RESOLUTION 2019-17
RICE CREEK WATERSHED DISTRICT BOARD OF MANAGERS

FINAL ORDER DIRECTING THE REPAIR OF ANOKA/WASHINGTON JUDICIAL DITCH 3 (PHASE 1)

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

WHEREAS, the Rice Creek Watershed District Board of Managers ("Board"), Drainage Authority for Anoka/Washington Judicial Ditch (AWJD) 3, by resolution 2018-35, adopted findings and an order initiating the repair of AWJD 3; and

WHEREAS, in July of 2018, the District staff, assisted by its engineers, performed a survey and inspection of AWJD 3. Based upon the inspection and survey, the Board determined that AWJD 3 was in systematic disrepair. Much of the system has accumulated sediment in excess of 1-foot. Additionally, there is thick vegetation, brush, and trees lining large portions of the open channel as well as portions of the open channel that are heavily vegetated, causing a reduction in hydraulic capacity. There are deadfalls within the channel in many of the treed areas and several culverts are above the established grade of the drainage system; and

WHEREAS, based on the engineering analysis and other inspection of the drainage system, the Board determined that the drainage system is in need of major repair in order to make the drainage system efficient and to restore the drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved. As part of its analysis, the Board recognizes that the repairs needed will be best accomplished by dividing the overall repair of AWJD 3 into phases as outlined by the engineer; and

WHEREAS, the Engineer, after consultation with the Board, has provided a revised repair plan, dated December 21, 2018, to implement the recommended repairs; and

WHEREAS, the Engineer recommends repair phasing as follows:

Phase 1: Repair of the main channel of AWJD 3 east of interstate highway 35 and branch 3 of AWJD 3.

Phase 2: Repair of branches 1, 2 and 4 of AWJD 3.

Phase 3: Repair of the main channel of AWJD 3 west of interstate highway 35 along with minor rehabilitation of the channel of Clearwater Creek (the outlet for AWJD 3 and part of the District’s trunk conveyance system); and
WHEREAS, the order herein addresses only the recommended phase 1 repairs. Subsequent repair phases will proceed upon separate proceedings; and

WHEREAS, since AWJD 3 is part of the District’s trunk conveyance system, the majority of costs for the repair of AWJD 3 are paid for by ad valorem taxes consistent with the repair policies adopted in the District’s Watershed Management Plan. The use of ad valorem tax revenues to pay for drainage system repairs is an alternative authority under statutes section 103D.621, the exercise of which has been approved by the governing bodies of the cities where AWJD 3 is located; and

WHEREAS, prior to the final hearing on the repair (phase 1) of AWJD 3, the Board held an informational meeting to allow landowners affected by the repair to become familiar with the repair and provide information to the engineers to inform the scope of the repair; and

WHEREAS, the Board provided notice of the final hearing as follows:

**By Publication:**

- St. Paul Pioneer Press newspaper on March 1, 8, and 15, 2019.
- The Citizen newspaper on March 14, 2019.
- The Quad Press newspaper on March 12, 2019

**By Electronic Mail:**

- to those on the District’s email distribution list and those requesting of email notice of hearings and special meetings on February 27, 2019.

**By Posting:**

- at the District office and on the District website commencing on February 27, 2019, and through the date of the hearing.

**By Mail:**

- to the owners of property and political subdivisions likely to be affected by the repair in the repair report (all owners of property traversed by and adjacent to AWJD 3), mailed February 27, 2019
- to DNR, ACOE and BWSR February 27, 2019 (copies of the engineer’s report were mailed to DNR, ACOE and BWSR February 21, 2019); and

WHEREAS, engineer’s recommended scope of repair for AWJD 3, contained in the repair report, provides for the restoration of beneficial drainage within the drainage area and minimize adverse environmental impacts; and
WHEREAS, repairs, consistent with the engineer’s recommendations, will restore predictable drainage efficiency in order to support current beneficial land uses and future stormwater management demands; and

WHEREAS, the engineer’s recommendations are consistent with the Watershed Management Plan and District rules; and

WHEREAS, during the Public hearing, the President called for and accepted public comment on the proposed repair; and

WHEREAS, comments were received as follows:

Kevin Amundsen, asked about the impacts to properties downstream of the repair. Upon Board request, staff responded with a description of modeling performed to determine impact from the work and the on-going implementation of District rate and volume controls for new development to protect properties and preserve conveyance and storage capacities.

