

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

4  
5                                   **November 18, 2021**

6  
7                                   **CALL TO ORDER**

8  
9                                   The regular meeting of the Minnehaha Creek Watershed District was called to order by  
10                                   President Sherry White at 7:00 p.m. on November 18, 2021. President White noted that  
11                                   this meeting was convened electronically through Zoom, pursuant to Minnesota Statutes  
12                                   13D.021, due to the COVID-19 pandemic and her determination that it is not prudent for  
13                                   the Board of Managers, or any committee thereof, to meet in person, and it is not feasible  
14                                   to provide for any member of the Board, or of the public, to meet at the regular meeting  
15                                   location. For this reason, until this determination is withdrawn by the District's presiding  
16                                   officer, chief legal counsel or chief administrative officer, the meetings of the Board and  
17                                   its committees will be convened by telephone or other electronic means as the presiding  
18                                   officer determines appropriate. All such meetings will be noticed and conducted in  
19                                   accordance with §13D.021 and all other applicable terms of the Open Meeting Law.  
20                                   President White noted that, pursuant to §13D.021, all votes will be by roll call.

21  
22                                   President White called the roll to note attendance:

23  
24                                   Hejmadi:       Present  
25                                   Loftus:        Present  
26                                   Sando:        Present  
27                                   Miller:        Present  
28                                   Olson:         Present  
29                                   Maxwell:      Absent at roll call; joined meeting at 7:03 p.m.  
30                                   White:         Present.

31  
32                                   **DISTRICT STAFF AND CONSULTANTS PRESENT**

33  
34                                   James Wisker, Administrator; Laura Domyancich-Lee, Planner-Project Manager;  
35                                   Michael Hayman, Project Planning Manager; Janna Jonely, Project and Land  
36                                   Management Technician; Chris Meehan, District Consulting Engineer; Thomas Radio,  
37                                   consulting attorney; and Louis Smith, District Counsel.

38  
39                                   **MATTERS FROM THE FLOOR**

40  
41                                   None.

42  
43                                   **APPROVAL OF AGENDA**

44  
45                                   *It was moved by Manager Miller, seconded by Manager Hejmadi to approve the*  
46                                   *Agenda as distributed. Upon roll call vote, the motion carried 6-0-1 as follows:*

47 Hejmadi: Aye  
48 Loftus: Aye  
49 Sando: Aye  
50 Miller: Aye  
51 Olson: Aye  
52 Maxwell: Absent for vote  
53 White: Aye

54

55 **CONSENT AGENDA**

56

57 President White requested that the approval of the November 4, 2021 minutes be pulled  
58 from the Consent Agenda, and noted this item would be addressed as item 11.3 on the  
59 agenda. *It was moved by Manager Maxwell, seconded by Manager Hejmadi, to*  
60 *approve the remaining items on the Consent Agenda consisting of the General*  
61 *Checking Account consisting of checks 41722 through 41753 in the amount of*  
62 *\$177,328.51; electronic funds withdrawals in the amount of \$33,777.12; manager per*  
63 *diems and reimbursement direct deposits in the amount of \$2,339.76; employee*  
64 *reimbursements - direct deposits in the amount of \$187.60; and payroll direct deposits*  
65 *in the amount of \$135,656.11; for Total General Checking expenses of \$349,289.10;*  
66 *the surety checking account bank service charge totaling \$30.00, and checks 2123*  
67 *through 2126 for a total of \$9,547.00; and electronic fund transfer of \$744,418.75 to*  
68 *Hennepin County for bond payment; and adoption of the following resolution:*

69

70 *Resolution 21-078: Approving Programmatic Maintenance Agreement with the City of*  
71 *Plymouth:*

72

73 *NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek*  
74 *Watershed District Board of Managers hereby authorizes the Board*  
75 *President, on advice of counsel, to execute a programmatic maintenance*  
76 *agreement with the City of Plymouth.*

77

78 *Upon roll call vote, the motion carried 7-0 as follows:*

79

80 Hejmadi: Aye  
81 Loftus: Aye  
82 Sando: Aye  
83 Miller: Aye  
84 Olson: Aye  
85 Maxwell: Aye  
86 White: Aye

87

88

89

90 **BOARD, COMMITTEE AND TASK FORCE REPORTS**

91  
92 Policy and Planning Committee: Manager Miller reported that the committee received a  
93 presentation from Mr. Smith on the review of the District's history from 1993-99. He  
94 asked Mr. Smith to include photos and relevant documents in the final version.

