

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

4  
5                                   **June 28, 2018**

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7                                   **CALL TO ORDER**

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9                                   The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called  
10                                   to order by President Sherry White at 7:01 p.m. at the District office, 15320 Minnetonka  
11                                   Boulevard, Minnetonka, Minnesota.

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13                                   **MANAGERS PRESENT**

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15                                   Sherry White, Brian Shekleton, Richard Miller, Kurt Rogness, William Olson, Jessica Loftus,  
16                                   William Becker.

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18                                   **MANAGERS ABSENT**

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20                                   None.

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22                                   **DISTRICT STAFF AND CONSULTANTS PRESENT**

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24                                   James Wisker, Administrator, Cathy Reynolds, Operations Manager; Becky Christopher, Senior  
25                                   Policy Planner; Anna Brown, Planner-Project Manager; Katherine Sylvia, Permitting Program  
26                                   Manager; Cole Thompson, Permitting Technician; Michael Hayman, Senior Project Planner;  
27                                   Eric Fieldseth, Aquatic Ecologist; Tiffany Schaufler; Janna Jonely, Project and Land  
28                                   Management Technician; Chris Meehan, Consulting Engineer; Michael Welch, Counsel.

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30                                   **MATTERS FROM THE FLOOR**

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32                                   Gabe Jabbour came forward to provide the managers with an update on watercraft manufacturers  
33                                   technology improvements to prevent the spread of aquatic invasive species. Mr. Jabbour stated  
34                                   that new standards are going to be in effect for model year 2019 boats and that these regulations  
35                                   are through an effort that he has been involved with for several years now and resulted in a  
36                                   Summit Conference in Las Vegas a couple of years ago. He noted that the U. S. Fish and  
37                                   Wildlife Services provided a grant to the boat manufacturers' organization to distribute  
38                                   information about the new regulations. He stated that the conference in Las Vegas motivated the  
39                                   manufacturers to aggressively take on responsibility for improving boat design to prevent  
40                                   transmission and spread of aquatic invasive species. The managers thanked Mr. Jabbour for his  
41                                   update.

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43                                   **APPROVAL OF AGENDA**

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45                                   *Manager Loftus moved and Manager Miller seconded approval of the agenda as presented.*  
46                                   *Upon vote, the motion carried 7-0.*

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**CONSENT AGENDA**

*Manager Shekleton moved and Manager Rogness seconded approval of the consent agenda, consisting of approval of the June 14, 2018, minutes of the meeting of the board of managers: approval of the general checking and surety account check registers and acceptance of the 325 Blake Road checking register, with the general checking account register consisting of checks 38836 through 39151 totaling \$590,648.54; payroll direct deposits totaling \$140,052.17; and electronic fund withdrawals totaling \$117,843.55, for total expenses of \$848,544.26; and adoption of Resolution 18-056:*

*NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the transfer of \$12,751.55 from the 325 Blake Road Capital Account (fund ending 017) to the 325 Blake Road Operations Account (fund ending 025) to uphold standard operating expenses.*

*Upon vote, the motion carried, 7-0.*

**REGULAR AGENDA**

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

President White said she would provide her report as part of the report on the Minnesota Association of Watershed Districts' summer tour.

Manager Miller reported on the Policy and Planning Committee meeting, which included an enthusiastic presentation on the Citizens Advisory Committee agenda and interaction with the board of managers' schedule. Manager Rogness said the meeting included a report on the framework for local water management plan review. He said the presentation was quite complete and provided another example of the District changing its approach to working with watershed cities to include land and water resource planning early in development and redevelopment processes.

Manager White said she attended the Minnesota Association of Watershed Districts' summer tour, and that Manager Rogness and Manager Olson also attended. Manager Olson stated that there was a tour of the Minnesota and Mississippi River, and he was struck by the intensity of the flow in the Minnesota River, with entire trees coming down, having been uprooted by rains upstream. He stated that there was also a visit to Lake Waconia and a very good presentation on a community stormwater-reuse system that has been implemented in the City of Waconia. Manager Rogness noted that there was also a useful presentation on alum treatments. Manager White added that the quality of the tour reflected the sagacity of hiring of an executive director, who is focused on programming and running MAWD.

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
6-28-2018

91 Manager White said that the upcoming meeting and event schedule is as shown in the agenda,  
92 adding that Manager Becker is the board liaison for the July 11 Citizens Advisory Committee  
93 meeting.

