Minutes

CALL TO ORDER
President Preiner called the meeting to order, a quorum being present, at 9:00 a.m.

ROLL CALL
Present: President Patricia Preiner, 2nd Vice-Pres. John Waller, Secretary Harley Ogata, and Treasurer Steve Wagamon.

Absent: Manager Barbara Haake (with prior notice)

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Technical Specialist/Permit Reviewer Chris Buntjer, Lake and Stream Specialist Matt Kocian and Office Manager Theresa Stasica.

Consultants: District Engineers Mark Deutschman and Larry Kramka, Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners

Visitors: Mike Bradley

SETTING OF THE AGENDA
Motion by Manager Waller, seconded by Manager Wagamon, to adopt the agenda as presented. Motion carried 4-0.

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the January 12, 2015, Board of Managers Meeting Workshop Meeting. Motion by Manager Wagamon, seconded by Manager Ogata, to approve the minutes as presented. Motion carried 3-0-1 abstain (Manager Waller).

Minutes of the January 14, 2015, Board of Managers Meeting. Motion by Manager Wagamon, seconded by Manager Ogata, to approve the minutes as presented. Motion carried 3-0-1 abstain (Manager Waller).

PERMIT APPLICATIONS REQUIRING BOARD ACTION
The following applications have been reviewed by the District Engineer and Staff and will be acted upon without discussion in accordance with the Engineer’s Recommendation unless a Manager or the Applicant or another interested person requests opportunity for discussion.
CONSENT AGENDA

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<th>No.</th>
<th>Applicant</th>
<th>Location</th>
<th>Plan Type</th>
<th>Recommendation</th>
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<tr>
<td>14-089</td>
<td>Ramsey County Public Works</td>
<td>Arden Hills</td>
<td>Street &amp; Utility Plan</td>
<td>CAPROC 5 items</td>
</tr>
<tr>
<td>14-104</td>
<td>Roberts Management Group</td>
<td>Arden Hills</td>
<td>Final Site</td>
<td>CAPROC 6 items Drainage</td>
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Manager Waller stated he noticed they are installing the ponds when most of the highway work is done and the purpose of the ponds is to catch the sediment it draws off. He noted he recently read a study that was done in another metro watershed district and they said that most of the damage that is done to the lakes from phosphorus comes at the time the earth is disturbed and once the housing projects and roads are put back in it returns back to the same level as presettlement. He wondered if the ponds should be put in first. He wondered what the affect would be if they were to be put in ahead of time. He asked staff to look into that for future projects to see if they need to change their sequence.

Permit Coordinator/Wetland Specialist Tomczik stated the permit being considered is in advance of any work on the site. There may be some existing ponds onsite that are being modified and typically during construction applicants will construct a temporary basin to capture sediment that would run off from construction and then ensure that the final BMP, consistent with the permit, is clean and ready to accept any future runoff.

Administrator Belfiori stated at the last workshop they talked a lot their team they have on staff that does inspection of active sites and he thought this was a critical question to think about. He stated Rule D is for erosion control and that is for the active construction sites and there are a series of things that have to be done, not just pursuant to Rule D during the active construction process, which includes BMP's such as temporary sediment basins, buffers, silt fence, erosion control fabric and that some of these BMP's are also sometimes required per the Federal NPDES. They are also required to do the same things under the applicant's Federal permit that is usually administered through the City. They are required to show practices that are meant to address active construction sites.

Motion by Manager Wagamon, seconded by Manager Ogata, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer's Findings and Recommendations, dated January 21, 2015. Motion carried 4-0.

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.

There were no comments made at Open Mike.

ADDITIONAL ITEMS REQUIRING BOARD ACTION

1. Consider motion to authorize President to approve access agreement for Middle Rice Creek Restoration Project.

Administrator Belfiori explained on June 11, 2014, the Board authorized execution of a non-binding Memorandum of Understanding (MOU) with Ramsey County Parks and Recreation (RCP) to formalize the intent of the parties to working cooperatively within a mutually agreed upon framework to design and construct a stream meander restoration project on Rice Creek within property owned by RCP. The MOU was fully executed by all parties on June 12, 2014.
Approved
Minutes for Rice Creek Watershed District Regular Board Meeting of January 28, 2015

Staff has been working with legal counsel to develop refinements to the project design and proposed channel alignment in an effort to satisfy the RCP’s request for said refinements prior to the execution of a binding commitment to a permanent alteration of its property.

Lake and Stream Specialist Kocian gave a brief presentation to the Board.

Manager Ogata asked if the money was coming from legacy funding. Lake and Stream Specialist Kocian indicated it was.

Manager Waller stated in the past Ramsey County Parks has always been very conscious of any kind of damage done to their parks, which there have been many discussions, and it was not covered in the presentation. Lake and Stream Specialist Kocian stated they met with Ramsey County Parks on January 27, 2015 and had a very productive meeting. They have a new parks director and was optimistic coming out of the meeting that they were going to get an access agreement formalized and done soon. Some of the past concerns parks have had to impacts to their property are perhaps less here because of all of the additional development and work that is going to be done in that area associated with the TCCAP redevelopment. There is also very little, if any, infrastructure in these parks. There is bituminous trails but otherwise there is nothing much else to damage.

