



46 Dietrich appeared before the board and expressed his excitement at coming back to the District.  
47 The managers welcomed Mr. Dietrich.

48

49 **CONSENT AGENDA**

50

51 *Manager Olson moved and Manager Rogness seconded approval of the consent agenda,*  
52 *consisting of approval of the minutes of the July 12, 2018, meeting of the board of managers;*  
53 *approval of the general checking and surety account check registers and acceptance of the 325*  
54 *Blake Road checking register – the general checking account register consisting of checks*  
55 *39152 through 39210 totaling \$542,578.78, payroll direct deposits totaling \$139,287.65, and*  
56 *electronic fund withdrawals totaling \$56,208.05, for total expenses of \$728,074.48; and*  
57 *adoption of:*

58

59 **Resolution 18-068, Authorization to Execute Contracts for Professional Services**  
60 **(Government Relations, Managed Services Provider)**

61

62 *NOW, THEREFORE, BE IT RESOLVED, the Minnehaha Creek Watershed*  
63 *District, Board of Managers hereby authorizes the District Administrator to*  
64 *execute the contracts as negotiated with Joel Carlson and Corporate*  
65 *Technologies, with any final non-material changes and on advice of counsel.*

66

67 **Resolution 18-069, Authorization to Transfer \$17,558.33 from the 325 Blake Road Capital**  
68 **Account to the 325 Blake Road Operations Account**

69

70 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*  
71 *Watershed District Board of Managers authorizes the transfer of \$17,558.33*  
72 *from the 325 Blake Road Capital Account (fund ending 017) to the 325 Blake*  
73 *Road Operations Account (fund ending 025) to uphold standard operating*  
74 *expenses.*

75

76 **Resolution 18-070, Authorization to Enter into Contract for Utility Design Services for Six**  
77 **Mile Creek Halsted Bay**

78

79 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*  
80 *Watershed District Board of Managers authorizes the District Administrator to*  
81 *execute a contract for utility design services in the Six Mile Creek-Halsted Bay*  
82 *Subwatershed consistent with the Lessard-Sams Outdoor Heritage Council*  
83 *Grant Accomplishment Plan, with Telecom Construction, Inc. in the amount of*  
84 *\$6,720.00, and that the Board establishes a utility design budget in the not to*  
85 *exceed amount of \$7,392.00, and authorizes the District Administrator, in his*  
86 *judgement, to authorize change order obligating the District up to that amount.*

87

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

89

90 **REGULAR AGENDA**

91

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

93

94 Manager White stated that she would be discussing retreat topics later in the meeting tonight.

95

96 Manager Miller reported from the Policy and Planning Committee, stating that the committee  
97 discussed the responsive policy program development and the workplan.

98

99 Manager Shekleton added a report from the most recent meeting of the Minneapolis Parks and  
100 Recreation Board, which addressed the future of the Hiawatha Golf Course in south  
101 Minneapolis. He stated that the MPRB meeting this past week unfortunately included  
102 disheartening statements on information that had been provided by Minnehaha Creek Watershed  
103 District. It was reported that generally there is a desire for the United States Geological Survey to  
104 conduct a study of the groundwater levels in the vicinity of the course. In response to a question  
105 from Manager Miller, Mr. Wisker stated that the USGS often is a partner with the District, and  
106 that it provides a certain perceived credibility to research projects. The managers thanked  
107 Manager Shekleton for his diligence in following the Hiawatha issue.

108

109 Manager White noted that the upcoming meeting and event schedule is as listed in the agenda.

110

111 **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

112

113 **Permit 18-248: Sanctuary at Oak Ridge, Hopkins**

114

115 Elizabeth Showalter presented the regulatory review of the application for a four-lot subdivision  
116 in Hopkins. She reviewed the report analyzing the requirements under the District rules  
117 applicable to the project and noted the conditions on approval recommended by staff. She  
118 explained that the permit is before the board at the request of a member of the public.

