Approved

RCWD
RICE CREEK WATERSHED DISTRICT

REGULAR MEETING OF THE RCWD BOARD OF MANAGERS
Wednesday, March 26, 2014
Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota

Minutes

ROLL CALL
Present: President Patricia Preiner, 2nd Vice-Pres. John Waller, Secretary Harley Ogata, and Treasurer Steve Wagamon.

Absent: 1st Vice-Pres. Barbara Haake (with prior notice).


Consultants: District Engineer Chris Otterness, Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners.

Visitors: Dean Faymoville, David Smart, Michael Murlowski, Clark Arneson, Jim Hafner.

CALL TO ORDER
President Preiner called the meeting to order, a quorum being present, at 9:00 a.m.

SETTING OF THE AGENDA
Motion by Manager Ogata, seconded by Manager Waller, to adopt the agenda as presented. Motion carried 5-0.

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the March 10, 2014, Board of Managers Meeting Workshop Meeting.
Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as presented. Motion carried 3-0-1 (Manager Ogata abstained).

Minutes of the March 12, 2014, Board of Managers Regular Meeting.
Manager Waller requested further detail on the cash surety discussion. The Board was given 4 different numbers for the costs associated with the excavation of soils and offsite haul $50, $23 $2.40 and $1.75 and if the real issue is whether the Board is concerned with the security of the District’s cost or are we concerned with the balance sheet of the developer/applicant. Is the role of Board to be concerned about the balance sheet of the permit applicant or are we here to worry about the District being properly financed for any kind of problem that occurs if a permit is not followed properly.

President Preiner replied for the purpose of the minutes, staff will go back and review and update the minutes, but she didn’t feel that was the issue.
Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as amended. Motion carried 3-0-1 (Manager Ogata abstained).

CONSENT AGENDA
The following applications have been reviewed by the District Engineer and Staff and will be acted upon without discussion in accordance with the Engineer’s Recommendation unless a Manager or the Applicant or another interested person requests opportunity for discussion:

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PERMIT APPLICATIONS REQUIRING BOARD ACTION

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Permit Coordinator/Wetland Specialist Tomczik deleted on page 24 of the packet above finding 3, the second to the last sentence which reads “applicant must verify design criteria of Rule C.9 accordingly.”

Motion by Manager Wagamon, seconded by Manager Ogata, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD staff and District Engineer’s Findings and Recommendations, dated March 19, 2014 with corrections. Motion carried 4-0.

President Preiner recessed the regular meeting.

PUBLIC HEARING: LOCKE COUNTY PARK RAINGARDEN PROJECT

President Preiner stated:

“The Rice Creek Watershed District’s funding of the proposed Locke County Park Raingarden Project.”

“The purpose of the hearing is to hear comments and take testimony from parties having an interest in the proposed project to be constructed in partnership with the City of Fridley.”

Water Resource Specialist Axtell presented the Locke County Park Raingarden project. He indicated this was an important raingarden project as it would treat a large residential area. He stated the Anoka Conservation District has worked with staff on the design of the project. He noted the City of Fridley was also a partner on the project and the City would provide the curb-cut work at their cost. The planting work would be done by a group of Locke Lake volunteers. He noted the total approximate cost was $16,000. He indicated there would be a $10,000 DNR grant that would be applied to this cost. The grant resulted from restitution paid by BNSF Railway to the DNR for the July 2011 train derailment and corn spill into Locke Lake. He stated 4-8 pounds of phosphorus was expected to be reduced. He believed the project would function well.

Manager Ogata asked on a project this size would they rely on natural water for the planting to take hold. Water Resource Specialist Axtell responded in this case, natural water should be sufficient. He indicated they would be putting the plantings in in the spring and if they go through long stretches of dry conditions, water might be required which the City would be looked to provide. He noted the neighbor adjacent to this project was very interested in landscaping and they believed he would be helping as well, but it would be the City’s responsibility.

Manager Ogata asked about the ongoing maintenance. Water Resource Specialist Axtell responded they hoped to get the volunteers performing the maintenance along with the City, but it was the City’s ultimate responsibility.
Manager Waller asked if the 4-8 pounds of phosphorus dissolved or undissolved phosphorus. Water Resource Specialist Axtell responded he did not have that information from this particular drainage area.

