Minutes

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

ROLL CALL

Absent: None.

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Technical Specialist/Permit Reviewer Chris Buntjer, Office Manager Theresa Stasica, Public Ditch Inspector Tom Schmidt.

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


SETTING OF THE AGENDA
District Administrator Belfiori added a new number 6 under action: Consider Refined As-Constructed Profile for Branch 1, Lateral 1, ACD 53-62 and delete number 1 under items for discussion.

Motion by Manager Haake, seconded by Manager Wagamon, to adopt the agenda as amended. Motion carried 5-0.

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the September 8, 2014, Board of Managers Meeting Workshop Meeting. Motion by Manager Wagamon, seconded by Manager Haake, to approve the minutes as presented. Motion carried 5-0.

Minutes of the September 10, 2014, Board of Managers Regular Meeting. Motion by Manager Wagamon, seconded by Manager Ogata, to approve the minutes as amended. Motion carried 5-0.
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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Manager Haake asked what they will do to ensure maintenance on the ponds. Technical Specialist/Permit Reviewer Buntjer responded the District required a Declaration of Maintenance or a Maintenance Agreement depending on who is going to be maintaining the features. He believed this was on private land so there would be a Declaration of Maintenance required on the property so it would be maintained in perpetuity.

Manager Waller asked who paid for the maintenance. Technical Specialist/Permit Reviewer Buntjer responded it would be the property owner who would be responsible for maintaining the property.

Manager Waller asked how often maintenance would be required. Technical Specialist/Permit Reviewer Buntjer responded they (the property owner) were required to look at it annually. Generally, a clean-out was required when it was half full.

Manager Waller asked if there was any inspection program. Technical Specialist/Permit Reviewer Buntjer responded the City can inspect the property and the District in the past has used their summer intern to also inspect properties. He stated otherwise, there was an inspection at the beginning of construction and at the close out of the permit.

Motion by Manager Ogata, seconded by Manager Wagamon, 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 September 17, 2014. Motion carried 5-0.

President Preiner recessed the regular board meeting to go to the public hearing.

PUBLIC HEARING: RELATED TO THE REALIGNING AND ABANDONMENT OF A PORTION OF ANOKA COUNTY DITCH 55

President Preiner stated: I would like to welcome everyone who has come today. The purpose of this hearing is to receive comments from the public on the request of R & R Leasing, Inc., to realign a portion of ACD 55 that runs through property it owns in the NE quadrant of Main Street and 20th Avenue North in the City of Centerville.
On December 12, 2012, the Board adopted Resolution 2012-42 correcting the drainage system record to reflect the functional alignment of the drainage system.

Resolution 2012-42 acknowledged several unauthorized modifications of the drainage system, which impact drainage system function.

One such unauthorized modification was the alignment of the drainage system through an "L" shaped pond located on a portion of Tract A, Registered Land Survey No. 195, Anoka County, Minnesota, owned by R & R Leasing, Inc.

The "L" shaped pond is part of the stormwater and wetland mitigation features of an adjacent development.

R & R has requested that the functional alignment of ACD 55 through the "L" shaped pond be realigned and placed into a buried tile adjacent to the pond. This realignment would be similar to the original construction, alignment and drainage efficiency of ACD 55 through Tract A of Registered Land Survey No. 195.

The realignment will facilitate the continued function of ACD 55 and the continued function of the stormwater and wetland mitigation features of the adjacent development.

Upon completion of the realignment, the functional, but unauthorized alignment of ACD 55 through the "L" shaped pond will no longer be of use to the drainage system.

R & R has executed an easement for the purpose of the realignment.

Statutes Section 103D.335, subd. 8, allows the Board to construct, clean, repair, alter, abandon, consolidate, reclaim or change the course or terminus of any public ditch...within the watershed district.

Statute section 103E.227, authorizes the Board, as drainage authority for ACD 55, to reroute the drainage system for beneficial purpose.

Statute section 103E.701, authorized the Board, as drainage authority for ACD 55, to reroute the drainage system for the purpose of wetland avoidance.

Statutes section 103E.806, authorizes the Board, as drainage authority for ACD 55, to abandon a portion of the drainage system that does not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not of a substantial public benefit and utility.

The Board noticed this hearing as follows:

By publication in the Pioneer Press newspaper on September 3, 10 & 17, 2014 and the Citizen newspaper September 4 & 18, 2014.

