REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, October 24, 2018

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

Approved Minutes

CALL TO ORDER
President Patricia 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, Treasurer Steven Wagamon, and Secretary Michael Bradley.

Absent: None.

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Technician Samantha Berger, Lake and Stream Specialist Matt Kocian, Office Manager Theresa Stasica.

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

Visitors: Kevin Biehn, Karen Kill, Sally Miesen.

SETTING OF THE AGENDA
Administrator Belfiori requested an addition of a new #7 to Consider MAWD Resolution One-Page Summary Document.

Motion by Manager Haake, seconded by Manager Bradley to approve the agenda as amended. Motion carried 4-0.

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the October 8, 2018 Workshop. Motion by Manager Bradley, seconded by Manager Waller to approve the minutes as presented. Motion carried 4-0-1, Manager Wagamon abstained due to absence from meeting.
Minutes of the October 10, 2018 Board of Managers Meeting. Motion by Manager Bradley, seconded by Manager Waller to approve the minutes as presented. Motion carried 4-0-1, Manager Wagamon abstained due to absence from meeting.

PUBLIC MEETING FOR BROWNS CREEK WATERSHED DISTRICT /RICE CREEK WATERSHED DISTRICT PROPOSED BOUNDARY CHANGE

Administrator Belfiori reviewed the letter that was sent out to affected property owners. He noted that if the boundary change is approved it will be in effect in the 2020 tax year. He noted that the District is accepting public comment on the proposed boundary changes at today’s meeting. He reviewed the steps for make a boundary change.

Sally Miesen, 9000 140th Street, stated that she did not receive a letter but all of her neighbors did. She asked who the landowner was in the City that requested the boundary change.

Administrator Belfiori stated that the concern regarding inaccuracies in the boundary with the Browns Creek Watershed District was first brought to the Board by a concerned citizen named McCallister. The Board, through a report prepared by the District Engineer, had previously identified that there are a series of areas within the Washington County portion of the Rice Creek Watershed District that are in need of correction due to inaccuracies in historic methods of identifying watershed topography. He stated that now, because of advanced technology, the District knows that many of the boundaries are inconsistent with hydrologic patterns, so the District is going through the common boundaries with adjacent watersheds methodically each year to correct the errors.

Ms. Miesen stated that she thinks her property line is the boundary that will be changed. She asked whether there were differences in setback requirements between Brown’s Creek Watershed District and the RCWD.

Administrator Belfiori explained that the setback requirements are not regulated by either entity. He stated that watershed districts have rules for erosion control, flood plain management, storm water management, and wetland protection. He explained that the zoning entity deals with setbacks, which would be either the City of Grant or the City of Hugo as the land use authority.

Ms. Miesen asked if this whole situation was because of Mr. McCallister.

Administrator Belfiori stated that it was not all because of Mr. McCallister. He stated that Mr. McCallister brought it to the District’s attention because he was noticing that the boundary was inconsistent with his understanding of drainage patterns, and noted that this area was likewise identified by the District Engineer as an area that the boundary was not accurate. He stated that the District has moved through this process because of the District’s systematic approach for correcting the Boundary, rather than the input of a single landowner.
Manager Haake noted that the map on page 29 that shows the portion that will change to RCWD, but there appears to be a creek that runs through there. She asked how the boundaries were determined.

District Engineer Otterness clarified that the blue line on the map is not a creek, but rather the divide between the contributing drainage area to the watersheds.

Manager Haake asked why the District boundary wasn’t being changed to follow the high ridge.

District Engineer Otterness stated that the reason the District boundary wasn’t following the high ridge line exactly is because the legal boundary must follow property lines. He explained that individual land parcels can only be located within a single watershed district or water management organization.

Manager Waller stated that he wanted to ask Administrator Karen Kill from Browns Creek a question. He stated that at the last RCWD Board meeting, there were a few gentlemen from the Grant City Council informing the Board that there was a problem with a piece of property that would be coming to RCWD with the boundary change. He stated that the address of the property in question is 9643 110th St. N. He stated that he took a drive out to try to take a look at the property where they were concerned about some type of contamination but was unable to find that address. He asked Administrator Kill to give some background on the property and point out where it is located.

