

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

4
5 **September 24, 2020**

6
7 **CALL TO ORDER**
8

9 The regular meeting of the Minnehaha Creek Watershed District was called to order by President
10 Sherry White at 7:00 p.m. on September 24, 2020. President White noted that this meeting was
11 convened electronically through WebEx, pursuant to Minnesota Statutes 13D.021, due to the
12 COVID-19 pandemic and her determination that it is not prudent for the Board of Managers, or
13 any committee thereof, to meet in person, and it is not feasible to provide for any member of the
14 Board, or of the public, to meet at the regular meeting location. For this reason, until this
15 determination is withdrawn by the District’s presiding officer, chief legal counsel or chief
16 administrative officer, the meetings of the Board and its committees will be convened by
17 telephone or other electronic means as the presiding officer determines appropriate. All such
18 meetings will be noticed and conducted in accordance with §13D.021 and all other applicable
19 terms of the Open Meeting Law. President White noted that, pursuant to §13D.021, all votes
20 will be by roll call.
21

22 President White called the roll to note attendance:
23

24 Hejmadi: Present
25 Loftus: Present
26 Rogness: Present
27 Miller: Present
28 Olson: Present
29 Maxwell: Present
30 White: Present
31

32 **DISTRICT STAFF AND CONSULTANTS PRESENT**
33

34 James Wisker, Administrator; Heidi Quinn, Permitting Technician; Grace Barlow, Permitting
35 Technician; Laura Domyancich, Planner – Project Manager; Michael Hayman, Project Planning
36 Manager; Gabe Sherman, Planner – Project Manager; Chris Meehan, Consulting Engineer; and
37 Louis Smith, District Counsel.
38

39 **MATTERS FROM THE FLOOR**
40

41 None.
42

43 **APPROVAL OF AGENDA**
44

45 Mr. Wisker requested that Item 11.2 be placed ahead of Item 11.1 on the agenda to accommodate
46 those present for Item 11.2. ***It was moved by Manager Miller, seconded by Manager Hejmadi***

47 *to approve the Agenda as distributed with this change. Upon roll call vote, the motion carried*
48 *7-0 as follows:*

49
50 Hejmadi: Aye
51 Loftus: Aye
52 Rogness: Aye
53 Miller: Aye
54 Olson: Aye
55 Maxwell: Aye
56 White: Aye

57

58 **CONSENT AGENDA**

59

60 *It was moved by Manager Maxwell, seconded by Manager Hejmadi, to adopt the items on the*
61 *Consent Agenda, consisting of the approval of the September 10, 2020 Board Minutes; the*
62 *General Checking Account consisting of checks 41280 through 41316 in the amount of*
63 *\$706,878.25; electronic funds withdrawals in the amount of \$38,361.17; manager per diems*
64 *and reimbursement direct deposits in the amount of \$1,625.00; employee reimbursements -*
65 *direct deposits in the amount of \$164.83; and payroll direct deposits in the amount of*
66 *\$145,862.02; and the surety checking account consisting of checks 41314 and 41315, and*
67 *electronic fund transfer of \$1,065,450.00 to Wells Fargo for 325 Blake Road re-finance.*

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

69

70 Hejmadi: Aye
71 Loftus: Aye
72 Rogness: Aye
73 Miller: Aye
74 Olson: Aye
75 Maxwell: Aye
76 White: Aye

77

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

79

80 President's Report: President White reported that she and Manager Maxwell attended a
81 Hopkins City Council meeting where the council approved the cooperative agreement for
82 325 Blake Road, and on September 21, she and Manager Loftus attended a meeting with
83 two Greenwood City Council members to discuss the District's capital improvement
84 program.

85

86 Upcoming Meeting and Event Schedule: President White directed the managers to the
87 meetings listed on the agenda; all of the meetings to be noticed and held via WebEx.

