Approved Minutes

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

ROLL CALL
Present: President Patricia Preiner, 1st Vice-Pres. Barbara Haake, 2nd Vice-Pres. John Waller, Treasurer Steven Wagamon, and Secretary Michael Bradley.

Absent: None

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, District Technician Lauren Sampedro, Project Manager Kyle Axtell, Communications & Outreach Coordinator Beth Carreño, Office Manager Theresa Stasica.

Consultants: District Engineer Chris Otterness and Charlie Sawdey from Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners; and District Attorney John Kolb from Rinke Noonan.

Visitors: Steve Smits, Brian Olsen.

SETTING OF THE AGENDA
Motion by Manager Haake, seconded by Manager Bradley to approve the agenda as presented. Motion carried 5-0.

READING OF THE MINUTES AND THEIR APPROVAL
Motion by Manager Wagamon, seconded by Manager Bradley, to approve the minutes as presented. Motion carried 4-0. (Manager Haake abstained)

Minutes of the March 27, 2019 Board of Managers Meeting.
Motion by Wagamon, seconded by Manager Bradley, to approve the minutes as presented. Motion carried 5-0.
CONSENT AGENDA

The following items will be acted upon without discussion in accordance with the staff recommendation and associated documentation unless a Manager or another interested person requests opportunity for discussion:

1. Table of Contents

Permit Applications Requiring Board Action

<table>
<thead>
<tr>
<th>No.</th>
<th>Applicant</th>
<th>Location</th>
<th>Plan Type</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>19-010</td>
<td>Boston Scientific</td>
<td>Arden Hills</td>
<td>Final Site Drainage Plan</td>
<td>CAPROC 9 items</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Wetland Alteration</td>
<td></td>
</tr>
<tr>
<td>19-021</td>
<td>City of New Brighton</td>
<td>New Brighton</td>
<td>Final Site Drainage Plan</td>
<td>CAPROC 6 items</td>
</tr>
</tbody>
</table>

Manager Haake asked about the plans for Permit 19-010 because it appears as though 6.5 acres of the 13 acres will become impervious surface. She noted that there were no images included in the packet and would like additional information.

Permit Coordinator/Wetland Specialist Tomczik gave a brief overview of the site plans and location of the project area. He noted that the water to the north will run to Karth Lake and the water to the south will run to Valentine Lake. He explained that they will use an underground water quality and rate control system including filters to treat the water along with sump catch basins to pretreat stormwater before the filters.

Manager Haake asked if the underground filters were located in the parking lot.

Permit Coordinator/Wetland Specialist Tomczik stated that was generally correct; and show a diagram of the plans for the underground filter location.

Manager Haake asked if there was an agreement in place that they will pull out the sediment when they get full.

Permit Coordinator/Wetland Specialist Tomczik stated that in this case it is not an agreement, but a declaration recorded against the property.

Manager Haake asked if there would be underground filters for Permit No. 19-021.

Permit Coordinator/Wetland Specialist Tomczik showed the site plan and noted that this is an above ground infiltration system, rather than a filtration system like Permit No. 19-010. He explained that in this case, the water goes through a soil media and into the ground.

Manager Haake asked if the system would be adequate for all of the impervious surface and be able to get the water cleaned up.
Permit Coordinator/Wetland Specialist Tomczik stated that the plans are in compliance with District rules.

Manager Haake stated that for future reference, she would like images of the site plan included in the packet.

Manager Bradley noted that for Permit No. 19-010, page 21 of the packet talks about wetland impacts and the discussion says that they will use on-site mitigation and the previously created wetland credits from a previous phase of development. He stated that the document basically says that we are letting them do it this time but that they cannot do it in the future. He asked for an explanation of why it is being allowed this time.

Permit Coordinator/Wetland Specialist Tomczik stated that it was previously relatively common in the mid-1990s and early 2000s, for applicants to over-size on-site mitigation. He stated that in this case, the applicant had expanded an existing wetland and the District’s past permit recognized excess wetland credits.

Manager Waller asked why this practice was discontinued.

Permit Coordinator/Wetland Specialist Tomczik stated that BWSR clarified a position under State statute and rule as the sole “banking” authority so there cannot be these unofficial wetland banks existing on the landscape.

Manager Waller stated that he thought it was a pretty good practice that was in effect allowing continuation forward, especially in any areas that are developing. He stated that he wanted to make it clear to the public that this Board did not initiate this change in rule interpretation. He stated that he hopes that the District can talk to BWSR as things start to develop and have them reconsider their stringency.