Tom and Joanne Benick, asked about the timing of the project, the width of the work and the leveling of spoils. Upon Board request, staff explained the process for the development of plans and specifications for bidding and the likely timing of implementation of the phase 1 repair in 2020. Staff explained the impact weather conditions might have on the timing of the work. Regarding the width of the work, staff noted that the District tries to use the smallest footprint possible and will work with property owners along the corridor, but that the width must be large enough to accommodate equipment and to spread and level spoils. This width is usually 20-30 feet on both sides of the ditch. Mr. Benick specifically requested that the existing spoils on his property be leveled and that new spoils be no higher than what is currently in place.

Suzanne Seeley, asked whether the planning and modeling for the work took into account climate and precipitation changes. Upon Board request, staff responded by explaining the update storm runoff models used to anticipate the impacts of the work and both the protective and conveyance functions of the drainage system. Staff reiterated the implementation of District rate and volume controls for new development to protect properties and preserve conveyance and storage capacities and to create climate change resilience.

Theresa Derksen, requested clearer maps of the work areas and asked about the status of AWJD 3 also being designated as Clearwater Creek. Upon Board request, staff offered to provide more detailed maps of the area near Ms. Derksen’s residence. Staff explained the dual status of the channel of portions of AWJD 3 as both drainage system and public water. Staff also encouraged Ms. Derksen to watch for notice of the informational meeting on the scope of repair. Staff reiterated the process for the development of plans and specifications for bidding and the likely timing of implementation of the phase 1 repair.
David Urban, asked about past maintenance activities on the drainage system. Upon Board request, staff explained the program of minor maintenance on the drainage system, but also discussed the need for reconstruction of the drainage system due to age and deterioration of the system and the need to incorporate modern best management practices.

Bryan Bear, administrator for the City of Hugo suggested that for future meetings regarding the repair, home owners’ associations for Victory Gardens, Clearwater Cove, etc., be given notice since the work may impact common interest lots and since owners within the developments might not be receiving direct notice under the guidance provided by the Board; and

WHEREAS, the Board deems the above comments informational and not substantive to the need for, benefit from or configuration of the proposed repair; and

WHEREAS, at the close of public comment, Manager Waller moved, seconded by Manager Bradley to leave the comment period open for written comments through 5:00 p.m. on Tuesday, March 26, 2019. The motion passed by unanimous vote of the four managers present; and

WHEREAS, subject to any further written comment, Manager Wagamon moved, seconded by Manager Bradley to direct staff to prepare findings and an order for the repair of AWJD 3, phase 1, according to the engineer’s recommendations; that the findings and order be consistent with the proceedings including any comments and evidence presented; and that the hearing be continued to the Board’s regular meeting on April 10, 2019 for the purpose of considering and adopting findings and an order for the repair. The motion passed by unanimous vote of the four managers present; and

WHEREAS, no written comments were received during the extension period; and

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; and

WHEREAS, the proposed repair of AWJD 3, phase 1, according to the engineer’s recommendation, will be conducive to public health, will promote the general welfare of the District and within the drainage area of the system, complies with the Watershed Management Plan, and otherwise complies with the requirements of state statute; and

WHEREAS, the repair of AWJD 3, phase 1, according to the engineer’s recommendation, is necessary and in the best interest of owners of property benefitted by the drainage system.

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

A. The Board of Managers orders implementation of the repair of AWJD 3, phase 1, consistent with the engineer's recommended repair alternative, and consistent with the capital improvement program contained in the District's Watershed Management Plan.

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.

C. The Board of Managers further authorizes expenditures for the repair.

The question was on the adoption of the Resolution and there were 3 yea and 2 nays as follows:

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Upon vote, the Chair declared Resolution 2019-17 passed.

Michael Bradley, Secretary

Dated: June 12, 2019

IN TESTIMONY WHEREOF, I hereunto set my hand this 12th day of June, 2019.

Michael Bradley, Secretary