REGULAR MEETING OF THE RCWD BOARD OF MANAGERS
Wednesday, October 25, 2017
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, Water Resource Specialist Kyle Axtell, Communications & Outreach Coordinator Beth Carreño, Office Manager Theresa Stasica.

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


SETTING OF THE AGENDA
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 October 9, 2017 Board Workshop. Motion by Manager Wagamon, seconded by Manager Bradley to approve the minutes as presented. Motion carried 5-0.

Minutes of the October 11, 2017 Board of Managers Meeting. Motion by Manager Wagamon, seconded by Manager Bradley to approve the minutes as presented. Motion carried 5-0.
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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CAPROC= Conditional Approval Pending Receipt of Changes

Permit Coordinator/Wetland Specialist Tomczik referred to page 26 of the agenda packet and requested the following be added as Stipulation 2 to Permit No. 17-066: “The Trust and KER Holdings are co-applicants, and are jointly and severally responsible for permit compliance and for financial obligations to the District arising under permit review and compliance oversight.”

Permit Coordinator/Wetland Specialist Tomczik referred to the revised Engineer’s Report regarding Permit No. 17-096 that was provided to the Board at the beginning of the meeting. He reviewed the adjustments to the text reflected in the revised Report. This included the following two items added under Administrative relating to Rule I:

2. The applicant must submit a Draft Declaration for Maintenance of the work completed under the scope of the project acceptable to the District for proposed project features. As acceptable to the District, the applicant may meet the perpetual maintenance obligation by executing a project-specific maintenance agreement with the District. A draft document should be submitted to the District for consideration prior to execution. (The agreement process requires submittal of the final original signed agreement to the District. If the applicant needs an original of the signed agreement, then two endorsed final agreements should be submitted.)
3. As applicable, the applicant must provide an attested copy of the signed and notarized legal document(s) from the County Recorder. Applicant may wish to contact the County Recorder to determine recordation requirements prior to recordation.

It also included the following additions to Nos. 1, 6, and 7 under Findings:

1. “...This work is considered under Rule D and I. The erosion of the streambank is a threat to the integrity of the existing rail bridge. Due to the bridge driving the need for the streambank stabilization, Rules G was also considered but was determined not to apply. The project is located within the boundaries of and will be accessed...”

6. “...The project does not trigger Rule G, but does trigger Rule I and therefore maintenance obligation is required. The criteria of Rule I.3 are met.”

7. “The applicant must meet the maintenance obligations under Recommendation 2.”

Manager Waller referred to Permit 17-096, and inquired if the applicant still owns the right of way and how that fits in with the maintenance obligation.

Permit Coordinator/Wetland Specialist Tomczik responded that the permit would include the standard requirement for a maintenance declaration to be recorded on the property. Because the question of rail right-of-way ownership here is slightly more complicated than that of property ownership in the usual permitting matter, the District Administrator would have the authority to allow the permittee to sign an unrecorded maintenance agreement if the County Recorder’s Office does not find a declaration to be properly recordable.

Manager Haake referred to permit 17-066 and inquired if the impervious area will be the same that was there before.

District Technician Samantha Berger responded the parcel is being redeveloped and the existing and proposed impervious surface will be the same.

*It was moved by Manager Haake, and seconded by Manager Wagamon to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations for permit 17-066, 17-073, 17-092, 17-093, and 17-096 dated October 17 & 18, 2017 with staff recommended changes to permits 17-066 and 17-096. Motion carried 5-0.*

**PUBLIC HEARING: URBAN STORMWATER REMEDIATION COST-SHARE REQUESTS FROM CITIES OF FOREST LAKE AND HUGO**

President Preiner recessed the regular Board meeting and called to order the public hearing on the Rice Creek Watershed District’s proposed selection of projects for funding through the District’s Urban Stormwater Remediation Cost-Share Program. She stated the purpose of this hearing is to receive comments from the public on the projects that the Board is considering for
cost-share assistance in the Cities of Forest Lake and Hugo. Before the watershed district can provide funds for the capital work of these communities, State law requires that the Board of Managers hold a public hearing, receive public comments and make a judgment that each selected project is a sound and cost-effective project to help fulfill our water resource goals. 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. She stated Water Resource Specialist Axtell will give a brief presentation on the proposed projects and the floor will then be open for any members of the public who wish to address the Board.

