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

6
7 **August 21, 2014**
8

9 **CALL TO ORDER**

10
11 The special meeting of the Minnehaha Creek Watershed District Board of Managers was called
12 to order by President Sherry White at 6:45 p.m. at the District offices, 15320 Minnetonka
13 Boulevard, Minnetonka, Minnesota 55345.
14

15 **MANAGERS PRESENT**

16
17 Sherry Davis White, James Calkins, Richard Miller, Pam Blixt, Jeffrey Casale, William Olson,
18 and Brian Shekleton.
19

20 **MANAGERS ABSENT**

21
22 None.
23

24 **OTHERS PRESENT**

25
26 Jeff Spartz, Interim District Administrator; David Mandt, District Operations Manager; Becky
27 Houdek, District Planning Specialist; James Wisker, District Director of Planning, Project and
28 Land Conservation Programs; Craig Dawson, District AIS Director; and Eric Fieldseth, District
29 AIS Specialist.
30

31 **MATTERS FROM THE FLOOR**

32
33 None.
34

35 **APPROVAL OF AGENDA**

36
37 President White proposed amending the agenda to add the following items:
38

39 5.2 Christmas Lake Early Detection Monitoring Report

40 5.3 Manager Casale's Conduct at the July 17, 2014 Board of Manager's Meeting

41 5.4 Manager Jeff Casale's July 31, 2014 Letter and Distribution by the Interim District
42 Administrator

43 5.5 Minnehaha Creek Watershed District Code of Conduct and Decorum Policy
44

45 *It was moved by Manager Miller, seconded by Manager Shekleton, to approve the agenda with*
46 *these changes. Upon vote, the motion carried, 7-0.*

47 Manager Blixt suggested adding an additional agenda item to discuss the recent Presidential
48 Disaster Declaration in Hennepin County, specifically any flooding impact to the Minnehaha
49 Falls Lower Glen. Mr. David Mandt stated that staff is collecting this information and would
50 bring a report to an upcoming meeting next month.

51

52 **DISCUSSION ITEMS**

53

54 2015 Budget

55

56 Administrator Spartz reviewed the budget process, the timetable for setting a public hearing,
57 further Board discussion, and adoption of the budget and levies. He suggested that additional
58 board discussion is possible on August 28; he recommended that a public hearing be set for
59 September 4, and that the Board of Managers vote to approve the budget and levy on September
60 11. Mr. Spartz noted that in recent years the District budget has exceeded its levy, relying on the
61 spending of reserves, and that the Board of Managers will need to address longer term budget
62 planning as those reserves are spent down. Mr. Spartz' invited David Mandt to review the
63 proposed budget and levies in greater detail.

64

65 Mr. David Mandt appeared before the Board of Managers and reviewed the process for
66 establishing work plans for all departments at the District, which have now been approved by the
67 Board of Managers. He noted that these work plans would be incorporated into the budget
68 worksheet. Mr. Mandt noted that the proposed budget for 2015 is roughly \$14 million, and the
69 proposed levy is \$8 million, with the difference being paid through reserves. Mr. Mandt noted
70 that the proposed levy reflects a 5 percent increase over the levy of 2014. Ms. Becky Houdek
71 appeared before the Board of Managers and reviewed further budget detail for District projects
72 and programs.

73

74 Manager Shekleton asked if any of the staff had developed estimates of damage to the
75 Minnehaha Falls Glen area. Mr. James Wisker appeared before the Board of Managers and stated
76 that District staff is coordinating with Hennepin County Emergency Management, as well as the
77 Army Corp of Engineers and the Minneapolis Park and Recreation Board. Estimates of damage
78 have been submitted to the County and in the future, a federal representative will walk the
79 affected area with local representatives to assess the damage in relation to the high water and
80 flooding. Mr. Wisker explained how this estimate of damage had been considered in the budget
81 process. Manager Casale noted that he has recently visited the Glen area and found that
82 buckthorn had returned, leaving him to wonder about the status of maintenance activities at the
83 site. Mr. Wisker explained the Minneapolis Park and Recreation Board's role in maintenance
84 activities and the District's request to meet and followup on these and other items.

85

86 Ms. Houdek continued with further review of additional budget adjustments recommended by
87 staff to reduce the proposed expenses in the 2015 budget.

