REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, November 8, 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, Office Manager Theresa Stasica.

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

Visitors: Sylvia Marier, Doran Cote, Brian Kallio, Lester Winter.

SETTING OF THE AGENDA
Administrator Phil Belfiori requested the following two additional items under Items for Board Action:

- Consider Houston Engineering Task Order 2017-012: Halls Marsh Outlet Repair as item No. 7
- Consider Process for Performance Evaluation of Administrator as item No 8.

Motion by Manager Haake, seconded by Manager Bradley, to adopt the agenda as amended. Motion carried 5-0.

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the October 25, 2017 Board of Managers Meeting. Motion by Manager Wagamon, seconded by Manager Haake 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 informed the Board that there were no adjustments and that staff would entertain any questions.

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 17-090 and 17-100 dated November 1 & 2, 2017. Motion carried 5-0.

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.

PUBLIC HEARING: PETITION OF MATTAMY AND LENNAR CORPORATION TO PARTIALLY ABANDON AND REALIGN ANOKA COUNTY DITCH 55.

President Preiner recessed regular Board meeting and called to order the public hearing on the petition of Mattamy Homes and Lennar Corporation to modify portions of Anoka County Ditch (CD) 55. She reported the following items are under consideration at today’s hearing for the petition of Mattamy Homes and Lennar Corporation: abandonment of a portion of CD 55; realignment of a portion of CD 55; and encroachment upon the required right of way of CD 55.

President Preiner reported the Board’s consideration of this request is governed by statutes sections 103E.227 and 103E.806. Section 103E.227 allows a person to petition to impound,
reroute, or divert drainage system waters for beneficial use. Section 103E.806 allows an owner of benefited property to petition the Drainage Authority to abandon any part of the drainage system that is not of public benefit and utility and does not serve a substantial useful purpose to property remaining in the system. She reported the purpose of this hearing is to review the engineer’s investigation and report of findings and receive comment from those affected by the proposed action. This is an evidentiary proceeding and the proceedings are being recorded in order to preserve the record.

President Preiner explained the order of business for the hearing. First, District Administrator Belfiori will introduce a presentation of information related to the District and its function, the District’s management of public drainage systems, and the engineer’s review of the petitioned actions and subsequent actions that may occur following these proceedings. District Administrator Belfiori will be assisted by Mr. Kolb, the District’s legal counsel, and District Engineer Ottenness.

She further explained following the staff presentation, the hearing will be opened for public comment. The Board would like to hear comments on the proposed action and any information relevant to that purpose. She highlighted the following specific items the Board is interested in:

- The public benefit and utility of the drainage system and the proposed action.
- Whether and how the portion of drainage system proposed to be abandoned serves a substantial useful purpose to property remaining in the system.
- Whether the proposed action will impair the utility of the drainage system or deprive affected landowners of its benefit.
- Whether the drainage authority is missing information required for its decision.

President Preiner stated during the public hearing, managers may ask questions of staff or consultants making presentations and of commenters, in order to clarify any testimony. In addition, if a member of the public asks a question and a manager believes that a response from District staff or a District consultant can readily resolve the question or enrich the testimony, the Manager may ask her to have the appropriate staff member or consultant speak to the question. She will exercise her judgment as to whether to allow such discussion.

President Preiner stated manager’s expression of their positions and general discussion concerning the subject of the public hearing should be avoided during the public comment portion of the public hearing. Board discussion will occur after all members of the public have had a chance to speak and the public comment period has been closed. Board discussion may occur and be concluded at this or a subsequent meeting, as the Board decides.

President Preiner stated if a member of the public would like to make a comment, she requested they stand and address the Board when she recognizes them, and state their name and address for the record. If they have a specific question concerning the proposed action, she may ask the administrator, engineer, or legal counsel to respond. If they have anything in writing they wish to submit, they can provide it to her before the close of the public comments.
and she will note its receipt in the record. She may limit the time any single speaker may comment to five minutes and requested they limit redundant or repetitive comments.

She asked the Board if they wished to offer any further remarks. There were no comments.