88

89 **PERMITS REQUIRING A VARIANCE OR DISCUSSION**

90

91 **Permit 20-325: Mark Lake Outlet Control Structure, Shorewood**

92

93 Ms. Heidi Quinn appeared before the Board of Managers and reviewed the request for
94 board action. She noted that the City of Shorewood has applied for a permit to install a
95 new 8” stormwater outlet structure at Mary Lake, a land-locked public water wetland.
96 The project plans show a shortfall from retaining adequate hydraulic capacity resulting in
97 the exacerbation of an existing noncompliant low-floor elevation of a property on Studer
98 Pond, and the City has requested a variance.

99

100 Ms. Quinn noted the recommendation included a condition that the city submit
101 documentation that 23445 Smithtown Road property (Garden Patch) owners consent to
102 the proposed decrease in flood freeboard, and that the Board of Managers consider
103 requiring the city to secure recordation of a declaration memorializing the noncompliant
104 flood freeboard elevation. She noted that the proposed project would increase the 100 year
105 flood elevation of Studer Pond by 7/8 inch, which would draw down in two to three
106 hours. She noted further that the Garden Patch property owners have communicated to
107 the city that they would agree to these conditions, so long as the City of Shorewood agree
108 to maintain the outlet.

109

110 Upon a request for comments from President White, Pat Niemi, 23905 Elder Town Road
111 appeared and expressed concern about the flooding issues and requested that the Board of
112 Managers approve the project.

113

114 ***It was moved by Manager Rogness, seconded by Manager Olson to approve the***
115 ***requested variance based on the findings in the staff report.*** Upon a question from
116 Manager Olson, Ms. Quinn reviewed the driveway conditions at the site. Upon a
117 question from Manager Maxwell, Ms. Quinn noted that the MCWD staff had not had
118 direct contact with the Garden Patch owners, but was aware of contacts by the
119 representatives of the City of Shorewood. Mr. Andrew Budde appeared on behalf of the
120 City of Shorewood and stated that Ms. Quinn is correct and the city representatives have
121 discussed these issues with the Garden Patch owners, and based on their open response,
122 the city is prepared to comply with the proposed conditions.

123

124 ***Upon roll call vote, the motion to approve the variance carried, 7-0 as follows:***

125

126 Hejmadi: Aye

127 Loftus: Aye

128 Rogness: Aye

129 Miller: Aye

130 Olson: Aye

131

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132 Maxwell: Aye
133 White: Aye

134

135 *It was moved by Manager Maxwell, seconded by Manager Olson to require that the*
136 *City obtain recordation of a declaration memorializing the noncompliant flood*
137 *freeboard elevation after approval of a draft by District staff.*

138

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

140

141 Hejmadi: Aye
142 Loftus: Aye
143 Rogness: Aye
144 Miller: Aye
145 Olson: Aye
146 Maxwell: Aye
147 White: Aye

148

149 *It was moved by Manager Maxwell, seconded by Manager Olson to approve the permit with*
150 *the conditions recommended by staff. Upon roll call vote, the motion carried, 7-0 as follows:*

151

152 Hejmadi: Aye
153 Loftus: Aye
154 Rogness: Aye
155 Miller: Aye
156 Olson: Aye
157 Maxwell: Aye
158 White: Aye

159

160 **ACTION ITEMS**

161

162 Resolution 20-074: Approval of City of Wayzata Granting of Variances from Two City
163 Ordinances for the Construct of a Parking Structure at Barry Avenue and Lake Street East

164

165 Ms. Grace Barlow appeared before the Board of Managers and reviewed the request for
166 board action. She explained that the proposed parking structure is subject to City
167 ordinances concerning Wetland Protection and Stormwater Management Rules, and that
168 by virtue of a 2009 memorandum of understanding implementing District approval of the
169 City's local water management plan, the City exercises sole regulatory authority in these
170 realms and the District does not apply its rules within City boundaries. However, the
171 MOU provides that in accordance with Minnesota Statutes §103B.211, subdivision
172 1(a)(3)(ii), the MCWD must approve the granting of any variance under a Wayzata
173 ordinance for which the MCWD has ceased to exercise regulatory authority.