88

89 Mr. Craig Dawson appeared before the Board of Managers and reviewed the next steps in the
90 budget and levy process. He noted that the updated budget materials would be posted on the

91 District’s website, and the publication of the notice for the public hearing. Mr. Dawson noted the
 92 public hearing would be set for September 4, and the Board would consider this input at the
 93 public hearing and vote on the proposed budget and levy on September 11. He stated that by
 94 state law the budget and levy must be adopted and sent to the County Auditors on or before
 95 September 15.

96
 97 ***Following discussion, it was moved by Manager Miller, seconded by Manager Shekleton, that***
 98 ***the staff be directed to publish a notice of public hearing for September 14, 2014 at 6:45 p.m.***
 99 ***for consideration of the proposed 2015 budget of \$14,206,850.00 and a proposed 2015 levy of***
 100 ***\$8,291,310.00. Manager Miller requested a roll call vote, and Managers voted as follows:***

101
 102

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Pam Blixt	X			
James Calkins	X			
Jeffery Casale	X			
Richard Miller	X			
William Olson	X			
Brian Shekleton	X			
Sherry Davis White	X			

103
 104 ***The President declared that the motion carried.***

105
 106 Christmas Lake Early Detection Monitoring Report

107
 108 Mr. Craig Dawson appeared before the Board of Managers and noted that the District had
 109 established an early detection and rapid response program for aquatic invasive species. As a
 110 result of having this monitoring system in place, on August 16, the District detected the presence
 111 of zebra mussels in Christmas Lake. The District has been working since then on a rapid
 112 response plan with the Depart of Nature Resources and the City of Shorewood. The hope is that
 113 with early detection, it might be possible to remove the zebra mussels from Christmas Lake
 114 before further spreading occurs.

115
 116 Mr. Dawson referred to Mr. Eric Fieldseth for additional details on the detection system and
 117 approach to removal of the zebra mussels. Mr. Fieldseth noted that at Christmas Lake no zebra
 118 mussels had been found through the early detection system from May through July 28, when an
 119 expansive search of the public access dock and five other locations in the lake revealed no zebra
 120 mussels. On August 16, four zebra mussels were found by District staff at the samplers and
 121 others on rocks, and staff immediately notified the Department of Natural Resources (DNR). A
 122 turbidity curtain has been installed to contain the public access dock area. The District met with
 123 the DNR and the City on August 20 to develop a prompt action plan, and is also in touch with
 124 the University Of Minnesota Aquatic Invasive Species Research Center. Mr. Fieldseth explained
 125 that the action plan includes a treatment of the contained area with Zequanox, thereafter dredging
 126 the rock and substrate, as well as removing the cement launch pad at the boat access area,
 127 followed by a second Zequanox treatment. Mr. Dawson also noted that the District staff is

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128 recommending to the DNR that the public access launch be closed for the remainder of the
129 season in order to allow this remedial action plan to proceed without additional disturbances, or
130 possible reintroduction of zebra mussels.

131
132 Manager Olson asked how Christmas Lake residents would be taking their boats on and off the
133 lake. Mr. Dawson replied that this is an issue that they are still working on in cooperation with
134 the lake association. Manager Shekleton asked about arranging a meeting with Christmas Lake
135 residents, and Mr. Dawson stated that such a meeting has not yet been arranged. Manager Casale
136 noted the variation of sizes with the zebra mussels located at Christmas Lake and asked about
137 what this variation might imply about how long the mussels had been at the lake. Mr. Fieldseth
138 noted the range in size from 2 millimeters to 6 millimeters, and that, given that they were all
139 found in the access area, it is likely they were transported at this age in a single incident, for
140 example through a strand of vegetation. Manager Casale asked whether there have been any gaps
141 in coverage of inspection that should be considered. Mr. Fieldseth noted that there are staffing
142 issues with seasonal employees, and there may be gaps in coverage that should be examined.
143 Manager Olson referred to a letter written by Joe Schneider to the members of the Christmas
144 Lake Association urging that residents not use the ramp while a response plan is developed, and
145 expressing thanks to the Watershed District for its prompt action. Manager Shekleton stated that
146 he felt that a meeting with residents would be a valuable occasion for them to have their
147 concerns addressed, and Mr. Dawson stated that the three agencies working together would
148 continue to address this need.

