

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

4
5 **January 10, 2019**

6
7 **CALL TO ORDER**

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9 The regular meeting of the Minnehaha Creek Watershed District was called to order by President
10 Sherry White at 7:02 p.m. on January 10, 2019, at the MCWD office, 15320 Minnetonka
11 Boulevard, Minnetonka, Minnesota.

12
13 **MANAGERS PRESENT**

14
15 Sherry White, Richard Miller, Jessica Loftus, Brian Shekleton, Kurt Rogness, William Olson.

16
17 **MANAGERS ABSENT**

18
19 William Becker.

20
21 **DISTRICT STAFF AND CONSULTANTS PRESENT**

22
23 James Wisker, Administrator; Anna Rose Brown, Planner-Project Manager; Renae Clark, Policy
24 and Grants Coordinator; Laura Domyancich, Planner-Project Manager; Michael Hayman, Project
25 Planning Manager; Cathy Reynolds, Operations Manager; Elizabeth Showalter, Permitting
26 Technician; Chris Meehan, Consulting Engineer; Michael Welch, Counsel.

27
28 **MATTERS FROM THE FLOOR**

29
30 None.

31
32 **APPROVAL OF AGENDA**

33
34 Manager White noted the need to remove the board liaisons information item. *Manager Miller*
35 *moved and Manager Rogness seconded approval of the agenda as amended. Upon vote the*
36 *motion carried 6-0.*

37
38 **CONSENT AGENDA**

39
40 Regarding resolution 19-004, Manager Loftus asked why there is a 25 percent budget
41 contingency on a copying project. Cathy Reynolds stated that the District has a number of boxes
42 in storage and the contingency is in place in part because the District is doing a certain amount of
43 cleanup at the same time that it is scanning in the files and it's not clear exactly how much work
44 there will be. *Manager Shekleton moved and Manager Rogness seconded approval of the*
45 *consent agenda, consisting of approval of the December 20, 2018, minutes and adoption of:*
46

47 **Resolution 19-001: Appointment of the 2019 Depository of District Funds**

48
49 *NOW, THEREFORE, BE IT RESOLVED, the Minnehaha Creek Watershed*
50 *District, Board of Managers hereby names Alerus Bank, Shorewood, as the*
51 *2019 official depository of District funds including escrow deposits.*

52
53 *AND BE IT FURTHER RESOLVED, that the Minnehaha Creek Watershed*
54 *District, Board of Managers directs the District Administrator to retain*
55 *Springsted to complete a banking services RFP to be completed as soon as*
56 *practicable.*

57
58 **Resolution 19-002: Appointment of the 2019 District Official Newspaper**

59
60 *NOW, THEREFORE, BE IT RESOLVED, the Minnehaha Creek Watershed*
61 *District Board of Managers hereby names the Star Tribune as the official*
62 *newspaper of the District for 2019.*

63
64 **Resolution 19-003: Approval of the 2019 Fee Schedule**

65
66 *NOW, THEREFORE, BE IT RESOLVED, the Minnehaha Creek Watershed*
67 *District Board of Managers hereby approves the following 2019 fee schedule.*

68
69 *2019 District Fee Schedule*

70

71 <i>District professional staff*</i>	<i>\$65.51</i>
72 <i>District administrative staff*</i>	<i>\$46.69</i>
73 <i>Consulting Engineer/Technician</i>	<i>\$Contracted Rate</i>
74 <i>District Counsel</i>	<i>\$Contracted Rate</i>
75 <i>Application Fee</i>	<i>\$10.00</i>
76 <i>B&W Copy costs (per 8 1/2 x 11 page)</i>	<i>\$0.25 + actual staff time</i>
77 <i>Color Copy (per 8 1/2 x 11 page)</i>	<i>\$1.00 + actual staff time</i>
78 <i>Electronic Records</i>	<i>\$cost of production</i>

79
80 *District expenses for postage, mailing labels, contracted services, and other*
81 *miscellaneous services will be billed at cost. The “Application Fee” applies to*
82 *all permits, including fast track permits. *Blended/burdened professional rate.*

83
84 **Resolution 19-004: Authorization to Approve Short-term Temporary Staff for Digital**
85 **Scanning Project**

86
87 *NOW, THEREFORE, BE IT RESOLVED, the Minnehaha Creek Watershed*
88 *District, Board of Managers hereby authorizes the District Administrator to*
89 *work with a temporary staffing agency, to retain a short-term temporary staff*

90 *member to complete the scanning project at a cost of \$8,000, and not to exceed*
91 *\$10,000.*

92
93 *Upon vote, the motion carried 6-0.*

94
95 **REGULAR AGENDA**

96
97 **Board, Committee and Task Force Reports**

98
99 Manager White stated that the videos from the annual meeting of the Minnesota Association of
100 Watershed Districts have been posted on the organization’s website, and she noted that the Metro
101 MAWD meeting is scheduled for January 29.