94

95 Enforcement Hearing – Permit 18-015, 2320 Oliver Hill, Orono

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97 Manager White opened the hearing on an enforcement matter pertaining to a discharge of  
98 pollutants at and from 2320 Oliver Hill in Orono in violation of permit 18-015 and MCWD's  
99 Illicit Discharge Detection & Elimination Rule. Katherine Sylvia appeared and provided the  
100 managers with staff's findings in the matter. Ms. Sylvia said she sent written notice of the  
101 hearing via email June 20, 2018, to Dylan Moore, of the permittee, Youngfield Homes, doing  
102 business as Country Joe Homes, at an email address provided to MWCD in the application for  
103 the permit. Written notice also was provided in person by MCWD staff member Cole Thomson  
104 to Bob Cumbow, director of operations of the permittee at the property. Written notice also was  
105 sent by Ms. Sylvia via email to property owner Charlie Dayle Hovde and by certified mail to the  
106 property owners. Ms. Sylvia said she sent notice by email and certified mail to Ed Renner,  
107 project manager at E.H. Renner & Sons.

108 Ms. Sylvia said the matter before the managers concerns the failure to establish and maintain  
109 required erosion and sediment control practices and failure to maintain required wetland buffer  
110 vegetation, as well as the discharge of pollutants to a watercourse in a manner that constitutes a  
111 harm and continued threat to waters within the jurisdiction of the Minnehaha Creek Watershed  
112 District.

113 Ms. Sylvia entered into the record the documents that had been provided to the managers in the  
114 package of materials for the meeting. Ms. Sylvia presented the findings of the MCWD staff in  
115 the matter. Ms. Sylvia stated that MCWD received an application for a permit under MCWD's  
116 Erosion Control Rule from the permittee for the construction of a single-family home at the  
117 property on January 12, 2018. The permit, number 18-015, was approved February 5, 2018.

118 She continued, noting that inspection of the property on May 31, 2018, discovered missing and  
119 non-functioning erosion control around the perimeter of the construction area of the property,  
120 and a discharge of excessive sediment and dewatering washout to the wetland buffer area on the  
121 property, wetland and an unnamed second-order watercourse that runs through the property and  
122 continues south. The stream flows south-southeast off of the property and crosses through a  
123 culvert under Watertown Road, a city street, approximately 860 feet from the property. The  
124 stream eventually connects to Long Lake Creek through a wetland complex approximately 0.38  
125 of a mile south-southeast of the property, which eventually discharges into Tanager Bay  
126 approximately 1.8 miles south-southeast of the property. MCWD staff directed the permittee to  
127 install silt fence around the active construction area, install sedimentation basins, ditch checks  
128 and/or other best-management practices to filter discharge, and to remove sediment from the  
129 stream and wetland area within seven days.

130 Ms. Sylvia continued, noting that after subsequent inspections documented in photographs that  
131 erosion-control practices had not been installed or reinstalled or secured, and that sediment in the  
132 stream had not be removed, staff issued a Notice of Probable Violation to the permittee on June

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
6-28-2018

133 15, requiring installation and repair of erosion and sediment control measures around the  
134 disturbed area, removal of discharge from the stream and wetland and implementation of  
135 measures to filter discharge from the property by June 18.

136 On June 15 MCWD staff engaged the emergency response team of the MCWD to assess the  
137 property and advise on remediation measures needed. Aided by a Safety Data Sheet provided to  
138 MCWD by onsite representatives of E.H. Renner who were engaged in well-drilling operations  
139 at the property, Wenck determined that approximately 3 cubic yards of bentonite well-drilling  
140 material and sediment had been discharged from the property and flowed approximately 850 feet  
141 down the stream, to a culvert under Watertown Road.

142 Ms. Sylvia said that on June 20, after further inspections by MCWD, documented in  
143 photographs, found that erosion-control practices had not been completely installed or repaired  
144 and continuing discharge of sediment and well-drilling material from the property to the stream,  
145 MCWD issued a compliance order to the permittee, requiring it to install and repair erosion  
146 control measures around the disturbed areas of the property, remove discharge from the stream,  
147 cease and desist all land-disturbing activities that could mobilize pollutants including additional  
148 well drilling or dewatering, and obtain necessary permission to enter downstream property and  
149 submit a plan for removal of pollutants from downstream waterbodies for MCWD approval.

150 Shawn Witherspoon, a vice president at Wenck, appeared before the managers and presented  
151 further findings. He stated that his extensive experience in working on assessment and cleanup of  
152 bentonite discharges informed his determination after walking the area during the third week of  
153 June that bentonite remained in the stream. The safety data sheet identified the composition of  
154 the well drilling fluid that is the principal component of the material that has entered the stream  
155 in discharge from the property to be a mixture of bentonite clay, calcium carbonate, smectite  
156 minerals, quartz and cristobalite. He stated that bentonite has a safety data sheet because it is a  
157 manufactured product, and it can impact water quality through excess turbidity, dissolved  
158 oxygen depletion and filling of interstitial spaces, which has the potential to adversely affect  
159 microorganisms, aquatic vegetation, macroinvertebrates and fish. In response to questions from  
160 managers, Mr. Witherspoon stated that lead levels in bentonite are unlikely to represent a public  
161 health threat.