District Administrator Kill pointed out the location of the property. She stated that there are 3 outstanding permits dealing with erosion control that the watershed district has out of the 81 properties that are going from Browns Creek to Rice Creek. She stated that Michael and Heather Morehouse property had some grading done last fall and the only thing left to complete is removal of the silt fence. She stated that she is not sure what the property owner was doing on the property but it caused quite a stir. She explained that he removed rock as part of the grading, but used the rock elsewhere on his property. To restore the grade on his property, because of the amount of rock he was removing, he was bringing in material from Hydrovac. She stated that this was an issue because it was a slurry of fill material. She stated that the watershed district was brought in, but those questions were really about land use authority and were turned back to the city. She stated that from a watershed district perspective, the grades and the drainage on the property have not been changed. She stated that the Browns Creek Watershed District did not see anything that they were concerned about but her understanding is that due to the concerns raised by the city, the Minnesota Pollution Control Agency was brought into it and samples were taken. She noted that both this project and the project on Loren Sederstrom’s property were “after the fact” permits from both the watershed district and the city. She stated that Mr. Sederstrom created a pond on his property in the county right-of-way and this has not yet been rectified. She noted that the Browns Creek Watershed District board had included language in the resolution to state that any permit that is currently underway with the existing watershed district would be finished out with the same district. She stated that there is one
other property where they are building a driveway and a home that has an erosion control permit and that project has not yet broken ground. She stated that if any issues arise with any of these 3 permits, she will contact the RCWD staff and keep them apprised of the situation.

District Engineer Otterness stated that the District received correspondence from a landowner named Olivia Herrick in the City of Hugo. He explained that Ms. Herrick owns two separate parcels which are currently located within the Browns Creek Watershed District. However, one parcel primarily drain to the BCWD and one to the RCWD. He stated that Ms. Herrick had expressed concern about having a parcel in each watershed district and requested that both parcels by placed into RCWD. He stated that the recommendation from staff is still to leave one parcel in Browns Creek Watershed District but reassign the other to the Rice Creek Watershed District. He noted that there is room for Board discretion.

President Preiner stated that she likes the idea of having both parcels in one District.

Manager Waller confirmed that both parcels had two distinct Property I.D. numbers and stated that he has no problem with them being in two different districts.

Manager Haake stated that she believes she they should be kept separate also.

Browns Creek Watershed District Administrator Kill stated that they have had permits near their border in this kind of situation or where parcels are being combined and developed. She stated that they have always been willing to take a look and be efficient and make sure it makes sense, if that is what the landowner is concerned about.

Manager Bradley asked if any official action needed to be taken.

District Administrator Belfiori stated that no further action is necessary.

Manager Bradley stated that he liked Ms. Kill’s idea of finishing out any open permits and imagines that the RCWD will reciprocate and do the same with any open permits it has.

District Administrator Belfiori stated that in the Browns Creek Watershed Districts concurring resolution, that is identified and when the Board approves this at a future Board meeting, they can also reference that in the motion.
CONSENT AGENDA

The following items will be acted upon without discussion in accordance with the staff recommendation and associated documentation unless a Manager or another interested person requests opportunity for discussion:

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Permit Applications Requiring Board Action

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It was moved by Manager Haake, seconded by Manager Wagamon to approve the Consent Agenda item for permit 18-071 outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations dated October 17, 2018. Motion carried 5-0.

Permit Coordinator/Wetland Specialist Nick Tomczik gave an update for RCWD Permit #17-125 Outstanding Permit items: Anoka-Hennepin Public Schools (New Blaine Elementary School). He noted that at the October 8, 2018 Board workshop, the Board reviewed a letter that was then sent on October 9, 2018. He noted that the letter requested a response within 1 week and the District did not receive a response within the time period. He stated that staff have continued to e-mail and call, leaving messages for Stephen Anderson and Lisa Medved, who is the lead secretary for Building and Grounds. He stated that the only response the District has received was on October 22, 2018 from Ms. Medved who stated that Mr. Anderson had received the letter and that he would be getting back to the District very soon.

Manager Haake stated that in her opinion, they are ignoring us and she would like the District to put as much pressure on as it can.

Manager Bradley stated that the next escalation would be to send a letter to the school superintendent and their attorney explaining the difficulty the District has had with not getting them to respond to ensure that the documents are properly reflected.

Motion by Manager Bradley, seconded by Manager Waller, authorizing staff and/or the District Attorney to send a letter to the school superintendent and a copy to the school attorney advising of the RCWD concerns. Motion carried 5-0.

