REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, April 24, 2019
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, District Technician Lauren Sampedro, Project Manager Kyle Axtell, Communications & Outreach Coordinator Beth Carreño, Lake and Stream Specialist Matt Kocian, Technician Catherine Nester, Office Manager Theresa Stasica.

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

Visitors: Len Pratt.

SETTING OF THE AGENDA
Motion by Manager Haake, seconded by Manager Waller, to approve the agenda as presented. Motion carried 5-0.

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the April 8, 2019 Board of Managers Workshop. Motion by Manager Wagamon, seconded by Manager Haake, to approve the minutes as presented. Motion carried 5-0.

Minutes of the April 10, 2019 Board of Managers Meeting. Motion by 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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Permit Coordinator/Wetland Specialist Tomczik noted that there are proposed changes for No. 19-023 engineer’s report. Under Administrative, there should be a new number 4 inserted regarding establishment of easements on the property. He explained that they would also add a number 7 regarding a recommendation to the applicant to communicate with Valley Branch Watershed District regarding a potential buffer along Echo Lake.

Manager Bradley asked about the statement in Permit No. 19-034, under Findings, item #2, the last sentence that states, “The applicant is responsible to confer with any agency with authority over site contamination and/or reuse, and otherwise to ensure that site storm water management conforms to sound design practices (including those documented in the MPCA’s Minnesota Stormwater Manual) and all legal requirements.” He stated that this statement is quite vague and tells them that they are supposed to talk to “somebody”. He asked if the implication was that item 1H earlier in the report’s recommendations covers this section.

Permit Coordinator/Wetland Specialist Tomczik referred Manager Bradley to recommendation Item 3, under Administrative that outlines this requirement.

It was moved by Manager Wagamon, seconded by Manager Waller, to approve the Consent Agenda item for permits 14-018, 18-099, 19-023, 19-031, and 19-034 as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations dated April 17 & 18, 2019. 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.

ITEMS REQUIRING BOARD ACTION

1. Consider Grant Application to DNR Flood Hazard Mitigation Program for Ramsey County Ditches 2, 3 & 5 Basic Water Management Project.

Project Manager Kyle Axtell stated that an opportunity has come up in discussion with project partners with the Cities of New Brighton, Roseville and St. Anthony to submit a grant application under the DNR’s Flood Hazard Mitigation Program. He stated that the Project Engineer, Houston Engineering, Inc., and District staff have put together a draft application for the grant program using the rough cost estimate of $20,000,000 that has been used in development of the District’s draft 2020 Watershed Management Plan. He noted that the grant request is for 50% funding, or $10,000,000. He reiterated that the cost is an estimate and can be refined in the future as the project comes into focus.

Manager Haake stated that she has no problem applying for a $10,000,000 grant, but that still leaves $10,000,000 in project costs for 3 cities. She asked if there would be a chance for additional grant monies from other sources for the remainder of the costs.

Project Manager Axtell stated that this is still in a very preliminary stage. He explained that there are some of the projects that will have the ability to be funded from other sources, such as the BWSR Clean Water Fund grants based on their water quality improvement components. Some projects are regional in nature and it may be appropriate for the District to have more financial involvement, and some may be appropriate for the partners to have more financial involvement if they are more focused on local flood relief. He stated that in Phase 3 of the petitioned project, once there is a slate of projects, they can look more closely at what the cost allocations will be. He noted that by submitting this application it does not bind the District into undertaking any of the proposed projects.

District Engineer Otterness stated that this project is not something that would be completed in a single year and would be done over a substantial time period and agreed that there are a lot of different sources that can be used to fund the projects.

Manager Bradley asked if the grant was a 2-year biennium grant and it would need to be spent in a shorter period of time. He noted there has not been a single project identified
Project Manager Axtell stated that his understanding is that DNR would like to see the whole suite of projects submitted. He reiterated District Engineer Otterness’ statement that this will be done in multiple phases of different projects, so he does not foresee being awarded $10,000,000 in one chunk at one time.

