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3 **MINUTES OF THE REGULAR MEETING OF**  
4 **THE MINNEHAHA CREEK WATERSHED DISTRICT**  
5 **BOARD OF MANAGERS**

6  
7 **October 12, 2017**  
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9

10 **CALL TO ORDER**

11  
12 The regular meeting of the Minnehaha Creek Watershed District Board of Managers was called  
13 to order by President Sherry White at 6:50 p.m. at the MCWD offices, 15320 Minnetonka  
14 Boulevard, Minnetonka, Minnesota.  
15

16 **MANAGERS PRESENT**

17  
18 Sherry White, Brian Shekleton, Richard Miller, Kurt Rogness, William Olson, Bill Becker,  
19 Jessica Loftus.  
20

21 **MANAGERS ABSENT**

22  
23 None.  
24

25 **DISTRICT STAFF AND CONSULTANTS PRESENT**

26  
27 Lars Erdahl, Administrator; James Wisker, Planning and Projects Director; Becky Christopher,  
28 Lead Planner-Project Manager; Tiffany Schaufler, Project and Land Program Manager;  
29 Katherine Sylvia, Permitting Program Lead; Chris Meehan, Consulting Engineer; Chuck  
30 Holtman, Counsel.  
31

32 **MATTERS FROM THE FLOOR**

33  
34 None.  
35

36 **APPROVAL OF AGENDA**

37  
38 *Manager Olson moved, Manager Rogness seconded to approve the agenda with the deletion of*  
39 *Item 4.1, MAWD Resolution Process Update, and the addition of a compliance report as Item*  
40 *11.4. Upon vote, the motion carried 5-0 (Managers Shekleton, Miller absent from room).*  
41

42 **CONSENT AGENDA**

43  
44 *Manager Rogness moved, Manager Shekleton seconded to approve the consent agenda*  
45 *consisting of the September 28, 2017 minutes and Resolution 17-063, Authorization to Apply*  
46 *for Funding Assistance for 325 Blake Road, as follows:*

47            ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
48            ***Watershed District Board of Managers authorizes staff to apply for funding***  
49            ***assistance through the Metropolitan Council TBRA Program and Hennepin***  
50            ***County ERF Program.***

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

52

53            **REGULAR AGENDA**

54

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

56

57            **President's Report**

58

59            President White attended the 50<sup>th</sup> Anniversary event at Minnehaha Glen today and thanked  
60            Darren Lochner and Sarah Bhimani for their good work on the event. Last week, President White  
61            attended a hearing held by Senator Torres-Ray concerning the management of the Hiawatha Golf  
62            Course by the Minneapolis Park and Recreation Board. The District continues to offer itself as a  
63            technical resource as issues are worked through. President White thanked Manager Shekleton,  
64            Mr. Erdahl, Mr. Wisker, Telly Mamayek, Mike Hayman, Louis Smith and Joel Carlson for their  
65            work on this matter. President White noted that Metro MAWD will meet next week and that the  
66            MAWD Resolution Committee will meet on October 24.

67

68            **Policy and Planning Committee Meeting Report**

69

70            Manager Miller reported on the meeting just concluded, which focused principally on the 325  
71            Blake Road request for qualifications development and the District's work with the City of  
72            Hopkins. The Committee also received a staff report at Manager Becker's request regarding the  
73            success ratio on projects developed over the last ten years.

74

75            **Citizens' Advisory Committee Report**

76

77            Manager Loftus reported on the October 11 CAC meeting, her first as a manager. The CAC  
78            received a report on aquatic invasive species, including the zebra mussel issue at Lake Harriet  
79            and Minnewashta Lake. Two staff members made a presentation about the Project Maintenance  
80            and Land Management Department. Praise was given for the Gray's Bay Dam operation. Mr.  
81            Lochner provided an overview of the Master Water Stewards program. It was learned that the  
82            Long Lake Friends Association has achieved organizational status. Manager Loftus reported that  
83            now that the watershed management plan and cost-share program matters have been largely  
84            moved forward, the CAC would like Board direction as to areas of focus and contribution.