162 Mr. Witherspoon said that at the direction of MCWD staff, Wenck installed on June 22 an  
163 underflow dam to contain the bentonite in the stream at Watertown Road. Mr. Witherspoon  
164 explained that the underflow dam was constructed of sand bags so that it would be easy to  
165 remove after the bentonite in the upstream section of the stream was removed.

166 Ms. Sylvia continued, stating that MCWD provided via a June 25 email to the permittee a scope  
167 of work for removal of the bentonite from the stream, prepared by Wenck in response to a  
168 request from MCWD staff. MCWD received a communication on June 25 from Rob Bouta of  
169 Kjolhaug Environmental Services on behalf of the permittee, along with photographs, stating and  
170 purporting to document that erosion-control measures on the property had been properly  
171 reinstalled and that cleanup measures had removed the bentonite from the stream.

172 Mr. Witherspoon stated that his inspection of the subject property on June 25 found that erosion  
173 and sediment-control measures – including double and triple layers of silt fence – had been

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
6-28-2018

174 established such that further bentonite would not reach the stream. In addition, the permittee had  
175 effectively removed the bentonite from 150 to 200 feet of the stream, leaving bentonite  
176 remaining in approximately 650 feet of the stream. He said that the remaining bentonite presents  
177 a persistent risk to water resources, as described.

178 Manager White asked whether the permittee or others associated with the project wished to  
179 present testimony to the managers. Ed Renner of E.H. Renner & Sons came forward and  
180 expressed a commitment on the part of his organization that bentonite remaining in the stream  
181 would be removed. He provided background on bentonite and how it is used in well-drilling  
182 operations, and noted that for future operations in the area of creeks and wetlands he would  
183 direct the use of containment equipment to ensure the slurry that contains bentonite would  
184 remain onsite. He further acknowledged that miscommunication with onsite Renner personnel  
185 caused the response to the discharge of the bentonite to the stream to be less extensive and not as  
186 timely as it should have been. With regard to depletion of oxygen in water caused by bentonite,  
187 he noted that the stream sometimes runs dry in the summer. He expressed some uncertainty as to  
188 whether the bentonite remaining in the stream could be mobilized, since it likely would be buried  
189 and immobilized. Mr. Renner stated that the updated bentonite safety data sheet that he provided  
190 for the record did not differ from the sheet that had been provided by onsite E.H. Renner  
191 personnel to MCWD staff in any material way from the matter before the managers this evening.

192 Rob Bouta of Kjolhaug Environmental Services stated that he had been hired by Country Joe  
193 Homes a week ago to provide expertise in assessing and determining necessary cleanup  
194 regarding the bentonite. He stated that the bentonite had been released from the property to the  
195 stream on June 8 and June 15, and that E.H. Renner had cleaned out and hauled away a  
196 substantial amount of the bentonite that made it to the stream. Erosion and sediment control  
197 practices also had been reinstalled and improved. He noted that his observations did not find  
198 bentonite remaining the stream.

199 Steve Stauber of Country Joe Homes stated that he did not have further testimony to add, but  
200 concurred in what had been offered by Mr. Renner and Mr. Bouta.

201 Ms. Sylvia noted that while the property owners were not represented or in attendance at the  
202 hearing, she had received email correspondence from Carlie Hovde indicating that she had  
203 received notice of the hearing.

204 Manager Miller stated that it is important for the District to reach out to potentially regulated  
205 persons such as the well-drillers here to advise them on how to comply with District rules. In  
206 response to a question from Manager Loftus, Ms. Sylvia stated that five rolls of silk fence were  
207 installed on June 25, roughly four weeks after staff had first discovered the discharge of  
208 bentonite slurring from the property. In response to further questions from Manager Loftus, Ms.  
209 Sylvia stated that staff had been consistently available to work with the permittee and well  
210 drillers to try to remediate the discharge. In response to a final question from Manager Loftus,  
211 Ms. Sylvia stated that the cost-recovery amount in the draft order of \$13,900 represented  
212 MCWD's out-of-pocket costs for legal and technical services. She added that she appreciates the  
213 willingness of Mr. Renner to work with District staff to achieve the goals of the regulatory  
214 department to limit the impacts from the bentonite spell.  
215

216 Mr. Wisker stated that with regard to Manager Miller's point about the need for the District to  
217 conduct proper outreach to potentially regulated parties it is very important that the District  
218 establish, implement and enforce baseline regulatory controls. He said that the regulatory  
219 department's purpose is to maintain that baseline so that the District's investment in  
220 improvements in the watershed can in fact achieve improvements. He stated that it is important  
221 for the District's credibility in the field and as an entity to be serious about enforcing its  
222 regulations and permits.  
223