Water Resource Specialist Axtell presented the cost share program goals and guidelines and then proceeded to summarize the applications that were received. The applications are as follows:

- City of Forest Lake – TH 61 West Ditch Drain Tile Extension ($24,800 to mitigate surface flooding on properties along U.S. Highway 61). A catch basin inlet and 1,250 linear feet of drain tile will be installed to provide a lower gravity outlet to a routinely flooded area on McCullough Storage and Susan Moore properties in Forest Lake. The properties currently drain to Clear Lake and will continue to do so after project completion. This will allow a surface flooding depth reduction of 0.78 feet over approximately 1.5 acres. The total project cost is estimated to be $49,600 with a cost-share request of $24,800.

- City of Hugo – Vactor Sewer Cleaning Equipment ($50,000 to purchase equipment for implementation of an advanced storm sewer and pond sediment clean-out program). A used “Vactor-style” sewer cleaning truck will be purchased to improve the quantity and efficiency of sediment and nutrient removal from Hugo’s storm sewer system. Sump catch basins, storm water outfalls and other critical areas around lakes and sensitive waterbodies will be cleaned at least twice per year. The total project cost is estimated to be $200,000 with a cost-share request of $50,000. There are no data on the benefits of this proposal, but this will provide an opportunity to collect basic data for research purposes.

President Preiner inquired how much data are needed before they know if the cleaning is providing the intended benefits.

Water Resource Specialist Axtell responded the City would keep a log over the next five years of when, where, and why the equipment is used as well as how much and the type of material gathered. It also would sample periodically for phosphorus content. This information should provide information on how maintenance beyond minimum permit requirements can provide cost-effective benefit.

President Preiner invited members of the public to offer comments about the proposed projects. With no one present to address the Board, she closed the public hearing and reconvened the regular Board meeting.
**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.

No comments.

**ADDITIONAL ITEMS REQUIRING BOARD ACTION**

1. **Consider Transfer of Blue Thumb Program.**

   Communications and Outreach Coordinator Carreño referred to the memo on page 55 of the agenda packet. She reported the Board approved the license and transfer agreement for the Blue Thumb program in June 2015. Phase One is scheduled to end on October 30, 2017 with a vote by the Board to determine whether or not to transfer the Blue Thumb program to Metro Blooms. At the October 9, 2017 Board Workshop, the Board received a report on the program and the status of the transfer process. Since then, they invited public partners and interested parties to provide comment on the transfer. One person attended the October 9 Workshop and provided comment in support of the transfer, a second person met with staff and sent a summary of those comments, and a third person left a voicemail requesting clarification on the comment process. Staff left two voicemail messages providing the information requested, but did not receive a response.

   Becky Rice, Executive Director of Metro Blooms, provided a report on the Blue Thumb project and highlighted the following information:

   - There are currently eight individuals serving on the Blue Thumb Steering Committee.
   - Financial Sustainability: Blue Thumb has 44 partners for 2017 representing 27 private partners and 17 public partners. Since 2015, they have collected $61,833 in partner dues, $34,000 in foundation grants, and $18,325 in earned program income. This results in a three-year total of $114,158.
   - Communications: They have 834 Twitter followers and 1,318 Facebook likes. With the new website, page traffic is 47.8 percent higher than the average of the past five years. At the State Fair in 2017, they saw 4,000 visitors to the Blue Thumb exhibit.
   - New Partner Resources: Turf Alternatives, Pledge to Plant campaign, and Resilient Yard Workshop.
   - Partner Trainings/Networking: There were seven partner meetings with 247 people in attendance, and 46 partners attended the first annual Finest on Earth Partner Recognition Event. The next partner recognition event will take place on November 13, 2017 at Lake Monster Brewing.
District Administrator Belfiori directed the Board to the resolution on page 72 of the agenda packet.