85

86            The managers discussed the best way to consider and provide direction. President White asked  
87            that a discussion be scheduled for an upcoming agenda.

88

89

90

91 Public Hearing, Watershed Management Plan

92

93 Ms. Christopher reviewed the general approach of the draft Watershed Management Plan  
94 revision (WMP), the external and internal processes by which it has been developed, and the  
95 status of the formal review process. She noted that 34 comment letters were received and  
96 reviewed by the Board at its September meeting, and that Board-approved responses were  
97 authorized and sent out on October 2. Ms. Christopher reviewed the hearing notice that was  
98 published and transmitted per statute and placed on the District website.

99

100 President White opened the public hearing.

101

102 Dick Hawley, President of the Zumbra Ridge Homeowners Association, introduced Scott  
103 Leonard, a past president and active member of the Association. Mr. Leonard read a statement  
104 regarding a long-standing issue concerning water level and drainage in Lake Zumbra.

105

106 Mr. Leonard stated that the Association has as members 50 homes and one non-profit institution  
107 with access to Lake Zumbra. He described the issues concerning Stone, Zumbra, Sunny and  
108 Auburn Lakes and the hydraulic system of which they are a part. He noted that the issues go  
109 back to the 1960's, as reviewed in the District's 2003 HHPLS study. The Association has sought  
110 assistance from the District, as well as the Minnesota Department of Natural Resources (DNR),  
111 the Three Rivers Park District (TRPD), Carver County and the City of Victoria, but the issue has  
112 not been resolved. He referenced the backflow into Lake Zumbra from Stone Lake that limits the  
113 ability of Lake Zumbra to drain. The result is flooding, persistent no-wake conditions and  
114 shoreline erosion. He asserted that obstruction by debris and the lack of District maintenance  
115 contributes to the issue. He also noted culvert updates in 2012 that have exacerbated the  
116 problem, suggesting District involvement in that work. He stated that the Association has  
117 requested information from both the DNR and the District but it has not been forthcoming. He  
118 further reviewed a recent history in which the District, after study, identified three potential  
119 remedies but concluded that none merits implementing. Mr. Leonard said all but three homes  
120 comply with the 2017 City Code regarding flood elevation, and all three have taken flood  
121 protection steps. Mr. Leonard characterized and disputed several statements of District staff at  
122 the April 13, 2017 Board of Managers meeting: first, that concerns stem from the 2014 flooding  
123 but, said Mr. Leonard, they have been long-standing and systemic; second, that a solution would  
124 affect downgradient properties but, Mr. Leonard stated, this has not been quantified; and third,  
125 that there is no permanent solution, but Mr. Leonard offered that this has not yet been  
126 demonstrated. The Association would like the Board to amend the draft WMP to include a  
127 statement of its resolve to determine and implement a true and permanent solution.

128

129 Manager Shekleton asked what a solution might be. Mr. Leonard replied that installation of flap  
130 gates, raising of culverts and system maintenance have been discussed, but that the Association  
131 looks to the District for its technical expertise. President White replied to Mr. Leonard that the  
132 Association commented on the WMP and that the Board has provided a response to those  
133 comments. It has directed that District staff convene with other groups and seek to move the

134 matter forward. Manager Miller noted that there is more water coming down Minnehaha Creek  
135 each year and he does not favor putting more water into Lake Minnetonka. Mr. Leonard replied  
136 that the Association is not seeking that outcome, but is advising that the designed system for  
137 Lake Zumbra is flawed.