President Preiner turn the meeting over to District Administrator Belfiori.

District Administrator Belfiori referred to the resolutions beginning on page 34 of the agenda packet. He pointed out the first resolution is for if significant comments are not received and the second resolution is for if significant comments are received, with a corresponding motion highlighted on page 39.

District Engineer Otterness noted the RCWD requested HEI prepare an engineer’s report to review the petition for the realignment and partial abandonment of Anoka County Ditch (ACD) 55. The petition came from the current landowner Mattamy Homes, and Lennar, the developer of the property. He provided the basis for review and provided a map to show the area affected by this petition. He reported the orange lines on the map represent private tile lines that the District is no longer managing. They may or may not be in existence, but they do serve functions on the property for agricultural production.

District Engineer Otterness reported on the proposed modifications to support the land use from agricultural to possible residential. It will include realignment of the Main Trunk to follow the east property line (I-35E ROW) and south property line of the Mattamy Homes property. It will also abandon the remaining Main Trunk on Mattamy Homes parcel. With the proposed modification to Branch 8, the petitioner plans to reconnect to the realigned portion of the Main Trunk and abandon the remaining Branch 8 portions on the Mattamy Homes parcel.

District Engineer Otterness provided a map that showed the location of the proposed modifications and abandonment. He reported these modifications would provide no change in grade, capacity, or drainage function both upstream and downstream. The petitioners are responsible for the cost of realignments and will be required to provide an easement to allow access for the RCWD to provide maintenance to the drainage system.

District Engineer Otterness reported with the proposed realignment and abandonment of the specified portions of the drainage system, there will be no impact to wetlands, floodplains, or runoff rates. The benefit of the project is to accommodate development on the petitioner’s property. Staff recommends approval and to include language requiring acquisition of permits for the proposed development, including a permit from RCWD.

District Engineer Otterness concluded the proposed modifications have a private benefit, will not impair the utility of the public drainage system, and will not deprive affected landowners of benefit. Staff recommends the RCWD Drainage Authority order the abandonment and realignment of the system.
President Preiner asked the members if they had questions for staff or the consultant.

Manager Haake cautioned it is important that the water remains on that land and is not released any faster that it does now after it is developed.

Manager Bradley inquired if the private tiles highlighted in orange on the map were on the Mattamy property.

District Engineer Otterness confirmed they were and stated the landowner will have to consider how to accommodate the drainage within their property and back into the public drainage system.

District Administrator Belfiori directed to Board to the resolutions included in the meeting packet, and pointed out the receipt of permits or approvals is a precondition to construction of modifications. Once all contingencies are satisfied and the actions completed, the engineer is directed to prepare a record of the drainage system modifications.

Manager Haake pointed out on page 35, item No. 12, that any approvals given are made contingent on the receipt of development approvals.

Manager Bradley confirmed they were tying approval of this abandonment to future development.

District Administrator Belfiori agreed, and stated it is a precondition.

District Engineer Otterness clarified the realignment and abandonment is also contingent on construction of the alignment itself.

Manager Waller stated the timing of this is important. They need to make sure the residents on the east side do not experience any loss of their drainage and it does not result in upstream impoundment. He inquired if safeguards have been included that allow for adequate easement for future maintenance of the realigned portion. He suggested they consider at least a 33-foot easement from each side of the center line.

District Engineer Otterness responded they do have a policy for determining the easement width. They will be requiring an easement as a permit condition for the first phase of the development and require the easement to be recorded with the County. The width of the easement will be sufficient to complete future maintenance. District and HEI permit staff as part of the permit review will ensure there will not be structures in the way to make access difficult.
Permit Coordinator/Wetland Specialist Tomczik referred to the memo dated October 3, 2017, last paragraph on page 45 of the meeting packet, and inquired if transmitting the report to the Department of Natural Resources (DNR) and requesting an advisory report within 30 days was considered to be a condition of the order.

District Engineer Otterness stated this last paragraph was inadvertently placed in the report and this action is not necessary since they are not working with public water or public wetlands.