224 In response to a question from Manager Shekleton, Ms. Sylvia stated that the well drilling in the  
225 upper watershed where residential and other properties are not connected to city water supply  
226 systems has not proven to be a regulatory problem. The managers expressed frustration with the  
227 delay in containing the discharge and remediating it. Manager Miller wondered about the cost of  
228 the engineer's investigation of the matter and whether it was appropriate to charge that to the  
229 permittee and well driller. Manager Loftus stated that she believes it was appropriate because the  
230 need for outside assistance had been driven by the permittee's and well-driller's failure to timely  
231 respond to the discharge. Chris Meehan came before the board of managers and stated that the  
232 circumstances do present a partnership opportunity and that the District can leverage this  
233 incident into developing best practices that can be communicated to well drillers operating in the  
234 watershed. He stated that the issue is not dissimilar to concrete washout, which used to be done  
235 in a way that discharged materials directly to storm sewers and watercourses. Over time,  
236 outreach to construction companies led to a much better implementation of practices that prevent  
237 concrete washout from reaching water resources.  
238

239 ***Manager Becker moved to adopt the findings of the draft order as supplemented with the***  
240 ***testimony of Mr. Stauber, Mr. Bouta and Mr. Renner as the findings of fact in the matter and***  
241 ***the conclusions of law as outlined in the draft order, as well as the order as recommended.***  
242 ***Manager Shekleton seconded.***  
243

244 ***After further discussion, Manager Becker and Shekleton modified and the other managers***  
245 ***concurred in an amendment of the order to set the fee recovery at \$13,900, to remove the***  
246 ***requirement that the permittee and property owner provide a financial assurance and to***  
247 ***remove paragraph 23.*** The managers further discussed the need for the District to conduct  
248 outreach to well drillers and the appropriateness of the order in light of the circumstances and  
249 especially the delay in responding on the well driller's and permittee's part to the discharge from  
250 the property. Mr. Renner stated that with regard to the issue of the delay he did want to point out  
251 that there was a response undertaken, however, he concurred that the response did not achieve  
252 enough to clean up the stream. ***Upon vote the motion carried 6-1, Manager Miller voting***  
253 ***against.*** Manager Miller noted that his vote in opposition reflects his determination that the  
254 District has not effectively educated well drillers with regard to the application of District  
255 regulatory requirements to their operations.  
256

257 Mr. Wisker stated that when compliance issues cannot be resolved in the field, they need to be  
258 brought to the board, and the District needs to be better and more efficient at accomplishing  
259 these presentations and bringing matters forward for enforcement. He added that the District has

260 not spent much time in recent years on enforcement before the board of managers and has moved  
261 into more of an inspection mode. He said that the District's rules are not punitive and do not  
262 impose fines, and that in the process of updating the rules and streamlining the operation of the  
263 regulatory program he would like to bring forward a presentation on how the regulatory program  
264 will balance consequences of noncompliance with opportunities for collaboration.

265  
266 Manager Shekelton noted the potential value of engaging the District's industry-representative  
267 group to communicate the message about the need to comply with District rules. He stated that it  
268 is not about well drillers or home framers or any other specific group but about implementing  
269 consistent standards. Mr. Wisker stated that all of these issues will be brought forward in a more  
270 organized manner in reforming and updating the regulatory program in the next year.

271  
272 Resolution 18-057: Authorization to Execute the Hennepin County TOD Grant Agreement for  
273 325 Blake Road

274  
275 Michael Hayman came before the board of managers and presented the request to authorize the  
276 agreement for transit oriented development grant funding for the demolition of 325 Blake Road.  
277 Mr. Hayman provided an overview of the status of work at 325 Blake Road and an updated  
278 budget and funding spreadsheet, setting the context for the two related items in front of the  
279 managers this evening. He stated that since the District brought on Kraus-Anderson as the master  
280 developer in May, staff and Kraus-Anderson have focused on four key areas: the real estate  
281 process, compilation of technical information, vision and design and community engagement. He  
282 stated that with regard to budget and funding, the District is well positioned. He added that  
283 yesterday the Metropolitan Council approved a grant of \$805,000 for asbestos abatement. He  
284 stated that the first request before the managers this evening is authorization of a grant agreement  
285 between the Hennepin County Housing and Redevelopment Authority and MCWD for \$500,000  
286 for demolition work. *Manager Olson moved and Manager Rogness seconded adoption of*  
287 *Resolution 18-057:*