Manager Haake stated that she agreed with Manager Waller.

Permit Coordinator/Wetland Specialist Tomczik stated that the BWSR interpretation doesn’t preclude Boston Scientific or other applicants from creating a wetland bank on their site or the consideration of project specific on-site mitigation; however, it is when those activities occur, they need to occur within the framework of a wetland bank under the State being the wetland bank official.

Manager Waller asked if that meant that the District could continue the practice as long as more paperwork was completed.
Permit Coordinator/Wetland Specialist Tomczik stated that is generally correct and noted that under the banking rules there are requirements of easements, minimum size and such and so those details frame the potential for a wetland bank.

*It was moved by Manager Waller, seconded by Manager Bradley to approve the Consent Agenda item for permits 19-010 and 19-021 as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations dated April 3, 2019. Motion carried 5-0.*

2. **Water Quality Grant Program Cost Share Application** (Lauren Sampedro)

<table>
<thead>
<tr>
<th>No.</th>
<th>Applicant</th>
<th>Location</th>
<th>Project Type</th>
<th>Eligible Cost</th>
<th>Pollutant Reductions</th>
<th>Funding Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>R19-01</td>
<td>Pilgrim House Unitarian Universalist Fellowship</td>
<td>Arden Hills</td>
<td>Raingarden</td>
<td>$12,128.25</td>
<td>Volume: 50% TSS: 49% TP: 45%</td>
<td>Not to exceed 75%; Up to $7,500</td>
</tr>
</tbody>
</table>

District Technician Lauren Sampedro gave a brief overview of the cost sharing application for a rain garden at Pilgrim House Unitarian Universalist Fellowship church.

Manager Haake noted that the eligible cost is $12,128.25 asked if the recommended funding was $7,500 or “up to” $7,500.

District Technician Samedro stated that staff is recommending approval of $7,500.

*It was moved by Manager Haake, seconded by Manager Bradley to approve the Water Quality Grant Contract R19-01 as outlined in the above table, in the amount of $7,500.00, in accordance with RCWD Staff’s Recommendation and established program guidelines. Motion carried 5-0.*

**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.

No comments.

**ITEMS REQUIRING BOARD ACTION**

1. **Consider City of Dellwood Local Water Plan.**

   District Technician Lauren Sampedro stated that the City of Dellwood submitted their revised plan on April 1, 2019 which adequately addressed all the District’s comments and
is consistent with the District’s 2010 Watershed Management Plan. She noted that Dellwood has identified a few water resource issues such as drainage or flooding issues and the City is involved in three TMDLs. To address these issues, the City of Dellwood will investigate potential solutions for the drainage issues which may result in a partnership with the District, the City and MnDOT. She noted that they are considering replacing culverts under Peninsula Road, and Highway 244’s culverts may also need repair or replacement. To address the impaired waters, the City of Dellwood will work with the District and adjacent communities to meet the categorical waste load allocations for the Bald Eagle Lake and Peltier and Centerville Lake TMDLs, and the City will enforce its existing animal waste ordinance for the Upper Mississippi River Bacteria TMDL. Staff finds that the City of Dellwood’s local water plan is consistent with District and State requirements and recommends approval.

Manager Haake stated that she wanted to acknowledge that District Technician Sampedro is doing an excellent and thorough job.

**Motion by Manager Haake, seconded by Manager Bradley to adopt Resolution 2019-10: Approving Dellwood Local Water Management Plan.**

THEREFORE, BE IT RESOLVED that the RCWD Board of Managers hereby approves the City of Dellwood’s local water management plan, as submitted on April 1, 2019.

**ROLL CALL:**
Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner – Aye
Motion carried 5-0.

2. **Consider City of Saint Anthony Final Pay Request #10 for Mirror Lake Stormwater Improvement Project.**
Project Manager Kyle Axtell stated that he thought the District was done with this back in December, however there were engineering expenses that were not yet submitted at that time, so this is the final payment of those outstanding expenses. He stated that this is the true final pay request and the project is completed.