By mail to the City of Centerville, Anoka County, Anoka County engineer, DNR, BWSR, MnDOT, and ACOE September 2, 2014.

By posting on the district website & at the district office from August 25 through September 24, 2014.

By email to those requesting email notice of District actions and those on the District’s email distribution list on August 25, 2014.
133 Our decision today will be based on the record of these proceedings, including any public comment provided today.
134 The Board may adopt findings and issue an order granting the proposed action if the Board finds that the proposed
135 realignment and partial abandonment of ACD 55 is beneficial and serves the public interest by ensuring efficient
136 function of ACD 55 and avoiding interference with established wetland mitigation and stormwater management
137 facilities; and the portion of the functional alignment of ACD 55 to be abandoned, once the realignment occurs, will
138 not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is
139 not of a substantial public benefit and utility
140
141 I now invite the District’s staff to review the proposed realignment and partial abandonment.
142
143 District Engineer Otterness summarized what they found in their repair memorandum and the reason they were
144 recommending the partial abandonment. He outlined the recent actions taken including in August 2012 the
145 historical review Memorandum; December 2012 approval of Resolution 2012-46; May 2013 hydrology and hydraulics
146 evaluation; and June 2014 ACD 55 Repair Memorandum. He described the problems at the ACD 55 tile
147 outlet; including ponds back water into the tile outlet; the tile reduces effectiveness of ponds to manage stormwater
148 and water quality; there is poor access for the public drainage system; and it conflicts with a wetland mitigation area.
149 He stated the alternatives that could be performed included 1) restoring the tile location to its original alignment; 2)
150 modify the outlet structure of the stormwater pond there and leave the drainage system alignment the same; or 3)
151 realigning the drainage system, creating an extension to the tile outlet to duplicate the original function but to have
152 it in the area that would be more conducive for future development. He stated option one would not be a feasible
153 long-term option and option 2 did not address the stormwater and wetland issues. They determined option 3 was
154 the recommended alternative. The benefits of option 3 was that it would eliminate conflicts between the public
155 drainage system and municipal system; it would reduce the upstream flood elevations up to 2.1 feet; it would reduce
156 crop inundation time; it was conducive to future development; and the estimated cost was $45,000. He stated the
157 actions needed to do the repair was to prepare an agreement for the purchase of an easement (which had already
158 been completed); hold a public hearing on the abandonment/realignment (which was being held at this meeting);
159 obtain quotes for the work; and complete the tile installation and channel cleaning scheduled for fall 2014.
160
161 Manager Ogata asked, if the recommended alternative was completed, what happens to the pond? District Engineer
162 Otterness responded the ponds should remain basically as they were but would function better.
163
164 President Preiner invited the public to make comments.
165
166 If you would like to make a comment, please come up to the podium when I recognize you, speak into the
167 microphone and state your name and address for the record. If you have a specific question concerning the
168 proposed action, we may ask our staff to address your question.
169
170 Please note as well that our proceedings today are being recorded.
171
172 Lynette Aubin, 15135 Elmcrest Avenue N., Hugo, MN, stated she was not sure they were aware that there was
173 a drain pipe that went from the property across her house into her yard, which filled up with water from the
174 drainage system on that side of the road. She stated her property was extensively flooded this year all year long.
175 She stated there was a small holding pond, which had been there continually all summer until now, and
176 usually the pond was only there for a month in the spring. She wanted to make sure anything done would not
177 flood her property more.
178
179 Manager Waller asked which side she lived on. Ms. Aubin responded she lived on the east side and the pipe
180 came from the west to the east. She stated the water stayed in her yard until it dissipated.
District Engineer Otterness stated when they did the analysis, they had looked at the 100 year rainfall event and made sure the water elevations would not be increased due to the result of the tile extension. He stated there was a much larger culvert going in under Main Street and that would be where the water would be going through. He stated there was plenty of capacity and in general there should be lower water elevations in the area.

Manager Waller stated water should not flow to the east and she said the water was flowing to the east. Ms. Aubin stated the culvert has been there since she moved in in 1996.

Manager Waller asked if she was in the benefitted area. District Engineer Otterness responded he believed she was in the benefitted area in the ditch and he did not think her area was directly affected by the tile system, but they could look at her property to see what was happening.

Manager Haake asked if they could send out Tom or someone to look at what she was talking about. She asked if this might be a City issue. Ms. Aubin noted she wanted to make sure that this re-route would not push more water her way.

