ROLL CALL


Absent: None

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Tomczik, Technical Specialist/Permit Reviewer Chris Buntjer, Inspector Catherine Nester, Office Manager Theresa Stasica.

Consultants: District Engineers Mark Deutschman and Greg Bowles, Houston Engineering, Inc. (HEI), Doug Setley.

Visitors: Suzi Hudson, Bob Cuerden, Mark Bloomer, Kinji Akagawa, Jeff Garetz, Grant Barrette, Peter Kramer, Brent Booth, Mark Olson, Martin Harstad, Kevin Bohl, Jim Hafner, Mark Smith.

CALL TO ORDER

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

SETTING OF THE AGENDA

District Administrator Belfiori indicated he passed out a new agenda to include a new Item 1, under Board Items requiring action, "Consider District Surety Schedule." Also on the back page there is a new Item 2 under the section titled "Board Actions Requiring Attention Continued. There is a slight change to the wording of that number 2 to read "Consider Amendment of Weston Woods on Rice Creek 14-001 CAPROC Approval to Reflect the Newly Adopted Surety Schedule."

He stated there were two new items under For Discussion and Information. A new item under Item 1 titled "Discussion of Bald Eagle Lake Outlet" and a new number two under discussion "Discuss Scheduling of Special Board Meeting for May 21 or May 22 Regarding Targeted Watershed Demonstration Project Work Plan."

Motion by Manager Wagamon, seconded by Manager Waller, to adopt the agenda as amended.

President Preiner noted Item two under Discussion and Information should actually be Item 6 under Board Items requiring action because they do have to act on that.

Manager Wagamon agreed to the friendly amendment, Manager Waller seconded.

Motion carried 5-0.
PRESENTATION: EXEMPLARY PERMITTEE RECOGNITION

District Administrator Belfiori stated a letter was sent to the White Bear Center for the Arts. As in past years, the Rice Creek Board of Managers is recognizing a resident or land owners receiving a Rice Creek permit for their attentive work with Rice Creek staff on permit issues or construction process issues and working collaboratively with the Rice Creek staff to work through a smooth process and ultimately protect our important water resources. District Inspector Catherine Nester will provide a brief overview and introduction of their important guests.

Inspector Nester stated the Rice Creek Watershed District would like to congratulate Suzi Hudson, Bob Cuerden, and the rest of the White Bear Center for the Arts team for their exemplary work on Permit 11-058 for the White Bear Center for the Arts reconstruction project. Throughout the construction process, multiple inspectors visited the site and all of them had very positive experiences. The project, which is now complete, includes a beautiful array of thoughtfully designed storm water management practices including an extensive network of rain gardens, a section of porous pavement in the parking lot, among other things. Furthermore, the storm water management system was designed to provide an additional twenty-two hundred plus cubic feet of storm water storage over what was required. Most importantly, she believed, the artist touch on the design of this project really came through and it is very exciting for them to see such a great combination of storm water management and landscape design come to completion. The Rice Creek Watershed Board and staff would like to recognize Ms. Hudson and Mr. Cuerden and the rest of the White Bear Center for the Arts team for the great work and would like to present them an award for exemplary achievement.

The award was presented by President Preiner to the White Bear Center for the Arts members.

Manager Haake asked the White Bear Center for the Arts members if there was a website where the landscaping can be seen. A speaker stated some of the landscaping can be seen on their website. Manager Haake thanked the White Bear Center for the Arts for going beyond what was required.

Manager Nester introduced Suzi Hudson, Executive Director of the White Bear Center for the Arts; Bob Cuerden, Board Chair during the project and 2014 Ex-Officio Director; Peter Kramer, architect; Kinji Akagawa, landscape artist; Steve Pellinen, civil engineer; Jeff Garetz, construction manager; Grant Barrette, Grant Barrette Construction/Custom Stone; and Mark Bloomer, Rivard Stone Quarriers; Reiling Construction; and, Midstate Landscaping were also involved in the project.

Manager Ogata wondered if this will be on RCWD’s website so people can see the project. Inspector Nester indicated she will be working with White Bear Center for the Arts to get pictures to put on the Districts website.

Suzi Hudson came forward with the White Bear Center for the Arts website: www.whitebeararts.org. She thanked the Rice Creek Watershed District for all of their guidance and help during the project.

READING OF THE MINUTES AND THEIR APPROVAL

Minutes of the April 7, 2014, Board of Managers Meeting Workshop Meeting. Motion by Manager Wagamon, seconded by Manager Haake, to approve the minutes as presented. Motion carried 4-0-1 (Manager Ogata abstained).

Minutes of the April 9, 2014, Board of Managers Regular Meeting. Motion by Manager Wagamon, seconded by Manager Haake, to approve the minutes as presented. Motion carried 5-0.
ITEMS REQUIRING BOARD ACTION

1. Consider District Surety Schedule

Manager Waller stated at the workshop, they had a form handed out to them, a chart, that stated "The Metropolitan Watershed Surety Requirements" and across the top of it, were all of the watershed districts, including themselves, and different sureties required and actions taken by each one. He noticed there is one watershed district, South Washington County that has a large, growing city in it, Woodbury, and they have no surety fees at all. We have a similar situation here in the District, City of Hugo, which we do not charge any surety fees and that is because Hugo administers their own permit programs. He thought they could have great savings and duplicate government permits, inspections, and sureties if they were to have the cities and townships in charge of that program. The first savings would be that they would not have a surety charged at all. The second would be that they would not have double inspections. There are certain advantages to having a city do this because the city, as it was discussed in the workshop, has a much stronger inspection program then RCWD has. For example, their surety is held for over, as long as a year; whereas, the RCWD releases the surety right after the inspection, which could be a few weeks after the work is done. This would be a great savings to the watershed district because if they check the current packet, page 124, the permit program and cost of which they have, it costs them each year. This is a sizable sum of money, up in the eighty to hundred thousand dollar area, and are costs that are not covered just by the surety permits that they can collect for permits. They could save that amount of money because those engineering costs could be borne out by the cities and legal costs. They would still have some review but they would have a much greater economic savings to them. He believed that was the way the Watershed District should go and it allows the city to have one stop shopping. They are in contact with the builders on a daily basis where the Watershed District is not and it gives them more local control and what goes on in the program. He believed that really solves their problem, how to lower the surety requirements to the costs to the individual builders, how to lower the costs to the taxpayer, and provide security for the taxpayer against the risk.

Motion by Manager Waller, seconded by Manager Haake, that the Rice Creek Watershed District Permit Program shall be administered by the Cities and Townships in the District.

President Preiner asked for history on this item and wondered if the city opted in. She did not know how it was established. She indicated she was not against the idea, but did not think this was the place for that and did not have any problem bringing this up and start discussing.