Manager Waller asked if they had an idea of how to calculate the removal of phosphorus. Water Resource Specialist Axtell replied that the 4-8 pound estimate was from literature values based on the drainage area and size of the raingarden. Reducing phosphorus in general was a good thing, they did monitor Rice Creek, and they would be monitoring directly downstream from the stormsewer outlet. They also did monitoring of Locke Lake downstream on a routine basis so whether they would see a direct and immediate impact they would need to look at the data, which would take time.

Manager Waller stated he wanted to see the proficiency measurements on these projects so he could see what they were doing and he wanted a system developed for the entire District when they put the projects in.

President Preiner invited the public to make comments. There were no comments made at the public hearing.

President Preiner closed the public hearing.

**PUBLIC HEARING: PROCEEDINGS TO REESTABLISH AND CORRECT THE DRAINAGE SYSTEM RECORD, FUNCTIONAL ALIGNMENT, DIMENSION AND GRADE OF THE ANOKA COUNTY DITCH 72 SYSTEM**

President Preiner stated:

The purpose of our meeting is to receive comments from the public on the District’s intent to adopt an Order to Correct the drainage system record, identify the scope of the drainage system and abandon portions of the system. Following the Board’s action, the Watershed District will be completing a repair report that will consider alternatives for the future repair and maintenance of the system.

The Board of Managers has reviewed a historical and technical analysis of the system, which is contained in engineer’s historical review dated February 25, 2014.

Inspection of ACD 72 reveals several undocumented modifications of the drainage system, several areas of disrepair, portions of numerous branches or laterals absent from the landscape and other branches or laterals providing only private benefit.

As part of its analysis of the drainage system, the engineer has identified the existing functional alignment, dimension and grade of this system as it provides beneficial public drainage today. This functional alignment, dimension and grade match the basic functional efficiency of the system as designed and established to provide beneficial public drainage.

Authority for the Board to take action related to Ditch 72 is found in Statutes Section 103D.335, subd. 8, which allows the Board of Managers to “construct, clean, repair, alter, abandon, consolidate, reclaim or change the course or terminus of any public ditch...within the watershed district.

The Board possesses further authority under statutes Section 103E.101, subd. 4a, to reestablish records defining the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; or right-of-way of a drainage system as originally constructed or subsequently improved.
The Board initiated these proceedings by Resolution 2014-03 on January 22, 2014.

District Administrator Belfiori highlighted the Ditch 72 ditch system and the timeline of recent activities.

District Engineer Otterness presented the benefitted area on Ditch 72, the as designed ditch system, the current system, the history of the drainage system, and the recommendations for the ditch system including the recommended alignment, and the proposed abandonments.

District Administrator Belfiori noted the RCWD would be responsible for the maintenance of the drainage system and would continue the maintenance on the problem areas on the drainage maintenance program, as well as completing the repair memorandum, which had been prepared in the 2014 budget.

President Preiner asked if anyone from the public wanted to make comment. There were no comments made at the public hearing.

President Preiner closed the Public Hearing and opened the regular meeting.

OPEN MIKE – LIMIT 12 MINUTES. Any RCWD resident may address the Board in his or her individual capacity, for up to three minutes, on any matter not on the agenda. Speakers are requested to come to the podium, state their name and address for the record. Additional comments may be solicited and accepted in writing. Generally, the Board of Managers will not take official action on items discussed at this time, but may refer the matter to staff for a future report or direct that the matter be scheduled on an upcoming agenda.

There were no comments made at Open Mike.

ITEMS REQUIRING BOARD ACTION

1. Consider Findings and Order correcting drainage system record, identifying scope of drainage system and abandoning portions of drainage of Anoka County Ditch 72 (Phil Belfiori)

Administrator Belfiori explained this was a revised Resolution 2014-14 related to the last public hearing heard at the meeting today.

Motion by Manager Ogata, seconded by Manager Wagamon, to approve Resolution 2014-14, Findings and Order Correcting Drainage System Record, Identifying Scope of Drainage System and Abandoning Portions of Drainage System of No Substantial Public Purpose.

