REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, September 14, 2016

Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota

Approved Minutes

CALL TO ORDER
President 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, Secretary Michael J. Bradley, and Treasurer Steve Wagamon.

Absent: None

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, District Technician Samantha Berger, Office Manager Theresa Stasica.

Consultants: District Engineers Chris Otterness and Greg Bowles, Houston Engineering, Inc. (HEI); and District Attorney Chuck Holtman from Smith Partners

Visitors: Joe Pribyl, Mike Suel, Alan Catchpool, Bryan Bear.

SETTING OF THE AGENDA
District Administrator Belfiori indicated there were no changes.

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

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the August 24, 2016, Board of Managers Meeting.

Manager Waller indicated a correction page 14. In the list of cities, Willernie is misspelled. He stated the City of White Bear Lake and Dellwood are missing from the list and should be included for the record.

Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as amended. Motion carried 5-0.

Minutes of the August 24, 2016, Board of Managers Workshop Meeting. Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as presented. Motion carried 5-0.
PERMIT APPLICATIONS REQUIRING BOARD ACTION

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:

CONSENT AGENDA

<table>
<thead>
<tr>
<th>No.</th>
<th>Applicant</th>
<th>Location</th>
<th>Plan Type</th>
<th>Recommendation</th>
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</thead>
<tbody>
<tr>
<td>16-077</td>
<td>Church of St. Peter</td>
<td>Forest Lake</td>
<td>Final Site Drainage</td>
<td>CAPROC 6 items</td>
</tr>
<tr>
<td>16-080</td>
<td>Golden Valley Land</td>
<td>Shoreview</td>
<td>Land Development</td>
<td>CAPROC 7 items</td>
</tr>
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Motion by Manager Wagamon, seconded by Manager Waller, 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, with Findings, Dated September 6 & 7, 2016. Motion carried 5-0.

PERMIT APPLICATIONS REQUIRING BOARD ACTION

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<td>16-070</td>
<td>Joseph Pribyl</td>
<td>Blaine</td>
<td>Final Site Drainage</td>
<td>Variance Request</td>
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<td>CAPROC 14 items</td>
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Permit Coordinator Tomczik stated Joseph Pribyl has submitted a written request for a variance from Rice Creek Watershed District (RCWD) Rule F.6(e)(2), which requires that a “buffer adjacent to wetland within the final WMC must average at least 50 feet in width, measure at least 25 feet at all points. He stated the criteria for variance review was found on page 32 of the packet, items a through f, and staff would read the criteria and the engineer state the findings.

Permit Coordinator Tomczik stated criterion (a), How substantial the variation is in relation to the RCWD Rule requirement(s)

District Engineer Bowles stated, the applicant has met the 25-foot minimum where feasible but has not met the 50-foot average. The areas where the minimum distance is not met can be found in the Exhibit A Request for Variance dated 7-27-2016. The ER for the Pribyl Distribution Building, dated September 7, 2014, finds that the applicant would need to provide an additional 2,618 S.F. of buffer to meet the average 50-foot width. Other than Rule F.6(e)(2), the applicant will meet the remaining provisions of the buffer requirement.

Permit Coordinator Tomczik stated criterion (b); the effect the variance would have on government services

District Engineer Bowles stated, issuance of a variance for Pribyl Distribution Building project is not expected to increase flooding (see criteria (c)) or have any negative effect on government services.

Permit Coordinator Tomczik stated criterion c whether the variance will affect a substantial change in the character of the watershed resources or will be a substantial detriment to neighboring properties and that the engineer in evaluating this criterion utilizes the bulleted items found on page 33 of the packet.
District Engineer Bowles stated they consider water quality in this case Golden Lake, which receives project drainage, is listed on the Section 303(d) impaired water list. The affected designated use is aquatic recreation with a pollutant or stressor of nutrient/eutrophication biological indicators. The project as a whole is not expected to cause adverse impacts. Curb and gutter will route all runoff from the fire road to a NURP pond to mitigate the effect of the lack of buffer by removing pollutants prior to runoff entering the wetlands. No untreated surface is routed to the wetlands.

None of the other resources identified above are located immediately downstream of the site.

As to whether issuing the variance has a negative effect to the neighboring properties, the proposed variance is for the buffer requirements, which has minimal effect of flood elevations. The applicant has complied with the Rule C stormwater requirements for peak rate and water quality.