149
150 Mr. Dawson referred to his memorandum estimating potential cost of remedial action and
151 allocating these costs among the District, Department of Natural Resources, and City of
152 Shorewood. He also noted that staff is reviewing permitting issues for the dredging activity, and
153 specifically whether an exception is warranted. Mr. Dawson stated that the staff is requesting that
154 the Board of Managers authorize the following: the Interim Administrator to enter on advice and
155 consent of counsel either (a) agreements with the City of Shorewood or the Minnesota
156 Department of Natural Resources providing reimbursement of documented costs not to exceed
157 \$30,000 for emergency zebra mussel removal from Christmas Lake; or, (b), in the alternative, a
158 contract for such work along with necessary property access and use and reimbursement
159 agreements with the City of Shorewood, Department of Natural Resources and others, at a cost
160 not to exceed \$30,000; and delegating to the Interim Administrator the authority to take final
161 District action on a permit application regarding land-disturbing work to remove zebra mussels
162 from Christmas Lake, including deciding on and granting an exception as, in his judgment and
163 on the facts, may be necessary and supported.

164
165 ***It was moved by Manager Casale, seconded by Manager Shekleton to adopt this staff***
166 ***recommendation.***

167
168 Manager Calkins asked Mr. Fieldseth to review the sampling locations and where the zebra
169 mussels were found. Mr. Fieldseth noted that these zebra mussels can detach and reattach, and
170 that roughly two to three mussels were found per rock and a total rough estimate 50 to 100 zebra

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171 mussels, all located near the boat ramp and dock area and nearby rocks. He estimated the total
172 area to be 50 feet by 60 feet in area.

173
174 Manager Olson noted that if a boat brought zebra mussels to the lake, it is possible that they
175 spread them all over the lake, but there were other alternative possible routes of introduction. Mr.
176 Dawson noted that based upon available information it appears that there is a decent chance to
177 contain and remove the zebra mussels, and that is the purpose of the proposed remedial action.
178 Manager Blixt asked for further explanation of the requested \$30,000.00 in spending authority.
179 Mr. Dawson explained that the staff would like authority to spend up to this amount in order to
180 be able to front the expenses in coordination with other agencies. He noted that this amount is
181 within the approved workplan and budget. Manager Blixt noted that this could also be
182 considered a precedent for further actions at other lakes, and that the Board should keep this in
183 mind. Mr. Spartz stated that that was a very fair question, but on the other hand this is a unique
184 opportunity to attempt a remedial effort and evaluate its success. Mr. Spartz stated that for this
185 reason it is very important to control boat access at the launch site so that next Spring the District
186 would be able to determine the effectiveness of this remedial approach by inspecting for any
187 presence of zebra mussels without considering that other boats entering the lake may have
188 brought further mussels after the remedial action. Mr. Spartz commended the staff for very fast
189 response and development of the action plan.

190
191 Mr. Dawson noted that Hennepin County may also be able to contribute funds to this remedial
192 action. He stated that any future actions at other lakes would still be done in partnership with
193 these other agencies. Manager Calkins stated that he felt this rapid response was worthwhile, but
194 the bigger question is the failure of prevention at Christmas Lake, where the District and others
195 have concentrated their inspection efforts. Manager Shekleton stated that he agreed with this
196 concern, but in this case the question is how best to leverage resources with our partners and then
197 reflect on lessons to learn. Manager Shekleton stated that he felt that the spending authority
198 recommended by staff was worthwhile in coordination with our other partners. Manager Olson
199 asked how quickly the Zequanox treatment could be done, and Mr. Fieldseth stated that these
200 staff is coordinating with these Zequanox manufacturer and applicator to have this done as
201 quickly as possible, possibly next week. Manager Casale expressed his concern for developing a
202 contingency plan in the event that there are inspection gaps, and Mr. Dawson stated that the staff
203 could work on this in the longer term following the rapid action response.