**Motion by Manager Haake, seconded by Manager Waller, to approve the City of Saint Anthony’s reimbursement request of $2,471.88 pursuant to the August 25, 2015 Cooperative Agreement. Motion carried 5-0.**

Administrator Phil Belfiori noted that the Board had held an informational meeting to allow the landowners affected by the repair to become familiar with the project. He noted that the public hearing was held on March 21, 2019 where the Board directed staff to prepare a set of findings and order for the repair of Anoka/Washington Judicial Ditch 3 (Phase 1). He stated that the public hearing was continued to today’s meeting for the purpose of considering and adopting the findings for the repair. He noted that there were no written comments received and that John Kolb, the drainage attorney is in attendance if there are any questions.

President Preiner recessed the regular Board Meeting at 9:23 a.m. and reconvened the Public Hearing.

Steve Smits, 4620 Flora Way N, Hugo, noted that he is here representing Creekside Villas Home Owners Association. He stated that he thinks that the communication about this project has been less than adequate and everyone is very concerned. He asked if they can be involved in understanding the extent of tree removal and repairs in the area.

District Attorney John Kolb stated that Bryan Bear had raised this issue at the main portion for the public hearing because based on the direct notice for landowners, some of the developments that are adjacent to the ditch are owned by the City, so they had not received notice. Mr. Bear had recommended that there be future meetings with landowners relating to the scope of the project and tree removal and that the District make specific contact with the associations affiliated with the developments, including Creekside Villas. He stated that this is included in the order and staff has a plan in place to gather the correct contact information for those individuals.

Manager Bradley asked if there would be another public hearing where these individuals and associations can sit down with the District to go lot by lot on a set of drawings and see how the project may affect them.

District Attorney Kolb stated that there is not a subsequent public hearing scheduled but they are planning at least one set of informational meetings with the landowners that will be specifically noticed. He stated that it will follow the format that Manager Bradley described and will have maps of the maintenance corridor which will be laid out parcel by parcel. He stated that this will give the individuals a chance to understand the project and also give feedback to the engineers that are designing the specific scope of the project in order to address concerns raised at those meetings.

Mr. Smits asked what the approximate timing of these information meetings will be.
District Attorney Kolb stated that depending on the outcome of today’s vote, staff was looking at having the meetings over the next 3 to 6 months.

District Engineer Otterness stated that he agreed with the approximate timeframe of 3 to 6 months for the meetings. He noted that that prior to the public information meeting, staff will be completing a site investigation along the ditch.

President Preiner closed the public hearing at 9:29 a.m. and reconvened the regular Board meeting.

**Motion by Manager Preiner, seconded by Manager Wagamon, that the consideration of Resolution 2019-11: Final Order Directing the Repair of Anoka/Washington Judicial Ditch 3 (Phase 1) be postponed indefinitely.**

President Preiner read aloud the following statement and asked that it be included verbatim in the minutes:

> The Board directed preparation of the resolution at the recessed final hearing considering the repair of AWJD 3 on March 21, 2019. The findings are consistent with the proceedings including all comments and evidence presented at the hearing. However, more recently, introduction and progress of House File (HF) 2314 and Senate File (SF)2372 has the potential of changing both the basis of funding presented at the hearing and the Board’s ability to execute the repair under its current budgeting assumptions. Because the introduction of HF 2314 and SF 2372 calls into question the Board’s ability and authority to conduct the proposed repair as planned, I feel it is appropriate to postpone consideration until we can be sure that our current funding process and budgeting assumptions remain valid—for example, until HF 2314/SF 2372 or other, similar legislation is withdrawn, fails or is vetoed.

Unfortunately, because the fate of HF 2314/SF 2372 or similar legislation is unclear, this motion must be for indefinite postponement. The legislation proposed in HF 2314 and SF 2372 or anything similar to it where specifically allocation of ad valorem tax revenues is required on a county basis—undermines the historic practices and policies of the RCWD, undermines the fundamental principles of watershed law and the metropolitan surface water management act, undermines principles of one-watershed planning and watershed-based funding, and calls into question the validity of our current planning efforts toward adoption of our watershed management plan update. I urge the Board to consider the broader implications of this legislation as it relates to other current and future actions, programs and projects of the RCWD and invite a special meeting for the purpose of discussing the policy implications of their proposed legislation.
Manager Bradley stated that he has been trying to figure out how the District can proceed if that legislation was enacted. He stated that the District would clearly want to do this project because it needs to be done, but he likes the idea of having a meeting to discuss this in greater detail. He stated that one of his ideas is that a Water Management District for Washington County may need to be established. He reiterated that this needs to be discussed and supports President Preiner’s idea to hold a special meeting.