District Administrator Belfiori stated that in the conversations he has had with the DNR, they were interested to know more about the phases of this project and it is very likely that there will be multiple phases and not necessarily included all in one biennium. This application will simply serve as more of a placeholder. He stated that both the District and the DNR understand that this is a fluid process.

Manager Waller stated that he feels it is understood that this application will get the District “in line” for the funds.

**Motion by Manager Haake, seconded by Manager Waller, to adopt Resolution 2019-14: Authorizing Submittal of a Flood Damage Reduction Hazard Mitigation Grant Application for Basic Water Management Project 2013-01.**

THEREFORE, BE IT RESOLVED that the Rice Creek Watershed District Board of Managers hereby authorizes the District Administrator to submit the attached grant application with any non-material changes to the DNR Flood Damage Reduction Hazard Mitigation Grant Program and to execute any application documents as may be required, 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.

2. **Consider Motion related to the Repair of Anoka/Washington Judicial Ditch 3 -Phase 1.**

District Administrator Phil Belfiori reviewed the discussion regarding the postponement of the repair to AWJD3.

Attorney John Kolb gave an overview of Board discussion at the April 15, 2019 workshop. He noted that the Board agreed via by consensus that if the proposed bills were not passed in this legislative session, that the repairs could proceed as planned in 2020 under the anticipated funding process. Kolb noted that a portion of the funds for repair were
already on hand and budgeted toward the repairs in 2020 and remaining funds would be raised in 2020 and be unaffected by the proposed legislation. He stated that there was a consensus at the workshop to bring this item back before the Board for consideration at the June 12, 2019 meeting.

Motion by Manager Bradley, seconded by Manager Haake, to move that the indefinite postponement of consideration of Resolution 2019-11 be removed and that consideration of Resolution 2019-11 be set for the Board’s regular meeting on June 12, 2019. Further, that the Board’s attorney be directed to revise Resolution 2019-11 to include a statement addressing legislative change to the District’s current funding authorities.

Manager Wagamon asked if the Board would be discussing this anytime before June 12, 2019.

Manager Haake noted that there is a Board workshop scheduled for June 10, 2019.

Motion carried 5-0.


District Administrator Phil Belfiori explained that the previously adopted WCA delegation resolutions do not state the Administrator’s option to bring matters of significant technical, policy or legal matters to the Board for consideration or opinion.

Attorney Kolb further explained that Resolution 04-10 and 2009-07 delegated certain authority to the District Administrator. He stated that neither of these WCA resolutions contains the same language that is contained in the District regulatory delegations allowing those matters to be brought directly to the Board. He explained that staff believes that there may be applications that can be handled more efficiently by bringing them to the Board. He stated that the proposed resolution modifies and supersedes the previous delegations.

Permit Coordinator/Wetland Specialist Tomczik reviewed the proposed language changes in the resolution from the packet materials; the resolution makes it explicit that these matters can be brought to the Board, rather than the customary implicit approach.

Motion by Manager Haake, seconded by Manager Bradley to adopt Resolution 2019-13: Delegating Authority For Exemption, No-Loss, Wetland Boundary And Wetland Type Determinations, And For Certain Replacement Plan Amendments, Under The Minnesota Wetland Conservation Act.
THEREFORE, BE IT RESOLVED, that the Board hereby affirms its prior delegations under Resolutions 2004-10 and 2009-07 as articulated herein: the RCWD Administrator shall have the authority to make exemption, no-loss, wetland boundary and wetland type determinations under and according to the requirements of the WCA, including but not limited to the authority to request the assistance of the Technical Evaluation Panel as the WCA provides; and, the RCWD Administrator shall have the authority to make replacement plan determinations meeting the following criteria:

- Amendments to Board-approved replacement plans adjusting wetland replacement design (layouts, alignments, dimensions and footprint) provided replacement requirements are met.