Manager Waller stated he had some experience with this also. Some years ago he was on the Washington County Water Government's Committee and one of the issues was how to make the government more proficient in water management and out of that, the government's committee in Washington County came up with the recommendation that they could have one stop shopping, so called by the builders. Some of the area is in Washington County and Hugo is in Washington County and both of those areas of Washington County have implemented this local control. It has also happened in other
parts of Washington County where smaller watershed district, water management organizations were all combined together and savings were seen and the engineering issues were because they had the Washington County conservation. Washington County does their engineering and administration, that way they save their dollars by not having to hire their individual consultants and large administrative staffs for a rather small district so these things do work out well.

President Preiner stated the City of Columbus, which was a township at the time, came to them and the option was to have the district do it because they did not have professionals. The small cities do not have professional staff. She was not against this but would like to have time to rethink it.

Manager Ogata stated as he understood their responsibilities, their legal responsibilities as an entity, they are a local governmental unit that is responsible for the oversight and administration of certain acts, both Federal and State, including the wetland conservation act and other matters. At this point, he thought the only way they could probably do that is to aggregate or delegate their authority as the local governmental units (LGU) under those multitudinous acts to the local governmental units or municipalities. He thought the only one they have actually given permit authority to so far, is the City of Hugo. In order for them to do this, they would have to grant the permitting authority to the rest of the local government. Until and at which time they do that, they still have the legal responsibility to administer those acts.

So, as of right now, as a concomitant part of the legal responsibility, they have the responsibility to administer this surety program and policy accordingly until that time occurs. So what they have before them right now, is the responsibility for the permits over the entirety of the district until they delegate that. Unless he misunderstood the motion, which was to do both.

Manager Waller stated his motion was to delegate that authority to those cities and that way they accomplish the goals they want to do. Manager Ogata stated he understood it was only for the surety ship administration. Manager Waller stated his motion was for both. The permitting is the surety issue and that is what his motion is. He thought that was a tremendous way to be progressive about providing government services and it would be huge savings all the way around and they do not have to come back and forth with the Watershed District. He thought that was how to solve the problem of the builders talking to one group and not the other group.

Manager Haake stated she seconded the motion because they have 27 cities and she wondered if they all have adopted their surface water management plans. Permit Coordinator/Wetland Specialist Tomczik stated they are all up to date or in the process of updating them. Manager Haake asked if, when the cities are doing those plans, are the cities doing the plans according to the Watershed Districts rules. Permit Coordinator/Wetland Specialist Tomczik stated that was correct.

Manager Haake stated following their workshop meeting, South Washington County is the only one on the list that does not have anything. Riley-Purgatory Bluff Watershed District was looking at doing some sort of plans starting in June, everybody else had some sort of surety, so she called Matt Moore at South Washington County because she looked at this and wondered why they are not doing anything because they are a very aggressive watershed district. They all have a surface water management plan and they made sure all of their cities, ten entities, have adopted the surface water plans according to what the rules and regulations of the watershed district. They coordinate all of the reviews, they will assist the cities on doing things, but the rest of it is upon the cities so the watershed district does not have any surety included. They agree with whatever the cities wants, one stop shopping, rather than having duplications. The City has the responsibility, and it goes back to local government, and she knows that the thing that really hakes cities is the Metropolitan Council. The City really rebels against all the regulations so on top of the Metropolitan Council, the cities have the Rice Creek Watershed District coming in and having more that the cities have to do. A lot of times the city likes the idea. If they have a development coming before them and they want to question it, they can lay the burden on the Rice Creek Watershed District in order to approve the permit. Sometimes the city likes their intersession into something but that is not the way they really talk. Another thing is the cost of doing this type of thing, when they do surety and if somebody fails, the cost then goes, not only taking the surety, but anything extra goes on an ad valorem so she could see
where cities think this is great because the benefit is on a lot of other taxpayers, any kind of thing that goes wrong. At South Washington Watershed District, they only have three employees because when you have to go through all of these things, they are the ones that are having to put more employees on and taking on more responsibilities. But, going back to the independence of what cities feel, they like to have control over their rules and regulations. She supported the idea of having the cities do the permits and sureties, not going through the watershed district. She thought the cities could handle it.

Manager Haake stated this would probably require more discussion because they have to talk to 27 cities. She hoped that sometime in the near future, they can get to what she is talking about. President Preiner stated that is why she would like to get the history of what the cities wanted to do. She thought they had both options at the time and the City of Hugo was the only one that wanted to opt out.

Manager Ogata thought the proposal being made is obviously sweeping, requires extensive discussion, and it would be more appropriate to move this to a discussion at a future workshop.

Motion by Manager Ogata, seconded by Manager Haake, to table the motion for discussion at a future workshop.

Roll Call:

Waller—Nay
Haake—Aye
Wagamon—Aye
Ogata—Aye
Preiner—Aye

Motion carried 4-1.

Manager Haake stated she understood Manager Waller and agreed. She thought this was something they needed to do but needed to discuss it further.

Motion by Manager Ogata, seconded by Manager Wagamon, to approve Resolution 2014-17 Resolving that the Board hereby revising the Districts existing permit fee and surety schedules by approving the changes shown on the documents attached to the Resolution titled “RCWD Permit Fee Schedule/RCWD Permit Surety Requirements/Permit Variance Guidance” and further resolving that the changes are effective as follows:

The change to the Financial Assurance Schedule is effective for all permits that have not been approved or conditionally approved as of April 23, 2014.

President Preiner asked if they could include “Any permit that has been submitted this year would be included” instead of saying “have not been approved” because they have some approved ones that should be offered the same pricing. Manager Haake did not know and the attorney was not present. She would like to know what they are doing and if it is something that should be done. Manager Ogata wondered if President Preiner wanted to make this retroactive for all permits approved under the revised surety policy. President Preiner stated that was her intent. Manager Ogata thought they should go with the discussion and have the attorney review to see if they can retroactively apply this to permits already approved.

Manager Waller wondered what date President Preiner would want to go back to for approval. Permit Coordinator/Wetland Specialist Tomczik indicated there were two different revisions to the Surety Schedule. One was back in June when they adopted the revised rules and that was when they were at $50.00 floodplain surety. Recently it...
Manager Ogata stated what is in discussion is not wetland mitigation. It is only floodplain mitigation. The only change to the project necessitated a new letter of credit to be when the current one expired, they could take advantage of the cost savings.

Manager Ogata stated practically speaking, a lot of those people had to pay to bond for the surety and have already paid the bond. Manager Haake thought they could discuss this when the attorney is present but there have been two previous revisions with this one on the table. Permit Coordinator/Wetland Specialist Tomczik suggested if they wanted they could delegate to administratively revise the past sureties should applicants come forward and the surety is in need of revision. They could abide by the new surety table. This would be a blanket approval.

Manager Haake stated she was going to vote against this only based on the fact that they have gone down to $7.50 per cubic yard of mitigation for surety. It was already at $50.00 and had reasons to put it at $50.00. They brought it down to $23.00 and then there was discussion at the workshop. The whole reason for the surety is to make sure that whatever develops when the developer comes in, they have certain things they need to do and adhere to. If they do not do what is required, the District has money in the bank that they can use to finish the work and that can even go into attorney fees, more staff time, etc. Because they have had certain discussion and some other facts on some other things, $23.00 seemed like the way it was going to go. Discussion brought it down to $15.00, even $7.00 and that discussion occurred on Monday. This is another reason why cities should do this and not the District. She stated sureties are taken and whether or not the developer is finished the District only holds that surety until inspection. She did not think that when they held back sureties, it was sufficient amount of time. Because of this, she was looking at the District as a whole and all the liability that can happen, she liked the $23.00 per cubic yard and the mitigation situation so she would not go for the $7.50 per cubic yard.