138  
139 Mr. Wisker responded to certain elements of Mr. Leonard's statement. He reviewed the  
140 communications from staff to the Board beginning in 2014 regarding staff's work with other  
141 relevant government units and property owners. Mr. Wisker emphasized that the District does  
142 not own or operate, or have responsibility to maintain, elements of the hydraulic system.  
143 Culverts are owned and maintained by the road authorities. He said that the District received a  
144 request from the DNR for homeowner permit data to which it responded, and that he is not aware  
145 of any request for documents to the District directly from the Association or homeowners. Mr.  
146 Wisker further emphasized the Board's awareness that the problem is longstanding and relates  
147 principally to the topography in which the several lakes equalize elevation. Accordingly,  
148 addressing the system would require increasing the discharge at the effective outlet, which would  
149 have impacts downstream mostly on TRPD land. Mr. Wisker noted that at the time the riparian  
150 land developed, the DNR advised of potential issues relating to the difficult hydraulics caused by  
151 the natural topography. Finally, Mr. Wisker reviewed a recent meeting referenced by Mr.  
152 Leonard at the Lowry Nature Center that involved the relevant public agencies and homeowners.  
153 It was agreed that the City of Victoria would design a flapgate at the Lake Zumbra outlet and  
154 would take it to the TRPD for permitting, with District assistance in coordinating with the DNR  
155 and other technical reviews. To Mr. Wisker's knowledge, the authority to contract for design  
156 never passed the City Council. In closing, Mr. Wisker suggested that a WMP revision is not  
157 needed since the WMP does not limit projects that may arise from collaboration over time.

158  
159 President White closed the public hearing.

160  
161 Mr. Hawley reiterated that the problem has existed since the 1960's and is caused in part by  
162 culverts and other restrictions.

163  
164 ***Manager Miller moved, Manager Shekleton seconded adoption of Resolution 17-06 as***  
165 ***follows:***

166  
167 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
168 ***Watershed District Board of Managers authorizes staff to distribute the revised***  
169 ***Plan, including any final non-substantive edits, to the BWSR, Met Council, and***  
170 ***state review agencies for final review and BWSR approval.***

171 Ms. Christopher reviewed the proposed substantive revisions and advised of staff's intention to  
172 finalize edits and layouts with a goal to distribute the plan and related material to BWSR and  
173 state review agencies by October 25.

174  
175 ***Upon vote, the motion carried 7-0.***

176

177 Manager Rogness complimented Ms. Christopher for a remarkable job in bringing the WMP  
178 forward. President White offered plaudits to Ms. Christopher for WMP development and  
179 particularly for the engagement process and internal strategic planning. President White observed  
180 public process and was impressed by the control and respectfulness shown by Ms. Christopher  
181 and staff during it. Manager Miller added that the WMP has been very well executed and well  
182 received. Mr. Erdahl supported the comments of President White, especially with respect to how  
183 Ms. Christopher spearheaded community support and buy-in. Manager Shekleton added that Ms.  
184 Christopher led a very sound process to bring on board other units of government that have not  
185 always been District allies, gaining their concurrence in the District's approach that itself has  
186 been newly developed. Manager Olson concurred in these sentiments. Mr. Wisker offered a  
187 lengthy statement to formally recognize and thank Ms. Christopher both for WMP development  
188 and for the realignment of all the District's departments and functions around the WMP  
189 approach.

190

191 Resolution 17-064: Payment to City of Minnetrista for Road Assessment

192 Ms. Schaufler presented the proposed resolution to authorize District payment of a road  
193 assessment. *Manager Miller moved, Manager Olson seconded adoption of Resolution*  
194 *17-064 as follows:*

195 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***  
196 ***Watershed District Board of Managers hereby authorizes the District***  
197 ***administrator to pay the City of Minnetrista an assessment in the amount of***  
198 ***\$29,636.98 for the Halstead Drive Street Improvement Project.***  
199

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

201 Resolution 17-065: Conveyance of Excess Flood Storage Volume to City of Minnetrista

202

203 Ms. Schaufler presented the proposed resolution authorizing the District to convey to the City of  
204 Minnetrista 750 cubic yards of excess flood storage volume from the Jennings Bay Wetland  
205 Restoration/Floodplain Mitigation Project, which includes just under 500 cubic yards that the  
206 District previously agreed to convey for the City's use as flood storage replacement for the  
207 Enchanted Lane project, as well as the remaining 250.5 cubic yard excess from the project. The  
208 City would pay the District the unit construction price for the flood storage volume.

