MINUTES OF THE REGULAR MEETING OF
THE MINNEHAHA CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

August 26, 2021

CALL TO ORDER

The regular meeting of the Minnehaha Creek Watershed District was called to order by
President Sherry White at 7:00 p.m. on August 26, 2021. President White noted that this
meeting was convened electronically through Zoom, pursuant to Minnesota Statutes
13D.021, due to the COVID-19 pandemic and her determination that it is not prudent for
the Board of Managers, or any committee thereof, to meet in person, and it is not feasible
to provide for any member of the Board, or of the public, to meet at the regular meeting
location. For this reason, until this determination is withdrawn by the District’s presiding
officer, chief legal counsel or chief administrative officer, the meetings of the Board and
its committees will be convened by telephone or other electronic means as the presiding
officer determines appropriate. All such meetings will be noticed and conducted in
accordance with §13D.021 and all other applicable terms of the Open Meeting Law.
President White noted that, pursuant to §13D.021, all votes will be by roll call.

President White called the roll to note attendance:

Hejmadi: Present
Loftus: Present
Sando: Present
Miller: Present
Olson: Present
Maxwell: Present
White: Present.

DISTRICT STAFF AND CONSULTANTS PRESENT

James Wisker, Administrator; Tom Dietrich, Permitting Program Manager; Abigail Ernst,
Permitting Technician; Anna Brown, Planner – Project Manager; Kailey Cermak,
Hydrologist; Michael Hayman, Project Planning Manager; Janna Jonely, Project and
Land Management Technician; Rena Weis, District Consulting Engineer; and Louis
Smith, District Counsel.

MATTERS FROM THE FLOOR

None.

STAFF PRESENTATION
Mr. Tom Dietrich appeared before the Board of Managers and noted his impending departure from employment at the District. He thanked the Board of Managers and staff for this opportunity to serve the MCWD, and the managers wished Mr. Dietrich all the best in his future endeavors.

**APPROVAL OF AGENDA**

It was moved by Manager Miller, seconded by Manager Hejmadi to approve the Agenda as distributed. Upon roll call vote, the motion carried 7-0 as follows:

Hejmadi: Aye  
Loftus: Aye  
Sando: Aye  
Miller: Aye  
Olson: Aye  
Maxwell: Aye  
White: Aye

**CONSENT AGENDA**

It was moved by Manager Miller, seconded by Manager Sando, to approve the Consent Agenda consisting of approval of the August 12, 2021 Board minutes, the General Checking Account consisting of checks 41626 through 41658 in the amount of $426,579.19; electronic funds withdrawals in the amount of $33,236.72; manager per diems and reimbursement direct deposits in the amount of $4,137.58; employee reimbursements - direct deposits in the amount of $612.91; and payroll direct deposits in the amount of $227,435.86; for Total General Checking expenses of $692,002.26; the surety checking account surety refund for Permit 18-414, Permit 18-053, Permit 16-040, and Permit 20-455, and a bank service charge totaling $91,423.00; and electronic fund transfer of $0.00; and adoption of the following resolutions:

**Resolution 21-055: Approval of Contracts for SMCHB Carp Removal as follows:**

NOW, THEREFORE, BE IT RESOLVED that on the basis of the specific experience of WSB & Associates and the finding of District staff that the contract fee is competitive, the Minnehaha Creek Watershed District Board of Managers finds it appropriate to authorize a professional services contract with that firm without competitive process;

BE IT FURTHER RESOLVED that the District Administrator is authorized, on advice of counsel, to execute a contract with WSB & Associates, for services to remove common carp in Steiger Lake within the Six Mile Creek-Halsted Bay Subwatershed, consistent with the Lessard-Sams Outdoor Heritage Council Grant Accomplishment Plan, in an amount not to exceed $15,147.00;
BE IT FURTHER RESOLVED that the District Administrator is authorized, on advice of counsel, to execute a contract with WSB & Associates, for services to remove common carp in East Auburn Lake in an amount not to exceed $10,483.50;

BE IT FINALLY RESOLVED that the District Administrator is authorized, on advice of counsel, to execute a contract with WSB & Associates, for services to implant common carp with radio tags East Auburn Lake to facilitate removals in an amount not to exceed $4,669.00; and

Resolution 21-056: Amendment to the 2021 Budget as follows:

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby amends the 2021 budget as recommended by staff for a total 2021 budget of $14,834,518.