119

120 In response to Manager White's request for comments, Dr. Paul Silversteen, a resident of the  
121 Oak Ridge Place townhomes adjacent to the project, came forward and noted that he has been  
122 speaking with staff regarding to concerns about drainage into the Oak Ridge Place garage. He  
123 reported that District engineer Eric Megow agreed with another resident of the townhomes that  
124 there was a concern with regard to stormwater drainage to the garage. He also noted a concern  
125 about the planned border wall fronting Highway 7 draining additional water onto the property. In  
126 response to a question from Manager Miller, Ms. Showalter stated that District staff's review of  
127 plans and existing conditions drawings for this site discovered riser pipes on the northern border  
128 of the site adjacent to the Oak Ridge Place townhomes and noted that clean out of the structures  
129 is required and that a condition on the permit is location of those structures and avoidance of  
130 them to ensure that they continue to function. But with regard to drainage to the garage, she said  
131 that there will be no change in the volume or rate of water directed to the garage from the project  
132 and that the stormwater management plan complied with District requirements. The managers  
133 engaged staff and District engineer and Chris Meehan in further discussion on changes to the

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134 flow of stormwater from the project. Roger Anderson, the applicant and engineer for the  
135 application for the subdivision, came forward and stated there has been confusion with regard to  
136 the garage because of arrows on some of the drawings, which indicated drainage direction but as  
137 Ms. Showalter reported the drainage volume would actually be smaller than it is now. With  
138 regard to the city well that is located on the northeast corner of the development properties there  
139 is deficiency in the system, and he is working with the city to fix the problem.

140

141 In response to a question from Michael Welch, Ms. Showalter stated that there will be no  
142 creation of impervious surface on the existing parcel that is separate from the parcel to be  
143 subdivided for the homes so there is no need for drainage rights to be dedicated as part of the  
144 permitting process. ***Manager Shekleton moved and Manager Rogness seconded approval of***  
145 ***permit 18-248 with conditions recommended by staff. Upon vote, the motion carried 7-0.***

146

147 Permit 18-153: 5525 Cedar Lake Road St. Louis Park

148

149 Ms. Showalter presented a request for a variance and recommendation to delegate authority to  
150 issue a permit if the variance is approved by the board of managers for Life Time Fitness on  
151 Cedar Lake Road in St. Louis Park. Ms. Showalter explained that prior permits for work on the  
152 property were issued in 2008, 2009 and 2013. Though the District's rules include a common  
153 scheme of development framework that requires stormwater-management requirements to be  
154 considered in the aggregate and should have triggered required stormwater treatment for the  
155 entire property, staff incorrectly advised the applicant on those occasions and that for the 2013  
156 permit only best management practices were required because the particular project – a parking-  
157 lot reconstruction – resulted in decreased imperviousness on the site. Because of this, the  
158 property is now fully built out, and this new project involves only a 5,627-square foot addition  
159 that requires only 490 cubic feet of abstraction, which would remove approximately 0.2 pounds  
160 of phosphorus per year from stormwater flowing offsite. However the applicant would need to  
161 provide 29,950 cubic feet of abstraction, which would remove approximately 7.5 pounds of  
162 phosphorus per year, under the common scheme of development. Meeting this requirement  
163 would require an extensive stormwater retrofit that would significantly disrupt the applicant's  
164 operations. The applicant is seeking a variance, which is why the matter is before the managers.

165

166 Ms. Showalter explained that staff has worked with the applicant and staff at the City of St.  
167 Louis Park to try to find alternative opportunities to make up the stormwater-treatment shortfall  
168 elsewhere in the subwatershed. She reviewed the several potential projects to create or enhance  
169 stormwater treatment in the region, which drains to the city's Twin Lakes Park, then to Cedar  
170 Lake. Ms. Showalter noted the review of opportunities in the report to the managers, which  
171 found no opportunities deemed cost-effective by the District engineer. The managers discussed a  
172 number of different opportunities and questioned staff as to other possible avenues for  
173 compensatory stormwater management in the subwatershed, which is quite built-out and has  
174 significant excess-flow issues that have presented challenges for some properties. Ms. Showalter  
175 reiterated that staff is asking for the board to make a determination on approval of the variance  
176 tonight, and if the managers approve the variance, staff recommends that the managers delegate  
177 the authority to make a determination on the permit for the project. Ms. Showalter stated that

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178 staff also commends to the managers' consideration the idea that the District could enter into a  
179 memorandum of understanding with Life Time Fitness to explore opportunities to create and  
180 implement off-setting stormwater management.