204
205 Manager Olson asked if the dredging cost turns out to be \$25,000.00 will that cause a shortage of
206 funds if the Board only authorizes \$30,000.00. Mr. Dawson acknowledged this concern and
207 stated that a total of \$35,000.00 would be adequate to deal with this contingency. **Manager**
208 **Casale and Manager Shekleton agreed to amend their motion to increase the spending**
209 **authorization to \$35,000.00.**

210
211 Manager Calkins asked Mr. Fieldseth to review the protocol for inspection for velagers. Manager
212 Calkins suggested a more comprehensive approach to velager testing might assist in evaluating
213 how long velagers take to emerge after an infestation.

214

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

216
 217 Manager Olson noted that he had received a phone call suggesting that there is a rock with
 218 mature zebra mussels on it near the boat landing and that should be investigated.

219
 220 President White then noted that the remaining three discussion items on the agenda are items
 221 from the agenda noticed for a meeting by Manager Blixt for Monday, August 25.

222
 223 Manager Casale’s conduct at the July 17, 2014 Board of Managers Meeting

224
 225 President White invited a motion to table this matter indefinitely and refer it to legal counsel. ***It***
 226 ***was moved by Manager Miller, seconded by Manager Shekleton to table this matter***
 227 ***indefinitely and refer it to legal counsel. Upon vote, the motion carried 4 (White, Shekleton,***
 228 ***Miller, and Casale) – 3 (Calkins, Blixt, and Olson).***

229
 230 Manager Casale’s July 31, 2014 Letter and Distribution by the Interim District Administrator

231
 232 ***It was moved by Manager Miller, seconded by Manager Shekleton to table this matter. Upon a***
 233 ***roll call vote, the managers voted as follows:***

234
 235

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Pam Blixt		X		
James Calkins		X		
Jeffery Casale	X			
Richard Miller	X			
William Olson		X		
Brian Shekleton	X			
Sherry Davis White	X			

236
 237 ***President White declared that the motion carried 4-3.***

238
 239 Minnehaha Creek Watershed District Code of Conduct and Decorum Policy

240
 241 ***It was moved by Manager Miller to table this matter.*** Manager Shekleton stated that he recalled
 242 that the Operations Committee had met to discuss the concept of such a policy and reviewed a
 243 similar document from the Hennepin County Board of Commissioners. He asked if this item
 244 related to that discussion of the Operations Committee. Manager Blixt stated that it was her
 245 intention that this matter would be discussed at the meeting on August 25. Manager Miller stated
 246 that he did not believe there would be a meeting because there would be no quorum.

247
 248 Manager Shekleton stated that he felt it would be valuable to discuss a code of conduct. He noted
 249 that as adults, most people would accept an apology and move forward. He found the draft
 250 motion to censure to clearly violate decorum and a code of conduct, and strongly felt that the
 251 draft motion was not germane and very inappropriate. He recommended that the Operations

252 Committee continue its discussions of a code conduct and decorum. *Manager Shekleton*
 253 *seconded the motion to table this matter.*
 254

255 President White stated that the Board of Managers retreat in May had reviewed all governance
 256 policies and directed legal counsel and staff to update and consolidate them. She noted that the
 257 issues for these three items on the agenda are all a part of that review and should be taken under
 258 advisement of legal counsel accordingly.
 259

260 Manager Blixt stated that she was not prepared to discuss these items at tonight’s meeting, and
 261 was concerned that legal counsel was not present for the meeting. She noted that the meeting for
 262 Monday had been noticed and there were interested parties who would like to attend that
 263 discussion of these policies. She stated that her intention was to honor the meeting scheduled for
 264 Monday and request that legal counsel be present to provide advice at that meeting.
 265

266 Mr. Spartz noted that a motion to table is not debatable. Manager Shekleton stated that he felt it
 267 would be appropriate to forego Roberts Rules in order to have this discussion. Manager Casale
 268 stated that he understood that there would not be a quorum at Monday’s meeting and that these
 269 items had been tabled, so he did not understand how there would be a discussion. Manager Blixt
 270 stated that it was her intention to convene a meeting on Monday and set the agenda at that time.
 271 Manager Miller stated that he regretted this “win or destroy” philosophy that seemed to be
 272 pursued with increasing nastiness by people who don’t agree with the discharge of the former
 273 administrator. He noted that the claim initially was that the termination of the administrator
 274 would be bad for staff morale, but this has not been true; other issues seem to arise and then go
 275 away once a response is offered, all the while seeking to negatively impact progress with the
 276 mission of the District.
 277