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

Hejmadi: Aye
Loftus: Aye
Sando: Aye
Miller: Aye
Olson: Aye
Maxwell: Aye
White: Aye

BOARD, COMMITTEE AND TASK FORCE REPORTS

Policy and Planning Committee: Manager Miller reported that the committee received a presentation on MCWD history for the second period of study, 1980-1992. He thanked Mr. Smith for the presentation.

Citizens Advisory Committee: Manager Loftus reported that the CAC received an update on the redevelopment of 325 Blake Road from Michael Hayman.

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

PERMITS REQUIRING A VARIANCE OR DISCUSSION

Permit 21-161: Interlachen Golf Course, Edina
President White noted upon inquiry that no one was present for the 2022 budget and levy hearing, and that several persons were present at the meeting for Permit 21-161, so without objection proceeded to this matter.

Ms. Abigail Ernst appeared before the Board of Managers and reviewed the permit application. She reviewed the site, three project areas, and the application of the erosion control, wetland protection, waterbody crossings, and stormwater management rules to the project. She noted that the proposed project does not cause adverse downstream impacts, including the bounce in water level for any downstream waterbody or wetland. Ms. Ernst noted comments about tree removal and noted that the District rules do not address tree removal, but the Edina city forester has confirmed that the city’s tree replacement requirements are met for this project. She reviewed concerns for potential flooding risk and confirmed that modeling for the project indicates no increase in peak runoff rates, and also provides for volume treatment in excess of the stormwater rule requirements.

Ms. Debra Frimerman appeared before the Board of Managers and noted she is an adjacent landowner. Ms. Frimerman noted concerns with the stormwater impacts of the proposed project and stated that she felt that a drain tile system had not been properly considered. Ms. Ernst stated that the referenced drain tile is outside of the project boundaries, and that all runoff from the project had been analyzed pursuant to District rules. Mr. Ross Bintner of the City of Edina appeared and noted that he was not sure about the drain tile cited by Ms. Frimerman, but that a storm sewer pipe is in a similar alignment, and he did not believe it had a material relationship to the project. Ms. Rene Weiss reviewed the no-rise analysis and said that there is no reason to have concern for backflow from the wetland.

Following discussion, it was moved by Manager Miller, seconded by Manager Olson to approve the permit application with the conditions recommended by staff. Upon a question from Manager Olson, Ms. Ernst reviewed the parcel boundaries and the unconstructed section of road right of way. Upon roll call vote, the motion carried 7-0 as follows:

Hejmadi:  Aye
Loftus:  Aye
Sando:  Aye
Miller:  Aye
Olson:  Aye
Maxwell:  Aye
White:  Aye

PUBLIC HEARINGS & PRESENTATIONS

2022 Budget and Levy Public Hearing
Mr. James Wisker reviewed the process and timeline for the development of the 2022 budget. He reviewed the major elements of the budget and MCWD priorities. Mr. Wisker stated that the proposed 2022 budget reflected a two percent increase in District expenses, from $14,716,421 in 2021 to $15,027,532 in 2022, but a zero percent increase in the District tax levy. He noted that the District presented earlier in the day to the Legislative Citizens Commission on Minnesota Resources, and the MCWD’s proposal for 2D modeling was included in the commission’s recommendations. The legislature will act on those recommendations next session.

President White invited any comments or questions on the 2022 budget and levy and there were none. Mr. Wisker confirmed also that no written comments had been received. President White closed the public hearing.