181  
182 Manager White called for comments from the public. Aaron Koehler, 2902 Corporate Place,  
183 Chanhassen, came before the managers and stated that he represents the Life Time Fitness  
184 organization. He stated that when Life Time initially scoped out the proposed project, it was  
185 believed to be a fairly small and focused bit of work, however it has ballooned into a much  
186 greater issue given the stormwater treatment that is required under the District rules that was not  
187 provided under the 2013 permit. He stated that staff has worked diligently with Life Time and  
188 the parties have endeavored in earnest and good faith to explore opportunities for offsetting  
189 storage without success. He said the variance is brought forward as a last resort option and that  
190 Life Time has proposed to provide stormwater management beyond what is required, but could  
191 not find enough on site to make up for the past shortfall.

192  
193 The managers engaged staff and the District engineer in additional of the discussion of the  
194 possibilities for offsetting stormwater management. The managers discussed ownership of  
195 various parcels and opportunities to expand the stormwater-treatment capacity of the Twin Lakes  
196 pond. Ms. Showalter explained that the park is very heavily used and that the city is loath to take  
197 up any more of the park with stormwater treatment. In response to a question from Manager  
198 Shekleton, Ms. Showalter confirmed that the wetland to the west of the Life Time facility is  
199 classified Manage 3, and that the engineer did not find opportunity to enhance treatment in the  
200 pond that wouldn't require significant wetland mitigation or replacement. In response to further  
201 questions from Manager Shekleton, Ms. Showalter clarified that the Twin Lakes stormwater  
202 pond is very substantially undersized for the subwatershed in which sits; it would need to be  
203 three times larger to manage the stormwater flow it receives.

204  
205 Mr. Wisker stated that the difficulty of the present situation emanates directly from incorrect  
206 advice staff provided in 2013. He stated that Life Time has been a good partner for the District,  
207 and staff has engaged in extensive conversation with the city to try to find a solution. He stated  
208 that Life Time and staff remain open to other options. ***Manager Olson moved and Manager***  
209 ***Shekleton seconded approval of the variance and delegation of regulatory authority to decide***  
210 ***the permitting matter on permit 18-153 to staff, with direction to develop a memorandum of***  
211 ***understanding with Life Time Fitness to explore compensatory stormwater treatment options***  
212 ***in the subwatershed.*** Manager Miller stated that he would not vote to approve the motion  
213 because he believes that the problem in this subwatershed is only getting worse and the District  
214 in the past approved a variances for the Benilde-St. Margaret athletic field redevelopment and  
215 now is asked to approve another variance, but the problems in the subwatershed are getting  
216 worse. In response to a question from Manager Loftus, Mr. Welch stated that it is not standard  
217 practice that the terms of a variance would be recorded on the deed to the property, however in  
218 seeking to balance the shortfall from compliance with reasonable conditions on approval of a  
219 variance, the managers could require that the variance be recorded.

220

221 The managers further discussed options for projects in the area that could provide stormwater  
222 treatment. With regard to making the pond in the Twin Lakes Park more efficient and effective,  
223 Manager Shekleton turned to Mr. Wisker, who stated that he was not able to produce a feasibility  
224 study on the fly and staff could come back with a big-picture look at the subwatershed, but as  
225 reported, staff has already undertaken an intensive look for alternative regional treatment  
226 options. Manager Shekleton noted his support for the District redoubling its efforts to find an  
227 opportunity to create an improvement in the area. Manager Olson confirmed that his motion  
228 includes the memorandum of understanding as a condition of approval related to future activity  
229 on the property. ***On a roll call vote, the motion failed 3-4, Manager Loft, Manager Rogness,***  
230 ***Manager Miller and Manager Becker voting against.***  
231

