109 Manager White closed the public hearing. ***Manager Shekleton moved and Manager***
110 ***Rogness seconded adoption of Resolution 16-055, authorizing staff to release the***
111 ***annual report on the Municipal Separate Storm Sewer System to the Minnesota***
112 ***Pollution Control Agency.*** Manager Blixt said that she's been trying to get a thorough
113 permit-activity report and would like to have an update on the number and types of
114 permits the District issued in the last year because she would like to have an
115 understanding of the issues that the regulatory program is dealing with. She noted that the
116 managers regularly received such a report in the past. Ms. Christopher confirmed that
117 such a report is not included in the SWPPP. She said staff has issued a request to cities in
118 the watershed for an update on their permit activity. Manager Blixt stated that she is still
119 waiting for a report on 2015 permits issued by the District. James Wisker stated that it
120 has taken longer than expected to receive information from the cities and reports don't
121 always come in on time or with all of the information that the District requests. With
122 regard to District permits, he said that he will make sure that the board receives quarterly
123 reports. ***Upon vote, the motion carried 7-0.***
124

125 **Contract with Smith Partners for Comprehensive Plan Support**
126

127 Ms. Christopher again presented to the Board of Managers the proposed resolution
128 authorizing expenditure of not-to-exceed \$38,740 for assistance with drafting and editing
129 the update to the District's comprehensive plan. Ms. Christopher explained that Smith

130 Partners' long history with the District and District policies makes it uniquely capable of
131 assisting with plan drafting. ***Manager Miller moved and Manager Shekleton seconded***
132 ***adoption of Resolution 16-056, authorizing the administrator to execute a contract with***
133 ***Smith Partners for assistance with the comprehensive plan update for an amount not-***
134 ***to-exceed \$38,740. Upon vote, the motion carried, 7-0.***

135

136 Design Contract for Jennings Bay Wetland Restoration Project

137

138 Tiffany Schaufler presented the proposed contract with RESPEC for design of the flood-
139 storage element of the Highway 101 causeway reconstruction project. Ms. Schaufler
140 explained that the floodplain work is fundamentally related to the causeway
141 redevelopment and that the District had three responses to its request for proposals for the
142 work. While RESPEC was the second-lowest-cost response, the District's experience
143 with RESPEC on the Long Lake wetland restoration project and the analysis of the
144 submitted response against the District's criteria for same led staff to recommend
145 RESPEC. Ms. Schaufler said the project is 1,000 yards of floodplain mitigation on
146 Jennings Bay. ***Manager Miller Moved and Manager Olson seconded adoption of***
147 ***Resolution 16-057, authorizing the administrator to enter into an agreement with***
148 ***RESPEC for engineering design and construction oversight services for the flood-***
149 ***storage element of the Highway 101 causeway reconstruction project for an amount***
150 ***not-to-exceed \$31,625 and authorizing the administrator to use an additional***
151 ***contingency of 10 percent of the not to exceed amount as in his judgement***
152 ***circumstances require.***

153

154 Responding to an inquiry from Manager Olson, Ms. Schaufler stated that the District has
155 not yet gotten a decision from the Lake Minnetonka Conservation District regarding the
156 shape of the redesigned causeway violating an LMCWD ordinance. She said that the
157 LMCD is still looking into it. Manager Blixt inquired as to whether the District could
158 accept a response to the request for proposals that was not the lowest price. Ms. Schaufler
159 noted that the District followed the process outlined in its RFP criteria and noted that
160 sometimes the lowest-cost proposal may not be the best value for the District. Michael
161 Welch, responding to a further inquiry from Manager White, stated that the District is
162 only obligated to select the lowest-cost bid when undergoing a sealed-bidding process. In
163 response to a question from Manager Becker, Mr. Welch noted that the responses to the
164 RFP criteria are not provided in the meeting packet because they are private data not
165 subject to public posting. But, he said, the managers can review this material if they wish.
166 Mr. Wisker stated that past policy was to accept the lowest response, but in this particular
167 case and others the District has ranked the response on quality and staff provided an
168 evaluation for consideration by a larger group of reviewers and through this process
169 RESPEC was recommended. ***Upon vote, the motion carried 7-0.***

170

171 In response to a question from Manager Olson, Mr. Wisker confirmed that staff evaluated
172 the responses to the request on quality before reviewing the cost of each. Manager Olson
173 endorsed this approach.

174

175 Contracts for Gray's Bay Shoreline Restoration

176

177 Ms. Schaufler presented the proposed contract with Wetland Habitat Restoration for work
178 on the Gray's Bay Shoreline as well as an agreement with Hennepin County for
179 installation of enhanced erosion-control measures. She stated that the idea to advance this
180 work now is to save costs and take advantage of the current growing season. She showed
181 representations of the planting areas and the plans for plantings along the causeway. She
182 stated that two contracts are proposed for the work because the District issued two
183 requests for quotes because the work involves both upland-planting work and planting
184 below the high-water mark, and staff reasoned that different contractors may be
185 interested in and qualified for each. It happened, though, that Wetland Habitat
186 Restoration was the lowest-cost respondent in each case.