288  
289 ***NOW, THEREFORE, BE IT RESOLVED that the MCWD Board of Managers hereby***  
290 ***approves the Grant Agreement between the Hennepin County Housing and***  
291 ***Redevelopment Authority for appropriated Transit Oriented Development funds in the***  
292 ***amount of \$500,000 for demolition work related to the Minnehaha Greenway – 325***  
293 ***Blake Road Restoration and Redevelopment Project, and authorizes the District***  
294 ***Administrator to execute the Grant Agreement.***

295  
296 In response to a question from Manager Olson, Mr. Hayman stated that the District project  
297 qualifies for transit-oriented development funding not only because of the proximity to the  
298 proposed Southwest Light Rail transit but also the adjacency to Blake Road and Metropolitan  
299 bus rapid transit. *Upon vote, the motion carried 7-0.*

300  
301 Resolution 18-058: Approval of Plans and Specifications and Authorization to Solicit Bids for  
302 Demolition of Facilities at 325 Blake Road

303

304 Mr. Hayman continued, noting that the proposed action for demolition activities includes a base  
305 bid and bid alternate for the demolition work, which reflects the timeframe under which the  
306 demolition must take place to accommodate the expansion of Blake Road. He explained that the  
307 staff and engineer structured the solicitation for bids this way because at the time it was unclear  
308 whether the asbestos abatement funding would come through such as would facilitate moving  
309 forward sooner rather than later with the alternate bid items. The District wanted to be sure to be  
310 able to facilitate the road reconstruction. He stated that the project bidding and contracting is on  
311 an extremely ambitious time frame with a hope to award the bid by July 28 with onsite work to  
312 begin shortly thereafter. ***Manager Miller moved and Manager Shekleton seconded adoption of***  
313 ***Resolution 18-058:***

314  
315 ***NOW, THEREFORE, BE IT RESOLVED, that the Minnehaha Creek Watershed***  
316 ***District Board of Managers hereby approves plans and specifications for demolition of***  
317 ***the industrial facility at 325 Blake Road; and***

318  
319 ***BE IT FURTHER RESOLVED that the MCWD Board of Managers authorizes staff to***  
320 ***solicit bids for construction.***

321  
322 ***Upon vote, the motion carried 7-0.***

323  
324 Mr. Hayman noted that the bidding and contracting will include demolition as well as  
325 remediation costs. Manager Olson secured Mr. Hayman's commitment to a world-class silt fence  
326 along the creek to prevent any illicit discharge. Manager Miller stated that under usual  
327 circumstances he would be very nervous with a project of this magnitude proceeding at the pace  
328 that it is but in this case he is not because staff has handled the development of this demolition  
329 work and redevelopment of 325 Blake Road with such aplomb.

330  
331 Resolution 18-059: Authorization to Execute a Contract with Wenck Response Services for Final  
332 Removals of Equipment and Contaminants at 325 Blake Road

333  
334 ***Manager Shekelton moved and Manager Rogness seconded adoption of Resolution 18-059:***

335  
336 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
337 ***Watershed District Board of Managers hereby authorizes the District***  
338 ***Administrator, on advice of counsel, to execute a contract with Wenck Response***  
339 ***Services for final removal of equipment and floor cleaning at 325 Blake Road***  
340 ***for an amount of \$56,454.***

341  
342 Mr. Hayman explained that the District is seeking to achieve dual savings with regard to the  
343 proposed scopes of work, one of which is for draining the glycol system and disposal of the  
344 materials, and the other for cleaning the floor of the cold storage facility so that more of the  
345 materials can be recycled. He stated that the reuse of the materials as class five can be a cost  
346 savings. In response to a question from Manager White, Mr. Hayman confirmed that the area of  
347 the facility closest to Blake Road will be cleaned first. ***Upon vote, the motion carried 7-0.*** Mr.



348 Wisker commended Mr. Hayman for managing the 325 Blake Road redevelopment project such  
349 that it has stayed on schedule this year despite some challenges to getting the property ready for  
350 redevelopment. The managers shared Mr. Wisker's appreciation for Mr. Hayman's diligence.