Manager Waller stated he would not vote for this amendment because he felt it put the taxpayers at a higher risk than what he proposed earlier. He thought this is getting to be ridiculous and being swept under the rug by tabling this. He stated he did not support this at all. President Preiner thought this was a great idea and not being swept under the rug.

Manager Ogata thought what is in discussion or play is the $23.00 for flood plain mitigation and he thought it would be helpful for citizen to know how they came up with the $23.00.

District Engineer Mark Deutschman explained what they have done is to go through different bid tabs and estimate what it would cost for the contractor to come back to a site, remove the material from the flood plain, if the site was essentially abandoned and with doing that they have had to make various assumptions. Some assumptions include whether the material might be contaminated which a greater disposal cost has associated with it or if there was sufficient room onsite. Based on that, they came up with ranges of a maximum assuming it would be hauled off site and contaminated, roughly $23.00 per cubic yard to the lowest of $2.00 to $3.00 for storing on site. Another cost is stabilizing the material. His understanding is this is more of a policy discussion for the board.

Manager Waller asked what the cost is for wetland replacement in Ramsey and Washington County. He thought $25,000 was about half of what it is in Anoka County. District Engineer Deutschman stated it varies by county in the Metropolitan area. He did not have an amount off the top of his head. Manager Waller stated the last time he looked it was $130,000 and Washington County was $80,000.

Manager Ogata stated what is in discussion is not wetland mitigation. It is only floodplain mitigation. The only change to the policy before them. He was asking how staff came up with the methodology to figuring out the amount. District
Engineer Deutschman stated it was going to depend on the particular permit and the cost will cover most situations. In most cases the $23.00 would take care of the need in most cases.

Manager Ogata stated the alternatives presented generally involve the $23.00 amount, which included stabilization and removal of all the debris. The $15.00 amount did not include removal but it did include stabilization. The $7.00 amount did not include stabilization. From what he understood from discussion, is that the minimum they have to do is stabilize the spoils but they do not need to remove them. He did not believe there is any difference between the $23.00 and the $15.00 amount. The only difference is the cost of removal so if they adopt the $23.00 amount, they are saying that they will require removal of the spoils in all of these circumstances, which they are not required to do. He did not see, in terms of their legal responsibilities, a difference between the two amounts that the project is done correctly. He chose $15.00 because they need to stabilize but they do not have to remove the spoils. He asked, in terms of risk tolerance, how much do they need to make sure it is done correctly.

Manager Wagamon thought Manager Ogata did a great job of explaining exactly how they got to this. One thing they have not talked about is if they get it too high, developers have a hard time trying to get the amount the District wants from the bank and this is something they need to look at for the taxpayers also. He stated he was good with $7.50.

Manager Haake stated this is another argument for letting cities do this themselves because in Hugo, they still have two areas that are still lobbying developments that can be done. In those areas (Hugo and Blaine), Hugo has the right to do their own permitting so the Watershed District does not do anything as far as surety. In Blaine, because it is in Anoka County, there are fifty percent wetlands. Going through Manager Ogata's argument about doing $7.00 a cubic yard because of stabilization, if they have a situation and they are going to be the ones responsible, taking a surety and telling the developer they have to do it, if the developer does not do it, the Watershed District will have to go in and do it. If they have to come back and do it, mobilization is very expensive and stabilizing is mandatory because if they have not stabilized the banks, run off will affect the water quality and flooding could occur. The developer will get all the surety money back if everything is done correctly. She knew that $15.00 a cubic yard is a low price if the Watershed District needs to go in and correct problems. She stated the only way she would go along with this is if the amount was changed to $15.00 a cubic foot.

President Preiner wondered what they wanted to do. Manager Ogata thought this should be tabled until the Attorney arrives and then continue discussion.

District Administrator Belfiori stated he received a message from the attorney indicating he would not be able to make the meeting due to vehicle problems.

Manager Ogata thought they should vote on the motion and make another motion later on application of the motion.

Amendment motion by Manager Haake to amend the floodplain mitigation to be $15.00 per cubic yard of required mitigation. Motion died for lack of a second.

Roll Call on original motion:
- Waller — Nay
- Haake — Nay
- Wagamon — Aye
- Ogata — Aye
- Preiner — Aye

Motion carried 3-2
PERMIT APPLICATIONS REQUIRING BOARD ACTION

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Permit Coordinator/Wetland Specialist Tomczik stated Gary Uhde, as the project applicant for the Century Farm North Development project has submitted a signed written request for a variance from Rice Creek Watershed District Rule F.6(e)(2), which requires that a "buffer adjacent to wetland within the final WMC must average at least 50 feet in width, measure at least 25 feet at all points, and meet the average width at all points of concentrated inflow" for the project. The project would need to maintain a total of 45,155± square feet of buffer, with a minimum width of 25-feet at all locations. The applicant proposes 45,737± square feet, but has not met the 25-minimum width in all locations. He stated the project is a residential development of 31 single family homes and some future townhomes.

Permit Coordinator/Wetland Specialist Tomczik stated to consider the variance and document for the record staff would read the "practical difficulties" criteria and the engineer would provide the response.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (a) How substantial the variation is in relation to the RCWD Rule requirements? District Engineer Greg Bowles stated the applicant has met the average 50-foot requirement and the 25-foot minimum where feasible. There are 2 locations where the buffer does not meet the 25-foot minimum, resulting in a loss of 2,564 square feet of buffer in those areas as compared with the full 25-foot minimum width. The variance is for 22.1 feet at maximum point (2.9 feet of buffer provided) at Variance Area 1 (12.5 feet (12.5 feet of buffer provided) at Variance Area 2). This is approximately 5.6% of the overall required total buffer requirement. District Engineer Greg Bowles showed a map of the missing buffer areas. Other than Rule F.6 (e)(2), the applicant will meet the remaining provisions of the buffer requirement.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (b) the effect the variance would have on government services? District Engineer Greg Bowles stated per criteria (b), issuance of a variance for Century Farm North Development project is not expected to increase flooding or have any negative effect on government services. Per criteria (c), which sets the criteria for consideration of whether the variance will affect a substantial change in the character of resources within the watershed, the District Engineer used three criteria to assess substantial change: 1) water quality, defined the quantity of pollutants such as phosphorus and suspended sediment leaving the site and the potential for degrading water quality downstream; 2) the presence of and potential impact to special and impaired water bodies as defined by various laws including the Minnesota Pollution Control Agency storm water program, whether a water body is impaired and related designations including Wild and Scenic or Outstanding Natural Resource Value designations; and 3) flooding, the potential for flood damages or other adverse hydrologic impacts.