278 President White called for a roll call vote on the motion to table the discussion of the code of
 279 conduct. *Upon roll call vote, the Managers voted as follows:*
 280

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Pam Blixt		X		
James Calkins		X		
Jeffery Casale	X			
Richard Miller	X			
William Olson		X		
Brian Shekleton	X			
Sherry Davis White	X			

282
 283 *The President declared that the motion prevailed, 4-3.*
 284

285 President White noted further that it did not appear that there would be a quorum for the meeting
 286 on August 25. Mr. Spartz reported that he had received word from one manager who can attend,
 287 while four managers have expressed that they are unable to attend, and two managers have not

288 yet responded. ***It was moved by Manager Miller, seconded by Manager White, to cancel the***
 289 ***meeting of August 25 due to lack of quorum.***
 290

291 Manager Calkins stated that it was his understanding of the law that one manager could call a
 292 meeting, and whether it was a quorum or not should not matter, because the discussion could still
 293 be held. He felt the intent of this provision of the law was not being fulfilled, and regretted that
 294 the Board seemed unwilling or afraid to discuss these issues.
 295

296 Manager Shekleton noted that the Board’s bylaws also provide that two managers have a right to
 297 notice a meeting, but if there is not a quorum, there is still not a meeting. He stated that he
 298 regretted that he could not attend the meeting on August 25. Manager Shekleton noted that he
 299 was fully willing to discuss the issues that Manager Calkins referred to, but that Manager Calkins
 300 had opposed the mediation where these issues could really be addressed, and that these issues
 301 were also addressed at a May Board retreat which Managers Calkins, Blixt, and Olson had not
 302 attended. Manager Calkins stated a point of order that he felt that these comments were not fair
 303 or relevant. Manager Blixt stated that she understood that four managers could attend when she
 304 originally scheduled the meeting, and that the issues were about the Board and needed to be
 305 discussed. Manager Shekleton recommended a Board Retreat be scheduled when all managers
 306 can attend. President White suggested that these matters need to be first reviewed by legal
 307 counsel in preparation for such a discussion. Manager Miller stated that in his many years of
 308 experience on many governing bodies he had never seen conduct which was this choreographed
 309 and unproductive. Manager Shekleton stated that these governance and relationship issues are
 310 appropriate to discuss along with a code of conduct with the benefit of recommendation from
 311 legal counsel at a retreat.
 312

313 ***President White called for a roll call vote on the motion to cancel the meeting of August 25.***
 314 ***The managers voted as follows:***
 315

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Pam Blixt		X		
James Calkins		X		
Jeffery Casale	X			
Richard Miller	X			
William Olson		X		
Brian Shekleton	X			
Sherry Davis White	X			

317
 318 ***President White declared the motion adopted 4-3.***
 319

320 Upon question from Manager Calkins, President White confirmed that a formal notice of this
 321 cancelation would be sent.
 322

323 ***Manager Shekleton moved to direct the staff to schedule a Board retreat to address these***
 324 ***governance items with the previous recommendations of the Operations Committee, once legal***

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325 *counsel has prepared these materials for Board review. Manager Miller seconded the motion.*
 326 *Upon roll call vote, the managers voted as follows:*

327
 328

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Pam Blixt		X		
James Calkins		X		
Jeffery Casale	X			
Richard Miller	X			
William Olson		X		
Brian Shekleton	X			
Sherry Davis White	X			

329

330 *President White declared the motion adopted 4-3.*

331

332 Manager Blixt noted that legal counsel is not present at this meeting, and though she was not
 333 aware of the legal concerns that President White mentioned, she did feel it was important to get
 334 advice about whether the meeting she had noticed for August 25 could be canceled without her
 335 consent and approval. Manager Olson asked if legal counsel had provided notice that he would
 336 not be attending the meeting. President White stated that such notice had been received, and it
 337 was felt that presence of legal counsel was not required for the budget meeting.

338

339 **ADJOURNMENT**

340

341 There being no further business, the special meeting of the Board of Managers was adjourned at
 342 8:15 p.m.

343

344 Respectfully submitted,

345

346

347

348 Jeffery Casale
 349 Secretary