351  
352 Resolution 18-060: Authorization to Execute Contracts for Fish Removal Services in the Six  
353 Mile Creek-Halsted Bay Subwatershed

354  
355 Anna Brown and Eric Fieldseth appeared before the board of managers and noted that their  
356 presentation would provide an overview that is pertinent not only to the execution of contracts  
357 for fish removal but also the subsequent item before the board of managers, which is seeking  
358 authorization to purchase equipment for carp management in the Six Mile Creek-Halsted Bay  
359 Subwatershed. Ms. Brown stated that the District proposes to control carp in the subwatershed by  
360 removing adults in three different pieces by three different contractors. She noted that each of  
361 these would be carried out with funding from the grant the District received from the Lessard-  
362 Sams Outdoor Heritage Council. She reviewed the implementation of the carp removal in each  
363 of three areas of the subwatershed. She stated that the District is waiting on a grant agreement  
364 from the Department of Natural Resources and that the program will be implemented over three  
365 years. She noted that there was a complication with commercial fishing regulations that led to the  
366 District needing to offer the commercial fisherman who have the contracts for commercial  
367 fishing in each of the areas proposed for carp removal right of first refusal before going out for  
368 bids for other contractors to do the work. She stated that the cost of this program will be  
369 reimbursed by the grant and therefore there is no budget implication for the District. She  
370 reviewed the scope of work that will be formed by each of the three contractors: Don Geyer, who  
371 will provide up to three winter seinings on Parley Lake; Jeff Riedemann, who is the Halsted Bay  
372 commercial fisherman who will work in increments doing open water and winter seining; and  
373 Carp Solutions, which is a company founded by a University of Minnesota professor who will  
374 perform box netting and radio tagging in 2018 and 2019. *Manager Olson moved and Manager*  
375 *Becker seconded adoption of Resolution 18-060:*

376  
377 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District***  
378 ***Board of Managers authorizes the District Administrator, on advice of counsel, to execute***  
379 ***contracts to aid in the removal of common carp in the Six Mile Creek-Halsted Bay***  
380 ***Subwatershed consistent with the Lessard-Sams Outdoor Heritage Council Grant***  
381 ***Accomplishment Plan:***

- 382 • ***Not to exceed contract of \$9,000.00 with Don Geyer Commercial Fishing for up to***  
383 ***three winter seines***
- 384 • ***Not to exceed contract of \$135,000.00 with Jeff Riedemann Commercial Fishing for***  
385 ***up to three winter seines and up to three open water seines for each of the***  
386 ***following waterbodies across five waterbodies***
- 387 • ***Not to exceed contract of \$56,636 with Carp Solutions, LLC for baited box net***  
388 ***trapping on two lakes, and for implanting up to 80 radiotags***

389  
390 ***Upon vote the motion carried, 7-0.***  
391

392 Resolution 18-061: Authorization to Purchase Equipment for Carp Management in the Six Mile  
393 Creek-Halsted Bay Subwatershed  
394

395 Ms. Brown continued, noting that the next item for board consideration is the purchase of  
396 equipment needed for the carp operations for District staff. She said the equipment cost is part of  
397 the District match to the Lessard-Sams funding. She noted that staff proposes to purchase this  
398 equipment because while the District can contract for such work District staff can also monitor  
399 the carp removals if it purchases the boat and conducts the work itself, which will involve  
400 purchase of an electro backpack unit, aeration units as well as radio tags. In response to a  
401 question from Manager Miller, Ms. Brown noted that the proposal before the managers also  
402 includes the trailer and motor for the boat. **Manager Olson moved and Manager Miller**  
403 **seconded adoption of Resolution 18-061:**  
404

405 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
406 ***Watershed District Board of Managers authorizes the District Administrator to***  
407 ***purchase equipment to facilitate carp management in the Six Mile Creek-***  
408 ***Halsted Bay Subwatershed consistent with the Lessard-Sams Outdoor Heritage***  
409 ***Council Grant Accomplishment Plan, as follows:***

- 410 • ***\$18,450.00 for up to fifteen aeration units from Aeration Industries***  
411 ***International***
- 412 • ***\$7,075.50 for a backpack electrofisher from Halltech Aquatic***  
413 ***Research, Inc.***
- 414 • ***\$62,760.48 for an electrofishing boat from Smith-Root, Inc.***
- 415 • ***\$14,090.00 reimbursable for radio-transmitters from Advanced***  
416 ***Telemetry Systems***  
417

418 In response to a question from Manager Olson, Mr. Fieldseth stated that the Districts boats and  
419 other vehicles are stored at Minnetonka public works, which has a yard for such use. With regard  
420 to the backpack electrofishing unit, Mr. Fieldseth noted that there is training on both the use of  
421 the boat and electro backpack system and that a consultant will provide the training. Manager  
422 Olson also confirmed with staff that District will be obtaining a permit for operation of the  
423 electrofishing unit. **Upon vote the motion carried, 7-0.**  
424

425 Resolution 18-062: Authorize the District Administrator to Dispose of Two Vehicles and  
426 Purchase One New Vehicle  
427