ROLL CALL:
Manager Waller – Aye
Manager Haake – Absent
Manager Ogata – Aye
Manager Wagamon – Aye
President Preiner – Aye

Motion carried 4-0-1.
2. Consider Resolution Ordering Locke County Park Raingarden Project and Approving Intergovernmental Agreement with the City of Fridley (Phil Belfiori)

Administrator Belfiori stated in 2013 the RCWD executed a grant contract with the DNR that gave the District $10,000 to construct the Locke County Park Raingarden Project. He noted the project proposed constructing a large raingarden to treat runoff from a 4.4 acre residential drainage area. He indicated currently the area drained untreated to Rice Creek and Locke Lake. He stated in addition to the $10,000, staff was estimating an additional $6,000 would be required to construct the project with the extra funding coming from the Southwest Urban Lakes Implementation Fund. He indicated pursuant to statutes, today’s public hearing was needed before the additional funding could be committed.

Motion by Manager Ogata, seconded by Manager Wagamon, to approve Resolution 2014-15, Ordering the Locke County Park Raingarden Project Pursuant to Minnesota Statutes §103.B.251.

ROLL CALL:
Manager Waller — Aye
Manager Haake — Absent
Manager Ogata — Aye
Manager Wagamon — Aye
President Preiner — Aye

Motion carried 4-0-1.

3. Consider Resolution Regarding Construction Area for Repair of Anoka County Ditch 53-62. (Phil Belfiori)

Administrator Belfiori explained this Resolution adopted the areas necessary for entry and occupation during the repair of the drainage system and directed implementation of the repair of ACD 53-62 consistent with the previously adopted Resolution 2013-27. He noted the Resolution also directed the Administrator to coordinate and take all subsequent actions necessary for implementation of the repair in a manner consistent and compliance with existing law.

Motion by Manager Wagamon, seconded by Manager Ogata, to approve Resolution 2014-16, Order Adopting Repair Area for the Repair of Branch 1 of Anoka County Ditch 53-62.

Manager Waller asked if the controversy with the DNR regarding the project had been resolved and would this resolution be impacted. District Administrator Belfiori responded this was strictly related to the area defined in the maps in the packet. It did not relate to the issue ongoing discussions with the DNR related to the potential work in public waters. He indicated that was an ongoing discussion and he anticipated a meeting with counsel for the department and would give an update the next workshop meeting.

ROLL CALL:
Manager Waller — Aye
Manager Haake — Absent
Manager Ogata — Aye
Manager Wagamon — Aye
President Preiner — Aye

Motion carried 4-0-1.
Consider Check Register dated 03/26/14, in the amount of $254,526.02, prepared by HLB Tautges Redpath.

Motion by Manager Wagamon, seconded by Manager Ogata, to approve check register dated March 26, 2014 in the amount of $254,526.02, prepared by HLB Tautges Redpath. Motion carried 4-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. Follow Up Discussion (from 03/12/14 Board Meeting) related to floodplain surety.

District Administrator Belfiori stated as a follow-up from the March 12, 2014 Board meeting, the Managers had asked staff to provide an update on the City of Blaine’s methodology as well as to provide some information on the cost of obtaining a surety from a bank.

Permit Coordinator/Wetland Specialist Tomczik stated the City of Blaine’s approach was to secure 125% of the total cost of the required improvements, which was a combination of 10% cash and a letter or bond, which was 90%, and it included a potential of a reduction in those amounts. He noted this was similar to what the District had in place. He stated they did have a specific cash amount as well as an option for a letter or bond and a reduction. The total cost to determine the 125% is estimated by the engineer. It was a determination from the engineer that the costs were reasonable, realistic to cover the project. The surety was intended to cover the cost of the project and in most cases that was utilities, roads, sidewalks, etc. as well as the grading for the items of District interest, under its regulations. Staff suggested there was a fair amount of time and cost the District would incur through the District engineer in defining the costs of the specific interests covered under the regulations as well as discussion between the District’s engineer and the project’s engineer.

He stated with respect to the municipal administration of the watershed district’s regulations. He stated he did not believe there was a large amount of interest at this time on the City’s part. He noted the City had indicated they were not currently in the mode of hiring additional staff or taking on additional workloads and the it was the City’s opinion that the existing arrangement between the City and the District had been working. He stated the basis of the District rules provided for the municipalities to adopt the administration of the District rules, which had been done by Hugo.