**Motion by Manager Wagamon, seconded by Manager Bradley, to adopt Resolution 2017-25: Transferring To Metro Blooms Ownership Of Blue Thumb - Planting For Clean Water® Program**

THEREFORE BE IT RESOLVED that in accordance with subsection I.9 of the Agreement, the Board concurs in the conclusions and recommendations of District staff, finds that the criteria for program, domain name and trademark transfer set forth in the Agreement have been met, and approves transfer;

BE IT FURTHER RESOLVED that the District Administrator hereby is directed, and delegated authority on behalf of the Board, to take all steps necessary to formalize transfer of program and domain name ownership, and assignment of trademark, for the Blue Thumb - Planting for Clean Water® program to Metro Blooms; and

BE IT FINALLY RESOLVED that the Agreement remains in force according to its terms and until it terminates pursuant to subsection IV.9 thereof.

Manager Bradley noted he read the comments that were received, compared them to the agreement and concluded they should move forward.

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

Motion carried 5-0.

2. **Consider Award of Urban Stormwater Remediation (USWR) Cost-Share Projects.**

Water Resource Specialist Axtell referred to the memo on page 76 of the agenda packet. He reported there is only $50,000 available and the requested amount for both of the projects is $74,800. After discussion with the Citizens Advisory Committee (CAC), it recommended approval of funding the City of Forest Lake’s application in the amount of $24,800 and did not recommend approval of the application submitted by the City of Hugo. After further discussion with the Board, staff is recommending the remaining $25,200 be awarded to the City of Hugo.

President Preiner requested staff provide the CAC with the information as to why they are recommending approval of the remaining funds to the City of Hugo.
District Administrator Belfiori directed the Board to page 77 of the agenda packet and pointed out this would be a research effort and should not be understood as a precedent for future funding of similar requests.

Manager Haake commented she appreciates what the CAC said and would like to see who is doing the testing and what they are testing for included in the cost-share agreement.

Water Resource Specialist Axtell responded the cost-share agreement was modified to require five years of keeping a log, and the City has submitted an operations plan for how it intends to operate the equipment. The City has also committed to periodic testing of the phosphorus content.

President Preiner inquired what the District should do if it receives similar applications while it is waiting for the five years’ of data collection on this project to be completed.

Water Resource Specialist Axtell stated if this is approved, it will not set any precedent. He would not recommend approval of funding on similar applications until the District has the data from this project.

Manager Haake inquired if as a legal matter this will set a precedent that would require the District to approve similar applications in the future.

Water Resource Specialist Axtell stated the Board has the right to approve or deny any funding.

District Attorney Holtman stated it is at the discretion of the Board to award funding and set policies in awarding grants. The distinction between this proposal and subsequent proposals would be that the Board has found value at this time to use this opportunity to generate data. The value of a similar proposal in the future would be less because this effort has already been funded. The Board’s policy approach can be adjusted in the future if it decides to start funding these types of applications.

Manager Wagamon commented he is more concerned that buying a used truck is setting a precedent.

Water Resource Specialist Axtell commented a new truck can cost $400,000 and the City is buying a used truck to lessen the impact to the City’s budget.

District Administrator Belfiori stated could the Board can include something in the program guidelines under the next agenda item regarding what it is not going to pay for.
Manager Waller referred to page 53 of the meeting packet where it states this equipment will be used to clean sediment out of ponds, and inquired if this would help with flood control. He also recalled similar concerns as to funding enhanced street sweeping and salt sheds, but now the data are in and that fear is gone. He looks forward to collecting the data to find out if this is a positive move.

Water Resource Specialist Axtell responded if the sediment delta is so large that it sticks above the normal elevation, there may be some flood control. Generally, the sediment delta is below the surface, and this would then add dead storage and restore some water quality treatment but would not enhance flood control.

Manager Bradley referred to page 89 of the agenda packet, last paragraph under Executive Summary, indicating that the equipment will allow the City to accelerate and increase sediment removal. He stated his support for this project is related specifically to this paragraph and the report from the City of Hugo should demonstrate that this has been achieved. The Board indicated this should be included in the monitoring.

Manager Waller agreed with Manager Bradley.

Scott Anderson, Public Works Director for the City of Hugo, commented the City is buying a used piece of equipment strictly for budgetary reasons. All the components on the truck will be refurbished and the pumps will be new.