Manager Wagamon stated that he agrees because there are too many things up in the air at this point so he supports President Preiner’s idea.

Manager Haake stated that this would set a precedent and thinks that a special meeting or workshop should be scheduled so the Board can dig into this more thoroughly to see what the alternatives are.

Manager Bradley asked District Attorney Kolb what would happen if the Board passed this resolution and the legislation passes. He asked at what point the Board can go back and say to the people that we said it was going to be free, but now it isn’t.

District Attorney Kolb stated that Manager Bradley’s question goes to the fundamental basis of funding the repair of Anoka/Washington Judicial Ditch 3 that was presented at the public hearings which was part of the trunk conveyance policy which is ad valorem tax District-wide. He stated that the legislation that is proposed has a potential effective date of January 1, 2020 which is prior to the planned and budgeted implementation of this repair. He stated that he thinks the Board would have to reopen the hearing, re-establish a basis for funding, and go back with a new plan which appears to be what President Preiner is suggesting. He stated that the indefinite postponement can be removed by a majority vote of the Board and placed back on the agenda for consideration in the future.

Manager Waller stated that he feels President Preiner is speculating that this particular legislation is going to be enacted and it may not. He stated that there has been no committee hearing so it sounds like it is not going to go anywhere at this time.

District Attorney Kolb stated that the bill has bipartisan authors in both the Senate and the House. He explained that one of the authors is the chair of the Environmental Policy and Natural Resources and Finance Committee, so there is “horsepower” behind the bill and it will remain viable until the end of the biennium.

Manager Waller reiterated that he felt President Preiner was speculating as to whether or not the project should move forward depending on funding, but the Board has said that the project should move forward. He stated that he believes the project could go forward and if there needs to be a change in how it is funded later, that change can be
made closer to the implementation stage. He stated that he does not support the motion for postponement and does not think the funding is that big of an issue.

Manager Bradley stated the District could ask that the legislation be withdrawn.

Manager Wagamon stated that he does not want to proceed without the Board knowing how this will be funded.

Manager Haake stated that you cannot go out and buy a car until you know where the funding is coming from and feels this is a similar situation.

Manager Waller stated that the Board knows how it will be funded currently and there have been issues in the past where the funding has been changed. He gave examples of Ditches 4 and 15 where an extra maintenance cost was added to it which was not the idea when the project began.

Manager Bradley stated that he hopes the project is not delayed, but feels it is something the Board needs to work its way through.

President Preiner stated that she would like to set a special meeting time in order to discuss this.

**Motion carried 4-1 (Waller opposed).**

4. **Consider Houston Engineering, Inc. Task Order 2019-008 for RCWD Legal Boundary Technical Review.**

Administrator Phil Belfiori explained that in the 2019 budget, the Board included a new program to address boundary adjustments in a more systematic manner around the District. He stated that this agenda item is a task order for Houston Engineering to initiate the technical process of confirming the District’s hydrologic and associated political boundary, the common boundary with the Sunrise River Water Management Organization (SRWMO), Coon Creek Watershed District (CCWD) and the Mississippi Water Management Organization (MWMO). He noted that the task order does not include any work related to the BWSR boundary adjustment petition process. Staff recommends approval.

President Preiner asked for details of what areas will be looked at and asked if there was a map.

District Engineer Otterness pointed out the boundaries that will be reviewed using a map. He stated that this process is very similar to the process that was gone through about 3 years ago where the entire length of the boundary with Washington County was reviewed.
Manager Haake asked how many acres was covered by this boundary because it seems very large.

District Engineer Otterness stated is the length of the boundary to be reviewed is substantial and is roughly a third of the border of the RCWD. He noted that they will utilize information that they have available at their office and then do field verification if there are questions.

Manager Haake asked if the money that may be captured justifies the expense of doing a boundary review and asked what county the MWMO was part of. She stated that when the District does this, there will be projects within here that need to be done and asked if the District would be getting enough money to be able to ad valorem throughout the whole project.

District Engineer Otterness stated that he doesn’t know if there will be a net increase or decrease in parcels assigned to the District as a result of this exercise. He stated that the purpose of this process is to try to serve the residents best by managing those properties that are draining into the District. He stated that there are a few instances where they have already identified an issue with the boundary. He gave examples of properties in Blaine within the District boundary, that were actually draining into the CCWD. He stated that the area of the MWMO the District will be looking at will only be the portion within Anoka County. He stated that there has been discussion about implementing this same process within Ramsey County to essentially complete the boundary within the District all the way through.