- Amendments to Board-approved replacement plans reflecting changes to wetland impact (layouts, alignments, dimensions and footprint) provided that there is no increase in wetland impact or change to type of wetland impacted; and

FURTHER, that the Administrator will exercise the delegated authority in the same manner and according to the same terms, including requirements of public notice, opportunity for comment and consideration of TEP recommendations, as would the Board; and

FURTHER, that an appeal of the Administrator’s decision will be afforded as follows:

- Any person or party authorized to appeal an exemption, no-loss, wetland boundary, wetland type or replacement plan determination under the WCA may, within 30 days of receipt of the Administrator’s determination, submit to the Administrator a written appeal asking that the matter be heard by the RCWD Board.

- On receipt of an appeal, the Administrator will schedule the matter to be heard by the Board at its next regular meeting or the meeting thereafter and provide at least 7 days’ written notice of the hearing to all parties required to receive notice of the Administrator’s determination.

- The Board will consider the matter on the basis of the record compiled before the Administrator and an opportunity for all interested persons, including RCWD staff and engineer, to address the Board at the regular meeting.

- The Board’s decision will be made within 30 days of the filing of appeal, unless an extension is agreed to in accordance with WCA rules, and will replace the decision of the Administrator and may be appealed as the WCA provides for appeal of an LGU decision; and
FURTHER, that the Board retains all authority for replacement plan and wetland banking determinations except as stated herein; and

FURTHER, on the basis of policy, legal or other considerations, the Administrator in his or her judgment may elect not to exercise the authority delegated herein, in which case the Board will act as the decision-making body and its decision will be subject to appeal as the WCA provides; and

FINALLY, this Resolution shall supersede Resolutions 04-10 and 2009-07.

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

Motion carried 5-0.

Communications and Outreach Coordinator Beth Carreño stated that pursuant to Minnesota Rules Chapter 8410.0150, the District is required to submit an annual activity report to BWSR. She gave a brief overview of the information covered in the Annual Report. She noted that staff is looking for content approval from the Board and explained that staff will then go back and do more editing for correct formatting and layout.

Manager Bradley noted that he had found a few editing items that he will send separately to staff.

Manager Waller stated that on page 140 the drainage plan doesn’t mention the 2019 work plan like the other sections do. He noted that on page 92 there was no mention of JD3.

Manager Bradley noted that there is also no mention of a 2019 work plan in the wetland management section on page 55 and 56.

Motion by Manager Haake, seconded by Manager Wagamon, to approve the 2018 Annual Report with any necessary formatting and non-material changes and authorize submission to the Board of Water and Soil Resources. Motion carried 5-0.

5. Consider Curlyleaf Pondweed Cost-Share on Bald Eagle, Silver, Reshanau, and Centerville Lakes.
Lake and Stream Specialist Matt Kocian gave a brief overview of the reasons the District spends time managing curlyleaf pondweed. He stated that the District has been taking
steps to manage the curlyleaf pondweed in the spring for a few years and shared data showing the density decrease from 2005 to present for Reshanau Lake in Lino Lakes. He noted that Bald Eagle Lake has also shown a dramatic reduction in the presence of curlyleaf pondweed since herbicide treatment has begun. He reviewed the costs of herbicide treatment and noted that the 2019 numbers reflect the worst-case scenario and are estimates. He stated that staff is planning to switch to a new herbicide this year that was recommended by the DNR.

Manager Waller asked what the change in herbicide would be.

Lake and Stream Specialist Kocian stated that it will change from Endothall to Diquat. He explained that they both act the same way and he has been told by DNR Diquat will break down a bit faster in the lake. He noted that the costs presented will be split by the District and the lake groups.

**Motion by Manager Haake, seconded by Waller, to authorize the Administrator to enter into agreements with Reshanau, Centerville, and Silver Lake Cooperators to cost-share on curlyleaf pondweed treatments. Motion carried 5-0.**

**Motion by Manager Haake, Manager Waller, to authorize the Administrator to enter into professional services agreements with Lake Management, Inc. for chemical treatment of curlyleaf pondweed on Reshanau, Bald Eagle, Centerville, and Silver Lakes, with the total contract cost not to exceed $38,500. Motion carried 5-0.**

6. **Consider Amendment to City of Blaine Water Tower Agreement.**

Permit Coordinator/Wetland Specialist Tomczik stated that the Board had discussed this at the workshop on April 8, 2019. He explained that Blaine is asking for an amendment to the compliance date to September 30, 2021 from the original date of November 27, 2020.