The proposed variance on the buffer requirements will have a minimal effect on the adjacent wetland resources. The existing wetland contains a dominance invasive vegetation and is of low quality. The wetland is large and extends off the property to the north, east and south between 500 -1,000 feet. Based on the size of the wetland and the length of the reduced buffer width, it doesn’t appear that the reduced buffer will have an effect on the wetland resource. Additionally, the applicant is collecting and treating all runoff from the impervious surface, so no direct runoff other than buffer will enter the wetland without treatment. Overall, there is a net increase in habitat area, since the applicant has met some of the buffer requirement.

Permit Coordinator Tomczik stated criteria (d) whether the practical difficulty can be alleviated by a feasible method other than a variance.

District Engineer Bowles stated an assessment of whether the practical difficulty can be alleviated by a feasible method other than a variance (economic considerations play a role in the analysis under this factor) is necessary. The fire road is a regulatory requirement as is the rule’s buffer requirement. The applicant has listed the reasoning for the building size and parking area in the variance submittals and has indicated that there are no other suitable sites in the metro area. There does not appear to be an alternative site design which meets these criteria. The building size and location requirements are not engineering related and thus not evaluated. To meet the requirement at these locations, additional wetland could be filled to create the buffer, however this is not considered acceptable under WCA and is not considered prudent.

Permit Coordinator Tomczik stated criteria (e), how the practical difficulty occurred, including whether the landowner created the need for the variance.

District Engineer Bowles stated the applicant indicated that they had met with the City on March 15, 2016 prior to purchase of the property and were not given any indication that a fire road was a requirement. The applicant was not told the fire road was a requirement until June 25, 2016, after the initial design had been completed. The need for a variance was created by the proposed project. Per the discussion above, there is no feasible way to do the project which meets the requirements of the applicant, the District and the City without a variance.

Permit Coordinator Tomczik stated criteria (f), whether in light of all of the above factors, allowing the variance will serve the interests of justice.
District Engineer Bowles stated this criterion lies largely in the Board’s domain as it involves judgments of a non-technical nature. Our criterion for assessing this portion of the practical difficulties standard is the ability or inability of other permit applicants with similar site conditions to comply with the Rule F.6(e)(2) buffer requirements. Other applicants have had the ability to feasibly meet this requirement onsite because the site constraints presented here were not evident.

Manager Haake asked if the entire area will be impervious. District Engineer Bowles stated that was correct. He indicated this met the freeboard requirements. He stated to the south of the property is wetland mitigation for the buffer. There are impacts to the wetland and will be handled through the State banking process.

Manage Bradley asked staff previously if this particular buffer requirement could be waived in light of the new buffer law and he was advised that this was not a wetland that was included within the buffer requirement and therefore the Board can provide a waiver. In light of the fact that they have an alternative BMP to take care of the lost buffer, he was ok with this.

Permit Coordinator Tomczik stated the applicant was at the meeting to answer questions.

Manager Waller believed in the past they have had exceptions like this for fire lanes in the wetland so he did not see any problem with this.

**Motion by Manager Waller, seconded by Manager Bradley, to approve the variance request for Permit 16-070, for the Pribyl Distribution Building project. Motion carried 5-0.**

Manager Haake stated for the record she was concerned about the stability of the ground all together. She noted she would not build on anything that has questionable with ground water coming up.

**Motion by Manager Waller, seconded by Manager Bradley, to CAPROC 14 items, Permit 16-070, for the Pribyl Distribution Building project in accordance with RCWD staff and District Engineer’s Findings and Recommendations, with Findings, Dated September 6, 2016. Motion carried 5-0.**

**PUBLIC HEARING: URBAN STORMWATER REMEDIATION COST-SHARE REQUEST FROM CITY OF HUGO**

President Preiner stated The Regular Board meeting is now recessed and the public hearing is opened on the Rice Creek Watershed District’s proposed selection of a project for funding through the District’s Urban Stormwater Remediation Cost-Share Program.

The purpose of this hearing is to receive comments from the public on a project that the Board is considering for cost-share assistance in the City of Hugo.

Before the watershed district can provide funds for the capital work of this community, state law requires that the board of managers hold a public hearing, receive public comments and make a judgment that the project is a sound and cost-effective project to help fulfill our water resource goals. That is the purpose of today’s hearing. In accordance with state law, notice of this hearing was published for two successive weeks in the St. Paul Pioneer Press and mailed to all cities within the Watershed District, as well as the District’s four counties.
First, I would ask Kyle Axtell, our Water Resource Specialist, to give a brief presentation of the proposed project. When his remarks are completed, the floor will be open for any members of the public who wish to address the Board. At that time, if you wish to comment, please come forward to the podium and state your name and address for the record. If you have a written copy of your statement, or any other documents that you would like to submit, please give them to Theresa Stasica, our meeting clerk.