Manager Waller noted her street had multiple jurisdictions, which could cause more players and more problems. Ms. Aubin responded she understood this but she wanted to make sure the District was aware of her issue.

Manager Haake stated they wanted to make sure they understood where her water was coming from and she would not be further affected by any drainage.

Lee Perrault, representing Bernier Family Farm, residents address 20362 Fenston Avenue N., Forest Lake, stated the property had been flooded out for the last four years and they would love 5 acres of hay land that they could not get to because of the water. He asked anything that could be done to keep them from being flooded out would be appreciated. He stated they had looked at different options, but this year they could not even get to the back half of the property. He believed one of the suggestions made prior was to put a pipe in the ditch and cover it so they could put a fence line parallel with the ditch to keep heavy equipment from going over it. He stated this is what initially happened to the pipe, which was dug up and left with an open ditch. He stated the open ditch was a "nightmare" for them the past few years. He indicated they had taken out the willow at one time, but they had grown back. He stated Tom Schmidt had indicated a new pipe would be put in and the willow removed. He stated even today it was too wet to hay in there. He stated they would appreciate anything the District could do to help them out.

District Engineer Otterness stated the open channel he was talking about was one where maintenance would be done. He stated that was a critical part of doing this work. He stated the capacity of the open channel would be far more than having a pipe put in. He stated the flooding that occurred this spring was extraordinary compared to recent history in the area and he would not consider this a representative year.

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 Resolution Related to the Realignment of a Portion of Anoka County Ditch 55 and Abandoning Remnant Portions of the Drainage System (Phil Belfiori)

Administrator Belfiori explained this Resolution related to the information discussed at the public hearing. He recommended they add a letter E on the order referencing the two comments made at the public hearing to have those entered into the record and approve the resolution (if the board was accepting) contingent on those comments. He stated the Order would then be modified and President Preiner would sign the modified Order.

President Preiner requested clarification on Mr. Perrault's agreement with Mr. Schmidt. Public Ditch Inspector Schmidt stated the agreement was a request and he believed the District Engineer might have been confused on the location. The landowner was describing property on the east side of 35E where there was an open section of ditch and not the outlet end. The limitation of his drainage is the tile line running under 35E. As to the Ms. Aubin he could address that with the City Public Works Departments of Hugo and Lino.

Manager Waller stated on the west side across from the freeway tiles were put in. Would that process used on that side be used on the east side. Public Ditch Inspector Schmidt responded the request was to replace the open ditch section with pipe, but that most likely had been in that condition for more than 25 years and filling in the ditch now might be problematic with concerns to WCA, which was why they were waiting to see what the options were. He stated fencing and mowing were an option, but putting in a pipe might have limitations with having enough cover to keep it in the ground.

Manager Waller stated keeping the heavy machinery off of the right away was what caused damage and that area of land use will change sooner than other places. He stated fence was an important technique along with mowing was important to keep the machinery out. He indicated he would like to see some fence put in there. Public Ditch Inspector Schmidt stated they could install a similar fence like on the west side, but the spoil banks that had arisen from when they took the ditch out they can mow and get the trees out of there but until they get a more definite plan he would recommend holding off of putting pipe back into the ditch and filling it in.

Administrator Belfiori stated staff would put Mr. Schmidt's responses into the Order under item E.

Motion by Manager Haake, seconded by Manager Ogata, to approve Resolution 2014-30, Findings and Order Realigning a Portion of Anoka County Ditch 55 and Abandoning Remnant Portions of the Drainage System of No Substantial Public Purpose including in the Order an item E including the public hearing comments and Public Ditch Inspector Schmidt's response to comments.

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

Motion carried 5-0.
2. **Consider Solicitation for Bi-Annual Professional Services for Engineering/Legal/Accounting (Phil Belfiori)**

District Administrator Belfiori explained the District was required to biannually solicit for professional services. He asked if the Board wanted to form a subcommittee to review the information with the Administrator and make a recommendation to the full Board.

*Motion by Manager Haake, seconded by Manager Waller, to approve the solicitation of interest notice to publish in the District’s official newspaper, post on website and mail to the current consultants/engineering pool. Motion carried 5-0.*

*Motion by Manager Waller to appoint a Board subcommittee for review of professional services information and the members be President Preiner and Manager Waller.*

Manager Wagamon expressed an interest in being on the subcommittee. President Preiner recommended to instead of appointing a subcommittee that the information be discussed at a workshop.