232 In response to further discussion among the managers on how to accommodate the request for  
233 the variance and deal with the excess stormwater flow in the subwatershed, Mr. Wisker stated  
234 that Life Time is willing to continue to partner with the District. Mr. Koehler noted that he  
235 understands the managers' comments and frustration. He pointed out that the proposal put  
236 forward by his organization would be an improvement in the subwatershed albeit an incremental  
237 one. He stated that approval of the variance is a small win for all parties. He stated that the  
238 secondary piece or the second step in the process would be to get to the improvement that  
239 everyone is looking for, and that his organization is willing to make a contribution to finding that  
240 solution. However, Life Time is not a watershed manager and does not know the best way to  
241 spend such funding, but the offer was made in discussions with staff and still stands.  
242

243 In response to an inquiry from Mr. Welch, Ms. Showalter noted that the variance application was  
244 submitted in complete form on June 25. Mr. Welch said the managers could make the decision at  
245 either of its meetings in August, but the managers must make a decision on it within the statutory  
246 timeframe of 60 days. In response to a question from Manager White, Mr. Welch noted that if a  
247 decision is not timely made, the application would be approved as a matter of law.  
248

249 Manager Loftus and Manager Becker discussed their concerns with the idea of a memorandum  
250 of understanding as a relatively soft and nonspecific solution to the present problem. Escrowed  
251 funds from Life Time could provide the District with the ability to undertake a project in the  
252 area, but Mr. Wisker noted that this puts the onus of finding stormwater-management  
253 opportunities on the District, when research and review has already shown that there are no  
254 efficient stormwater-improvement opportunities in the subwatershed. The managers expressed a  
255 disinterest in a pay-to-play approach to regulation. Manager Shekleton noted that he was unsure  
256 what the cost per pound of phosphorous treatment should be and what treatment methods could  
257 be implemented to achieve a result that was commensurate with a payment that would be made  
258 by Life Time. Manager White noted that she could entertain a motion from any of the managers  
259 to simply approve the variance. ***Manager Becker moved and Manager Loftus seconded***  
260 ***reconsideration of the prior motion.*** Mr. Wisker stated that if the managers so direct, staff can  
261 reconsider subwatershed options and bring back additional information at a future meeting. ***On***  
262 ***vote, the motion carried 7-0.*** Mr. Wisker stated that staff could push Life Time to find additional  
263 resources or opportunities to improve stormwater management on its site, and that the managers  
264 could require the applicant to take that on itself or could require it to work in conjunction with

265 the District and city. The third option is for the District to take on the responsibility itself. The  
266 managers agreed that the option of working together with Life Time and the city was most  
267 advisable. **Manager Shekleton moved to table the motion to the August 9 meeting of the board**  
268 **of managers, seconded by Manager Becker. Upon vote, the motion carried 7-0.**  
269

270 Mr. Wisker stated that staff will do its utmost to bring fresh information to the managers on  
271 August 9.  
272

273 Resolution 18-071: Approval of Design of Minnehaha Creek FEMA Repairs Project and  
274 Authorization to Solicit Bids  
275

276 Tiffany Schaufler presented the final staff recommendation on projects to undertake along  
277 Minnehaha Creek and in the Minnehaha Glen utilizing Federal Emergency Management Agency  
278 flood-repair funds. She noted that staff recommends deferring projects 28 and 31 because of the  
279 complexities associated with Works Progress Administration walls located at each site, which  
280 reduces expected project expenditures by roughly \$500,000. All told, she noted, there are 11  
281 projects totaling \$301,360, approximately \$173,600 of which will be paid through the FEMA  
282 grant – a correction from the \$248,576 stated in the request for board action. She said that this is  
283 considerably under the cost estimate at the time that the project was ordered of \$1.2 million  
284 because of the removal of projects 28 and 31. **Manager Rogness moved and Manager Becker**  
285 **seconded adoption of Resolution 18-071.** Manager Shekleton asked whether vegetated  
286 reinforced soil stabilization would be used instead of hard armoring. Ms. Schaufler noted that in  
287 some of the example photos she had shown there are places where riprap and toe boulders were  
288 exposed because of low water levels. VRSS will be used above the toe boulders and in most  
289 circumstances the riprap will not be exposed. **Upon vote, the motion carried 7-0.**  
290