102
103 Manager Loftus reported from the Operations and Programs Committee meeting earlier in the
104 evening, noting that the committee received an information technology update. The next step in
105 the process will be a request for proposals for an IT consultant and updating of the District’s
106 website. She stated that the committee also received an update from James Wisker.

107
108 Manager Olson reported from the most recent meeting of the Citizens Advisory Committee that
109 the committee reviewed the District’s partnership framework and will be preparing
110 recommendations soon. He stated that 10 members of the committee were in attendance and he
111 extended his thanks to the staff for their support for the committee. He passed along one
112 recommendation from CAC member Sliv Carlson, who suggested that the District should have a
113 post mortem meeting with all partners and interested parties whenever it completes a project to
114 review the project and lessons learned. He noted that the Minneapolis Park and Recreation Board
115 has a PAC that is being chaired by former MCWD manager Jim Calkins. Manager White noted
116 that Manager Becker is slated to attend the next CAC meeting.

117
118 **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

119
120 **Permit 18-635: Lake Nokomis Shoreline Enhancement**

121
122 Elizabeth Showalter presented the staff review of the proposed project against the District’s rules
123 and the Wetland Conservation Act, noting that the District is the Local Government Unit for
124 Minneapolis. She said the Minneapolis Park and Recreation Board is pursuing a project to
125 enhance the shoreline at Lake Nokomis and provided a site map showing where the MPRB will
126 replace two stormwater outfalls and enhance vegetation around the shoreline of the lake. She
127 stated that there are fringe wetlands around the lake and that the MPRB’s plans and proposal for
128 the area incur a request for an exception from the District’s wetland buffer requirements. She
129 reviewed each of the District’s rules and noted that WCA approval is requested as well for a
130 minor adjustment to the wetland delineation approved in December, along with a no-loss
131 determination and an exemption for utility improvements.

132

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133 Ms. Showalter reviewed the project against each of the District's rules and the Shoreline and
134 Streambank Stabilization Rule in particular, noting that the MPRB is placing riprap in some
135 locations to stabilize particularly vulnerable areas. She noted that the applicant has requested an
136 exception from both the minimum and overall average buffer-area standards of the District's
137 wetland rule. She said the applicant asserts that the planned planting of native vegetation, where
138 unmowed turf would be allowed, will provide greater resource-protection benefit and also notes
139 that it is installing a hydrodynamic separator, which is not required. The applicant also wishes to
140 maintain recreational area, achieving a balance of the park's purposes with the natural resources
141 restoration goals of the project.

142
143 Ms. Showalter outlined the recommended conditions and stipulation on approval of the requests
144 before the managers. **Manager Rogness moved and Manager Miller seconded approval of the**
145 **exemption and WCA determinations.** In response to a question from Manager Shekleton
146 regarding the MPRB's plans to put riprap on a point that extends into the lake, Ms. Showalter
147 stated that because of its orientation, the point gets a great deal of wave action and the riprap was
148 determined to be needed for stabilization purposes. Manager Shekleton continued, noting that for
149 the District's project at Big Island in Minnetonka, riprap used was hidden below water levels so
150 there is no visual impact. Ms. Showalter explained that the lake had retaining walls around it
151 historically and there are historic-preservation requirements associated with work on the lake
152 because it is part of the Grand Rounds in Minneapolis. Manager Shekleton questioned whether
153 the work could not have a more naturalized aspect and inquired about one of the outfalls into the
154 lake and the stormwater contributions to it from the upgradient neighborhood. He noted that it
155 would be better if the MPRB pulled the outfall back from the lake so that inflowing stormwater
156 could be treated before it reaches the lake. He discussed that the inclusion of a hydrodynamic
157 separator in the outfall as described by staff is good, but that a more comprehensive
158 improvement would be better. He wondered if there is an opportunity to engage the MPRB to
159 enhance the project. Ms. Showalter explained that the MPRB is not necessarily done with work
160 at this location but at this time the request before the managers includes the repair of the outfall
161 as described.