95  
96 Long Lake Association Meeting: Manager Olson reported that he attended the association  
97 meeting last week, where new officers were elected and the District's consultant Carp  
98 Solutions presented on the carp management program.

99  
100 325 Blake Road Community Meeting: Manager Sando reported that Alatus hosted a  
101 neighborhood meeting on the 325 Blake Road project on November 15. About 45 people  
102 attended, including the new Hopkins mayor and council members. Manager Sando stated  
103 that he felt there was a good exchange of questions and answers and a general positive  
104 feeling at the meeting.

105  
106 2D Modeling Update: Manager Miller reported that he and Manager Hejmadi  
107 participated in a meeting with staff to prepare for initiating the consultant interview  
108 process.

109  
110 Minnesota Association of Watershed Districts Annual Meeting and Delegate  
111 Appointments: President White noted the upcoming annual meeting and nominated  
112 President White and Manager Olson to serve as delegates, with Manager Sando as an  
113 alternate. ***It was moved by Manager Loftus, seconded by Manager Maxwell to confirm***  
114 ***these appointments. Upon roll call vote, the motion carried 7-0 as follows:***

115  
116 Hejmadi: Aye  
117 Loftus: Aye  
118 Sando: Aye  
119 Miller: Aye  
120 Olson: Aye  
121 Maxwell: Aye  
122 White: Aye

123  
124 Upcoming Meeting and Event Schedule: President White directed the managers to the  
125 meetings listed on the agenda.

126  
127 **PUBLIC HEARINGS & PRESENTATIONS**

128  
129 Public Comment on 2022 Budget

130  
131 President White invited public comments on the 2022 budget, previously adopted by the  
132 Board of Managers in September. No one appeared to present comments.

133 **ACTION ITEMS**

134

135 Resolutions 21-076 and 21-077: Authorization to Reject Bids for the Six Mile Marsh  
136 Prairie Trail and Interpretation Project; OR  
137 Authorization to Execute a Contract with Sunram Construction for Six Mile Marsh  
138 Prairie Trail Construction

139

140 Ms. Laura Domyancich-Lee appeared before the Board of Managers to review the  
141 request for board action. She noted at the November 4 meeting, the Board noted the two  
142 bids significantly exceeded the project budget, and that the Board had directed staff to  
143 provide the bidders with refined information in an effort to better understand the high  
144 bids and determine if costs could be reduced based on increased clarity. Ms.

145 Domyancich-Lee reported on the items driving the bids, including labor, materials and  
146 contingencies. She noted that further refinements in the request for bids could potentially  
147 return improved prices, including the addition of a bid alternate for a Class V trail  
148 surface, clarification that geotechnical testing is not required, and quantification of line  
149 items for installation. She noted that staff recommends rejecting bids and rebid the  
150 project accordingly.

151

152 ***Following discussion, it was moved by Manager Miller, seconded by Manager Olson to***  
153 ***remove the matter from the table for further action. Upon roll call vote, the motion***  
154 ***carried 7-0 as follows:***

155

156 Hejmadi: Aye  
157 Loftus: Aye  
158 Sando: Aye  
159 Miller: Aye  
160 Olson: Aye  
161 Maxwell: Aye  
162 White: Aye

163

164 ***It was moved by Manager Loftus, seconded by Manager Maxwell to adopt Resolution***  
165 ***21-076, Authorization to Reject Bids for the Six Mile Marsh Prairie Trail and***  
166 ***Interpretation Project as follows:***

167

168 ***NOW, THEREFORE, BE IT RESOLVED that the District Board of Managers***  
169 ***rejects all bids submitted, and directs that the District Administrator advise the***  
170 ***Board at such time as District staff finds that improved conditions for a rebid***  
171 ***exist;***

172 ***BE IT FURTHER RESOLVED that the District Administrator is to return all***  
173 ***bid bonds in accordance with the bid solicitation documents.***

174

175

176 ***Upon roll call vote, the motion carried 7-0 as follows:***

177

178 Hejmadi: Aye  
179 Loftus: Aye  
180 Sando: Aye  
181 Miller: Aye  
182 Olson: Aye  
183 Maxwell: Aye  
184 White: Aye