Permit Coordinator/Wetland Specialist Nick Tomczik requested clarification of the motion. Does the District Administrator or President have the authority to sign the letter as soon as it is drafted.

Manager Bradley stated yes, the motion authorizes staff to sign and transmit the letter.
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 was no one present to speak.

ITEMS REQUIRING BOARD ACTION

1. Consider Veit and Companies, Inc. Pay Request #5 for the Middle Rice Creek Restoration Project.

Lake and Stream Specialist Matt Kocian stated that the Middle Rice Creek Restoration Project is one of four projects covered by the BWSR targeted watershed grant. He noted that this project was initiated in 2014 and the final phase was done earlier this year. He stated that Veit and Companies was the contractor and noted that Kevin Biehn was here to give a final presentation and make the payment request.

Kevin Biehn, Project Engineer, Emmons and Olivier Resources (EOR), gave a brief presentation on the project and expressed his appreciation for Matt and staff being so great to work with throughout the project. He explained that the primary reason for the project was to reduce sediment and Phosphorus to Long Lake but it also created an improved habitat and increased the aesthetic and recreational value. He showed a diagram that showed the old channel and the new, more sinuous channel. He reviewed the timeline for the project and noted that it is a full year late in delivering a completed project because of significant weather delays. He noted that the projected final payment total is substantially below the contract value. He noted that the engineering costs were a bit higher than expected because there were some change orders for additional soil testing to make sure that the contractors were able to include how to handle the soil in their bids.

Administrator Belfiori noted that the increased engineering costs were anticipated by the Board in their original motion because of the need for additional soil analysis, so this cost was not unexpected.

Mr. Biehn noted that some of the banks were made more vertically sharp and very quickly bank swallows and cavity nesters using them. He stated that he believes there were 47 pairs of them using the banks. He showed some drone video that was taken of the new sinuous channel.

Administrator Belfiori stated that he wanted to express his thanks to Mr. Biehn and the EOR staff that worked on site during construction because they did an outstanding job and kept this project moving along and on budget.
Motion by Manager Waller, seconded by Manager Haake, moves to approve Veit and Companies, Inc. Pay Application #5 in the amount of $21,459.56 for work completed under this pay request related to the Middle Rice Creek Restoration Project. Motion carried 5-0.

2. Consider Peterson Companies Pay Request #2 for the Oasis Pond IESF Project.
Administrator Belfiori noted that there are only punch list items remaining to be completed. He stated that staff concurs with the District Engineers opinion that the pay request is accurate and ready for approval.

Motion by Manager Haake, seconded by Manager Waller, to approve Peterson Companies, Inc.’s pay request as submitted and certified by the District Engineer, and direct staff to issue a payment in the amount of $100,642.62. Motion carried 5-0.

3. Consider City of Saint Anthony Pay Request #8 for Mirror Park Project.
Administrator Belfiori stated that the Mirror Lake Improvement Project is substantially complete with only punch list items remaining. He noted that this payment request is for expenses during February through July 2018. To date, the RCWD has paid a total of $1,022,321.34 in project costs with $640,000.00 coming from the BWSR grant and $382,321.34 coming from the RCWD ad valorem funds. Staff recommends approval of the payment.

Motion by Manager Wagamon, seconded by Manager Bradley, to approve the City of Saint Anthony’s reimbursement request of $86,622.39 pursuant to the August 25, 2015 Cooperative Agreement. Motion carried 5-0.

Administrator Belfiori stated that staff is recommending the final payment.

Motion by Manager Haake, seconded by Manager Bradley, to approve Final Pay request in the amount of $5,337.10 to North Pine Aggregate, Inc. for work completed under this pay request related to the Anoka County Ditch 53-62 Branch 2 Repair Project. Motion carried 5-0.

District Engineer Otterness expressed his appreciation to both District staff and North Pine Aggregate, Inc. for their work on this very successful project.

Administrator Belfiori noted that at the October 8, 2018 workshop meeting the Board reached consensus to not ask for interviews but to bring the proposals to today’s meeting.
He stated that the District received 12 engineering proposals, 2 proposals for legal services, and 1 proposal for accounting services. Staff recommends retaining Houston Engineering, Inc. as District Engineer and the 12 firms listed in the report for the engineering consulting pool for the years 2019 and 2020. He stated that staff is recommending retaining Redpath and Company for accounting services and retaining Smith Partners and Rinke Noonan for legal services for the years 2019 and 2020.

