RESOLUTION NO. 2018-18

RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

FINDINGS AND ORDER REESTABLISHING/CORRECTING DRAINAGE SYSTEM RECORD
FOR RAMSEY COUNTY DITCHES 2, 3 AND 5

Manager Haake offered the following Resolution and moved its adoption, seconded by Manager Bradley:

FINDINGS

1. The Rice Creek Watershed District (RCWD) is the Drainage Authority for Ramsey County Ditches (RCD) 2, 3 and 5.

2. The drainage systems are located in the cities of Roseville, St. Anthony and New Brighton.

3. Inspection of RCDs 2, 3 and 5 by the Drainage Authority's staff revealed several documented and undocumented modifications of the drainage system, lack of written documentation describing elevations and grades throughout the system, and portions of branches or laterals absent from the landscape as a result of changed land uses and urban, commercial, and residential development.

4. Several of the communities served by the drainage systems have inquired with the Drainage Authority regarding the systems' roles in storm water management, property development and the level of expected service as outlets for beneficial drainage.

5. In order to properly manage the drainage systems in a way that recognizes their intended, beneficial public function, the Drainage Authority initiated proceedings to identify the extent of its jurisdiction over the system as currently existing and providing beneficial public drainage.

6. On August 28, 2013, the Drainage Authority adopted findings and an order in Resolution 2013-22, initiating a records reestablishment/correction process.

7. On February 26, 2014, the Drainage Authority, by resolution 2014-07, adopted revised findings and an order to follow the procedures of statutes section 103E.101, subdivision 4a,
to reestablish and correct the drainage system record of RCDs 2, 3 and 5 to reflect the functional alignment, dimension, and grade of the systems.

8. The Drainage Authority appointed an engineer to investigate and report findings defining the as constructed condition of the drainage systems.

9. The Drainage Authority’s engineer investigated and drafted a historical and technical analysis for the systems. The engineer’s final report and analysis is contained in the Engineer’s Historical Review Memorandum of RCDs 2, 3 and 5 dated March 2, 2018. Said analysis is incorporated by reference into this Resolution.

10. As part of its investigation and analysis, the engineer considered existing records and evidence, including, but not limited to, applicable aerial photographs, soil borings or test pits, culvert dimensions and invert elevations, and bridge design records.

11. As part of its analysis of the drainage systems, the engineer has identified the existing functional alignment, dimension and grade of these systems as they provide beneficial public drainage today. Based on its investigation and analysis the engineer recommended an alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of the drainage systems that match the basic functional efficiency of the systems as constructed to provide beneficial public drainage.

12. The Board noticed and held an informational meeting on April 23, 2018. The purpose of the informational meeting was to inform the owners of property over which the drainage systems passed of the proceedings and the proposed action. At the informational meeting, the Board’s staff reviewed the information contained in the engineer’s report, describing the history of the systems, their current condition and the proposal to reestablish drainage system records defining the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of the drainage systems.

13. Pursuant to the requirements of 103E.101, subdivision 4(c), the Board mailed notice of this final hearing to the Commissioner of Natural Resources and the Executive Director of the Board of Water and Soil Resources, along with a copy of the engineer’s Historical Review Memorandum, on May 21, 2018.

14. The Board mailed notice of this final hearing to the cities of New Brighton, Roseville and St. Anthony, Hennepin County, the Hennepin County Department of Environmental Services, Ramsey County, Ramsey Conservation District, MnDOT and the USACE on May 21, 2018.
15. The Board mailed notice of this final hearing to all property owners benefited or damaged by the drainage systems on May 18, 2018.


17. The Board placed notice of this final hearing on its website and posted a notice at its offices on May 21, 2018.

18. On May 21, 2018, the Board also provided notice of this final hearing by email to those on the Board’s distribution list who have requested notices of such meetings.