187

188 Ms. Schaufler said that the third part of the request has to do with having Hennepin
189 County upgrade the quality of the shoreline erosion-control work to use coconut bio-rolls
190 as is the District's preference. She stated that the county's existing contractor provided
191 the lowest quote for the work so staff proposed to amend the current agreement with
192 Hennepin County agreement to provide for the work. Staff learned today, though, that it
193 may be possible to simply order the work under the existing agreement, therefore only
194 the authorization for the additional expenditure is necessary. ***Manager Miller moved and***
195 ***Manager Shekleton seconded adoption of resolution 16-058, authorizing the***
196 ***administrator, on advice of counsel, to enter into a contract with Wetland Habitat***
197 ***Restoration, LLC for \$15,448.05 for Gray's Bay shoreline planting, establishing a***
198 ***budget for the work not-to-exceed \$16,992.85 and authorizing the administrator to***
199 ***execute, as necessary, change orders obligating the District up to that amount;***

200

201 ***Further authorizing the administrator, on advice of counsel, to enter into a contract***
202 ***with Wetland Habitat Restoration for \$15,466 for upland plantings along Gray's Bay***
203 ***shoreline, establishing an upland-planting budget in the not-to-exceed amount of***
204 ***\$17,021.60, and authorizing the administrator to execute change orders obligating the***
205 ***District up to that amount; and***

206

207 ***Finally authorizing the president to execute an amendment, on advice of***
208 ***counsel, to the Gray's Bay shoreline agreement with Hennepin County to***
209 ***install coconut bio-rolls along the shoreline and committing the District to***
210 ***reimbursement of the costs for the work up to \$15,500.***

211

212 In response to a question from Manager Olson, Ms. Schaufler clarified the locations of
213 the plantings. ***Upon vote, the motion carried 7-0.***

214

215 Contract with LHB and Hart Howerton for Six Mile Plan Support

216

217 Anna Brown presented the proposed agreement with the Hart Howerton and LHB for
218 phase I planning for the Six Mile Creek subwatershed. She noted the revised resolution
219 provided to the managers addressing the need for some leeway for the administrator to
220 authorize an additional expenditure under the contract and to clarify that Hart Howerton
221 will be a subcontractor to LHB. Ms. Brown reviewed the history of the development of
222 the Six Mile planning process and the framework for the District to undertake further
223 development of its plan for the integration of water-resource protection into overall
224 development planning for the subwatershed. She emphasized that the current contract and
225 requested authorization is for only phase I of the work. Staff is taking this approach
226 because it is believed that the further work may be able to be minimized based on what is
227 determined in the first phase. She said that the scope and contract for subsequent phases
228 will be revised and, it is hoped, reduced based on the work done in this phase. She
229 emphasized that the budget for the work will not be what is shown in the material she's
230 provided to the managers, which is provided just for a broad sense of the overall project.
231 ***Manager Olson moved and Manager Becker seconded adoption of resolution 16-059,***
232 ***authorizing the administrator, on advice of counsel, to execute a contract with LHB***
233 ***Corporation, with a subcontract to Hart Howerton, for a total not to exceed \$37,470 for***
234 ***phase 1 of Six Mile plan development; authorizing the administrator to execute, as***
235 ***necessary, change orders obligating the District up to a total of 10 percent of the***
236 ***contract, and authorizing staff to work with LHB and Hart Howerton to develop a***
237 ***scope of work for phase 2 for the Six Mile plan development for presentation for***
238 ***approval of the managers at a subsequent meeting.***

239

240 Manager Olson stated that he believes that this work and the title of the resolution should
241 also refer to Halsted Bay. ***Manager Olson moved and Manager Shekleton seconded***
242 ***amendment of the main motion to require this change to the title of the work. Upon***
243 ***vote, the motion carried 7-0.***

244

245 In response to a question from Manager Blixt, Ms. Brown acknowledged that the work
246 has slipped off the timeline shown in the materials and noted that it took longer to work
247 through the review process. Mr. Wisker added that the work is roughly a month behind
248 but it is expected that ground can be made up in phase II. ***Upon vote, the main motion***
249 ***carried 7-0.***

250

251 STAFF UPDATES

252

253 Administrator's Report

254

255 Mr. Erdahl reported on recent mentions in the media of the District's E-Grade program
256 and AIS Spotlight communications. He stated that the Investment Task Force and staff

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257 from Redpath met to review the fund balance. He reported that staff is working with
258 Himle Rapp on preparations for celebration of the District's 50th anniversary and is
259 developing activities focusing on both the upper and lower watershed. The work will this
260 will influence the District's plan update as well as education materials. He said that a
261 joint committee has met to discuss the budgeting process and will provide a progress
262 report and organizational overview from each of the departments plus a definition list of
263 policy topics and next steps at an upcoming meeting.
264

265 Mr. Wisker stated that the Hopkins City Council and staff will take a tour of the
266 Minnehaha Creek Preserve on June 21. In response to a question from Manager Blixt,
267 Mr. Wisker stated that his understanding is that Federal Emergency Management Agency
268 floodplain maps still have not been approved, but staff can follow up and request again
269 the completion of the process. Manager Blixt noted that a Minneapolis City Council
270 office has offered to help.
271

272 **ADJOURNMENT**
273

274 There being no further business, the regular meeting of the Board of Managers adjourned
275 at 7:52 p.m.
276

277 Respectfully submitted,
278
279
280
281

282 Kurt Rogness
283 Secretary