Manager Waller left the meeting.

Motion by Manager Haake, seconded by Manager Bradley, to adopt Resolution 2018-29: Retention of Engineering Services Pool.

THEREFORE BE IT RESOLVED that the Board of Managers elects to enter into or extend the services agreement for engineering services the following firms to serve as the engineering pool for an additional two-year period (2019 – 2020):

- Barr Engineering Company
- Bolton & Menk
- Emmons & Olivier Resources, Inc
- Houston Engineering, Inc.
- ISG
- Kimley-Horn and Associates
- LimnoTech
- Prosource Technologies
- Respec Water & Natural Resources
- TetraTech
- Wenck Associates
- WSB & Associates, Inc

BE IT FURTHER RESOLVED that the Administrator is authorized to enter into an agreement or extension of the existing agreement with each of the firms listed above in accordance with the terms of the proposal received and such other terms as are not inconsistent therewith.

BE IT FURTHER RESOLVED that notwithstanding this resolution, the District retains all discretion to seek professional engineering services from outside this pool under such circumstances as it may find appropriate.
ROLL CALL:
Manager Waller – Absent
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner – Aye

Motion carried 4-0.

Motion by Manager Haake, seconded by Manager Wagamon, to adopt Resolution 2018-30: Retention of Engineering Services.

THEREFORE BE IT RESOLVED that the Board of Managers elects to extend the services agreement for engineering services with Houston Engineering, Inc. for an additional two-year period (2019-2020);

BE IT FURTHER RESOLVED that the Administrator is authorized to enter into an extension of the existing agreement with Houston Engineering, Inc. in accordance with the terms of the proposal received and such other terms as are not inconsistent therewith.

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

Motion carried 4-0.

Manager Waller returned to the meeting.

Motion by Manager Haake, seconded by Manager Wagamon, to adopt Resolution 2018-31: Retention of Accounting Services.

THEREFORE BE IT RESOLVED that the Board of Managers elects to extend the services agreement for accounting services with Redpath and Company for an additional two-year period (2019-2020);

BE IT FURTHER RESOLVED that the Administrator is authorized to enter into an extension of the existing agreement with Redpath and Company in accordance with the terms of the proposal received and such other terms as are not inconsistent therewith.
ROLL CALL:
Manager Waller – Nay
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner – Aye
Motion carried 4-1.

Manager Waller stated that he feels there should be a different auditor than the accountant. He stated that he believes this is a management practice that should change.

Manager Wagamon stated that the Board has had Redpath come in and give a pretty good accounting of themselves of how they wall to two portions off from each other and have done the same for several other agencies.

Manager Bradley stated that he does not feel there is an impropriety, but if there is a future concern, he feels this agreement should still be approved and the Board could hire someone separately to conduct the audit.

Motion by Manager Haake, seconded by Manager Wagamon, to adopt Resolution 2018-32: Retention of Legal Services.

THEREFORE BE IT RESOLVED that the Board of Managers elects to extend the services agreement for legal services with Smith Partners and Rinke Noonan for an additional two-year period (2019-2020);

BE IT FURTHER RESOLVED that the Administrator is authorized to enter into an extension of the existing agreement with Smith Partners and Rinke Noonan in accordance with the terms of the proposal received and such other terms as are not inconsistent therewith and consistent with current delineation of duties between the firms which will be clarified further in discussions with firms.

BE IT FURTHER RESOLVED where the scope of a particular project involves subject areas normally handled by both firms, the Administrator has authority to select one of the two firms to provide all legal services associated with that project.
ROLL CALL:
Manager Waller – Nay
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner – Aye
Motion carried 4-1.

Manager Waller stated that he is a big support of Rinke Noonan but has a philosophical
disagreement with Attorney Smith. He stated that if these services were split into two
separate motions he would vote for one and not the other, but since they are together,
he voted against it.

Administrator Belfiori explained that per consensus at the September 24, 2018 workshop
meeting he has sent out information electronically to the Board on October 19, 2018
regarding the proposed letter to Dan Lais at the DNR.