He indicated the other item was the applicant’s cost to obtain surety. He stated he had spoken with Anchor Bank regarding a letter of credit and the bank indicated typically people came to them with a template document and the District did have such a template, which was on the website and had been reviewed by the District attorney. He noted the bank was looking to secure the value of the required letter of credit, which is the same as in the letter of credit document. He indicated a letter of credit for $200,000 would require $200,000 in a bank account. He noted there was a fee of 1 to 1.5 percent of the face value associated with the letter of credit. Alternatively, if it was a small amount of surety, there would be a flat fee for the administrative efforts. The time length for the credit or how long it would be in play would be a factor in determining the cost and that would vary by project and construction schedules. An alternative item of value instead of cash for the letter of credit typically came with a discount. With respect to bonds, those were typically handled by an insurance company and Anchor Bank shared the response from an insurance company they had done business with in the past. That representative indicated a bond was similar to a letter of credit. It started at .5 and went up to 3 percent of the face amount. Larger firms with greater revenue were in the lower range the smaller firms with less revenue were in the higher amount of the range. Experience of the firms also came into play on the bond rates; small firms with experience and good liquidity were eligible for lower rates.

He stated Houston did a memo defining a dirt work cost based on past projects. The District requested and Blaine shared bid and project information they had on past projects. HEI reviewed the developer’s agreement along with the bid information in an effort to improve or confirm the dirt work cost in the memo. Houston Engineering, found it difficult to utilize the information. He asked the District Engineer for his opinion.
District Engineer Otterness stated they had reviewed the data provided by Blaine and the data provided was cost data that was either project wide or it was broken out into large components and there was no way to use the data to come up with a cost that would reflect the type of work the District needed to do in order to meet the rules if a developer were to default on the property. He stated this would be typical of any project that would be occurring in that they would not be able to obtain those types of costs from the developer unless they specifically ask for each line item cost and even then they would not likely get all of the costs that would be associated with coming back in after the fact to finish up the stormwater portion of the construction.

Permit Coordinator/Wetland Specialist Tomczik stated in the evaluation of any projects, the dirt numbers as they were presented to the District were often arranged in a way that may or may not be beneficial to the District. It was the applicant or the person seeking to win the bid putting the costs in a bid document where it benefitted them and fit into their goals. With that, he asked if they had a reasonable number from their work, and that was a question for the Board. He noted they had put some effort into this, the $23.00 for dirt work seemed reasonable, and they had a basis for that number. He stated if the Board wanted staff to research this further, they could, but there could be cost involved in research this further. He stated staff was looking for feedback from the Board. He stated they could utilize the number that the Houston memo determined and look at the surety schedule, apply the dirt work number across-the-board, and then show a range of risks and then the Board could gauge their tolerance and move on from there. He noted some representative of the City of Blaine were present also.

President Preiner noted this presentation was for information only.

Manager Waller asked if he could ask some questions. President Preiner stated he could tell staff what information he wanted presented at the workshop, but the information given today was for information only and they were waiting for Manager Haake to be present for the discussion.

Manager Waller stated he wanted clarity about engineers. He stated they were assuming it was the District's engineer that calculated the cost, was that correct. Permit Coordinator/Wetland Specialist Tomczik responded he believed he referred to engineer two different times, one specifically to the City of Blaine's process in that their engineer was involved in the calculation of the city of Blaine's number. On the District's side, they would be similarly situated, but typically, the engineer would develop confirm the cost number.

Manager Waller believed the presentation was fine.

2. Staff Reports
   There were no comments.

3. April Calendar
   There were no comments.

4. Manager's Update
   Manager Waller stated he attended along with the Administrator a Washington County presentation on One Watershed One Plan. He noted that this plan was mostly for outstate Minnesota.
   Manager Waller stated he had also attended the Legislative breakfast/lunch where there was a very interesting presentation on invasive carp and the reproduction of the carp.

ADJOURNMENT
   Motion by Manager Ogata, seconded by Manager Wagamon, to adjourn the meeting at 9:53 a.m. Motion carried 4-0.