District Administrator Belfiori stated that this was vetted and approved by the Board in their 2019 budget and is also incorporated into Chapter 4 of the draft Water Management Plan. He stated that the main purpose of this is to rectify boundaries that were set before there was any digital technology.

Manager Waller state that this is a long-term program that began with the Vadnais Lake Area WMO and worked northward along the east side boundary and this is turning around and coming down to the other end. He stated that he did not think it would make a dramatic difference in the size of the District, but is something that the District should continue to do because it can help resolve local problems.

District Engineer Otterness noted that within the task order, the Lino Lakes portion of Anoka County that borders on Vadnais Lake Area WMO is not included. He noted that this area would make more sense to review when the District looks at the remainder of Ramsey County.
Motion by Manager Bradley, seconded by Manager Wagamon, to approve the Houston Engineering request for services with a total cost of $38,000 as defined in attached HEI memo dated March 29, 2019 and authorize the Board President to execute the document.

President Preiner asked when this would be completed.

District Engineer Otterness stated that he is anticipating completion by the end of the year.

**Motion carried 5-0.**

5. **Consider 2018 District Financial Report and Audit.**

Administrator Phil Belfiori stated that on April 1, 2019, the District received the 2018 Financial Report and Audit. He noted that there were no deficiencies identified in internal control that they considered to be a material weakness and no instances of non-compliance. He thanked Treasurer Wagamon for his leadership on this and Theresa Stasica for doing an outstanding job. He stated that this “clean” audit is a testament to her deliberate and professional work.

Manager Wagamon stated that he wanted to give kudos to the staff because this is amazing to repeatedly have clean audits.

**Motion by Manager Wagamon, seconded by Manager Bradley, to accept and authorize the filing of the Rice Creek Watershed District 2018 Annual Financial Report and Audit. Motion carried 5-0.**

6. **Consider Revision to RCWD Financial and Accounting Manual-Cash and Investment Policy.**

Administrator Phil Belfiori explained that staff would like to update the financial accounting manual, cash and investment policy to include the products of the 4M fund. He stated that once the Water Management Plan is approved, staff will come before the Board with a proposed investment program utilizing more of the 4M Fund financial products for them to consider.

**Motion by Manager Bradley, seconded by Manager Haake, to adopt the Revisions to the RCWD Financial and Accounting Manual dated April 10, 2019 with any non-material changes and direct the Administrator to incorporate it into the District’s Policy and Procedures Manual. Motion carried 5-0.**
7. Consider Check Register dated April 10, 2019, in the amount of $43,020.25 prepared by Redpath and Company.

Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated April 10, 2019, in the amount of $43,020.25, prepared by Redpath and Company. Motion carried 5-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. Engineers Report and Timeline.
   No discussion.

2. Managers Update.
   President Preiner asked how soon the special meeting could be set up to talk about the proposed legislative bills.

   Administrator Belfiori stated that he does not have potential dates at this time but suggested that the Board pass along dates that they are available.

   Manager Waller suggested that the agenda and discussion points be set before picking a date for the meeting.

   The Board discussed potential meeting dates and times.

   Motion by Manager Haake, seconded by Manager Bradley, to schedule a workshop at the conclusion of the regular Board meeting on April 24, 2019 to be held in whatever room is convenient to the City of Shoreview, in order to have an open discussion about what the proposed legislation in HF 2314 and SF 2372 and the possible effect on the District. Motion carried 5-0.

   Manager Waller stated that he had attended the legislative water committee meeting. He noted that Jason Moeckel, of the DNR was there and made comments that he expected White Bear Lake to be outflowing because the St. Paul Water Authority had stopped pumping and using some wells in the Vadnais Heights area. He gave a brief history of the age of the wells and the pumping.

   Manager Bradley stated that the Bald Eagle Lake Area Association has voted that they would like to proceed with the assumption that there would be a renewal of the water management district and move forward working with the District. He stated that they are having a fundraiser on April 11, 2019.

   President Preiner noted that she was at the Capital Region Watershed District for MAWD and congratulated them on their beautiful new facility.
ADJOURNMENT

Motion by Manager Haake, seconded by Manager Waller, to adjourn the meeting at 10:13 a.m. Motion carried 5-0.