Manager Waller stated the agreement does not discuss how it will handle the possibility of damage. Lake and Stream Specialist Kocian stated the District will repair material to preexisting conditions, all county lands and improvements except those to be permanently altered by the Project. He stated if there is damage done to the bituminous trail or if fill needs to be hauled in for a temporary road access it will all be restored to the previously existing condition and the parks has been receptive to that.

Manager Waller indicated that was the issue the last time and restoring it to the previously existing condition created more expense so he asked if there could be some prevention of that with this project. Lake and Stream Specialist Kocian stated in this case those expenses are assumed at the beginning of the construction project. He stated the plans will have known expenses for damages.

Manager Waller stated they do not have any further protection than what they used to have. Lake and Stream Specialist Kocian stated because of some of the past issues, he thought District Staff will work very hard to document the existing condition so if there is some sort of issue they will work with the parks to make sure it was not a preexisting condition.

Motion by Manager Ogata, seconded by Manager Wagamon, to authorize the Board President to execute the Access Agreement between the Rice Creek Watershed District and Ramsey County Parks and Recreation, with any final non-material changes and on advice of counsel. Motion carried 4-0.

2. Consider Check Register dated 1/28/2015, in the amount of $271,618.03, prepared by Redpath and Company.
Motion by Manager Wagamon, seconded by Manager Ogata, to approve check register dated 1/28/2015, in the amount of $271,618.03, prepared by Redpath and Company. Motion carried 4-0.
ITEMS FOR DISCUSSION AND INFORMATION

1. Discuss scheduling for the February RCWD Board meetings.

Administrator Belfiori noted the February calendar dates and in discussions with the Board President he asked to ensure they have quorums for them moving forward noting that one manager will be absent with prior notice.

Manager Waller stated he did not see the Citizen Advisory Committee on the calendar and he wondered if the meeting was cancelled for February. President Preiner thought the meeting was still happening but mistakenly absent from the memo. Administrator Belfiori noted the meeting will be Wednesday, February 4, 2015 and Manager Wagamon was the Board Liaison.

Manager Wagamon indicated he would be at all of the February meetings. Manager Waller stated they still have four managers and he did not think Manager Ogata is relieved until the new appointment is made and the Ramsey County Board only meets once a month and it has not been uncommon for them in the past to not finish that business until March or April.

Manager Ogata stated at the time he made his plans for the spring, he was anticipating he was not going to be here and is actually out of town both weeks of the Board meetings, 9th and 25th. He noted he will be in town the 2nd and 16th. He indicated he is open both Thursdays if the Board wanted to reschedule the meetings but he would not be able to attend either of those meetings otherwise.

President Preiner indicated she did not have any conflicts. Manager Waller stated the meetings were four weeks away so he was not sure if there would be any conflicts for him or not at this time. President Preiner wondered if they should reschedule the meetings to be ensured they will have a quorum. She noted the dates will be left as is and will let staff know if any changes need to be made.

2. Project update on the Anoka County Ditch 53-62 Branch 1 Repair.

Administrator Belfiori asked District Engineer Deutschman to give a brief update on the status of the Anoka County Ditch 53-62 Branch 1 project.

District Engineer Deutschman stated this is a financial update. Construction continues and seems to be going well. The Contractor has a couple of culverts to put in but things are moving ahead nicely. Recently the Board approved Change Order Number 3 for the contractor roughly in the amount of $20,000, which was to construct the additional open channel around the new Walmart site, which was included in the original project and will be the remainder of the open channel they need to construct. The District has incurred considerable costs associated with addressing the presence of rare plants that are on site. These cost are both for professional services and construction. Houston Engineering has presented a change in scope request to the Administrator for $29,000 for work on this site that includes additional construction management because of the rare plants, on site observation completed by Critical Connections Ecological Services, finalizing the approval process with DNR.

District Engineer Deutschman stated one of the things important to the District when doing these projects is paying attention to what has been presented to the public in terms of the total project cost and the local proportion. Part of the project cost is being paid for through a water management district. The remainder of the cost is being paid for through ad valorem funds. The Engineer’s projected total project including change order 3, and excluding the contingency the Board has authorized is $446,000. At the public hearing the District represented the total cost to be $411,000. The current projection is that including the rare plant avoidance costs the District will complete the project around $35,000 over what was represented to the public. The District
represented at the hearing $292,000 of the total cost was going to be paid for through the Water Management District and the District Engineer is projecting $298,000.

District Engineer Deutschman stated they went back and looked at all of the contractor costs associated with rare plant avoidance, the ecologist that was brought on board to help them identify those in the field and there has been some additional contractor costs because of fencing in the field to ensure the contractor does not impact these plants. Total costs for professional services excluding legal costs have been about $85,000, and this is being placed on the ad valorem side of the ledger. He noted the District should be close to the Board’s original policy decision on apportioning the costs which was at 71 percent for the local benefits paid for through the water management district and 29 percent for the ad valorem costs.