19. Evidence of all notices is on file with the District.

20. Evidence of all actions in this matter, including preliminary orders, appointments, oaths, affidavits of mailing, publication or posting as well as hearing agendas and presentation materials shall be considered the record of proceedings in this matter.

21. Inspection of RCDs 2, 3 and 5 reveals several documented and undocumented modifications of the drainage systems, lack of written documentation describing elevations and grades throughout the systems, several areas of disrepair, and portions of branches or laterals absent from the landscape as a result of changed land use from agricultural production to urban, commercial, and residential development.

22. In order to properly manage the drainage systems in a way that recognizes their intended, beneficial, public function, the RCWD initiated proceedings to identify the extent of its jurisdiction over the systems as they currently provide beneficial public drainage.

23. The intent of the proceedings was to reconcile the historical record of the drainage systems with the functional alignment, dimension and grade of the system to describe the equivalent of the As-Constructed and Subsequently Improved Condition.

24. Future work on the drainage system will utilize the As-Constructed and Subsequently Improved Condition, established in these proceedings, as a baseline for determining repair or improvement of the systems.
25. The Board noticed and held a public hearing on the correction of the drainage system record on June 12, 2018, at 6:30 p.m. in the Shoreview City Council Chambers, 4600 North Victoria Street, Shoreview, MN.

26. During the public hearing portion of the proceedings, the following persons appeared and provided comment:

a. Walt Witski (771 Emerald Drive, New Brighton): Witski asked several questions regarding benefits determinations and assessment. Attorney Kolb explained the historic viewing process for determining benefits and the current water management district charge process used by the District. Witski also inquired regarding the location of the ditch as a boundary between his and an adjoining property. Kolb explained that the property boundaries would be subject to the ditch and its right of way. Without a survey of the adjoining parcels, it is impossible to tell what portion of the ditch might lie on either property.

b. Pat Freeberg (5557 E. Danube Rd, Fridley): Freeberg alerted the Board and staff to a drainage condition near her property and wondered if it was connected to the ditches being considered in the proceedings. Staff responded that the area was quite distant from the alignment of RCDs 2, 3 and 5, but that staff would investigate the situation described by Ms. Freeberg.

27. At the close of the public comment, the Board adopted a motion directing staff to prepare findings and an order consistent with the proceedings, including responses to all comments received through the public comment process; that the draft findings and order be written to affect the reestablishment and correction of the public drainage system records consistent with the engineer’s findings; direct recording of the order to reflect the reestablishment and correction of the public drainage system records; and that the hearing be recessed until the Board’s regular meeting on July 11, 2018.

28. Following the close of public comment, the Board received a letter from the Minnesota Department of Natural Resources acknowledging the proceedings but making no substantive comments regarding the engineer’s report.

29. The alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of RCDs 2, 3 and 5 as described in the engineer’s report, reflect the best evidence of the As-Constructed and Subsequently Improved Condition of the drainage systems considering the function required by the change in land use to reestablish the historic drainage function of benefited lands.
30. Correction of the drainage system record to adopt the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of the drainage systems, as described in the engineer’s report, will provide for the efficient administration of the drainage systems.

31. Adopting the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of RCDs 2, 3 and 5, as described in the engineer’s report, will reconcile the historical record of the drainage system with the functional alignment, dimension and grade of the system as it has historically provided public benefit.

Therefore, the RCWD Board of Managers makes the following:

ORDER

The Board of Managers hereby reestablishes and corrects the drainage system record of RCDs 2, 3 and 5 to reflect the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of the drainage systems as detailed in the engineer’s report, attached as Exhibit A.

The question was on the adoption of the Findings and Order and there were 5 yeas and 0 nays as follows:

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Upon vote, the Chair declared the Findings and Order passed.

Michael Bradley, Secretary

Dated: July 11, 2018
I, Michael Bradley, Secretary of the Rice Creek Watershed District, do hereby certify that I have compared the above Findings and Order 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 hereunto set my hand this 11 day of July, 2018.

Michael Bradley, Secretary