President Preiner asked members of the public who wish to comment to come to the podium and state their name and address as they begin their comments.

Sylvia Marier, 1833 77th Street, Lino Lakes, commented her concerns have been answered by the Board. Branch 8 affects her property and she wanted to make sure it is functional until they develop in the east side of I-35E.

In response to Manager Waller, Lester Winter, 7473 24th Avenue, Hugo, confirmed he has 160 acres east of the freeway and he had no comments.

With no one further to address the Board, President Preiner closed the public hearing.

ADDITIONAL ITEMS REQUIRING BOARD ACTION


District Administrator Belfiori directed the Board to the resolutions beginning on page 34 of the agenda packet.

District Attorney Smith referred to the order in the resolution, paragraph A, and inquired if the engineer’s report identifies specific conditions on the work.

District Engineer Otterness responded there are not specific conditions identified other than the items listed in the order itself.

District Attorney Smith suggested they change it to say, “...subject to the conditions in this order.”

Manager Waller inquired if the easement was a condition that needs to be recognized at a later time.

District Engineer Otterness explained the easement is standard procedure for the plat, and it is noted in the engineer’s report. This action is making the Rice Creek permit a requirement, and the easement is a condition of that.
Motion by Manager Haake, seconded by Manager Waller, to Offer Resolution 2017-28: Findings And Order Conditionally Approving Petitioned Action; Conditionally Authorizing Modification Of Drainage System And Abandoning Portions Of Drainage System.

President Preiner requested a change to the resolution under Findings No. 7 to include that there were no negative comments from the public.

Permit Coordinator/Wetland Specialist Tomczik clarified the Rice Creek Permit for physical development on the site requires an easement over the public drainage system; additionally, the order also requires an easement in order to fulfill the Public Drainage Authority requirement.

Manager Haake read through the Order as part of her motion.

Therefore, the RCWD Board of Managers makes the following:

ORDER

A. The Board of Managers approves the petitioned action and authorizes the drainage system modifications subject to the conditions set forth in this order.

B. Lennar, Mattamy or both are required to transfer an easement over the realigned portion of CD 55 to the drainage system, for the benefit of the drainage system, as a condition of this approval.

C. Lennar, Mattamy or both are required to execute a Maintenance Declaration, in a format prescribed by the RCWD, providing for the maintenance of the modifications authorized herein as a precondition to construction of said modifications.

D. To the extent the modifications authorized herein require permits or approvals of other regulatory authorities, including the RCWD in its role as Watershed District, receipt of such permits or approvals is a precondition to construction of said modifications

E. Once all contingencies are satisfied and the actions completed, the engineer is directed to prepare a record of the drainage system modifications authorized herein to be in filed in the drainage system record.
ROLL CALL:
Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner – Aye

Motion carried 5-0.

2. Consider Water Quality Grant Program Cost-Share Applications.
   a. A17-07 Wolfe Streambank Stabilization
      District Technician Berger referred to the memo on page 79 of the agenda packet. She reported the goal of this project is to stabilize and restore approximately 40 feet of streambank in Fridley along Lower Rice Creek, which ultimately drains to Locke Lake. A project was completed upstream from this area in the mid-90s and has held up well, the current project area only received minimal riprap and erosion control blanket at the time. This project will help further stabilize the banks by using minimal riprap and native plantings.

      District Technician Berger reported this project was considered at a recent CAC meeting and they recommended for approval. Staff noted that this project will fall into the project scope of a study RCWD is working on with Houston Engineering regarding stabilizing areas along Rice Creek. She believes that project will look for larger scale, public pieces of land and not smaller private landowners like this project. This project will help eliminate 1,100 pounds of Total Suspended Solids and about .47 pounds of Total Phosphorus per year, resulting in an estimated 100 percent reduction of the pollutant loads leaving the property. The low bid came in at $2,724.50, and staff recommends $1,362.25 in cost-share funding for this project.