**Motion by Manager Waller, seconded by Manager Wagamon, to adopt Resolution 2017-26: Ordering Of 2017 Urban Stormwater Remediation Cost-Share Projects, Pursuant To Minnesota Statutes §103B.251**

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

BE IT FURTHER RESOLVED that the Board of Managers hereby authorizes the Board President to execute each of the respective cost-share agreements between the Rice Creek Watershed District and the Cities of Forest Lake and 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.**
Manager’s Haake commented she has the same reservations as the CAC with the equipment for the City of Hugo. She would have objected to it, but voted yes because the two applications were tied together.

Manager Waller commented this was an excellent opportunity to reallocate funding to Washington County that was not being used.

Manager Bradley stated his support on this is the assumption that more is being done than what is required by permits and will result in more ditches and holding ponds being cleaned out.

Manager Waller agreed and commented the data received will be important. He noted this money was originally budgeted for Washington County, and is not being taken away from other Counties.

3. **Consider 2018 Urban Stormwater Remediation (USWR) Cost-Share Program.**

   Water Resource Specialist Axtell referred to the memo on page 99 of the agenda packet and the draft USWR Cost-Share Program Request for Proposals on pages 100 through 106. He reported there are no program changes from the 2017 program year and highlighted the details of the timeline.

   *Motion by Manager Waller, seconded by Manager Bradley, to authorize staff to initiate the 2018 Urban Stormwater Remediation Cost-Share Program and to notify potential applicants of funding availability by publishing the attached Request for Proposals.*

   Manager Waller commented he is happy they are increasing the amount available to $390,000. There has been more interest partially because they have been engaging Cities more aggressively than they have in the past.

   President Preiner stated the goal is to increase the Cities’ participation so the District can do partnerships and get more value out of each project.

   *Motion carried 5-0.*

4. **Consider Final Payment to Rachel Contracting, Inc. for Halls Marsh Outlet Repair Project.**

   District Administrator Belfiori referred to the memo on page 108 of the agenda packet. He reported work is now complete and there were two required change orders applied to this project. Based on these change orders, staff recommends authorization of final payment in the increased amount of $126,668.60 to Rachel Contracting. He noted the
City of Mahtomedi has verbally agreed to reimburse the District for 50 percent of the cost of the change order #2.

**Motion by Manager Waller, seconded by Manager Haake, to approve Rachel Contracting, Inc.’s final pay request as submitted and certified by the District Engineer, and directs staff to issue a payment in the amount of $126,688.60. Motion carried 5-0.**

5. **Consider Intergovernmental Agreement for Rice Creek Commons Feasibility Study.**

District Administrator Belfiori referred to the memo on page 121 of the agenda packet. He reported staff has been working with the staff from Ramsey County and the City of Arden Hills to complete a feasibility study for a potential incorporation of green infrastructure and stormwater reuse in the planned upcoming development at Rice Creek Commons. This would study beyond the baseline requirements and would also serve to support future grant applications to BWSR or the Metropolitan Council. This site was identified as one of the top 11 confirmed priority sites for water reuse in the Stormwater Reuse Irrigation Assessment Methodology and funding was set aside by the Board in the 2017-2018 budgets for feasibility studies at these sites. The Intergovernmental Agreement calls for the District to pay an amount not to exceed $30,000, additional costs would be the responsibility of the City and County, and staff recommends approval.

Manager Bradley commented there have been problems with site development. He inquired if the planning they do now is premature until they know what is going to go in this area.

District Manager Belfiori responded the proposed feasibility study should not affect the specifics of how this site would be developed. It will identify options and costs for various best management practices such as water reuse and would address special site considerations related to the contamination. The timing for this study is good now that they are moving from planning to preliminary design for the site. It will allow the master developer to incorporate study results so as to design for innovative and effective practices.

President Preiner stated this study will also allow the developer to know what is required as it begins to plan.

Manager Waller inquired if they will be obligated to do another study later on when a more specific plan is developed since this proposed amount is for general planning.