162
163 Mr. Wisker stated that Tom Dietrich of the District staff is working with the Citizens Advisory
164 Committee on a screening process for applications for partnership opportunities. He said the
165 MPRB adopted a Nokomis master plan that may include pulling the sewers back later, and the
166 shoreline work would not preclude that. He said for now the tension around high groundwater
167 and stormwater projects and the community perception of the District's work in the area could
168 urge caution on the District in getting further involved in MPRB's work.

169
170 In response to further questions from the managers, Ms. Showalter stated as to the construction
171 schedule for the work, MPRB is still waiting for United States Army Corps of Engineers'
172 approval for the work. The work may not start until next winter. Manager Shekleton encouraged
173 staff to explore options for enhancing the project through a partnership between MPRB and the
174 District. In response to a question from Mr. Welch, Ms. Showalter stated that she, acting on
175 behalf of the District, already extended the deadline for review of the permit and so the District
176 has another 60 days to make a decision on the matter. Manager Miller stated that the issues

177 around Lake Nokomis are very complex and are influenced by not a great deal of scientific
178 analysis such that the District should hesitate to second-guess MPRB's schedule and agenda. He
179 encouraged staff, though, to go back and look at the Blue Water Commission's ideas for this
180 area. *Upon vote, the motion carried 5-1, Manager Shekleton voting against. Manager*
181 *Shekleton moved and Manager Miller seconded that staff should submit information on past*
182 *opportunities for resource enhancement and pollutant reduction opportunities to MPRB.*
183 *Upon vote, the motion carried 6-0. Manager Miller moved and Manager Rogness seconded*
184 *approval of Permit 18-165. Upon vote, the motion carried 5-1, Manager Shekleton voting*
185 *against.*

186

187 **ACTION ITEM**

188

189 **Election of Board Officers and Appointment of Committee Assignments**

190

191 *Manager Miller moved and Manager Olson seconded nomination of Sherri White to continue*
192 *to serve as president. Upon vote, the motion carried 6-0. Manager Shekleton moved and*
193 *Manager White seconded nomination of Bill Olson to serve as vice president. Upon vote, the*
194 *motion carried 6-0. Manager Rogness moved and Manager Olson seconded nomination of*
195 *Dick Miller to serve as treasurer. Upon vote, the motion carried 6-0. Manager Miller moved*
196 *and Manager Loftus seconded nomination of Manager Rogness to serve as secretary. Upon*
197 *vote, the motion carried 6-0.*

198

199 **Resolution 19-005: Authorization to Execute the Conservation Partners Legacy Grant** 200 **Agreement for Arden Park Restoration**

201

202 Laura Domyancich described the opportunity to execute an agreement with the state for
203 Conservation Partners Legacy grant funding for the Arden Park restoration project. Ms.
204 Domyancich described the application process and noted that this is funding that will support
205 planting and upland restoration. She said that the staff is pursuing another grant from the
206 Hennepin County Natural Resources fund. *Manager Miller moved and Manager Rogness*
207 *seconded to adopt Resolution 19-005. Upon vote, the motion carried 6-0.*

208

209 **Resolution 19-006: Approval of Richfield Local Water Management Plan**

210

211 Renae Clark came forward to present staff's review of the City of Richfield's draft local water
212 management plan. Ms. Clark noted that the city is in the Minnehaha Creek subwatershed and that
213 a significant effort by the District in the city has been the Taft-Legion project, construction of
214 which was completed in 2016. *Manager Miller moved and Manager Olson seconded adoption*
215 *of Resolution 19-006.* In response to a question from Manager Rogness, Ms. Clark described
216 flocculation as chemical binding of phosphorous molecules such that they will drop to the
217 bottom of a waterbody and be taken out of the water column. Ms. Clark noted that this is the
218 same process the District is planning to utilize at Six Mile Creek/Halsted Bay. In response to a
219 followup question from Manager Miller, Ms. Clark stated that at the beginning of the Taft-
220 Legion project, results were coming back showing a phosphorous removal rate much lower than