During public comment, managers are welcome to ask questions of commenters to clarify their remarks. I also may ask Mr. Axtell or representatives of the project applicant to respond to any technical questions raised. Managers will hold their own comments about the project until the public hearing is closed. At that time, the Board will have the opportunity to discuss the projects.

Water Resource Specialist Axtell made a presentation to the Board.

Manager Bradley stated if the water is not used for irrigation and does not go into the storm water pond where does it end up at. Water Resource Specialist Axtell stated it drains into Clearwater Creek and eventually goes into Peltier Lake. Any water removed from this system for irrigation and infiltration for reuse does reduce both the rate and volume going into Peltier Lake.

Manager Bradley thought this is exactly what they are trying to do. Manager Haake thought this was a fabulous project.

Manager Waller noted the cost of the grant is about 5.6% of the total cost and he thought they could expand the amount of money for this program and the amount of participants in it.

President Preiner invited anyone who would like to offer comments about the project.

Mr. Bryan Bear, City of Hugo City Administrator, indicated this is a great program and hoped to keep it going. He stated this an opportunity to remove excess water from the system and also improve water quality. The ground water benefit is important for the region and they are glad the Board has taken that on as an objective. He thought this is a good project for a number of reasons. It is very important to them that the Board has allowed the City of Hugo to make this type of application and also allow them to use this project to satisfy rules and to get stormwater credits for that as well. He stated this is phase one and an expandable project that can be two to three times larger than this if this project is successful they can keep adding onto it to the north.

Is there anyone else who wishes to speak? There being no further testimony from the public, I close the public hearing and open the matter for board discussion and action.

**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.
ADDITIONAL ITEMS REQUIRING BOARD ACTION

1. Consider award if the City of Hugo Urban Stormwater Remediation Cost-share Project.

Water Resource Specialist Axtell stated at its regular meeting on October 4, 2015 the RCWD Board authorized staff to solicit proposals for the 2016 Urban Stormwater Remediation Cost-Share Program. A request for proposals was released and six proposals were received by the initial deadline of December 31, 2015. Ultimately, all six proposals received some level of funding, utilizing all of the roughly 205,000 available for project implementation. Later in the year, one applicant withdrew its application, leaving $30,000 available for another project.

Water Resource Specialist Axtell stated the City of Hugo has submitted an application for the remaining $30,000 in available funding to be put towards its Water’s Edge Stormwater Reuse project. The project would connect seven irrigation accounts within the large townhome development to a stormwater supply lift station for irrigation rather than using groundwater as a primary irrigation source. The RCWD has already worked with the City to successfully obtain a $200,000 Metropolitan Council grant for this project, which carries an overall cost of $522,000.

Water Resource Specialist Axtell stated the purposed of this item is to provide for a discussion among the Board members regarding the cost-share application, resulting in a decision about if the project should be funded and at what level.

Motion by Manager Waller, seconded by Manager Haake, to approve Resolution 2016-18, Resolution for Ordering of 2016 Urban Stormwater Remediation Cost-Share Project, Pursuant to Minnesota Statutes §103B.251.

THEREFORE, BE IT RESOLVED that pursuant to Minnesota Statutes §103B.251 and the WRMP, the Project is ordered; and

BE IT FURTHER RESOLVED that the Board of Managers hereby authorizes the Board President to execute the cost-share agreement between the Rice Creek Watershed District and the City of Hugo, with any final non-material changes and on advice of counsel.

ROLL CALL:
Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner - Aye

Motion carried 5-0.

2. Consider 2017 Preliminary Budget & Levy Certification – There will be a public meeting on the District’s budget and levy adopted today on December 14, 2016 in conformance with MN Stat 275.065.

District Administrator Belfiori presented the 2017 Preliminary Budget and Levy Certification to the Board.
Motion by Manager Haake, seconded by Manager Bradley, to approve Resolution 2016-19,
Resolution that the Rice Creek Watershed District Board of Managers adopts a 2017 general
fund and plan implementation budget totaling $9,289,099;

BE IT FURTHER RESOLVED, that a levy of 0.048 percent of taxable market value, not to exceed
$250,000.00, be certified to the Counties of Anoka, Ramsey, Hennepin and Washington and
levied upon all taxable property in the Rice Creek Watershed District for the year 2017, for the
purpose of paying the General Fund expenses of the District as provided by Minnesota
Statutes Section 103D.905 Subdivision 3;

BE IT FURTHER RESOLVED, that a levy of $4,133,000 be certified to the Counties of Anoka,
Ramsey, Hennepin and Washington and levied upon all taxable property in the Rice Creek
Watershed District for the year 2017, as authorized by the Metropolitan Surface Water
Management Act, Minnesota Statutes Section 103B.241, for the purpose of paying the costs of
preparing and implementing a watershed management plan;

Manager Bradley stated for the record the Board is not increasing the tax levy.