Marshan Lake, which receives project drainage, is listed on the Section 303(d) impaired water list. The affected designated use is aquatic recreation with a pollutant or stressor of nutrient/eutrophication biological indicators. The project as a whole is not expected to cause adverse impacts. Curb and gutter will route all run off from nearby impervious areas and boulevards to a NURP pond to mitigate the effect of the lack of buffer by removing pollutants prior to run off entering the wetlands. No untreated impervious road surface is routed to the wetlands. Permit Coordinator/Wetland Specialist Tomczik stated there was a list of criteria considered in assessment of watershed impact. District Engineer Greg Bowles stated that was correct they are listed in the document; none of the other resources identified are located immediately downstream of the site.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (c) whether the variance will effect a substantial change in the character of the watershed resources or will be a substantial detriment to neighboring properties? District Engineer
Greg Bowles stated the proposed variance is for the buffer requirements, which has minimal effect of flood elevations. The applicant has fully complied with the Rule C storm water requirements for peak rate and water quality. The granting of the variance will not cause an adverse impact to the adjacent wetland. The wetland in question surrounds ACD10-22-31 Branch 1, which has poor vegetative quality. An existing gravel road is already in place. The proposed paving of the road will reduce sediment as compared with existing conditions. Additionally, the existing vegetation is agricultural. Overall the proposed project even with the variance, represents an upgrade in environmental condition as compared with the existing conditions. The granting of the variance represents a loss in opportunity for additional habitat and pollutant removal through the native vegetation, but not an adverse impact compared with existing conditions.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (d) whether the practical difficulty can be alleviated by a feasible method other than a variance is necessary?; economic considerations play a role in the analysis under this factor. District Engineer Greg Bowles stated the variance in Areas 1 and 2 were caused due to the connection Robinson Drive to Sunset Road. The road alignment is based on an existing gravel road. The road is an existing feature, created prior to the CWPMP requirements and there is no feasible way to move it and maintain a 25-foot distance between the existing wetlands. To meet the requirement at these locations, additional wetland could be filled to create the buffer, however this is not considered acceptable under WCA and is not considered prudent. The District Engineer finds that the current landowner did not cause the situation which lead to the implied practical difficulty. The gravel road existed prior to the CWPMP requirements. The need for a variance was created by further permitting for the proposed land development. Per the discussion above, there is no feasible way to connect Robinson Drive and otherwise minimized wetland impacts without a variance.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (e) how the practical difficulty occurred, including whether the land owner created the need for the variance; and, whether in light of all of the above factors, allowing the variance will serve the interests of justice? District Engineer Greg Bowles stated this criterion lies largely in the Board's domain as it involves judgments of a non-technical nature. Our criterion for assessing this portion of the practical difficulties standard is the ability or inability of other permit applicants with similar site conditions to comply with the Rule F.6(e)(2) buffer requirements. Other applicants have had the ability to feasibly meet this requirement on site because the site constraints presented here were not evident.

District Engineer Bowles showed the map of the area.

Motion by Manager Waller, seconded by Manager Wagamon, to grant the variance for permit application 13-043.

Manager Haake asked for clarification on the applicant's reasons for the variance. Permit Coordinator/Wetland Specialist Tomczik stated the criteria within the application asks the same questions and they are required to sign the documents and the fee associated with the variance.

Manager Haake asked if the fee includes everything so the District is not paying for checking the documents and variance. Permit Coordinator/Wetland Specialist Tomczik stated that was correct.

Permit Coordinator/Wetland Specialist Tomczik stated to note, it might be important for the motion the specific rule they are varying to the Rule F.6(e)(2).

Manager Waller accepted this friendly amendment to the motion.
Roll Call:
- Waller — Aye
- Haake — Aye
- Wagamon — Aye
- Ogata — Aye
- Preiner — Aye

Motion carried 5-0

Motion by Manager Waller, seconded by Manager Ogata, to CAPROC permit 13-043 in accordance with RCWD staff and District Engineer’s Findings and Recommendations, dated April 16, 2014.

Manager Waller stated they have had issues with Century Farms in the past. He asked if this is being looked at very carefully and they are not going to have to worry about anything else. District Engineer Bowles stated the proposed ponds do control the rate for the 2, 10, 100-year, storm events in compliance with the district rules for peak rate control.

Motion carried 5-0.

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Permit Coordinator/Wetland Specialist Tomczik stated Marcel Eibensteiner of Dupont Holdings, LLC, as the project applicant for the Saddle Club P.U.D. project, has submitted and revised signed written requests for a variance from Rice Creek Watershed District (RCWD) Rule F.6(e)(2), which requires that a “buffer adjacent to wetland within the final WMC must average at least 50 feet in width, measure at least 25 feet at all points, and meet the average width at all points of concentrated inflow” for the project and Rule F.6(e)(7)(iii), which requires that “the linear surface (for non-motorized travel) must be at least 25 feet from the wetland edge”. He stated the parcel was about 40 acres in size and being developed for 55 single family homes.

(a) How substantial the variation is in relation to the RCWD Rule requirements;
(b) the effect the variance would have on government services;
(c) whether the variance will effect a substantial change in the character of the watershed resources or will be a substantial detriment to neighboring properties;
(d) whether the practical difficulty can be alleviated by a feasible method other than a variance (economic considerations play a role in the analysis under this factor);
(e) how the practical difficulty occurred, including whether the land owner created the need for the variance; and
(f) whether in light of all of the above factors, allowing the variance will serve the interests of justice. Some of the discussion relevant to these criteria has already been documented in the Engineer’s Report (ER) narrative. Rather than reiterate the ER discussion, it is the intent of this memorandum to incorporate the discussion by reference where necessary, and use this memorandum to indicate how it applies to the above criteria. Ultimately, the Board determines whether consideration of the above criteria supports approval of a variance.