221 designed, but now the rate has been increased to 70 to 80 percent. In response to further
222 questions from Manager Miller, Mr. Wisker stated that the District has taken a more diligent
223 approach at Six Mile Creek/Halsted Bay informed by the experience at Taft-Legion. He stated
224 that the water quality data at Richfield could have been better and would have helped in the
225 design of the system. In response to a further question from Manager Miller, Ms. Clark stated
226 that the District is conducting annual review of monitoring results produced by the city. In
227 response to a question from Manager Olson, Ms. Clark noted that there is no floating island at
228 the Taft-Legion project. In response to a question from Manager Olson, Chris Meehan explained
229 that the system at Taft-Legion is pulling water out of the bottom of the lake and running it
230 through a flocculation system in a building, then flow is returned to the lake. In response to
231 further questions from Manager Miller, Ms. Clark stated that the city is doing the testing and that
232 the District is comfortable with the results achieved. Mr. Wisker explained that staff has alerted
233 the managers to the problems that have been experienced at Taft-Legion and is pursuing next
234 steps to improve the performance of the project. He stated that the reasons for the substandard
235 performance were overestimated removal capacity of the outset and the initial location of the
236 intake, plus staff turnover at the city and watershed. Manager Miller said that the project at Six
237 Mile Creek Halsted Bay should be much more carefully designed.

238
239 Mr. Welch confirmed with Ms. Clark that the staff and the MCWD engineer reviewed the city's
240 ordinances and determined that they provide protection of water resources at least as effective as
241 the MCWD regulatory standards if not better, noting that such a finding is critical where the city
242 will exercise sole regulatory authority in some areas, as proposed here. Ms. Clark confirmed
243 such a finding by staff and the engineer. *Upon vote, the motion carried 6-0.*

244
245 **Resolution 19-007: Approval of Minnetonka Beach Local Water Management Plan**
246

247 Ms. Clark presented the staff review of the Minnetonka Beach plan, noting that the city does not
248 wish to change its deference to MCWD for exercise of regulatory authority and administration of
249 WCA as the Local Government Unit. *Manager Olson moved and Manager Shekleton seconded*
250 *adoption of Resolution 19-007. Upon vote, the motion carried 6-0.*

251
252 **Resolution 19-008: Approval of Deephaven Local Water Management Plan**
253

254 Ms. Clark presented the Deephaven water management plan along with the Greenwood and
255 Woodland plans, noting that in each case the cities' intent is to have the District continue to serve
256 as the regulatory entity permitting land-disturbing activities and serving as the Local
257 Government Unit for WCA. *Manager Rogness moved and Manager Shekleton seconded*
258 *adoption of Resolution 19-008. Upon vote the motion carried 6-0.*

259
260 **Resolution 19-009: Approval of Greenwood Local Water Management Plan**
261

262 *Manager Olson moved and Manager Miller seconded adoption of Resolution 19-009. Upon*
263 *vote, the motion carried 6-0.*
264

265 **Resolution 19-008: Approval of Woodland Local Water Management Plan**

266

267 *Manager Olson moved and Manager Miller seconded adoption of Resolution 19-010. Upon*
268 *vote, the motion carried 6-0.*

269

270 Ms. Clark reported that 15 of the 29 local units of government in the watershed have received
271 approval from the District for their local water management plans and there are 14 remaining.
272 She stated that there are two plans that still have not been submitted and two others have come in
273 since the last review December 20. She stated that in another update on items from the December
274 20 meeting, the Metropolitan Council is coordinating with the District on reviews.

275

276 **Resolution 19-011: Approval of Change Order for Six Mile Creek/Halsted Bay Carp**
277 **Barrier Construction Contract**

278

279 Anna Brown presented a request to the Board of Managers to approve a change order lowering
280 the overall contract amount for the installation for carp barriers for the Six Mile Creek/Halsted
281 Bay project. Ms. Brown stated that staff worked with the contractor to lower the contract amount
282 to a number closer to the engineer's estimate by pursuing a different installation method that
283 does not require the use of the subcontractor. She stated that the small exceedance of the contract
284 amount over the engineer's estimate, roughly \$5,000, can be absorbed by the grant that the
285 District has secured for the project. She stated that the contractor, Blackstone, reviewed the
286 piling-installation method and figured out that it would be able to sequence the process in a way
287 that eliminated the need for the subcontractor. Ms. Brown said that with approval of this change
288 order, the notice proceed could be issued next week, however the work needs a period of cold to
289 establish ice necessary for the barrier installation. *Manager Olson moved and Manager*
290 *Shekleton seconded adoption of Resolution 19-011. Upon vote, the motion carried 6-0.*

291

292 **Resolution 19-012: Adoption of MCWD Compensation Policy**

293

294 James Wisker presented the request for board action, mentioning that only one change was made
295 in the policy from what was presented to the managers on December 20, namely that rather than
296 mandating that a compensation and classification study be conducted every five years, in
297 response to a suggestion from Manager Loftus the policy has been revised to state that a study is
298 recommended every five years. Also, Mr. Wisker addressed the question that Manager Becker
299 had on December 20 about the range of salaries utilizing the entirety of the range presented in
300 the compensation and classification study, and he explained that after further analysis with the
301 consultant Mr. Wisker has concluded that the full maximum and minimum is being utilized so no
302 change was made. *Manager Miller moved and Manager Olson seconded adoption of*
303 *Resolution 19-012.*