ROLL CALL:
Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner - Aye

Motion carried 5-0.

3. Consider Bald Eagle Lake Water Management District – Certification of charges to counties –
Decision/Resolution
District Administrator Belfiori stated the estimated revenue is approximately $59,000 for this
water management district which matches the budget just proposed.

Motion by Manager Bradley, seconded by Manager Haake, to approve Resolution 2016-20,
Certification of Charges Bald Eagle Water Management District.

THEREFORE BE IT RESOLVED by the Board as follows:

1. Table 1 attached hereto and made a part hereof by reference identifies parcels of real
property lying within the charge area of the Bald Eagle WMD and the charge to each
parcel for the 2017 implementation program.

2. The Board authorizes and directs the District Administrator, before the certifications are
submitted, to confirm that the charges are consistent with the most recent parcel records
available, to make any necessary adjustments on the basis of those records pursuant to
established charge criteria, and after certification to report to the Board on any
adjustments made.
3. The Board hereby certifies said list, as it may be adjusted by the Administrator, and requests that the Anoka County Auditor, Ramsey County Auditor, and Washington County Auditor include in the real estate taxes/assessments due the amounts set forth in Table 1 with taxes/assessments due and payable.

4. The District Administrator is directed to tender a certified copy of this Resolution to the Anoka, Ramsey, and Washington County Departments of Property Records and Revenue along with the identified parcels in a form as prescribed by each County, and to take such further steps as are required to affect the collection of charges provided herein.

ROLL CALL:
Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner - Aye

Motion carried 5-0.

Permit Coordinator/Wetland Specialist Tomczik stated the applicant is the City of Lino Lakes. Lino Lakes is seeking approval of a Comprehensive Stormwater Management Plan; CSMP, this is a framework under which the remainder of future development within Legacy at Woods Edge will be required to conform. HEI has reviewed the plan; this is not a permit.

District Attorney Holtman stated on page 115, in the last whereas of the Resolution it references the Engineers Memorandum with an August 28th date and the memo has been updated so the date should be September 13, 2016.

Manager Haake asked if the memo will be a permanent maintenance memo. Permit Coordinator/Wetland Specialist Tomczik stated that was correct. This is a municipality with public entity and they do typically enter into an agreement on maintenance obligation.

Motion by Manager Bradley, seconded by Manager Wagamon, to approve Resolution 2016-21, Resolution Authorizing Approval of the Legacy at Woods Edge Comprehensive Stormwater Management Plan.

THEREFORE BE IT RESOLVED that the Rice Creek Board of Managers approves the Legacy CSMP;

BE IT FURTHER RESOLVED that the District will implement the Legacy CSMP in accordance with the Engineer’s memo and that in the event of any question as to how the Legacy CSMP is to apply, the Engineer’s memo will control.

Permit Coordinator/Wetland Specialist Tomczik indicated a representative from WSB, representing Lino Lakes for questions or comments. There were none.
ROLL CALL:
Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preimer - Aye
Motion carried 5-0.

Permit Coordinator/Wetland Specialist Tomczak stated the Board is asked to consider the first permit under the Legacy Woods CSMP. Permit 16-054, Woods Edge. He noted a revised Engineer’s report with changes on page 2. Single item 4 was changed to items 4-7.

Manager Haake asked how many units would be in the development. District Engineer Bowles indicated there would be 112 attached townhome units.

Motion by Manager Bradley, seconded by Manager Wagamon, to approve Permit 16-054, Woods Edge. Motion carried 5-0.

Consider Veit and Companies, Inc. partial payment requests 2 & 3 for the Middle Rice Creek Restoration Project.
District Administrator Belfiori stated the RCWD Board of Managers awarded the Middle Rice Creek Restoration Project construction contract to Veit & Company, Inc. on October 28, 2015. The total contract price was $538,376.01. Veit’s first pay request was received in April 2016 and reviewed by the project engineer. Payment totaling $244,607.76 was approved by the Board on April 27, 2016. Veit’s second and third pay request have recently been received. Combined, Veit is requesting payment of $44,515.67. After reviewing the pay request, EOR is recommending payment of $42,517.58. The difference in the contractor’s pay request and the engineer’s recommendation is based on a discrepancy in material quantities. EOR is recommending payment for undisputed quantities now.