*Motion died for lack of a second.*

3. **Consider Scheduling a Compliance Hearing for Longview Estates – Permit #14-014 (Nick Tomczik)**

Permit Coordinator/Wetland Specialist Tomczik stated Longview Estates at this time does not have a permit and the remaining required item was proof of recording the final plat. He stated that staff had been in communication with the applicant on the 18th and the applicant had communicated an intent to have the item recorded. He stated a call was placed to the applicant this morning and a message left and further nothing was presented to the office. As the site is currently active in construction of the project it was important for the District to be attentive to its permitting requirements and therefore staff was seeking a compliance hearing date but it was hoped that the issue might be resolved before that time.

*Motion by Manager Ogata, seconded by Manager Wagamon, to authorize the District Administrator to give notice of a Board compliance hearing for Longview Estates (permit application #14-014) on October 22, 2014. Motion carried 5-0.*

4. **Consider RCWD Comment Letter Regarding U.S. Environmental Protection Agency rule changes (Phil Belfiori)**

District Administrator Belfiori stated as a follow up to the September 8 Board workshop discussion staff had drafted a letter for Board consideration on the proposed rule Definition of “Waters of the United States” under the Clean Water Act.

*Motion by Manager Haake, seconded by Manager Wagamon, to authorize President Preiner to sign and staff to submit the letter dated October 20, 2014 titled Comments on Definition of “Waters of the United States” Under the Clean Water Act. Motion carried 5-0.*

5. **Consider Check Register dated 9/24/2014, in the amount of $211,030.38, prepared by Redpath and Company.**

*Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated 9/24/2014, in the amount of $211,030.38 prepared by Redpath and Company. Motion carried 5-0.*
6. Consider Refined As-Constructed Profile for Branch 1, Lateral 1, ACD 53-62

Administrator Belfiori explained this was a Resolution Finding and Order Modifying Drainage System Record of Alignment Grade and Dimension of Anoka County Ditch 53-62. He stated they had heard from the Army Corp of Engineers who had concurred with the as constructed information provided to them. He stated the Resolution had been modified pursuant to the District Engineer's memorandum.

District Engineer Otterness stated back in April they had discussions with the Army Corps regarding the proposed project and they had provided them the profile. The Corps had some concerns with the profile provided so they met with them in April to discuss this. The Corps had recommended additional test pits along the system to redefine the profile. He stated they went out and did the test pits in April and completed the memorandum. He stated after doing the test pits, it was determined the profile as constructed was higher in some places and lower in some places, but not enough to affect their proposed repair. He stated the memorandum was provided to the Corps and last week they received notice from the Corps that they concurred with the memorandum. He stated they would be acting on the planned profiles in the back of the memorandum.

Motion by Manager Ogata, seconded by Manager Waller, to approve Resolution 2014-31, Findings and Order Modifying Drainage System Record of Alignment, Grade and Dimension of Anoka County Ditch 53-62 (As Constructed and Subsequent Improved Condition).

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

Manager Waller stated it appeared they had all of the official approvals and it should not interfere with their scheduled commitments. District Administrator Belfiori responded that was correct.

Manager Waller asked if it would be appropriate officials thanking them for making the project possible.

Motion carried 5-0.

Motion by Manager Waller, seconded by Manager Haake, to direct staff to send a thank you letter to the appropriate officials thanking them for making the project possible. Motion carried 5-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. Presentation on Anoka County Ditch 31/46 historical review memos and discuss noticing of landowner information meeting of public hearing

Removed from the Agenda.

2. Staff Reports

District Administrator Belfiori stated staff had passed out the MAWD resolution process, which he would add to the next workshop for discussion.
Permit Coordinator/Wetland Specialist Tomczik stated they were still trying to get the Corp to recognize the Brown's Preserve wetland bank. He stated Mr. Hair is interested in the Corp's recognition of the bank as well as an intent to donate the property to the RCWD; that process ended last year when no appraisal of the property was presented to the District. Additionally, He stated they had a pre-application meeting with a landowner on ACD 55 in which they were holding to the previous memorandum on allocation of the capacity of the tile line. The consultant for the landowner did suggest some alternatives where they could demonstrate no adversity to the other landowners, which they were open to and would discuss with the Board as necessary.

3. October Calendar
There were no comments.

4. Manager's Update
There were no comments.

ADJOURNMENT
Motion by Manager Haake, seconded by President Preiner, to adjourn the meeting at 9:58 a.m. Motion carried 5-0.