District Engineer Deutschman stated they have scaled back the inspections on site, now that construction in the area with rare plants has been completed. Administrator Belfiori stated consistent with the approved memorandum for the project the cost allocation memorandum that was part of the order as well as the drainage policy that those costs are being considered as part of avoidance in permit costs pursuant to those two policies.

President Preiner agreed that it should be ad valorem funds used to pay for rare plant avoidance and from here on out they should add that as part of the policy because that definitely goes to the whole district versus the individuals. Manager Waller indicated he supported that. He stated he would even support taking a look at the costs of the districts and the cost of how much the community is contributing and how much they are receiving back and maybe there would be an adjustment that can be made on some of these projects because he often thought the outlaying parts of the district contribute more than what they receive back in their areas.

President Preiner indicated she would propose this once they have a full board again. Manager Weller agreed.

Manager Ogata asked if the project had to go into the contingency. District Engineer Deutschman stated when the Board added change order 3 to the project, the Board instructed staff to maintain the $38,000 contingency. That contingency remains and has not been used and the District Engineer stated he is hopeful they will not need to use more of the contingency.

3. Houston Engineering, Inc. Presentation: Updates to the Minnesota drainage manual

District Engineer Kramka gave a presentation regarding the Minnesota Drainage Manual.

Manager Waller stated the clean water act has a huge impact on property owners and this has a tremendous impact on the productivity of the land and how it is used. He stated this manual will be updated quicker now because it will be electronic but he wondered if they felt they were losing something by not having an update in twenty-five years and the group that is contracted for this comes from the private sector versus the government administrator updating it with their version like permission. He wondered who will pay for this.

District Engineer Kramka stated there has been a lot of discussion around what the process will be for updating the manual after it is done and who is going to decide what goes in and what rises to the level of needing to be updated and how quickly it will get done. He did not think any of that has been decided yet and it is an important question for folks to keep on BWSR’s plate because there are things that can be changed more easily and can lead to problems. There has been discussion about how far does the manual go on interpretation and as opposed to trying to stay objective, which is a fine line because there are no rules that interpret the statute for drainage law. He thought this was something people needed to be aware of going forward.
Manager Waller stated he was very conscientious of property rights that individual property owners have versus the interpretation of what those rights are by non-property owners and that seems to be an inherent conflict because there is a different culture between the State Regulatory that administers these laws and what the property owners who pay to maintain the benefit and do the practices of it. There is a different in his opinion between the regulatory authority seem to have a culture of recreation because now invasive species is important that they create a fifty foot buffer on all the State drainage systems. He stated he was skeptical that the loss of hiring the consultants in this case and having the input of all the individuals around the State and just updating the manual electronically by the MPCA, DNR and other government agencies.

District Engineer Kramka stated he thought that as stuff moves forward that for the manual to be valuable it has to stay current but it also cannot create smoke where there isn’t any now. It has to be helpful, something that actually allows people to better manage their systems.

President Preiner asked if there was anything in the manual that states who will be updating the manual. District Engineer Kramka indicated it will not. He thought the drainage work group and others have been talking about that fact and do not want the manual to not get updated in a timely manner. He thought the other part that was interesting was the idea of case studies. That probably has a lot more positive benefit for an update in the future. That probably has more value than going in and tweaking a few sentences.

President Preiner asked if there will be a list of a history so people will know what has been updated and who updated it. District Engineer Kramka stated that is the current intent. There is still some debate on what type of format it should be.

District Engineer Deutschman gave a presentation regarding Best Management Practices (BMP) web application being built for the Board of Water and Soil Resources. District Engineer Deutschman explained that the International Water Institute is leading this effort.

Manager Waller stated last fall he had the opportunity to listen to the Chief of Minnesota Pollution Control Agency and he gave a couple of thumb rules for clean water. The first was humans needed to be able to swim in it and the second was that humans had to be able to catch fish which the State charges a tax for. In his experience in the Watershed District and a lake close to where he grew up, it has a high sulfur content and low oxygen and those two elements make that water impaired naturally. He wondered if the one water quality plan fits all situations. He was apprehensive to have a set of rules that are uniform because they do not fit the natural conditions.

District Engineer Deutschman stated what they are trying to do is develop tools for the local entities to use and how they use them in their planning process will be up to them. It was his understanding that the concept of one watershed, one plan removes the conflicts in water management at the local level between the County and others.

5. Staff reports.
There were no comments.

6. February Calendar
There were no comments.
7. Manager’s Update
President Preiner stated she would like to bring the rainwater study to a future workshop meeting so it can be reviewed.

ADJOURNMENT
Motion by Manager Ogata, seconded by Manager Wagamon, to adjourn the meeting at 10:30 a.m. Motion carried 4-0.