      Motion by Manager Haake, seconded by Manager Bradley, to approve RCWD Water Quality Grant Program Contract A17-07 for the Wolfe streambank stabilization, up to $1,362.25 and not to exceed 50% of eligible project expenses, in accordance with established program guidelines. Motion carried 5-0.

   b. R17-09 Willow Point HOA -Shoreline Stabilization
      District Technician Berger referred to the memo on page 97 of the agenda packet. She reported the applicant is requesting funding to improve their buffer and add riprap on the public area of land. Staff worked with the landowner on increasing their buffer width to provide additional filtration before reaching the lake. They proposed 261 square feet of buffer which will range four to ten feet in depth from the lake. District staff and the CAC support funding this project at the 25 percent level since the site is not eroding and is currently stable. The low bid came in at $7,076.76 and staff recommends $1,769.19 in cost-share funding for this project.
Manager Haake commented the drawing is adequate and done well.

**Motion by Manager Haake, seconded by Manager Bradley, to approve RCWD Water Quality Grant Program Contract R17-09 for the Willow Point HOA shoreline stabilization, up to $1,769.19 and not to exceed 25% of eligible project expenses, in accordance with established program guidelines. Motion carried 5-0.**

3. **Consider 2018 Board Calendar.**

District Administrator Belfiori referred to page 110 of the agenda packet and presented the proposed 2018 Board of Managers meeting calendar.

Manager Bradley stated he and Manager Wagamon have agreed to switch CAC meetings in January and February. He will attend the January meeting and Manager Wagamon will attend the February meeting. Manager Wagamon agreed.

Manager Haake requested a change to the April and May CAC meetings. She would attend the May meeting and Manager Waller the April meeting. Manager Waller agreed.

President Preiner suggested these changes be carried over each year. The Board agreed.

**Motion by Manager Haake, seconded by Manager Wagamon, to approve the 2018 Board Calendar with discussed revisions. Motion carried 5-0.**

4. **Consider Minnesota Association of Watershed Districts (MAWD) 2017 Proposed Bylaws and Resolutions for Annual Meeting and Certification of Membership & Delegate Appointment Form.**

District Administrator Belfiori referred to the summary memo on page 113 of the agenda packet. He reported it outlines each of the proposed MAWD bylaws and resolutions, plus resolution #10 From the MAWD Board of Directors which was discussed at the November 6, 2017 workshop and handed out to the Board today.

Manager Haake commented these items will be acted on at this year’s meeting in Alexandria on Friday, December 1, 2017.

District Administrator Belfiori advised if they have considered the recommendations of staff, including resolution #10, this can be stated in a motion and directed toward the delegates.

Manager Haake inquired if they are going to hold the delegates to the proposed wording, or allow them to think for themselves if there are changes.
District Administrator Belfiori responded the delegates have been allowed to use reasonable discretion with the Board’s position.

President Preiner agreed, and stated as long as the Board’s intent is followed.

**Motion by Manager Haake, seconded by Manager Bradley, to accept the recommendations outlined in the Memo dated November 1, 2017, including resolution #10, and forward it to the delegates. Motion carried 5-0.**

**Motion by Manager Waller, seconded by President Preiner, to appoint Managers Haake and Bradley as delegates. Motion carried 5-0.**

**Motion by Manager Haake, seconded by President Preiner to appoint Manager Waller as an alternate delegate. Motion carried 5-0.**

5. Consider November 22, 2017 Check Register – Resolution Authorizing Treasurer Approval.

District Administrator Belfiori explained since the Board only meets once this month, this resolution authorizes the District Treasurer to review and approve payment of the November 22, 2017 check register.

**Motion by Manager Waller, seconded by Manager Haake, to Offer Resolution 2017-29: Authorization for Payment of November 2017 Check Register.**

THEREFORE BE IT RESOLVED that the Board of Managers authorize the District Treasurer to review and approve payment of the November 22, 2017 check register in an amount not to exceed $375,000 for operating expenses, and $150,000 surety returns.

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

Motion carried 5-0.

