RESOLUTION NO. 2014-16

RICE CREEK WATERSHED DISTRICT BOARD OF MANAGERS
ORDER ADOPTING REPAIR AREA FOR THE REPAIR OF BRANCH 1 OF
ANOKA COUNTY DITCH 53-62

Manager Wagamon offered the following Resolution and moved its adoption, seconded by Manager Ogata:

WHEREAS, on September 11, 2013, the Rice Creek Watershed District Board of Managers ("Board"), Drainage Authority for Anoka County Ditch 53-62 (ACD 53-62) adopted Resolution 2013-27, the Final Order Directing the Repair of Branch 1 of ACD 53-62.

WHEREAS, during the preparation of final plans and specifications, the Engineer noted special circumstances related to urban/residential development of properties immediately adjacent to the drainage system.

WHEREAS, based on the circumstances noted by the Engineer and to ensure proper notice to the owners of property affected by the drainage system and subject to various easements and rights of entry associated with the drainage system and the Board’s obligations of maintenance and inspection as Drainage Authority, the Board initiated proceedings to define and give notice of the areas originally impacted by construction of the drainage system and reasonably necessary for entry and occupation for the purposes of inspection and maintenance of the drainage system.

WHEREAS, the Board directed the Engineer to define the areas originally impacted by construction of the drainage system and reasonably necessary for entry and occupation during the repair of the drainage system.

WHEREAS, following the Board’s direction, the Engineer developed plan sheets identifying the areas necessary for entry and occupation during the repair of the drainage system – including identification of the specific work to be performed and identification of the owner of property impacted by the repair.

WHEREAS, on February 11, 2014, the Board noticed and held an informational meeting to review the areas to be impacted by repair of the drainage system, to solicit landowner concerns and to answer landowner questions regarding the repair.

WHEREAS, notice of the informational meeting on February 11, 2014, was provided by mail to all property owners within the water management district of the drainage system as well as by publication.
WHEREAS, during the informational meeting on February 11, 2014, the engineer presented its determination of the areas necessary for entry and occupation during the repair of the drainage system — including identification of the specific work to be performed and identification of the owner of property impacted by the repair.

WHEREAS, during the informational meeting on February 11, 2014, landowners were able to review the plan sheets and ask questions regarding the scope of repair and to raise any specific concerns regarding the impact of the work on their property. The engineer noted those concerns and has made provisions to limit impact, where possible, in response to those concerns.

WHEREAS, the following additional issues were addressed at the informational meeting:

Issue 1: What is the proposed condition of the property after the completion of work? The Engineer explained that Board would follow standard construction practices for drainage system repairs -- disturbed areas would be restored as nearly as practicable to the conditions existing prior to construction, to include re-seeding of formerly grassed areas, stabilization of disturbed areas, chipping or removal of tree and wood debris (in residential areas), spreading and leveling of spoil material, stacking or piling of wood debris for composting (in wooded areas).

Issue 2: Will sod or turf-grass be restored? The Engineer explained that no sod restoration was planned and that grassed areas would be re-seeded using common grass seed mixtures to stabilize exposed soils after construction.

Issue 3: Who does a landowner call if something goes wrong during the repair? The Engineer directed the public to call the District’s drainage inspector, Tom Schmidt, regarding any problems with drainage systems within the District. The Engineer also responded that on-site inspection would occur during construction.

Issue 4: What will be done to improvements in the work area? The Engineer explained that attempts will be made to avoid improvements in the work area, but that clear obstructions of the work area like portable or temporary buildings, fences, bridges, wood piles, etc., should be removed by the landowner or will be moved by the contractor. If irrigation systems exist in the work area, the District’s drainage inspector, Tom Schmidt, should be notified and the District will attempt to avoid damage. The Attorney commented that access to the drainage system is privilege held by the Drainage Authority to enable its statutory inspection and maintenance obligations. He reminded those present that their use of the work area of the ditch is restricted to those uses that do not interfere with access to the ditch.
Issue 5: What if there are trees or other features the landowner would like to retain or protect? The Engineer asked landowners to identify specific concerns of this nature by filling out information cards or by discussing the specific concern with the Engineer or District staff after the meeting. He further explained that attempts would be made to limit impact, where possible.