**ACTION ITEMS**

**Resolution 21-057: Adoption of the Revised MCWD Capital Improvement Plan**

Ms. Anna Brown appeared before the Board of Managers and reviewed the request for board action. She noted that the MCWD annually updates its capital improvement plan, and the District distributed this year’s plan for comment from June 30 to August 2. Comments were received from Chanhassen, Shorewood, Medina and Independence, and all of the comments raised procedural questions that were responded to by staff promptly. Following discussion, it was moved by Manager Miller, seconded by Manager Loftus to adopt the following resolution:

> NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby adopts the attached 2022 CIP.

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

- Hejmadi: Aye
- Loftus: Aye
- Sando: Aye
- Miller: Aye
- Olson: Aye
- Maxwell: Aye
- White: Aye

**Resolution 21-058: Approval of Change Order for trail paving at the Wassermann Lake Preserve**

Ms. Anna Brown appeared before the Board of Managers and reviewed the request for board action. She explained that the Victoria City Council requested the additional trail
paving, and it would result in no additional cost to the District. *It was moved by Manager Olson, seconded by Manager Maxwell to adopt Resolution 21-058 as follows:*

*NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator to execute a change order for trail paving at the Wassermann Lake Preserve at a cost not to exceed $134,440.14.*

Upon a question from Manager Olson, Ms. Brown noted that the subbase for the trail is six inches in depth. *Upon roll call vote, the motion carried 7-0 as follows:*

- Hejmadi: Aye
- Loftus: Aye
- Sando: Aye
- Miller: Aye
- Olson: Aye
- Maxwell: Aye
- White: Aye

*Resolution 21-051: Authorization to Execute Memorandum of Understanding with City of Edina*

Ms. Kailey Cermak appeared before the Board of Managers to review the request for board action. She noted the District’s interest in building a hydrology and hydraulics model that incorporates high resolution municipal stormsewer information, and the value of developing small-scale pilots to develop such a model. She reviewed the discussions and interest of the City of Edina in this work, and the proposed memorandum of understanding to outline the collaboration. *It was moved by Manager Sando, seconded by Manager Miller to adopt Resolution 21-051 as follows:*

*NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator to execute the Memorandum of Understanding in its final form between MCWD and the City of Edina.*

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

- Hejmadi: Aye
- Loftus: Aye
- Sando: Aye
- Miller: Aye
- Olson: Aye
- Maxwell: Aye
- White: Aye
BOARD DISCUSSION ITEMS

Minnehaha Preserve Boardwalk

Closed Session: Minnehaha Preserve Boardwalk Update

Mr. Michael Hayman and Ms. Janna Jonely appeared before the Board of Managers and recommended that the Board move into a closed session. It was moved by Manager Maxwell, seconded by Manager Hejmadi to convene in closed session under the Open Meeting Law to confer with District counsel on the mediation and litigation of District claims regarding the Minnehaha Preserve boardwalk construction on the finding that confidentiality is essential to review the legal basis for the District’s claims. Upon roll call vote, the motion carried 7-0 as follows:

Hejmadi: Aye
Loftus: Aye
Sando: Aye
Miller: Aye
Olson: Aye
Maxwell: Aye
White: Aye

The Board of Managers went into closed session. The Board of Managers returned to open session.

STAFF UPDATES

Administrator’s Report

Mr. Wisker reported on the following items:

1. Drought conditions are persisting across Minnesota, with now 88% of the state declared by the Department of Natural Resources to be in severe drought and 56% of the state in extreme drought. The Grays Bay dam has been closed since mid-July. With recent rain, Minnehaha Creek is flowing at 67 cubic feet per second at Hiawatha;

2. The MCWD is in the process of hiring a new outreach manager;

3. Mr. Wisker will attend a meeting on September 7 concerning a Lake Minnetonka management strategy;
4. Upon a question from Manager Maxwell, Mr. Wisker reported that the community engagement event for 325 Blake Road went well with about 45 people in attendance and general excitement about the project.

Adjournment

There being no further business, President White declared the meeting of the Board of Managers adjourned at 9:24 p.m.

Respectfully submitted,

Eugene Maxwell, Secretary