185

186 Resolution 21-079: Authorize Seasonal Closure of the Minnehaha Preserve Boardwalk

187

188 Ms. Janna Jonely appeared before the Board of Managers and reviewed the request for  
189 board action. ***It was moved by Manager Sando, seconded by Manager Miller to adopt***  
190 ***the following resolution:***

191

192 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
193 ***Watershed District Board of Managers authorizes the seasonal closure of the***  
194 ***Minnehaha Preserve boardwalk system for the winter of 2021-22, with wood***  
195 ***barriers and signage, to limit safety and liability concerns.***

196

197 Upon a question from Manager Olson, Ms. Jonely noted that staff could evaluate the  
198 merits of treating the wood gates. Manager Hejmadi asked whether it would still be  
199 possible for persons to climb over the gates. Ms. Jonely noted that this would still be  
200 possible, but the key is that the District will erect a barrier and signage warning of the  
201 risk and hazard. Upon a question from Manager Miller, Mr. Smith noted the District's  
202 duty to warn of the hazard. ***Upon roll call vote, the motion carried 7-0 as follows:***

203

204 Hejmadi: Aye  
205 Loftus: Aye  
206 Sando: Aye  
207 Miller: Aye  
208 Olson: Aye  
209 Maxwell: Aye  
210 White: Aye

211

212 Approval of November 4, 2021 Meeting Minutes

213

214 President White noted that on line 112, the spelling of Representative Morrison's name  
215 should be corrected. ***It was moved by President White, seconded by Manager Miller to***  
216 ***approve the minutes with this correction. Upon roll call vote, the motion carried 7-0 as***  
217 ***follows:***

218

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Board of Managers  
11-18-21

219 Hejmadi: Aye  
220 Loftus: Aye  
221 Sando: Aye  
222 Miller: Aye  
223 Olson: Aye  
224 Maxwell: Aye  
225 White: Aye

226

227 **BOARD DISCUSSION ITEMS**

228

229 Minnehaha Preserve Boardwalk

230

231 Mr. Michael Hayman and Ms. Jonely appeared before the Board of Managers and noted  
232 that this agenda item is appropriate for closed session. Mr. Smith recommended that the  
233 Board of Managers adopt a motion to move into closed session for the purpose of  
234 receiving confidential legal advice concerning litigation strategy from Mr. Radio  
235 concerning the Minnehaha Preserve Boardwalk litigation. ***It was so moved by Manager***  
236 ***Miller, seconded by Manager Sando to move into closed session for this purpose.***  
237 ***Upon roll call vote, the motion carried 7-0 as follows:***

238

239 Hejmadi: Aye  
240 Loftus: Aye  
241 Sando: Aye  
242 Miller: Aye  
243 Olson: Aye  
244 Maxwell: Aye  
245 White: Aye

246

247 Whereupon the Board of Managers went into closed session.

248

249 The Board of Managers returned to open session.

250

251 ***It was moved by Manager Miller, seconded by Manager Sando, that the Board***  
252 ***authorizes the District Administrator, on advice of counsel, to execute a legal services***  
253 ***agreement with Felhaber Larson for legal fees not to exceed \$150,000. Upon roll call***  
254 ***vote, the motion carried 7-0 as follows:***

255

256 Hejmadi: Aye  
257 Loftus: Aye  
258 Sando: Aye  
259 Miller: Aye  
260 Olson: Aye  
261 Maxwell: Aye

262 White: Aye  
263

264 **STAFF UPDATES**

265  
266 Administrator's Report  
267

268 Mr. Wisker reported on the following items:  
269

- 270 1. Staff has been coordinating actions with the local authorities concerning  
271 someone having pitched a tent on the Dutch Lake property owned by the  
272 District;  
273
- 274 2. Friends of Lake Hiawatha have contacted the District indicating their desire to  
275 appeal the decision of the Department of Natural Resources not to initiate an  
276 environmental assessment worksheet (EAW) concerning pumping of  
277 groundwater near Hiawatha golf course. Mr. Wisker communicated that the  
278 MCWD would not join in this appeal; and  
279
- 280 3. The Gray's Bay dam is closed and Lake Minnetonka is at an elevation of  
281 928.07; Minnehaha Creek is flowing at 4 cubic feet per second.  
282

283 **Adjournment**  
284

285 There being no further business, President White declared the meeting of the Board of  
286 Managers adjourned at 9:14 p.m.  
287

288 Respectfully submitted,  
289

290  
291  
292 Eugene Maxwell, Secretary