REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, March 28, 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, 2nd Vice-Pres. John Waller, Treasurer Steven Wagamon and Secretary Michael Bradley
Absent: 1st Vice-Pres. Barbara Haake with prior notice.
Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Technician Samantha Berger, Water Resource Specialist Kyle Axtell, Office Manager Theresa Stasica.
Consultants: District Engineers Chris Otterness and Greg Bowles from Houston Engineering, Inc. (HEI); and District Attorney Louis Smith from Smith Partners.
Visitors: Dan Miller.

SETTING OF THE AGENDA
President Preiner instructed the Board to correct the location of permit 18-022 under the Consent Agenda to the City of Lino Lakes.

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

PRESENTATION: WHITE BEAR LAKE COURT ORDER: DNR UPDATE-DAN MILLER, MN DNR
Dan Miller, DNR Water Use Specialist, gave a presentation on the Ramsey County District court order related to White Bear Lake. He provided a history of issues with the lake and summarized the court order process and changes that have taken place.
District Administrator Belfiori stated they have a golf course reuse project in the five-mile radius and a general interest in stormwater reuse. He inquired how this court order will affect related past and future projects.

Mr. Miller responded the golf course is using both a ground water and surface water source. The ground water source is impacted by the court order and the surface water source is a good alternative for irrigation purposes. The challenge is in determining how these topics pertain to golf course irrigation. They have a number of different use types in this area and that is why they are appealing the broad stipulations place on them.

District Administrator Belfiori inquired where the communities currently are at with the 75 gallons per day requirement and if they can use stormwater reuse tools to achieve this with the current court order.

Mr. Miller responded most communities are close or below the 75-gallon residential gallons per capita per day. However, the 90-gallon requirement is a challenge because there are a variety of industries within communities. They have been working with communities on ways to get below this requirement, and for some, this will be a challenge. Mr. Miller stated they support and encourage reuse and recognize it as a water conservation strategy. The water conservation reporting tool will provide them with volumes being conserved with stormwater reuse projects in some communities.

Manager Bradley inquired if they are addressing the five-mile radius as being too broad in their appeal.

Mr. Miller responded their initial evaluation considered a two-mile radius, which they felt better represented the issues. In the appeal, they have requested a stay on the order, but he is unsure if the five-mile radius is specifically addressed.

Manager Bradley inquired if people are allowed to pump water out of the lakes for irrigation.

Mr. Miller responded if a resident wants to pump from a lake, there may be local laws. If it is over 10,000 gallons per day, the DNR requires a permit. They have looked at residential irrigation in this five-mile radius, which is 20 to 30 percent of the municipal water supply. If that was removed, it was concluded there would not be that great of an impact on the water levels.

Manager Bradley inquired if the appeal will include the residential irrigation watering ban.

Mr. Miller responded they are appealing the entire order, which also includes the residential irrigation ban.

Manager Bradley inquired if the municipalities’ appeal of the DNR permit decisions would perhaps also address merits of the underlying court order.
Mr. Miller explained when a municipality appeals the DNR’s permitting decision, the permit is not in effect until the hearing actually happens. He suggested they contact the DNR’s attorney for more information.

Manager Waller thanked Mr. Miller for his presentation and provided a history of how he has been involved with this project over the past ten years. He inquired how the District can work with it cities stormwater management plans to develop a reservoir system that can capture water and be used as a potable water source. They are in the process of developing their 10-year plan and the staff has a background in planning habitat for people.

Mr. Miller commented it is important to plan how water is used over time and how it goes along with the work the District is doing. Per the court order, communities need to provide a plan on how they are going to shift from ground water to surface water by the end of August 2018. Any coordination and communication from the District moving forward would be welcomed.

Manager Waller noted the District has communities in the north half of the five-mile radius and he strongly encouraged Board members to take an active interest in working with those communities on this topic. He inquired about the elevation requirement of White Bear Lake.

Mr. Miller explained the court order states if the lake drops below 923.5 feet, the residential irrigation ban must be in place until it reaches 924 feet. It is currently at 923.5 feet and has been there for over 10 years.

Manager Waller inquired how the DNR feels about augmentation if it met water quality standards.

Mr. Miller responded they focus more on water quantity than water quality. They are generally not supportive of augmentation of a basin, but people can apply for a permit to do so. However, there are beneficial dynamics when augmenting a surface basin.

Manager Waller provided three examples of when the DNR had been supportive of augmenting basins: the dams on Peltier Lake, Bald Eagle Lake and Rice Lake.

Mr. Miller noted dams are all over the State to hold back water on various basins to provide recreational value or other function.

District Attorney Smith inquired if the DNR has completed its updated model of the ground water and surface water dynamics.

Mr. Miller explained DNR staff continues to evaluate results more specific to this area. When considering a model, there are a lot of inputs that go into it and it is highly technical. They have had requests from people with permits wondering what their impact was based on the model. Their staff continues to evaluate how the model fits and what the permitted pumping is. They
hope to provide an update at the North and East Metro Meeting on Friday, May 4. He confirmed that S.S. Papadopulos is the firm developing the model.