Issue 6: What will happen to fences in the work area? The engineer explained that for functioning agricultural fences (i.e. barbed wire), fences would be removed during construction and replaced outside of the drainage system right of way following construction. For chain-link residential fences, the area would be avoided during construction.

Issue 7: How will the bank be stabilized? The Engineer explained that the primary method of stabilization is vegetating the ditch slope and shallowing the slope where possible.

WHEREAS, the Engineer has noted concerns presented by landowners and has made provisions to limit impact, where possible, in response to those concerns.

WHEREAS, at its regular meeting on February 12, 2014, the Board set a public hearing at its regular meeting on March 12, 2014, at 9:00 a.m., or by adjournment to an appropriate time on the meeting agenda, in the Council Chambers of Shoreview City Hall, and directed notice as follows:

For owners of properties directly impacted by entry, occupation or construction activities, as identified in the Engineer’s plan sheets: mailed notice of the hearing including a copy of the plan sheet identifying the owners’ property, the affected area and the nature of work to be performed on the ditch.

For owners of property within the water management district of the drainage system and for the general public: published notice of the hearing.

WHEREAS, statutory notices throughout these proceedings, as required by Statutes Chapters 103B, 103D and 103E, as well as notices required by local rule were provided and are contained within the record of proceedings maintained by the District.

WHEREAS, at the hearing on March 12, 2014, the Board presented information regarding the areas necessary for entry and occupation during the repair of the drainage system and took public comment.

WHEREAS, one member of the public appeared and provided comment as follows:
Marti Harstad (property owner along Branch 1, Lateral 1 of ACD 53-62) commented on the unique nature the public drainage ditch system along his property and stated that he wanted to comment that his main concern was if spoil piles created as part of this project were to block upstream drainage. He stated that he hoped that if that were to occur, that he would have the ability to make comment to RCWD staff to address the issue through installation of small modifications to the spoil pile grades to allow for a small outlet for the water to get through.

The Engineer responded that the contract will be spreading and leveling of spoil material and that the District’s drainage inspector, Tom Schmidt, should be notified if any blockage of water were to inadvertently be created by the spoil.

WHEREAS, after seeking additional public comment and hearing none, the Board President closed the public comment portion of the hearing and solicited comments or questions from the Board. No additional comments were made nor questions asked.

WHEREAS, the Board did not receive written comments related to the proceedings.

WHEREAS, the Board recessed the public hearing to its regular meeting at 9:00 a.m. on March 26, 2014, at the Council Chambers at Shoreview City Hall and directed its attorney to prepare findings and an order, consistent with the proceedings, adopting the Engineer’s recommendation of the areas necessary for entry and occupation during the repair of the drainage system.

THEREFORE, the Rice Creek Watershed District Board of Managers makes the following:

**ORDER**

A. The Board of Managers adopts the areas necessary for entry and occupation during the repair of the drainage system as reflected in the Engineer’s plan sheets, which are attached to this order and incorporated herein by reference, and directs implementation of the repair of Branch 1 of ACD 53-62 consistent with the previously adopted resolution 2013-27, within the areas identified by the Engineer.

B. The Board of Managers directs its administrator to coordinate and take all subsequent actions necessary for implementation of the repair in a manner consistent and compliant with existing law. The Board reserves to itself, however, all subsequent actions required by law to proceed upon Board approval.
The question was on the adoption of the Resolution and there were 4 yeas and 0 nays as follows:

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

Harley Ogata, Secretary

Dated: March 26, 2014

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I, Harley Ogata, Secretary of the Rice Creek Watershed District, do hereby certify that I have compared the above Resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 26th day of March 2014.

Harley Ogata, Secretary