RESOLUTION NO. 2015-20

GRANTING PETITION OF PULTE HOMES FOR REALIGNMENT OF A PORTION OF ACD 53-62 AND PARTIALLY ABANDONING THE DRAINAGE SYSTEM REMNANT AFTER REALIGNMENT

Manager Haake offered the following Resolution and moved its adoption, seconded by Manager Nagamon:

WHEREAS, the Board of Managers of the Rice Creek Watershed District (the District) is the Drainage Authority for Anoka County Ditch (ACD) 53-62 under Minnesota Statutes Chapter 103E;

WHEREAS, the Board received a petition and bond from Pulte Homes for the realignment of a portion of ACD 53-62 and to abandon the remnant portion of the drainage system after realignment;

WHEREAS, by Resolution 2015-08, the Board accepted the petition and bond under statutes sections 103E.227 and 103E.806 and appointed Houston Engineering to prepare a report assessing the impact of the proposed action;

WHEREAS, Houston Engineering completed its work and filed a report with the Board;

WHEREAS, Houston Engineering concluded that the proposed realignment would not impair the utility of the drainage system or deprive affected landowners of its benefit and further that abandoning the portion of the drainage system left remnant after the realignment would not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and would not provide substantial public benefit and utility;

WHEREAS, the Board noticed and held a hearing on the petition at its regular meeting on April 23, 2015;

WHEREAS, a public comment portion of the hearing was opened and members of the public were invited to present concerns regarding the proposed actions;

WHEREAS, during the public hearing it was noted that the proposed realignment would impact a portion of state owned property adjacent to Pulte Homes' property and Pulte Homes requested that it be allowed to revise its plan for realignment to avoid impact to the adjacent property;

WHEREAS, based on the proceedings, after closing the public comment portion of the hearing, the Board adopted a motion directing its staff to prepare a resolution consistent with the proceedings, including responses to all comments received through the public comment process; that the resolution be written to affect approval of the petitioned actions subject to a condition that the petitioner may not proceed to construct the drainage system modification until it acquires all required permits and all necessary rights-of-way and flowage easements from owners of land to be affected by it; and that the hearing be recessed to the Board's
regular meeting on May 13, 2015, at 9:00 a.m., or by adjournment to an appropriate time on the Board’s agenda, at which meeting the Board would consider a resolution approving the petitioned action;

WHEREAS, following recess of the public hearing, the petitioner provided a revised plan which avoided impacts to the adjacent property;

WHEREAS, Houston Engineering has reviewed the revised plan and concluded that water surface elevations and peak discharge on the Main Trunk upstream and downstream of the proposed realignment are not impacted by the construction and should not impair the utility of the ditch or deprive affected landowners of its benefit. The proposed realignment, as a component of the Sanctuary Preserve development project, will not result in an adverse environmental impact due to the proposed mitigation features;

WHEREAS, the Board took no action at the regular meeting of May 13, 2015;

WHEREAS, the Board noticed and re-opened the public hearing at its regular meeting on June 10, 2015;

WHEREAS, based on the engineer’s reports and other evidence presented, the Board finds that the proposed realignment will not impair the utility of the drainage system or deprive affected landowners of its benefit and, further, that the portion of the drainage system left remnant after the realignment will not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and will not provide substantial public benefit and utility.

THEREFORE, BE IT RESOLVED that the Board of Managers directs the following actions:

1. The petition of Pulte Homes for the realignment of a portion of ACD 53-62 and to abandon the remnant portion of the drainage system after realignment as indicated in the petition and engineer’s reports is GRANTED.

2. The cost of proceedings be charged to the petitioner’s bond. Any deficiency in the bond to cover the cost of the proceedings shall be paid by the petitioner prior to release of this order.

3. Upon payment of costs, the drainage system record shall be amended to reflect the realignment and partial abandonment as petitioned.

4. The petitioner may proceed to make the drainage system modification as petitioned upon release of this order and provided that the petitioner has acquired or obtained all required permits and all necessary rights-of-way and flowage easements from owners of land to be affected by the drainage system modification.

5. The petitioner must proceed and finish the with the drainage system modification as petitioned within three years of this order or it is null and void.
The question was on the adoption of Resolution 2015-20 and there were 4 yeas and 1 nays as follows:

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Upon vote, the President declared the Resolution **passed**.

Michael Bradley, Secretary

Dated: June 10, 2015

I, Michael Bradley, Secretary of the Rice Creek Watershed District, do hereby certify that I have compared the above resolution 2015-20 with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 10th day of June, 2015.

Michael Bradley, Secretary