174

175 Ms. Barlow reviewed the requested variances from the wetland protection and
176 stormwater management ordinances. Mr. Mike Kelly, director of public works for the
177 City of Wayzata, appeared before the Board of Managers and provided further
178 background on the project and expressed the City's commitment to protecting water
179 resources. *It was moved by Manager Maxwell, seconded by Manager Hejmadi to adopt*
180 *Resolution 20-074 as follows:*

181
182 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
183 ***Watershed District Board of Managers approves the City of Wayzata's grant of***
184 ***variances from its Wetland Protection and Stormwater Management ordinances***
185 ***on the terms proposed.***

186
187 Manager Miller stated that he did not feel he had enough information to support the requested
188 variances and intended to oppose the motion. Manager Rogness expressed concern about the
189 project and upon his further questions, Mr. Kelly reviewed the alternatives considered, the details
190 of the parking ramp design and allocation of spaces. Upon questions from President White, Ms.
191 Barlow stated that the project would result in better water quality conditions for the wetland, and
192 Mr. Kelly reviewed the groundwater conditions at the site.

193
194 *Upon roll call vote, the motion carried, 5-2 as follows:*

195
196 Hejmadi: Aye
197 Loftus: Aye
198 Rogness: Nay
199 Miller: Nay
200 Olson: Aye
201 Maxwell: Aye
202 White: Aye

203
204 Resolution 20-073: Approval of Phase II Amendment to IT Consultant Contract

205
206 Mr. Alex Steele appeared before the Board of Managers and reviewed the request for
207 board action.

208
209 *It was moved by Manager Miller, seconded by Manager Olson to adopt Resolution 20-*
210 *073 as follows:*

211
212 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek***
213 ***Watershed District Board of Managers hereby approves the amendment to the***
214 ***contract, with any minor changes approved by District Counsel, with WSB for***
215 ***IT consulting services for 2021 Phase II of the IT update and authorizes the***

216 *District Administrator to sign the contract for an amount not-to-exceed \$55,000*
217 *in 2021.*

218
219 *Upon roll call vote, the motion carried, 7-0 as follows:*

220
221 Hejmadi: Aye
222 Loftus: Aye
223 Rogness: Aye
224 Miller: Aye
225 Olson: Aye
226 Maxwell: Aye
227 White: Aye

228
229 Resolution 20-075: Authorization to contract with University of Wisconsin-Stout to perform
230 sediment core analysis

231
232 20-076: Authorization to contract with Wenck Associates to develop alum treatment
233 specifications

234
235 Ms. Laura Domyancich appeared before the Board of Managers to review the requests for board
236 action.

237
238 *It was moved by Manager Olson, seconded by Manager Rogness, to adopt Resolution 20-075*
239 *as follows:*

240
241 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed***
242 ***District Board of Managers authorizes the District Administrator to execute a contract***
243 ***with the University of Wisconsin-Stout to analyze sediments from the Wassermann***
244 ***West Pond for an amount not to exceed \$9,780.***

245
246 Upon a question from Manager Maxwell, Ms. Domyancich stated that she had no indication
247 from the University of Wisconsin-Stout that COVID-19 would cause any delay in the project.

248
249 *Upon roll call vote, the motion carried, 7-0 as follows:*

250
251 Hejmadi: Aye
252 Loftus: Aye
253 Rogness: Aye
254 Miller: Aye
255 Olson: Aye
256 Maxwell: Aye
257 White: Aye

258

259 *It was moved by Manager Rogness, seconded by Manager Hejmadi, to adopt Resolution 20-*
260 *076 as follows:*

261
262 ***NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed***
263 ***District Board of Managers authorizes the District Administrator to execute a contract***
264 ***with Wenck Associates to develop alum treatment specifications for Wassermann Lake***
265 ***and Wassermann West Pond for an amount not to exceed \$15,800.***
266

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

268
269 Hejmadi: Aye
270 Loftus: Aye
271 Rogness: Aye
272 Miller: Aye
273 Olson: Aye
274 Maxwell: Aye
275 White: Aye
276

277 **BOARD DISCUSSION ITEMS**

278
279 Arden Park Construction Update

280
281 Ms. Laura Domyancich appeared before the Board of Managers and reviewed the current status
282 of construction of the Arden Park Project. Manager Miller thanked Ms. Domyancich for great
283 work in following up on the remedial actions required.