428 Cathy Reynolds appeared to discuss how the District has five vehicles, but two of them are little  
429 used because of mechanical issues and, in one case, because it is a manual transmission that few  
430 staff members can operate. Having a reliable new vehicle will allow regulatory staff to use a  
431 District vehicle to conduct inspections rather than using their own cars. She stated that the  
432 request is for up to \$35,000 because she wants to see what the cost for the desired vehicle will be  
433 when the 2019 models come out in the state cooperative purchasing venture that the District is  
434 using for this particular purchase. **Manager Shekelton moved and Manager Becker seconded**  
435 **adoption of Resolution 18-062:**

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***NOW, THEREFORE, BE IT RESOLVED, the Minnehaha Creek Watershed District, Board of Managers authorizes the District Administrator to dispose of the 2001 Ford Ranger and the 2005 Ford Escape currently in the District inventory through the Minnesota Department of Administration live auction process and;***

***BE IT FURTHER RESOLVED, that the District Administrator is authorized to purchase one new vehicle with a make and model similar to the 2005 Ford Escape for a value not to exceed \$35,000.***

In response to a question from Manager Olson, Ms. Reynolds stated that the District would dispose of the two vehicles through a live auction. ***Upon vote the motion carried, 7-0.***

Resolution 18-063: Approval of the contract for Engineering Services

***Manager Miller moved and Manager Olson seconded adoption of Resolution 18-063:***

***NOW, THEREFORE, BE IT RESOLVED, the Minnehaha Creek Watershed District Board of Managers hereby authorizes the District Administrator to execute the contract as negotiated with Wenck for engineering services, with any final non-material changes and on advice of counsel.***

***Upon vote, the motion carried 7-0.***

Resolution 18-064: Authorization to Apply for Grant Funding Through Watershed-Based Funding Pilot Program

Becky Christopher presented the request to apply for watershed-based pilot program funding. She stated that as the Board of Water and Soil Resources shifts from competitive grant funding to a more stable funding framework, the District wants to be closely involved in the transition and engaged in the process. She stated that the agency has the program in place as a pilot for 2018-19 and the District has had some concerns that it has expressed in writing to BWSR with regard to how the program is structured in the metropolitan area. In the pilot, she noted, \$5.59 million has been allocated for the biennium across the seven-county metro area based on county boundaries and there is a base amount of \$250,000 for each county with the remainder distributed based on land area of the county. She reviewed the concerns that the District has articulated, including that the funding should be watershed-based and that incentives should be in place for the project that produces the best outcomes to be funded and for watershed organizations to be able to rely on the predictability of the funding from the state. She stated that both Carver County and Hennepin County have opted for a collaborative approach to distribution of the funding among eligible organizations within their jurisdictions and that there has been a general preference in the metro area for a land-area and tax-base formula approach. In Carver County, she stated, the organizations involved have agreed on a 50/50 land area and tax-base

480 formula that will provide the District with \$93,879, while in Hennepin County which is using the  
481 same formula, the District would receive \$149,159. She stated that the District intends to allocate  
482 the funding among three projects: 325 Blake Road stormwater project, which would utilize  
483 \$125,000; the Arden Park stream restoration project which would utilize \$124,151; and the  
484 Wasserman West restoration project which would use the \$93,879 coming from Carver County.  
485 She stated that the District would still be interested in submitting an application for the  
486 competitive grant funding and will continue to participate in and reinforce its messages regarding  
487 long-term structure of the program. In response to a question from Manager Olson, Ms.  
488 Christopher clarified that the Hennepin County funding amount would be \$249,151, noting a  
489 typographical error in the materials provided to the board. **Manager Miller moved and Manager**  
490 **Shekleton seconded adoption of Resolution 18-064:**

491  
492 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
493 ***Watershed District Board of Managers authorizes staff to apply for grant***  
494 ***funding for the project sited through the BWSR Watershed-Based Funding***  
495 ***Pilot Program.***  
496

497 Manager Olson commended staff for effectively keeping the District's voice in the mix as the  
498 funding policy is developed in a manner consistent with planning and policy-mapping efforts.  
499 Manager Miller also stated that the District is doing a good job of focusing on the issues and  
500 presenting them in a manner that is productive and collaborative with the state agency, as he  
501 noted in the presentation to the agency by Ms. Christopher that he saw. **Upon vote, the motion**  
502 **carried 7-0.**

503  
504 Preliminary Design for the Minnehaha Creek FEMA Repair Project  
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506 Tiffany Schaufler appeared before the board of managers and reviewed plans for the walls along  
507 the creek in the Minnehaha Glen and the cost of the project. With regard to operation and  
508 maintenance in the glen by the Minneapolis Park and Recreation Board, staff is hoping that the  
509 Federal Emergency Management Agency work will spur more cooperation and specified  
510 commitment by the park board to long-term maintenance. She reviewed the potential projects in  
511 the glen. In response to a question from Manager Shekleton, she stated that the boardwalk would  
512 not be changed or repaired under this particular scope of work, but rather the bank near it would  
513 be stabilized. He noted that it has panels that sometimes pop up, such as may be a hazard. She  
514 stated that she would follow up on that issue. She stated that the next area that would be repaired  
515 would be the creek near 35W, and that there are two new areas, at reaches 28 and 31, where  
516 work on Works Progress Administration walls would be deferred because the FEMA policy is to  
517 repair and not remove the walls, but the District prefers to remove them. Doing so would require  
518 a section 106 historical review and the District does not wish to undertake that at this time.  
519