304

305 Manager Loftus stated that as she had indicated at the December 20 meeting, she will be voting
306 against the adoption of the policy because she believes that it is incomplete without accounting
307 in more detail for cost of benefits. *Upon vote, the motion carried 5-1, Manager Loftus voting*
308 *against.*

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Resolution 19-013: Authorization to Implement MCWD Compensation Plan

Mr. Wisker continued, stating that the item before the Board of Managers is a determination on how to implement and the cost to implement the approved pay structure. He outlined two options before the Board of Managers: The first one is to implement the plan within the established 2019 budget; option 2 is to implement this year with a budget amendment, noting that the budget amendment does not require any change in the District’s levy. He said that staff recommends option 2, based on the policy adopted by the board and the effect of this approach which makes the greatest possible adjustment while maintaining fiscal responsibility. He stated that the additional \$32,000 cost would be paid through operational reserves. ***Manager Miller moved and Manager Olson seconded adoption of Resolution 19-013, implementing option 2 and adjusting the budget accordingly.***

Manager Loftus stated that she does not support option 2 because option 1 accomplishes the goals that were established in the compensation and classification study and she does not support going over budget. Manager Shekleton stated that he tends to agree with Manager Loftus. He said he has no problem with option 2 as a structure and a plan, but implementing it next year makes sense. He hesitates to take up the operational reserve. Manager Miller stated that the action taken by the board this evening will complete a two- to three-year orientation and refocusing on the mission and he believes the District has done a good job at that. He says the District is not, with option 2, spending money that it doesn’t have. Manager Loftus noted that the District cannot fund ongoing costs with a one-time payment. **Upon vote, the motion carried 5-1, Manager Loftus voting against.**

Manager White stated that she forgot in the election of board officers item to select representation for the committees. She stated that the District could just continue with committee assignments as they are or could revisit those assignments. Manager Miller stated that making any changes to the committee structure or assignments will need more work and review, and at present the committees function effectively but could potentially after some review and analysis improve so he recommends that the District hold off on any changes at this time. Other managers stated no objections to this approach.

Administrator’s Update

Updating the managers on water levels, Mr. Wisker stated that the Lake Nokomis weir has been open since October 11 and that it is just a 0.1 of a foot below the runout elevation. He stated that Mooney Lake is at 988.8 and pumping continues.

With regard to high water, Mr. Wisker noted that he and Joel Carlson and Manager White met with Rep. Jean Wagenius with regard to her plans for the Energy and Climate Finance Committee in the Legislature. He stated that staff will be attending committee meetings and keeping the managers up to date on actions it takes.

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353 Mr. Wisker handed out a City of Edina magazine with a report on the Arden Park project,
354 commending it to the managers' review. He noted that several of the contractors noted that the
355 District has established a new level of preparedness in conducting thorough briefings in
356 preparation for construction work. He stated that after staff met with residents around Arden
357 Park, a local person who has had concerns posted on the Nextdoor app that her faith in the
358 project and in the process had been restored.

359
360 Michael Hayman came forward at Mr. Wisker's request and provided an update on the District's
361 six active construction projects: The clean out of ponds in Pamela Park and at Bde Maka Ska,
362 both of which are being dewatered; the Arden Park project where vegetation work has been
363 completed and trees have been removed and all demolition has been completed. He continued,
364 noting that with regard to the flood repair along Minnehaha Creek that the site 30 work has been
365 completed and site 26 will be completed soon, with an expectation that work below the falls will
366 be under way next week. The carp barriers the managers already heard an update on and with
367 regard to Six Mile Creek/Halsted Bay more broadly the conduit and aeration project work is
368 soon to begin.

369

370 **BOARD DISCUSSION ITEMS**

371

372 Redevelopment Sale of 325 Blake Road Property

373

374 *Manager Shekleton moved and Manager Miller seconded to convene in closed session to*
375 *discuss the value of 325 Blake Road for sale. Upon vote, the motion carried 6-0.*

376

377 The managers reconvened in open session.

378

379 **ADJOURNMENT**

380

381 There being no further business, the meeting of the board of managers adjourned at 9:50 p.m.

382

383 Respectfully submitted,

384

385

386 Kurt Rogness, Secretary