291 Resolution 18-072: Approval of Edina Local Water Management Plan  
292

293 Renae Clark appeared before the Board of Managers and presented staff's report on the draft  
294 Edina local water management plan. Ms. Clark explained the relationship between the  
295 implementation of the local water management plan and the District's implementation of the  
296 Balanced Urban Ecology policy framework. She provided general background on the local water  
297 management plan review and stated that the District has identified a number of partnership  
298 opportunities with the City of Edina and that the city and District will collaborate on best  
299 management practice inspection and maintenance. **Manager Miller moved and Manager**  
300 **Rogness seconded adoption of Resolution 18-072.** With regard to a question from Manager  
301 Miller, Ms. Clark stated that while Edina will be regulating stormwater management on single-  
302 family home projects, which are not subject to the District's rule, the District will exercise  
303 regulatory authority for all other areas. **Upon vote, the motion carried, 7-0.**  
304

305 Resolution 18-073: Approval of Excelsior Local Water Management Plan  
306

307 Ms. Clark presented staff's report on the Excelsior local water management plan. She said that  
308 there are fewer opportunities for partnership in the City of Excelsior, however the city will be

309 undertaking road improvements and a small area plan, as well as capital projects, while deferring  
310 exercise of regulatory authority to the District. **Manager Rogness moved and Manager**  
311 **Shekleton seconded adoption of Resolution 18-073.** Manager Olson noted that several of the  
312 bays mentioned in Ms. Clark’s report including Harrison, Jennings, Halsted and Stubbs are  
313 actually far away from the City of Excelsior. Ms. Clark said that the city drains to Lake  
314 Minnetonka, which has water-quality issues that the city will help to address as part of its  
315 partnership with the District to improve the overall quality of the resource. With regard to a  
316 question from Manager White, Ms. Clark noted that Galpin Lake in Excelsior does not have a  
317 grade but it is not impaired. **Upon vote, the motion carried, 7-0.**

318

319 Resolution 18-074: Awarding Contract for Demolition of Facilities at 325 Blake Road

320

321 Michael Hayman appeared before the board of managers and presented the bidding results for  
322 demolition of the building at 325 Blake Road. He said the District issued bids for the main  
323 portion of the project, which is the northwest area closest to Blake Road and will be redeveloped  
324 soon, and four bid alternates for demolition of the remainder of the building, storage of rubble on  
325 site, crushing of rubble, and hauling rubble away. He said staff’s recommendation is to award a  
326 contract for the base bid and alternates 1 and 3 for storage of rubble and removing it from the  
327 site. He said that design costs from Wenck Engineering have actually come in \$15,000 under  
328 budget and explained that Transit-Orientated Development, Metropolitan Council and  
329 Department of Employment and Economic Development grant funding would contribute to the  
330 work, as well as right-of-way acquisition funds. He stated that staff wanted to complete the  
331 bidding process before developing an oversight scope to determine actually what the District  
332 would be looking for oversight on. **Manager Shekleton moved and Manager Becker seconded**  
333 **adoption of Resolution 18-074. Upon vote, the motion carried, 7-0.**

334

335 Resolution 18-075: Authorization to Reimburse City of Orono for the Casco Point Shoreline  
336 Improvement Project

337

338 Telly Mamayek presented a request for action on the Casco Point cost-share project with the City  
339 of Orono. Ms. Mamayek explained the work on Casco Point and the history of the cost-share  
340 agreement between the District and the city. She said that the project work has been completed  
341 and that the city engineer submitted a certification of substantial completion last summer. The  
342 city submitted a request for reimbursement under the agreement, which was entered in 2013, in  
343 December, but staff was not able to visit the site because of weather conditions until May. Laura  
344 Domyancich of the District staff discovered that the work had been completed and the shoreline  
345 stabilization was functioning per the plans. Ms. Mamayek stated that while the contract  
346 requirements had not been completed in a timely manner before expiration and the original  
347 contract provided for a cost share amount of not-to-exceed \$34,500 as opposed to the managers’  
348 authorization of 50 percent of project cost not-to-exceed \$34,500, staff is recommending that the  
349 District pay the full amount of the committed cost share funds per the contract of \$34,500 even  
350 though the actual construction cost for the project was \$68,597.58, meaning a \$201  
351 ‘overpayment’ by the District. **Manager Miller moved and Manager Rogness seconded**  
352 **adoption of Resolution 18-075. Upon vote, the motion carried 7-0.**