520 The cost estimate for the FEMA repair was has been revised. The project was ordered at \$1.2  
521 million but the revised cost is \$760,000. Ms. Schaufler stated that repairs are hoped to be  
522 constructed between September 2018 and June 2019. She stated that District staff are tracking  
523 lessons learned from the work.

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525 The board of managers thanked Ms. Schaufler for her presentation.

526

527 Partnership Opportunities in Edina

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529 Janna Jonely appeared before the board of managers and explained that staff have been working  
530 with the City of Edina in recent weeks, presenting District plans for clean out of stormwater-  
531 management ponds that had achieved sediment levels that trigger the need for cleanout. In  
532 discussing the work with city staff, opportunities for further partnership with the city were  
533 identified in Pamela Park and for a shoreline stabilization in the Mill Pond area. She stated that  
534 staff has reviewed the survey of stormwater pond conditions performed by Wenck and  
535 determined that the pond at the Bde Maka Ska in Minneapolis and a pond in Pamela Park Edina  
536 need to be cleaned out because both had achieved the greater than 50 percent filled status. She  
537 stated that the sediment in the Bde Maka Ska pond is not contaminated, and the District is  
538 waiting for results from the Pamela Park testing. The opportunity in Pamela Park relates to  
539 reconstruction of an outfall and buckthorn removal, along with vegetation management. She  
540 cited the 2014 memorandum of understanding that the District entered with Edina, noting that it  
541 committed both parties to pursuit of collaboration opportunities wherever possible. She stated  
542 that with regard to the Mill Pond project, District staff are looking for the managers' general  
543 concurrence in having Wenck work on behalf of Edina on the design of the stabilization,  
544 notwithstanding the provision in the contract that the managers approved earlier in the evening  
545 with Wenck prohibiting contracting with other public entities in the watershed. **Manager Miller**  
546 ***moved to waive the conflict of interest provision and defer to the administrator's determination***  
547 ***to waive that provision and allow the engineer to contract for the project with the City of***  
548 ***Edina.*** Manager Miller stated that waivers of conflict are important and should come before the  
549 managers. Mr. Wisker explained that though under the contract with Wenck the administrator  
550 has the authority to waive the conflict of interest, it has been his practice to bring such waivers to  
551 the board for review. He stated that there have been instances in the past with cities of Victoria  
552 and St. Louis Park where the District has authorized the engineer to work for the city. Manager  
553 Shekleton asked what elements of the projects require design that requires Wenck's expertise  
554 and how it is that the administrator determines that there isn't a conflict. Mr. Wisker explained  
555 that the work is not engineering-heavy and that the feature requiring Wenck's expertise is a  
556 section of streambank near in the Mill Pond area. He stated that Wenck understands the District's  
557 standards for streambank work and has completed similar projects. In response to a further  
558 question from Manager Shekleton, Mr. Wisker stated that the city's priority is to stabilize the  
559 streambank, which is why having the Wenck design the work is favored. **Manager Rogness**  
560 ***seconded Manager Miller's motion.*** In response to a request from Mr. Wisker, Michael Welch  
561 clarified that the motion on the floor is to endorse the administrator's waiver of the conflict of  
562 interest for Wenck to work for the City of Edina on the project. ***Upon vote the motion carried, 6-***  
563 ***1, Manager White voting against.*** Manager Shekleton stated that he agrees with Manager Miller  
564 that waivers are an important decision and that the practice of bringing forward the waivers for  
565 board review and concurrence is a good one but the managers have a responsibility for such  
566 approvals. Tiffany Schaufler confirmed that the managers are comfortable with the project  
567 moving forward as described. In response to a further question from Manager Shekleton, Mr.

Minutes of the Regular Meeting  
Minnehaha Creek Watershed District  
Board of Managers  
6-28-2018

568 Wisker stated that he can advise the board on the fly as to the conflict policy and that it's unclear  
569 as to whether further policy consideration is needed, though it is well within the board's purview  
570 to establish a different policy.

571

572 **ADJOURNMENT**

573

574 There being no further business, the meeting of the board of managers was adjourned at 10:20  
575 p.m.

576

577 Respectfully submitted,

578

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580

581 Kurt Rogness, Secretary

DRAFT