District Administrator Belfiori noted Manager Haake is a member of the North & East Metro GWMA Advisory Team Meeting.

The Board thanked Mr. Miller for his presentation.

**READING OF THE MINUTES AND THEIR APPROVAL**

Minutes of the March 12, 2018 Board Workshop. *Motion by Manager Wagamon, seconded by Manager Bradley to approve the minutes as presented. Motion carried 4-0.*

Minutes of the March 14, 2018 Board of Managers Meeting. *Motion by Manager Wagamon, seconded by Manager Waller to approve the minutes as presented. Motion carried 4-0.*

**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:

**Table of Contents**

**Permit Applications Requiring Board Action**

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<tr>
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Manager Bradley referred to page 27, item 9 and requested the sentence “Address the follow items are addressed” be corrected.

District Technician Berger confirmed the sentence should state, “Address the following items.”
Manager Bradley referred to page 60 and inquired what “EOF” means.

District Technician Berger responded it stands for Emergency Over Flow.

*It was moved by Manager Waller, seconded by Manager Bradley 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 17-072, 17-117, 18-002, 18-004, 18-012, and 18-022 dated March 20 & 21, 2018. 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.

No comments.

**ADDITIONAL ITEMS REQUIRING BOARD ACTION**

1. **Consider Wellington Management Inc. and United Hospital Foundation Petition for Realignment of Anoka County Ditch 53-62.**

   Permit Coordinator/Wetland Specialist Nick Tomczik reported on February 28, 2018, the Board accepted the petition and bond from Wellington Management/United Hospital Foundation and appointed Houston Engineering (HEI) to review it. He continued that the item today is the Board to consider the engineer’s report for filing and set the public hearing date.

   District Engineer Otterness reported on the petition for realignment of ACD 53-62 which includes partial abandonment of the Main Trunk and Branches 4 and 5. He highlighted the basis for the review and statutes pertaining to it. The proposed modifications are as follows:

   - Main trunk: Realign Main Trunk to along west side of development; abandon remnants on parcel
   - Branch 4: Realign 12 feet to the south; abandon remnant
   - Branch 5: Abandon downstream 470 feet; realign 90 feet of alignment 12 feet to the south

   District Engineer Otterness provided a map of the current system and of the proposed modifications. He noted the alignment is going into a manmade lake that will be 30 feet deep. There is a wetland area to the left of the alignment and they made sure the maintenance corridor to the drainage system would not interfere with it.
He reported on the following design requirements for the system:

- The open channel will be reconstructed at the As-Constructed or Subsequently Improved (ACSIC) grade; the bottom width will be ACSIC or where it currently is, whichever is greater; and, provide 2:1 sideslopes
- Provide an access corridor with 20 feet on one side of the open channel/lake; maximum of 20 percent longitudinal grade; maximum five percent cross slope; and, an easement over the access corridor and channel from bank to bank.

District Engineer Otterness reported there will be no change in capacity or drainage function upstream or downstream to the drainage system. The petitioners are responsible for the cost of the realignment and RCWD will maintain the responsibility of the drainage system. The landowner will maintain the responsibility of the lake and culvert. There are no impacts to the wetlands, floodplains or runoff rates and the benefit of the project is to accommodate development on the petitioner’s property.

District Engineer Otterness concluded the proposed modifications have a private benefit, do not impair the utility of the public drainage system and do not deprive the affected landowners of benefit. They recommend the Drainage Authority schedule a public hearing to consider the petitions.

Manager Waller inquired if the DNR approved the 30-foot depth of the lake. He recalled a gravel pit in Ramsey that filled in with water and had issues with the depth.

District Engineer Otterness responded he was unaware of DNR requirements associated with this project and that associated regulatory considerations may be noted as the permit process moves forward.

Permit Coordinator/Wetland Specialist Tomczik noted this is not a DNR regulated area and he does not know of any pertinent DNR regulations. The use of the term “lake” comes from the applicant and is an excavation in an upland area; the depth of the excavation would be acceptable under the District’s regulations.

Manager Waller noted in the future they should not be restrictive on depth relating to detention areas such as this and he hopes it passes with no issues.

President Preiner noted the depth will be considered when the permit goes through.

District Engineer Otterness pointed out this is an excavated feature of the property, the term “lake” was used by the applicant and that use of that term does not represent a classification of the water feature within any regulatory context.
Permit Coordinator/Wetland Specialist Tomczik commented a similar feature was done at The Lakes project in Coon Creek. People in that area recognized it as a lake and there were issues with the City of Blaine regarding regulation.

Motion by Manager Waller, seconded by Manager Bradley, to adopt Resolution 2018-10: Accepting Engineer’s Report for Filing and Setting Date for Hearing on Petition of Wellington Management, Inc., and United Hospital Foundation for Realignment and Partial Abandonment of a Portion of ACD 53-62.