Manager Bradley stated that he had a chance to read through the information since it
was sent out electronically and noted that he had a few edits he would suggest. He stated
that he could give his hand-written notes to the secretary to work with Administrator
Belfiori to include the changes.

Administrator Belfiori stated that the motion language was crafted in a way to authorize
non-material changes, so he feels the Board can move forward.

Motion by Manager Waller, seconded by Manager Wagamon, to approve the
attached letter acknowledging the DNR Letter of Permission to perform repairs on
lateral 1 of branch 1 of ACD 53-62; authorizing the president or administrator to sign
the letter; authorizing transmittal to DNR after final legal review and authorizing non-
material changes prior to transmittal; and, further, authorizing staff to take all
necessary actions to implement the proposed maintenance activities on ACD 53-62 Br.
1 Lat. 1 not earlier than November 1, 2018. Motion carried 5-0.

Administrator Belfiori noted that this information was passed out to the Board just prior
to the meeting and sent out electronically on October 19, 2018. He stated that the Board
approved a MAWD resolution at the September Board meeting and this summary is a way
to communicate the resolution to the MAWD body and appropriate members. Staff
recommends approval.
Motion by Manager Haake, seconded by Manager Bradley, to approve the MAWD resolution one-page summary document and authorize its distribution to MAWD and affiliated entities.

Manager Waller suggested that the Board share this same document with the Soil and Water Conservation Districts in the counties in our area because it may help build some support and at the very least communicate the issue with them.

Administrator Belfiori stated that Attorney Kolb has made communication connections with some rural counties that are also his clients. He stated that if this is approved by MAWD, one of his recommendations to MAWD would be to continue communication with the Association of Minnesota Counties because it will be critical to get the rural legislators support.

Manager Waller stated that he also feels it is important to have urban counties involved.

Motion carried 5-0.

8. Consider Check Register dated October 24, 2018, in the amount of $374,108.89 prepared by Redpath and Company.

Motion by Manager Wagamon, seconded by Manager Bradley, to approve check register dated October 24, 2018, in the amount of $374,108.89, prepared by Redpath and Company. Motion carried 5-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. 10-Year Watershed Management Plan
Administrator Belfiori read the following statement:
The Rice Creek Watershed District is currently developing its next 10-Year Watershed Management Plan. Residents of the District are invited to submit comments about their priorities and concerns within the watershed district. These comments will be considered by the Board of Managers. To be considered, comments should be submitted to wmp@ricecreek.org by December 31, 2018.

2. Staff Reports.
None.

3. November Calendar.
Administrator Belfiori Updated the Board with the following events:
Watershed Management Plan Development workshop on Monday, November 26, 2018, 1 p.m. The workshop will be held in the District conference room.
The regular Board workshop meeting will be held on Tuesday, November 13, 2018 at 1 p.m., due to the Veteran’s Day holiday.
Watershed Management Plan and Public Open House is Thursday, November 15, 2018, from 5pm – 8pm in the Large Community Program Room at the Ramsey County Library – Shoreview location. The address is 4560 Victoria St N., Shoreview.

4. Managers Update.

President Preiner stated that she had attended the Washington County meeting yesterday and there was a comment made about whether the preliminary budget had been posted. She noted that the 2018 budget was posted on-line on October 23, 2017 and the 2019 budget should be posted on-line sometime this week. She also asked what the process would be for rebutting a member of the Board that presents incorrect information. She asked if it would be appropriate for another Board member to stand up and rebut if they are present at the same meeting or if it should come as some type of a letter and formal communication from the Board.

Manager Haake stated that she feels the time to correct the information is on the spot since the meetings are recorded. She stated that after the correction is made they can always make a statement that people can call the office to clarify the information. She stated that if there is not another Board member there to make the correction, then she feels a letter would be appropriate.

Manager Bradley stated if incorrect information or comments are made, he thinks it is the duty of the remainder of the Board to counter those comments and if they are not able to do it in person, he thinks it should be done in writing by the president.

Manager Wagamon stated that he agreed and feels that a letter is nice, because even if someone is there you may not have all the detailed information available in order to accurately comment and pass on information.

President Preiner stated that she would like the Board to think about this and be prepared for a deeper discussion at the workshop meeting.

ADJOURNMENT

Motion by Manager Wagamon, seconded by Manager Haake, to adjourn the meeting at 10:14 a.m. Motion carried 5-0.