6. Consider Check Register dated November 8, 2017, in the amount of $171,131.70 prepared by Redpath and Company.

**Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated November 8, 2017, in the amount of $171,131.70, prepared by Redpath and Company. Motion carried 5-0.**
7. **Consider revised Houston Engineering Task Order 2017-012: Halls Marsh Outlet Repair.**

District Administrator Belfiori reported this item was added at the request of Board and previously discussed and the November 6, 2017 Board Workshop. He reported the additional activities are identified in the task order and the request from Houston Engineering is approximately $9,700. Staff believes the activities they are charging for are appropriate given HEI did perform due diligence on the sanitary sewer work as part of project design.

*Motion by Manager Waller, seconded by Manager Bradley, to approve revised Task Order 2017-012 with additional expense of $9,737, for a total task order of $39,037 and the memo for order revision and charge scope of services dated October 31, 2017 be included in the record.*

*Motion carried 5-0.*

8. **Consider Process for Performance Evaluation of Administrator.**

*Motion by Manager Waller, seconded by Manager Haake, to designate Manager Bradley to lead a performance evaluation of the Administrator for the period of February 16, 2017 through October 17, 2017, as follows:*  

- Manager Bradley will interview all members of the Board of Managers using an evaluation form prepared by the District’s human resources consultant;  
- Manager Bradley will prepare a summary of this information using the evaluation form, and provide it to Mr. Belfiori for his review;  
- Thereafter, the Board of Managers will meet in closed session (unless Mr. Belfiori requests that the meeting be in open session) to discuss the evaluation;  
- The Board of Managers will summarize its conclusions of the evaluation at the next open meeting.

Manager Bradley commented this will be done the same as last year where each Manager developed their own evaluations. He will summarize their comments and provide them to Managers at a Board meeting. He may have more of an interview function rather than a receipt function. He was going to suggest evaluations be based on the administrator’s performance during calendar year 2017, but that is already included in the motion. He suggested they send the questions out immediately, and will contact them in two weeks for their responses.

Manager Waller summarized the process, and suggested in the future they set goals each year to be used as an evaluation tool.

Manager Bradley inquired if they should use the consultant as a starting point, or use this process to request suggested goals from the Board.
President Preiner stated they can use this process.

Manager Haake commented the budget could be used as a guideline in determining goals.

Manager Bradley requested the Board begin to think of goals for next year.

Manager Waller commented he would also like to hear what format the consultant would suggest on how to establish the goals.

After discussion the Board agreed to come up with goals on their own and then determine if they need to consult.

Manager Waller stated he did not think they needed a facilitator, but that the consultant could email them some guidelines.

Manager Bradley stated the questions she provides for the review should direct them toward possible goals.

Manager Waller suggested District Attorney Smith provide information on how to set goals at the Board members and managers class he is teaching at this year’s convention.

Motion carried 5-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. **District Engineers Update and Timeline.**
   District Engineer Otterness noted they have draft plans and specifications completed for the Oasis Pond Iron Enhanced Sand Filter project. They were provided to District staff and the City of Roseville and have already received comments back. The finals plans will be presented to the Board soon for authorization to proceed with bid letting.

2. **November/December Calendar.**
   No comment.

3. **Managers Update.**
   Manager Waller commented he attended the CAC meeting. He supports the cost-share project discussed earlier regarding beach erosion in Fridley. The District may want to consider doing the same thing along Centerville Lake.

   Manager Bradley announced the AIS Ramsey County Task Force will meet today at 12:00 p.m. at the Shoreview Library.
Manager Haake updated the Board on the North and East Metro Groundwater Management Area (GWMA) meeting she attended.

Manager Waller commented they talked about wells at the Washington County Consortium Committee. Woodbury presented and stated they had 18 active wells, are drilling another one, and only use five wells in the winter. They chlorinate and fluorinate the water that is used all summer. They may want to think of White Bear Lake as a groundwater infusion place, consider spending less, increase the watershed into the lake and supplement the groundwater.

ADJOURNMENT

Motion by Manager Haake, seconded by Manager Bradley, to adjourn the meeting at 10:07 a.m. Motion carried 5-0.