The ER for the Saddle Club P.U.D, dated April 8, 2014, finds that the applicant would need to provide a total of 402,911± square feet of buffer, with a minimum width of 25-feet at all locations. The applicant has provided 428,099± square feet, but has not met the 25-minimum width in all locations. Additionally, there
Are two points of concentrated flow (Areas 1 and 2) located at the south end of Fox Road that do not meet the average (50-foot) width.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (a) how substantial the variation is in relation to the RCWD Rule requirements? District Engineer Greg Bowles stated the applicant has met the average 50-foot requirement and the 25-foot minimum where feasible. On March 17, 2014, the applicant submitted a variance for 7 locations where the buffer does not meet the 25-foot minimum, resulting in a loss of 7,763 square feet of buffer in those areas as compared with the full 25-foot minimum width. The minimum distances of the buffer width at these locations can be found in the Exhibit A Request for Variance dated 3-17-2014. On April 9, 2014, the applicant submitted for an additional 5 locations for a 10-foot trail requirement by the City, totaling 5911 linear feet, which did not meet the Rule F.6 (e) (7) (iii) setback requirement or 5,910 square feet of buffer that is within 25-feet of the wetland. The minimum distances of the buffer width at these locations can be found in the Exhibit A Request for Variance dated 4-9-2014. This is approximately 3% of the overall total buffer requirement. Other than Rule F.6 (e) (2) and F.6 (e) (7) (iii), the applicant will meet the remaining provisions of the buffer requirement. District Engineer Greg Bowles showed a map of the project.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (b) the effect the variance would have on government services. District Engineer Greg Bowles stated issuance of a variance for Saddle Club P.U.D. project is not expected to increase flooding (see criteria (c)) or have any negative effect on government services.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (c) whether the variance will effect a substantial change in the character of the watershed resources or will be a substantial detriment to neighboring properties? District Engineer Greg Bowles stated per criteria (c), which sets the criteria for consideration of whether the variance will effect a substantial change in the character of resources within the watershed, the District Engineer used three criteria to assess substantial change: 1) water quality, defined the quantity of pollutants such as phosphorus and suspended sediment leaving the site and the potential for degrading water quality downstream; 2) the presence of and potential impact to special and impaired water bodies as defined by various laws including the Minnesota Pollution Control Agency storm water program, whether a water body is impaired and related designations including Wild and Scenic or Outstanding Natural Resource Value designations; and 3) flooding, the potential for flood damages or other adverse hydrologic impacts. Wards Lake, which receives project drainage, is not listed on the Section 303(d) impaired water list. The project as a whole is not expected to cause adverse impacts. There are only two points, Areas 1 and 2, (at the south end of Red Fox Road) that receive concentrated flow from the road. The distance between the road and the wetland edge is approximately 39-feet and 40-feet respectively. A Rain Guardian (sediment pretreatment) and small sedimentation basin has been placed at both of these locations to mitigate the effect of the lack of buffer by removing coarse sediment prior to the wetlands.

None of the other resources located immediately downstream of the site. Per criteria (c) and whether issuing the variance has a negative effect to the neighboring properties, we applied the following criteria:

- Whether granting the variance causes or contributes to a change in the 100-year floodplain elevation immediately downstream of the project site;
- The potential occurrence of flood damages to adjacent properties;
- The anticipated increase in hardship downstream (e.g., caused by peak flow and flood duration); and
- Other similar related criteria.

The proposed variance is for the buffer requirements, which has minimal effect of flood elevations. The applicant has fully complied with the Rule C storm water requirements for peak rate and water quality. The wetlands have poor to medium vegetative quality, however they are surrounded by low to medium native vegetation, which provides pollutant removal through filtration through the native vegetation and animal habitat. In the case of Variance Areas 1-4 which do receive
direct run-off, the impact has been mitigated through the use of pretreatment settling devices. In the case of Variance Areas 5 and 6, the road has curb and gutter, which diverts the untreated water to a pond rather than the wetland. In the case of Variance Area 7, the native vegetation will be replaced by lawn. Variance Areas 8-12 are for the trail. The granting of a variance for these areas will have very little adverse impact on the adjacent wetland as the trails generate minimal pollutants, and represent minimal loss of habitat. Overall, there is a net increase in habitat area, since the applicant has met the buffer requirement in aggregate.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (d) whether the practical difficulty can be alleviated by a feasible method other than a variance (economic considerations play a role in the analysis under this factor)? District Engineer Greg Bowles stated per criteria (d) an assessment of whether the practical difficulty can be alleviated by a feasible method other than a variance (economic considerations play a role in the analysis under this factor) is necessary. The variance in Areas 1-4 and Areas 5 and 6 were caused due to a requirement of the City for a future connection to Red Fox Road at the western property line and the connection Old Birch Street to an existing cul-de-sac to the east, respectively. The road alignments were chosen based on minimum impacts to the wetlands. In the case of Red Fox Road there is no feasible way to maintain a 25-foot distance between the existing wetlands. To meet the requirement at these locations, additional wetland could be filled to create the buffer, however this is not considered acceptable under WCA and is not considered prudent. To meet the buffer requirement at Area 7 would require the elimination of the lot.

The variance for Areas 8-14 were caused due to a 10-foot bituminous trail requirement by the City. In the case of Areas 9, 10, 11, 13 and 14, there is no feasible way to maintain a 25-foot distance between the existing wetlands and the trail without creating additional wetland impacts. In the case of Areas 8 and 12, in order to place the trail 25-feet from the wetland, it would need to be located within a proposed lot.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (e) how the practical difficulty occurred, including whether the land owner created the need for the variance? District Engineer Greg Bowles stated per criteria (e), consideration of how the practical difficulty occurred, including whether the landowner created the need for the variance requires consideration. The District Engineer finds that the current landowner did not cause the situation which lead to the implied practical difficulty. The need for a variance was created by the proposed land development. Per the discussion above, there is no feasible way to do the project, which meets the requirements of the City and otherwise minimized wetland impacts without a variance.

Permit Coordinator/Wetland Specialist Tomczik stated criteria (f) whether in light of all of the above factors, allowing the variance will serve the interests of justice? District Engineer Greg Bowles stated inconsideration of criteria (f), some determination of whether in light of all of the above factors, allowing the variance will serve the interests of justice is necessary. This criterion lies largely in the Board's domain as it involves judgments of a non-technical nature. Our criterion for assessing this portion of the practical difficulties standard is the ability or inability of other permit applicants with similar site conditions to comply with the Rule F.6(e)(2) and F.6(e)(7)(iii) buffer requirements. Other applicants have had the ability to feasibly meet this requirement onsite because the site constraints presented here were not evident.

Manager Haake asked if the trails were going to be impervious. Mr. Bowles thought they were a mix of impervious and boardwalk. Manager Haake asked if there was a way they could request these trails be pervious trails. Permit Coordinator/Wetland Specialist Tomczik stated whether the trail itself is pervious or impervious is not a requirement of the rule.

Manager Ogata asked if the current configuration meets the current rules. Permit Coordinator/Wetland Specialist Tomczik stated yes except for the buffer width and also the setback distance of the trail to the wetland edge. Manager Haake stated they could request a pervious trail for water quality.
Motion by Manager Wagamon, seconded by Manager Ogata, to approve variance on permit number 13-088.

Permit Coordinator/Wetland Specialist Tomczik stated for the record there are two variances, one is for Rule F.6(e)(2) and the other is for Rule F.6(e)(7)(iii).

Roll Call:
- Waller—Aye
- Haake—Nay
- Wagamon—Aye
- Ogata—Aye
- Preiner—Aye

Motion carried 4-1

Manager Haake stated she voted nay because she would like to negotiate pervious pavement on the trail way.

Permit Coordinator/Wetland Specialist Tomczik stated the applicant has requested by email after the packet was completed to remove Michael Black from the contact list so this will be stricken. Another item is this is a permit that had a surety amount associated with it in the amount of $116,700, which will be reduced to $115,500 based on the surety schedule adopted at this meeting. Near the bottom, last sentence, second to last row at the end where it says $1,800 for 79 cubic yards, it would now be $600.

Motion by Manager Wagamon, seconded by Manager Ogata, to CAPROC permit 13-088 in accordance with RCWD staff and District Engineer’s Findings and Recommendations, dated April 16, 2014, with the above staff recommended changes. Motion carried 5-0.