THEREFORE, BE IT RESOLVED that the Board of Managers directs the following actions:

1. The Board accepts the engineer’s report for filing.
2. The Board sets a public hearing on the petition and engineer’s report for its regular meeting at Shoreview City Hall, on April 25, 2018 at 9:00 a.m., or thereafter on the agenda as determined by the Board.
3. The Board directs staff to provide notice of the hearing as required by statute and local policy.

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

Motion carried 4-0.

Manager Bradley referred to page 49 of the agenda packet, No. 6, and requested additional information on Permit No. 18-004. He suggested staff contact Coon Creek Watershed District (CCWD) to notify them of this project to protect their interests.

Permit Coordinator/Wetland Specialist Tomczik responded with all projects adjacent to District boundaries and draining to the neighboring jurisdictions, staff look to what is happening downstream. Coon Creek Watershed District (CCWD) is aware of this project; practice is for staff to communicate with that jurisdiction and this paragraph indicates direction to the applicant to approach CCWD on accepting of the impacts of this project on their waters.
2. **Consider Pay Request #7 from City of Saint Anthony for Mirror Park Project.**

Water Resource Specialist Axtell reported this project is very near completion. All dredging and mass grading are complete, and the new outlet structure has been installed. The remaining work to be done this spring includes a final grade on the flood protection berm and vegetative restoration. Staff recommends that a $56,006.96 reimbursement payment be made to the City of St. Anthony, which will put the District at a 50/50 cost split with the City moving forward. The RCWD has contributed $935,698.95. $640,000 of that came from a BWSR grant and $295,698.95 came from RCWD ad valorem funds. The City has paid $43,698.94. He referred to page 85 of the agenda packet and note a small error correction of six cents in the City’s favor.

*Motion by Manager Waller seconded by Manager Bradley, to approve the City of Saint Anthony’s reimbursement request of $56,006.96 pursuant to the August 25, 2015 Cooperative Agreement. Motion carried 4-0.*

3. **Consider Check Register dated March 28, 2018, in the amount of $369,775.50 prepared by Redpath and Company.**

*Motion by Manager Wagamon, seconded by Manager Bradley, to approve check register dated March 28, 2018, in the amount of $369,775.50, prepared by Redpath and Company. Motion carried 4-0.*

**ITEMS FOR DISCUSSION AND INFORMATION**

1. **Staff Reports.**

District Administrator Belfiori reported the Minnesota Association of Watershed Districts Legislative Update and 2018 Legislative Tracking was handed out to the Board prior to the meeting. He referred to MAWD’s position that was modified on the top of page 2 related to the Open Meeting Law item, and MAWD’s decision on that. He also noted that the MAWD’s legislative update document did reference and take a MAWD position on the recently discussed bills related to DNR’s public waters authority over work done in public drainage repairs.

District Attorney Smith referred to the proposed bill for the Open Meeting Law and commented he heard the sponsors decided to pull the bill.

District Administrator Belfiori noted the Board had been informed of this.

Manager Bradley stated it is being pulled because certain LGUs do not agree there is an issue applying it. There continues to be disagreement on the application of the law and the Supreme Court decision throughout the State of Minnesota.

President Preiner inquired if the letters have been sent out.

District Administrator Belfiori confirmed the letters were sent on Friday.
Permit Coordinator/Wetland Specialist Nick Tomczik provided an update to the Board on permit 16-035 Seven Vines Winery and noted the applicant provided all the necessary items.

2. **April Calendar.**
Manager Waller noted that he will be at the Advisory Committee Meeting and he plans to be at the May 4 meeting referenced earlier in the meeting.

3. **Managers Update.**
Manager Bradley reported he attended the Bald Eagle Lake Association meeting last week. District staff presented on water quality and improvement projects, and ways people could participate in future projects.

Manager Waller reported he attended the Hugo City Council meeting to talk about the reuse of water in the Rosemont area. The District should be proactive and begin conversations with its cities in the five-mile radius to work out a solution.

President Preiner suggested they discuss how to come up with a unified way to address these issues at a future Board workshop.

District Administrator Belfiori noted some of these issues are already being looked at during the strategic direction process. Regarding the White Bear Lake court order, he requested direction from the Board if they should further discuss this issue at the April or May workshop or stay on track with their regular schedule.

President Preiner stated she does not think there is an urgency to it; however, she would like to hear Manager Waller’s views on it.

Manager Bradley stated the cities are going to make their decisions based on their politics and interests. The RCWD does not affect that and their role is to help.

Manager Waller noted this is why the conversation needs to begin. The RCWD is the regional manager of the surface water and has an important role to play in this process.

The Board agreed to begin discussion on this at the April workshop.

**ADJOURNMENT**

*Motion by Manager Bradley, seconded by Manager Wagamon, to adjourn the meeting at 10:25 a.m.  Motion carried 4-0.*