District Administrator Belfiori stated there is no future obligations other than this study and any future project grant application would be brought to the Board for consideration. If the Board decided to enter into a cost-share agreement with the developer in the future, it would require a separate vote.
Manager Haake commented a lot of dirt has been moved with the service road going in on the east side of 35E and she does not want the sediment to go into the re-meandering of the creek. She inquired if this is being monitored.

President Preiner stated District staff are monitoring on the creek.

*Motion by Manager Bradley, seconded by Manager Wagamon, to approve the Intergovernmental Agreement with Ramsey County and the City of Arden Hills, authorizing the Board President to execute the document, with any further non-substantive changes and on advice of counsel. Motion carried 5-0.*

6. **Consider General Revisions of RCWD Bylaws.**

District Administrator Belfiori directed the Board to page 131 of the agenda packet and the resolution that was distributed at the beginning of the meeting. He reported on the background and process that has taken place since April with the general revisions of the RCWD bylaws. The distributed resolution serves the purpose of the third bullet point on page 131 of the meeting packet.

*Motion by Manager Waller, seconded by Manager Bradley, to remove the prior motion to approve from the table. Motion carried 5-0.*

District Attorney Holtman advised the next step would be to move intended amendments. After that, the Board then can consider the resolution to adopt the proposed bylaws as they may have been amended.

*Motion by Manager Bradley, seconded by Manager Waller, to amend the proposed bylaws as noticed on August 10, 2017 to include the following two amendments: 1) Article V, Section 5(j): Managers shall perform their duties with objectivity, impartiality, accountability, and transparency; and, 2) Article VII, Section 3: WORKSHOPS: There shall be at least one workshop per month. A workshop shall normally be scheduled for the Monday preceding the first regularly scheduled meeting. Additional workshops shall be scheduled at the call of the President. No official board action will be taken at a workshop. Motion carried 5-0.*

*Motion by Manager Bradley, seconded by Manager Waller, to adopt Resolution 2017-27: Adopting General Revision of Bylaws as amended.*

*Therefore be it resolved that the proposed bylaws, as noticed on August 10, 2017, and as amended to include the following two additions:*

Article V, Section 5(j). Managers shall perform their duties with objectivity, impartiality, accountability, and transparency.
Article VII, Section 3. WORKSHOPS: There shall be at least one workshop per month. A workshop shall normally be scheduled for the Monday preceding the first regularly scheduled meeting. Additional workshops shall be scheduled at the call of the President. No official board action will be taken at a workshop.

hereby are adopted.

Manager Waller advised he will be voting in favor of the motion, but does not believe the amendments strengthen it to what is needed. There will need to be additional changes and improvements made in the future to make sure the check and balance system functions. He is voting with the majority so he can bring it back for further revision.

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

Motion carried 5-0.

7. Consider Partial Pay Request #1 to North Pine Aggregate, Inc. for Anoka County Ditch 53-62 Branch 2 Repair Project.
District Administrator Belfiori referred to the memo on page 158 of the agenda packet and reported staff recommends approval of Partial Payment #1 to North Pine Aggregate, Inc. for the Anoka County Ditch 53-62 Branch 2 Repair Project in the amount of $8,299.45.

Motion by Manager Haake, seconded by Manager Bradley, to approve North Pine Aggregate, Inc. partial pay request #1 as submitted and certified by the District Engineer, and directs staff to issue a payment in the amount of $8,299.45. Motion carried 5-0.


Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated October 25, 2017, in the amount of $326,860.23, prepared by Redpath and Company. Motion carried 5-0.
ITEMS FOR DISCUSSION AND INFORMATION

1. Staff Reports.
There were no comments.

2. November Calendar.
President Preiner reminded the Board there is only one Board meeting in November.

In response to Manager Bradley, District Administrator Belfiori stated the Board should work through Theresa regarding reservations for the MAWD Annual Meeting. He also pointed out there is a preworkshop on Thursday as well.

3. Managers Update.
Manager Haake informed the Board that MAWD hired Emily Javens as the Executive Director. She plans to shadow the former Executive Director as part of her training, and will begin full-time on January 1, 2018. Board members can meet her at the MAWD Annual Meeting.

ADJOURNMENT

Motion by Manager Haake, seconded by Manager Wagamon, to adjourn the meeting at 10:17 a.m. Motion carried 5-0.