CONSENT AGENDA

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:

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PERMIT APPLICATIONS REQUIRING BOARD ACTION

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<tr>
<td>14-010</td>
<td>City of Shoreview</td>
<td>Shoreview</td>
<td>Street &amp; Utility Plan</td>
<td>CAPROC 4 items</td>
</tr>
</tbody>
</table>

Manager Haake stated Turtle Lake is one of their top quality lakes and this will drain into Turtle Lake. She asked for a site map to show where the water is going to drain into the lake and how it will be filtered. District Engineer Greg Bowles reviewed the site map with the board and indicated there will be underground pipe system to treat the water along with pervious pavement for infiltration of the water prior to the lake.

Manager Haake asked who will make sure the pipes are remaining clean. District Engineer Bowles indicated it will be maintained by the City with a maintenance agreement.

Manager Haake requested a description of the development with off site mitigation. District Engineer Bowles showed the site map of Longview Estates. He reviewed the wetland mitigation with the Board. He noted there will be impervious
cover of .7 acres and water quality treatment will be provided by the NURP pond being proposed in the back of the site and will route storm water from a portion of the road back to the pond. They will also be removing a broken pipe going to the pond currently. A new rain garden is being proposed along the road to replace anything that is being filled.

Manager Haake thought the houses were being put onto pads in a very limited area. She wondered what the very black area on the map was. District Engineer Bowles thought it was flood plain fill. He stated this project will have retaining walls in the back to minimize impact to the wetland but they will be impacting 18,867 square feet and will be replacing the wetland from a wetland bank.

Manager Haake asked where the wetland bank will be located at. District Engineer Bowles stated the bank is within Bank Service Area 7. Permit Coordinator/Wetland Specialist Tomczik stated it is a general area within the State with a portion within the district.

Manager Haake asked what the hatch marks are. District Engineer Bowles indicated that area is wetland impacts. Manager Haake stated the backyard are impacting on the wetland so the retaining wall is so the resident does not go further into the wetland. She wondered if the wetland impact could be moved over by the pond. District Engineer Bowles stated the filling of the flood plain and wetland will take away from the storage of the wetland but the proposed pond will mitigate that. It does meet the peak rate control requirements.

Member Waller asked in regard to general service area number 7, is it in Ramsey County or the Watershed District and does it need to be there. Permit Coordinator/Wetland Specialist Tomczik stated it is not required that the bank needs to be within the Watershed District, the areas are State designated watershed areas.

Manager Waller wondered if there is an incentive for them to purchase wetland credits from the Watershed, such as from the Houle, would they have wetland credits available in the area to make sure it is in the same watershed. Permit Coordinator/Wetland Specialist Tomczik stated that was correct, once they go into the wetland bank they can purchase from that and is a private arrangement. He believed the District cannot sell wetland credits from the Houle until their partner sells a portion of his credits.

Manager Haake asked Marty Harstad if he had to get a variance to bring the houses closer. She wondered how a house can fit into a small area like shown. Mr. Harstad stated this is a piece of land that is called Marty’s Manor and in the early 60’s when the property across the street was developed, there were ten water and sewer stubs assessed back to his father at that time. What has happened there has been some arguments whether or not the lots were buildable. In 2001, there was a proposal of 11 lots, which was approved, but the City would not allow them to do the 11 lots at the time. Since then, people have changed at the City and the City is now allowing 10 lots. They have negotiated and worked with the City and other agencies on this development. There is a 30-foot front yard, minimized the rear yards and agreed to put in a boulder retaining wall across the back of the lots so there is not wetland intrusion. He believed they will be improving the wetland quality of the land by cleaning up and developing the property.

No. | Applicant | Location | Plan Type | Recommendation
--- | --- | --- | --- | ---
640 | Afton Architects & Planners, Ltd. | Grant | Final Site Drainage | CAPROC 7 items
641 | City of Arden Hills | Arden Hills | Street & Utility Plan | CAPROC 4 items
642 | Meritex Enterprises, Inc. | Roseville | Final Site Drainage | CAPROC 5 items
643 | | | | 
644 | | | | 
645 | | | | 

Manager Haake wanted to make sure where the water will be going. District Engineer Bowles stated it is located by Highway 280 and I-35W. Manager Haake wondered where the water will be going and if there is a holding pond on site because it will be a trucking company. District Engineer Bowles stated water from the site flows to a bio-filtration basin...
located on the south side of the property. The bio-filtration basin has a sediment knock out area prior to this and then overflows to the railroad right-of-way.

Manager Haake asked who will be maintaining this. District Engineer Bowles stated it will be maintained by the property owner.

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<tbody>
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<td>14-024</td>
<td>Woodco</td>
<td>Blaine</td>
<td>Final Site Drainage</td>
<td>CAPROC 3 items</td>
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<tr>
<td>14-030</td>
<td>Human Movement Management</td>
<td>Blaine</td>
<td>Bridge/Culvert Crossing-Special Event</td>
<td>APPROVE</td>
</tr>
</tbody>
</table>

Manager Ogata wondered what the Human Movement Management was. President Preiner stated it is called the Dirty Girl Run.

Permit Coordinator/Wetland Specialist Tomczik noted on page 66, which has to do with permit 14-024 that is the one that intends to use the programmatic agreement with the City of Blaine scheduled to be approved on 4/17. He received an email from Jim Haffner that the Council approved that agreement so the ER was contingent on that happening. Secondly, on page 47 of the packet, regarding Longview Estates 14-014, Item 9, in regard to the surety amount, $27,400 based on the new schedule would be adjusted to $25,150 and the final number for the floodplain mitigation portion of the surety would be $1,050.00.

Motion by Manager Ogata, seconded by Manager Waller, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD staff and District Engineer's Findings and Recommendations, dated April 14, 15, 16, and 17, 2014.

Permit Coordinator/Wetland Specialist Tomczik noted on page 66, which has to do permit 14-024, it intends to use the programmatic agreement with the City of Blaine scheduled to be approved on April 17. He received an email from Jim Haffner that the Council approved that agreement so the ER was contingent on that happening. Secondly on page 47 of the packet, regarding Longview Estates 14-014, Item 9, in regard to the surety amount, $27,400 based on the new schedule would be adjusted to $25,150 and the final number for the floodplain mitigation portion of the surety would be $1,050.00.

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.

There were no comments made at Open Mike.
ITEMS REQUIRING BOARD ACTION (continued)

2. Consider Amendment to Weston Woods on Rice Creek 14-00 to reflect the newly adopted surety schedule.

Permit Coordinator/Wetland Specialist Tomczik explained he talked on the telephone with Mark Smith and had an email exchange where Mr. Smith asked if the surety amount was reduced to $7.50. He would like his permit amended to reflect that. The original total surety was $240,600 and would change to $110,800.