Motion by Manager Haake, seconded by Manager Waller, to approve partial payment to Veit and Companies, Inc. for the Middle Rice Creek Restoration Project in the amount of $42,517.58. Motion carried 5-0.

Consider Water Quality Grant Program application R16-06, Johnson Shoreline Restoration.
District Technician Berger stated this project proposes the restoration of a shoreline along Lake Josephine in Arden Hills, MN. The landowner is looking to install a buffer along the shoreline to provide native habitat and also filter runoff from the property. The project is adjacent to Lake Josephine; a Tier I Water body in the RCWD Watershed Management Plan.

District Technician Berger reviewed the background with the Board. She stated the applicant will submit an application to encumber up to $3,097.30 in cost-share funding for this project, not to exceed 50% of eligible project expenses.

Motion by Manager Haake, seconded by Manager Bradley, to approve RCWD Water Quality Grant Program Contract R16-06 for the Johnson’s shoreline project, up to $3,097.30 & not to exceed 50% of eligible project expenses, in accordance with established program guidelines. Motion carried 5-0.
7. **Consider appointment of Citizen Advisory Committee candidate Marcie Weinandt.**

District Technician Berger stated the Board of Managers is required to maintain a Citizen Advisory Committee to advise and assist with all matters affecting the interests of the watershed district as well as to make recommendations on all proposed RCWD projects and improvements.

District Technician Berger stated RCWD received an application from Marcie Weinandt. Based on the Board’s review and consensus at the August 24, 2016 workshop, staff recommends that the Board appoint Marcie Weinandt to the CAC.

*Motion by Manager Haake, seconded by Manager Wagamon, to appoint Marcie Weinandt to serve on the District’s Citizen Advisory Committee for 2016.*

Manager Waller stated Ms. Weinandt is also a member of the Ag. Department and has great qualifications. He stated their water quality program has a great deal more definitions and restrictions than what the current buffer law has.

*Motion carried 5-0.*

8. **Consider New Brighton Pay Request #1 for Hansen Park Comprehensive Water Management Project.**

Water Resource Specialist Axtell stated in exchange for the abandonment of two youth baseball fields at Hansen Park and storage of clean dredge material in their location, the District has agreed to provide a $200,000 payment to the City of New Brighton as outlined in Section D, paragraph 15 of the project agreement dated February 23, 2016. A second and final payment will be provided upon completion of construction and verification of the volume of dredge soil placed in the subject area.

*Motion by Manager Haake, seconded by Manager Waller, to approve the City of New Brighton’s pay request pursuant to the February 23, 2016 Project Agreement. Motion carried 5-0.*

9. **Consider Check Register dated September 14, 2016, in the amount of $41,496.95, prepared by Redpath and Company.**

*Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated September 14, 2016, in the amount of $41,496.95, prepared by Redpath and Company. Motion carried 5-0.*

**ITEMS FOR DISCUSSION AND INFORMATION**

1. **District Engineer’s update and timeline.**

   District Engineer Bowles updated the Board on the Peltier Lake Draw Down and Anoka County Ditch 31 & 46 preconstruction meeting.

2. **Manager’s Update**

   Manager Waller indicated he attended the Birchwood City Council meeting and the Board will be receiving a resolution letter from them in the coming days which has some of their concerns regarding the Hall Marsh project. He felt the Mayor was very informed and indicated she was
very happy with the cooperation she has had with the staff, in particular Tom Schmidt. He indicated he was at the meeting to be sure to invite them to the meeting this fall.

Manager Waller stated one of the problems mentioned at the meeting was the definition Rice Creek uses and the Department of Natural Resources about impervious surface. In Birchwood they felt that if a person had a deck on their house that did not have a cover over it and the boards had slats in-between on a walk-out deck, they felt that was not an impervious surface. He was not sure if this was a misinterpretation or misunderstanding on how the rule works but this was one of the items discussed.

Manager Waller also noted because Birchwood is an older community the drainage is not good and felt this was an area they could start to talk about.

**ADJOURNMENT**

*Motion by Manager Haake, seconded by Manager Preiner, to adjourn the meeting at 9:58 a.m.*

*Motion carried 5-0.*