209

210 *Manager Olson moved, Manager Becker seconded adoption of Resolution 17-065, as follows:*

211

212

213 ***NOW, THEREFORE, BE IT RESOLVED, that the Minnehaha Creek***  
214 ***Watershed District Board of Managers concurs in conveying the entire 750***  
215 ***cubic yards of excess flood storage volume from the Jennings Bay Wetland***

216            ***Restoration/Floodplain Mitigation Project to the City for a payment of***  
217            ***\$37,450.33 and authorizes and ratifies that transaction.***

218  
219 ***Upon vote, the motion carried 7-0.***

220  
221 Wetland Permitting Matter

222  
223 Ms. Sylvia reported on activity at 19735 Manor Road in Deephaven that is the subject of a  
224 communication received regarding potential non-compliance and wetland impact. Ms. Sylvia  
225 reported that work was initiated in wetland and associated buffer without a required District  
226 permit, principally for the homeowner's purpose of implementing a native vegetative plan. The  
227 homeowner does now have a District permit and is performing the work in accordance with it,  
228 with District staff oversight.

229  
230 Replying to Manager Loftus, Ms. Sylvia stated that if the after-the-fact plan had been submitted  
231 in a timely way, staff would have found it compliant and approved it. Responding to Manager  
232 Olson's question, she clarified that a tree removal issue concerns trees on the northern edge of  
233 wetland within the City of Deephaven right-of-way. The trees are not in the wetland and the  
234 violation is a matter within the City's jurisdiction. Ms. Sylvia advised that she will respond to the  
235 complainant that the Board has been briefed on the matter, that the work is now occurring under  
236 a District permit, and that staff is monitoring the activity.

237  
238 **ADMINISTRATOR'S REPORT**

239  
240 Mr. Erdahl noted that the District 50<sup>th</sup> Anniversary awards event is in three weeks and thanked  
241 Ms. Mamayek for her work on event planning. Next week is the Minnesota Water Resources  
242 conference; the District will participate in two presentations, one involving Kelly Dooley, Anna  
243 Brown and the District engineer, and the second involving Eric Fieldseth and Steve McComas of  
244 Blue Water Science.

245  
246 Mr. Erdahl noted that the District participated in a presentation last Friday at the legislative  
247 hearing regarding the Hiawatha Golf Course. On Tuesday he met with Kris Larson and Ann  
248 Thies of the Minnesota Land Trust regarding conservation easement monitoring. The Land Trust  
249 is not interested in a contractual enforcement role at this time but can assist District staff in  
250 managing District land.

251  
252 Manager Miller asked whether any other third-party land trust entities might be available to  
253 provide contractual assistance. Manager Becker said he is not aware of any others. Manager  
254 Miller replied that the District therefore needs to develop its own plan for Big Island easement  
255 monitoring and enforcement. He emphasized that there are both District and State interests in the  
256 conservation purposes of the easement due to the fact that both were funding sources for the  
257 easement.

258

259 ***Manager Olson moved, Manager Miller seconded that the Administrator is to create a plan to***  
260 ***enforce the District's easements on Big Island. Upon vote, the motion carried 7-0.***  
261

262 Mr. Erdahl reported that the District has just received bank and police reports regarding an  
263 attempted fraudulent wire transfer previously noted to the Board and that was prevented by bank  
264 controls. The matter will be included in this year's audit report. Manager Miller noted that he  
265 regularly receives fraudulent emails seeking to prompt District wire transfers.  
266

267 ***Manager Miller moved, Manager Becker seconded that the Administrator is to give all***  
268 ***information regarding this matter to the District auditor and to make sure that present systems***  
269 ***are appropriate to prevent the unauthorized transfer of funds.***  
270

271 Mr. Erdahl added that the District soon will be issuing solicitations for accounting and banking  
272 services and the RFQ will speak to this. He noted that Springsted has offered guidelines.  
273

274 ***Upon vote, the motion carried 7-0.***  
275

276 Mr. Erdahl advised managers to contact staff if they would like reservations made for the  
277 MAWD conference.  
278

279  
280 **ADJOURNMENT**  
281

282 There being no further business, the regular meeting of the Minnehaha Creek Watershed District  
283 Board of Managers was adjourned at 8:30 p.m.  
284

285 Respectfully submitted,  
286

287  
288  
289 Kurt Rogness, Secretary