Manager Ogata asked what was before them now. Manager Waller stated the lawyer did not show up so all of the past ones they have talked about did not have any activity done on them yet so they want to look at this one separately for a reduced surety amount. Permit Coordinator/Wetland Specialist Tomczik stated this was reviewed and approved on April 9, 2014 and was under the old surety schedule of $23.00 a cubic foot. Manager Ogata stated there are other applicants along with this one but because the applicant is here, they are going to review and change the surety amount to the new numbers. Permit Coordinator/Wetland Specialist Tomczik stated that was correct.

Mr. Mark Smith, 2120 Ida Lake Drive, Lino Lakes, MN was at the meeting.

Manager Ogata if Mr. Smith already had a bond for the full amount. Mr. Smith noted they did not. He stated the City of Blaine and the Watershed have been working on trying to do a joint deal. They have been waiting to see what would happen with the surety schedule. This would simplify that agreement.

Manager Waller stated the situation is they have a number of permits they are going to look at that have already been granted and this is one of them. They are going to revise their surety amounts down to $7.50 under the new rule that was just passed. This does not necessarily mean that the agreement between the Watershed District and the City will be void because they do not know whether or not Mr. Smith or his bank are going to provide them with a separate surety or if it is going to be combined so this is something that still needs to be resolved. Today if they were to pass the adjustment to $7.50, they will still have to wait because he understood they need to see what happens with the banking situation. They may still use the joint agreement they had, although the numbers will be adjusted to reflect the new surety requirements. He asked if that was correct. Permit Coordinator/Wetland Specialist Tomczik stated that was generally correct. The surety number would be adjusted, and that portion of the Engineer’s Report provided a provision stating that said, “the applicant may.” At this point, they have not asked the Board to approve this agreement and it was specific to this project. Mr. Smith is feeling confident that he can secure the surety independently and supply it to the District.

Manager Waller stated Mr. Smith did not indicate one way or the other so he thought they should leave the options open for Mr. Smith so if he still wants to come back with the City and the agreement with new adjusted figures, he has that opportunity and is not confined. Mr. Smith thought that would be fine.

Motion by President Preiner, seconded by Manager Waller, to approve the amendment to Weston Woods on Rice Creek Watershed 14-00, CAPROC approval to reflect the newly adopted Surety Schedule as of 4/24/2014.

Manager Haake stated the inter-governmental agreement with the City of Blaine for financial assurance from Weston Woods is still out there but they are not going to have that as a contingency with this motion. President Preiner stated that had nothing to with this motion. This motion is to adopt the new surety schedule.

Motion carried 5-0.
3. Consider 2013 Audit (Phil Belfiori)
Administrator Belfiori explained on April 17, 2014 the District received the 2013 Annual Financial Report and Audit prepared by HLB Tautges Redpath, Ltd., dated April 15, 2014. The report and compliance audit is required annually pursuant to M.S. 103B and 103D. Copies of the report will be sent to the State Auditor's Office, the Board of Water and Soil Resources, and the Director of the Division of Waters at the Department of Natural Resources to fulfill the legal reporting requirements found in statute. The Financial Report & Audit concludes with two letters to the District one titled "Report on Internal Control" found on page 59 and one titled "Minnesota Legal Compliance Report" found on page 61. The Report on Internal Control identified that the auditors did not identify any deficiencies in internal control that they considered to be a material weakness. The Report on Minnesota Legal Compliance states that nothing came to the attention of the auditors that caused them to believe that the RCWD failed to comply with the provision of the Minnesota Legal Compliance Audit Guide for Political Subdivisions.

Motion by Manager Haake, seconded by Manager Ogata, to accept and authorize the filing of the Rice Creek Watershed District 2013 Audit. Motion carried 5-0.

4. Consider 2013 RCWD annual report (Phil Belfiori)
District Belfiori explained pursuant to Minnesota Rules Chapter 8410.0150, the Board is being asked to consider the 2013 RCWD Annual Report. Each year the District is required, within 120 of the end of the District's fiscal year, to submit to the BWSR an annual activity report. The content of this annual activity report includes an assessment of the previous year's annual work plan, a projected work plan for the next year and several other administrative criteria.

Motion by Manager Ogata, seconded by Manager Wagamon, to approve the 2013 Annual Report and submit to BWSR.
Manager Ogata indicated this was a fine report. The Board members agreed.

Motion carried 5-0.

5. Consider Check Register dated 04/23/2014, in the amount of $206,527.75, prepared by HLB Tautges Redpath.

Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated 04/23/2014, in the amount of $206,527.75, prepared by HLB Tautges Redpath. Motion carried 5-0.

6. Discuss Scheduling of Special Board Meeting for 5/21 or 5/22 regarding the Targeted Watershed Demonstration Project Work Plan.
District Administrator Belfiori stated pursuant to their discussion on Monday related to the targeted watershed project and the deadline of the work plan on the 23rd, staff is requested the Board schedule a special board meeting for either May 21 or 22. In conversations with the Board Chair, she would like it to be at District offices.

The Board reviewed their schedules.

Motion by Manager Ogata, seconded by Manager Haake, to schedule a Special Board Meeting for May 22, 2014 at 1:30 p.m. at District Offices to discuss the Targeted Watershed Demonstration Project Work Plan. Motion carried 5-0.
ITEMS FOR DISCUSSION AND INFORMATION

1. Bald Eagle Lake Outlet Discussion.

District Administrator Belfiori stated President Preiner asked this be added to the agenda. In the packet, there is an article dated April 17, 2014 from a Debra Neutkens of the local Citizen Newspaper identifying the article on Hugo closely monitoring Bald Eagle Lake Outlet. Also in the packet is a July 2013 related article from Deb Barnes related to the outlet structure as well. The third part of the packet is the email pursuant to the RCWD Boards consensus direction from the April 7, 2014 workshop, an email from him to Mr. Bryan Bear the Administrator of the City of Hugo. Also included what was attached to the email and the information from the April 7, 2014 meeting. This was forwarded to Bryan Bear at two different times, once in 2013 and the day after the workshop meeting on April 8, 2014.

District Administrator Belfiori stated the email was identifying the Board’s consensus direction provided to staff at the April 7, 2014 workshop meeting. The Board consensus was consistent with the message that was also provided by the RCWD Board at the 2012 joint Hugo/Rice Creek Watershed District Workshop.

President Preiner stated she did not recollect the Watershed ever saying no. She thought they talked about different options at their meetings and she did not know if this has been thoroughly vetted through the process. She had an issue with funding something when they do not know who owns it. She personally would like this to be researched further so that they at least know who they are working with and they know who the owner of this facility is. Manager Haake agreed.

Mr. Bryan Bear, City of Hugo, stated they have spent a lot of time thinking about this structure that is in their City on the north end of Bald Eagle Lake. They think the structure holds five or six feet of water within the lake. It is not a structure that the City of Hugo owns. They have spent a fair amount of time doing research on that question of ownership of the structure and it would be nice if everybody knew. He did not know if the answer will be very forth coming. They did uncover legal documents that are between 60 and 80 years old and they spent quite a bit of time with the St. Paul Water Authority and the DNR and those two entities seem to be the most likely two to have some involvement in this structure but this does not seem to be the case. They have both been involved in management of water within the surface of Bald Eagle Lake before but it is not clear who built it. They both have records of structures they have been involved with, building and owning and this is one of those that does not have a clear answer. There is a court document that they believe gave control of the structure at one time to the Department of Conservation back in the 1940’s. That is the closest thing they have come to. The DNR has suggested that does not in any way insinuate that they own it and that there has been further action since that time.