284
285 325 Blake Road Financial Framework Dynamic Evaluation

286
287 Mr. Michael Hayman and Mr. Gabe Sherman appeared before the Board of Managers to review
288 the latest work on the financial framework. Mr. Hayman reviewed the key planning decisions
289 for the project and confirmed that the City of Hopkins had approved the cooperative agreement
290 with several clarifications to the Vision document attached as an exhibit. He stated that staff
291 viewed these changes to be consistent with the Board's intent and non-substantive but would be
292 pleased to answer any questions. Managers had no questions on the Vision document. Mr.
293 Hayman reviewed the process for the RFP for design services of the parallel project component
294 for public improvements at the site. An informational meeting was held on September 17 and
295 the deadline for submissions has been extended to October 19.

296
297 Mr. Hayman reviewed the five early steps agreed to in the cooperative agreement. He noted the
298 upcoming feasibility milestone which will provide an opportunity to assure that the District and
299 the City have a joint comfort level with the value ranges, elements of a successful project, and
300 general feasibility to proceed with the solicitation of developers. The Board should have

301 confidence in the accuracy of the range of land value based on market and model inputs and be
302 informed of the major levers or key variables that are most likely to impact this range.

303
304 Mr. Hayman stated that Mr. Jon Commers of Donjek and Ms. Mary Bujold of Maxfield were
305 present and prepared to brief the Board of Managers in closed session concerning market
306 conditions, value ranges, and other elements of potential terms of an offer to sell a portion of 325
307 Blake Road in Hopkins.

308
309 Closed Session: Discussion of Terms of Potential Sale of a Portion of 325 Blake Road in
310 Hopkins

311
312 *It was moved by Manager Miller, seconded by Manager Hejmadi to move into closed session*
313 *for the purpose stated by Mr. Hayman above. Upon roll call vote, the motion carried, 7-0 as*
314 *follows:*

315
316 Hejmadi: Aye
317 Loftus: Aye
318 Rogness: Aye
319 Miller: Aye
320 Olson: Aye
321 Maxwell: Aye
322 White: Aye

323
324 Whereupon the Board of Managers went into closed session.

325
326 The Board of Managers returned to open session.

327
328 **STAFF UPDATES**

329
330 Administrator's Report

331
332 Mr. Wisker reported on the following items:

333
334 1. Current water levels at Lake Minnetonka and Lake Nokomis are low due to low
335 precipitation levels; September 2020 precipitation to date is 25.2" and in 2019 was 34".
336 The current level of Lake Minnetonka is 928.75 and the Gray's Bay Dam is discharging
337 at 20 cfs. Staff anticipates reaching the fall closeout elevation of 928.6 in the next several
338 weeks.

339
340 2. Staff has continued discussions with Mr. Bob Volkenant, a citizen in Maple Plain
341 northeast of County Road 81 and County Road 6, concerned with high water that
342 impedes his hay production. Staff has explained that the high water conditions are due to

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- 343 elevated groundwater and not due to sediment in the drainage system. Mr. Volkenant has
344 nevertheless offered to remove the accumulated sediment at his cost.
345
- 346 3. The District has confirmed that Hennepin County will complete the bond refinance for
347 325 Blake Road and the District will save \$75,000 per year through this refinancing.
348
- 349 4. The Citizens Advisory Committee meeting in August noted the impact of COVID-19 on
350 operations, engagement and discussion for the committee. Ms. Kim LaBo is pursuing
351 noted action steps and the new outreach manager will also work to evaluate the role of
352 the CAC.
353
- 354 5. Commissioner Jan Callison will appear at the next board meeting in October, which will
355 be her last appearance prior to the completion of her term and service on the Hennepin
356 County Board. Mr. Wisker requested manager input on a resolution of appreciation to
357 Commissioner Callison.
358

359 **Adjournment**

360
361 There being no further business, President White declared the meeting of the Board of Managers
362 adjourned at 10:41 p.m.

363
364 Respectfully submitted,

365
366
367
368 Kurt Rogness, Secretary
369