**Motion by Manager Haake, seconded by Manager Bradley, to authorize the District Administrator to sign the First Amendment to the compliance agreement, with any further non-substantive changes and on advice of counsel. Motion carried 5-0.**

Manager Bradley stated that the Board discussed this at great length at the workshop and wanted to make it clear to the public that this delay is not causing additional harm to water quality or water quantity.

7. **Consider Tierney quote for installation of equipment in the RCWD large conference room related to remote meeting participation and authorizing development of policy for remote meeting participation.**
Technician Catherine Nester explained that at the April 8, 2019 workshop meeting, the Board agreed to move forward with quotes A and C from Tierney Brothers and to direct staff to work with legal counsel for drafting policy language to allow remote participation.

**Motion by Manager Haake, seconded by Manager Bradley, to approve Tierney Brothers Quotes A & C dated April 3, 2019 and 2) authorize staff to work with legal counsel to develop a policy for remote participation for Board consideration at a later meeting. Motion carried 5-0.**

8. **Consider City of Forest Lake Local Water Plan.**
District Technician Lauren Sampedro stated that the City of Forest Lake submitted their revised plan on April 15, 2019 that is consistent with the District’s Watershed Management Plan and State requirements. She explained that the City identified various water quality and water quantity issues, including limited discharge capacities and surface flooding on the main trunk and branches 3 and 4 of Judicial Ditch 4 and the City drains to several impaired waters. She noted that the City of Forest Lake is involved in the Peltier and Centerville Lake TMDL and the Upper Mississippi River Bacteria TMDL. She stated that Forest Lake would like to continue working with the District on a JD 4 Watershed Analysis and Development Plan and JD 4 improvements, and the City has several planned stormwater reuse projects that will help address the water quality issues. She reiterated that the Forest Lake Local Water Plan is consistent with the District’s WMP and associated rules and staff recommends approval.

Manager Waller asked about JD 5 because that has been a long-standing issue in the area and he doesn’t see it mentioned in the LMP.

District Technician Sampedro stated that the City did not include that in their plan.

Manager Waller stated that he feels this should be brought to the City of Forest Lake’s attention because he feels it needs to be included in the LMP. He stated that he would also like to mention that JD 2 should also be looked at because it should function as an outlet for JD 5 and JD 7.

President Preiner suggested that the Board hold off on adopting the resolution until these issues are brought to the City of Forest Lake.

There was a Consensus of the Board to direct staff to discuss these issues with the City of Forest Lake and bring it back to a future Board meeting.

9. **Consider City of Fridley Local Water Plan.**
District Technician Lauren Sampedro stated that the City of Fridley submitted their revised LMP plan on April 11, 2019 which adequately addressed all the District’s comments and is consistent with the District’s 2010 Watershed Management Plan and...
State requirements. She stated that Fridley has identified several water resource issues such as flooding, water quality issues and insufficient stormwater management. She explained that the City of Fridley is interested in partnering with the District to address these issues, such as on Norton Creek improvements that result from the City’s Norton Creek Watershed Study and Moore Lake Park water quality improvements. She stated that staff is recommending that the Board approve the City of Fridley’s LMP.

Motion by Manager Bradley, seconded by Manager Haake, to adopt Resolution 2019-12: Approving Fridley Local Water Management Plan.

THEREFORE, BE IT RESOLVED that the RCWD Board of Managers hereby approves the City of Fridley’s local water management plan, as submitted on April 11, 2019.

ROLL CALL:
Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner – Aye
Motion carried 5-0.

Consider Check Register dated April 24, 2019, in the amount of $296,400.00 prepared by Redpath and Company.

Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated April 24, 2019, in the amount of $296,400.00, prepared by Redpath and Company.
Motion carried 5-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. Staff Reports.
   No discussion.

2. May Calendar.
   No discussion.

3. Managers Update.
   No updates.

ADJOURNMENT

Motion by Manager Wagamon, seconded by Manager Waller, to adjourn the meeting at 9:59 a.m. Motion carried 5-0.