353

354 President's Report

355

356 Manager White asked the managers to consider topics for a retreat to be conducted sometime in  
357 the next several weeks. She stated that the managers could do one long retreat covering a number  
358 of topics or a two-part retreat. She stated that topics to be considered included roles and  
359 responsibilities; review of information-flow between managers and staff; governance policies,  
360 which the District is obligated to review each year; committee and other manager assignments;  
361 meeting structure; brainstorming on the regulatory program; and flexible grant opportunities; or  
362 further integration of the Balanced Urban Ecology policy framework into the District's work.  
363 She is looking for input from managers on whether any of those should be excluded or all should  
364 be pursued. There was a general consensus that the managers should consider short-term goals  
365 related to the topics in an initial session, followed by a second session focusing on more long-  
366 term elements of the topics. Manager White directed Mr. Wisker to poll the managers for  
367 availability in the coming weeks. The managers considered review of Kraus-Anderson's work to  
368 date, however it is expected that the work will not be far enough along for review.

369

370 Administrator's Report

371

372 Mr. Wisker provided updates on media appearances for the District in recent weeks including an  
373 article in MinnPost on the Six-Mile subwatershed work the District is undertaking paired with a  
374 critique of how Lessard-Sams Outdoor Heritage Council funds have been used to pay off debt.  
375 He also noted that the Star Tribune did an article on aquatic invasive species boat-design issues  
376 that have be raised by Gabe Jabbour that the District has been involved with. Mr. Wisker stated  
377 that Darren Lochner of District staff worked with Target staff to undertake a cleanup at the  
378 Minnehaha Creek Preserve. He reported that the Minnesota Pollution Control Agency has issued  
379 the new construction stormwater permit and it shows that comments put together by Becky  
380 Christopher and Elizabeth Showalter resulted in some changes to the permit for the better.  
381 Regarding water-level updates, the dry weather that the District has been enjoying in recent days  
382 is good news. Lake Nokomis is at 815.2 feet, which is 2 inches below the weir, which is  
383 currently open. He stated that Lake Minnetonka is at 929.3 feet, which is very good for this time  
384 of year and staff will soon reduce flow through the dam to 20 cubic feet per second.

385

386 He handed out a mockup of a quarterly update for the manager's review and stated that any  
387 comments could be passed along before the update is printed. He stated that he and Manager  
388 White met with Hennepin County Commissioner Peter McLaughlin and Representative Jean  
389 Wagenius to discuss groundwater issues in south Minneapolis and around Lake Hiawatha. He  
390 stated that some disgruntlement was expressed with regard to some of the data that the District  
391 has been providing inasmuch as it shows that the several recent years of high rainfall amounts  
392 have led to significant groundwater recharge in the area and that groundwater levels are up to a  
393 point where they are creating some challenges for residential areas. They had questions about the  
394 creek and Lake Nokomis and the District's management thereof, notwithstanding Mr. Wisker's  
395 providing them with the information that Lake Nokomis is 30 feet below the area where  
396 groundwater is affecting homes.

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397

398 He stated that staff will continue to provide information and maintain flow of communication on  
399 these issues. He stated that Tiffany Schaufler has been spending a great deal of time on the issue  
400 – sometimes as much as half her work week. Finally, he stated that he and Manager Olson are  
401 going to have a check-in meeting with Carver County Commissioner Randy Maluchnik on  
402 August 6.

403

404 Second Quarter Review of District Administrator

405

406 *Manager Loftus moved and Manager Shekleton seconded to convene in closed session to*  
407 *review the administrator's second-quarter performance. Upon vote, the motion carried 7-0.*

408 The managers convened in closed session.

409

410 The managers reconvened in open session at 10:42 p.m.

411

412 **ADJOURNMENT**

413

414 There being no further business, the meeting of the board of managers was adjourned at 10:43  
415 p.m.

416

417 Respectfully submitted,

418

419

420

421 Kurt Rogness, Secretary