Mr. Bear stated the reality of it is that the structure is failing, the City Public Works crew spent some time on the structure in the summer of 2013 because the water started to come through the structure. Sink holes were forming in the road and it needed to be repaired. The reality of it is that if left by itself, they believe that eventually the structure will fail and will result in five to six feet of water going out of Bald Eagle Lake and flowing down stream. There is some concerns about flooding and they also know that the Watershed is very interested in water quality in Bald Eagle Lake. Mainly because of the lack of anybody else coming forward the City of Hugo has taken it upon themselves in trying to lead an effort to maintain the structure and eventually, hopefully replace it. They think it is about a $600,000 fix to replace the structure. They have gotten about $250,000 allocated from MNDot through their bridge bonding funds. They have secured that amount of funding and have asked the DNR for the rest of the funding through their dam safety fund. That fund is allocated by the Legislature through their bonding process. Legislature is in session right now and the DNR is expecting that some level of funding they do
not know how much yet, will be provided to the dam safety fund and this structure is on their list of projects that they would like to use this funding for. Whether this project is actually funded will depend on the dollar amount. While they are on the list, they are not at the top of the list so it is unclear right now whether the funding will be made available. They have requested that the remainder of the repair costs be paid for through this fund.

Mr. Bear stated it looks like, at least at this time, that the way the DNR is looking at that is still going to put the City about $100,000 short as far as the total repair cost. In the meantime, they are intending on shoring up the structure by placement of some rip wrap on the downstream end of it. That is the letter the Board received from him about a month ago, letting the Board know that this is happening and it would be nice to find some partners in this project. They are in the same boat as the Board and anyone else who would be interested in seeing water in the lake. Water quality, flooding concerns are something that the Watershed regularly talks about so they think the Watershed may have some interest in this structure. He did not know how far the City Council is going to continue to go with this repair project if funding is not made available. He did not know if the City is going to pursue the replacement of it for the same reason that the Board is concerned about it. They do not know who owns it yet but they know it is not the City of Hugo. If they do nothing like the Watershed and all of the other entities that may have an interest, it will not get repaired and it will fail.

President Preiner asked if the City of Hugo has had the discussion whereas the City could take control of it and become the owners of it. Mr. Bear stated he did not know the answer to that and they were not interested in owning it but mainly for doing the right thing and for health and safety they are interested in seeing the problem solved.

Manager Haake noted he had stated there had been fixes on this particular dam. Going way back, the dam was built in the early 1900’s. She asked when was the very first fix on the structure and who did the fix. Mr. Bear stated there were some actions taken but he was not fully prepared to give the Board the entire history they have uncovered today. At one time, they know there was a cap added to the structure, removed from the structure, so there had been some modifications that changed the amount of water that was being impounded in the lake and that seemed to be, there was an effort by the St. Paul Water Authority at one time. They have an intake that is still there today that can draw water out of Otter Lake. Otter Lake and Bald Eagle Lake are connected by a ditch that the St. Paul Water Authority owns. It appears that the water elevation was regulated at one time to be extracted by St. Paul for drinking water. That does not happen anymore and there are some court actions that prevent that and have also resulted in the placement and removal of this cap. Aside from that, he was not aware of any entity that has done maintenance to it until last summer when the structure began to fail.

Manager Haake asked Manager Waller for his recollection on the history of this. She stated they had a situation at Peltier Lake at one time with the St. Paul Water Authority. They had taken a lot of different land up in that area to hold it for their drinking water because they had water from the Mississippi going into the Vadnais Heights area. The Board was asked to abandon whatever it was at Peltier Lake. She thought the St. Paul Water Authority had started this whole thing and that is where that dam probably came in. She did not know where they can go with that and it is only because they had it at Peltier Lake and someway or another they came before the Board and asked to take that off any supply they were going to have as they were not going to need it.

President Preiner stated the St. Paul Water Authority had asked the County to vacate thousands of acres along that area in Anoka because they no longer were going to use it.

Mr. Bear stated they spent quite a bit of time at the St. Paul Water Authority and it made a lot of sense to the City of Hugo that the water authority was involved with this structure. However, it does not seem to be playing out that way. Whether that structure was installed by land owners in the area for flood control purposes, or
whatever, that is very possible. It is clear that the St. Paul Water Authority used the water. They did not acquire
land around the lake, as they had around Lake Peltier and other lakes where they have used water, so they did not
do a land acquisition program like their history suggests they would do. They have very good records of
structures they have spent dollars on to build and this is not one of those. He did not know if the ownership
answer is going to be very clear. They have reached out to St. Paul Water for assistance for this structure as well
and in addition to Washington, Ramsey and Anoka Counties.

Manager Waller thought Mr. Bear could help clear things up for him. He stated last year there was a lot of water
and this year he did not see the water in his yard. Mr. Bear stated his understanding there is a small amount of
water flowing through this structure right now but not to the extent it was flowing through last year. He stated
Hugo staff is concerned enough that they are inspecting this structure every day and with the rains that are
coming, he would expect that there will be more water coming through the structure but it is not the same
amount that they saw last year.

Manager Waller stated hopefully the Legislature will be done with its business in the next few weeks so they have
some idea what the bonding bill has for figures. Mr. Bear thought they would. Manager Waller stated the article
on the front page of the newspaper indicated that technically the dam is on Hugo property and he wondered if
they were incorrect on that. Mr. Bear stated that was correct. Manager Waller asked if Hugo had a roadway over
the dam. Mr. Bear stated they did. Manager Waller asked if the roadway was Hugo’s property. Mr. Bear stated
the roadway is Hugo’s road and separate from the dam, not the same structure. The road can be removed and
the dam would remain. Mr. Bear stated there is probably a question of whether the City of Hugo has the legal
right to actually fix the dam. Mr. Bear did not think there was any formal right of way on the road.

Manager Waller stated Clear Water Creek is also Washington County Judicial Ditch 3 and initially JD3
construction ends just north of the dam but JD3’s benefited area, this structure would be within the Judicial Ditch,
Clear Water Creek trunk system benefited area. Mr. Bear thought it would be. Manager Waller thought it was
because he received a letter some years ago from the Watershed District described how the ad valorem tax was
administered for trunk systems, in this case who was on JD3. He stated for full disclosure he did not live on Bald
Eagle Lake or the Clear Water Creek. To his discovery at that time, it was not just the original benefit of the area,
although this may be included in that, this was also lands outside of the benefited area but within the watershed
district. When the watershed district changed their rules, there is a procedure he received from Howard Sheff,
Attorney at the time, explained how any area that was within the watershed or sub-watershed district was then
benefited area for JD3. He thought that was something the City take a look at.

Mr. Bear stated whether it is or isn’t, because of the taxing authority, the Watershed District and the way that the
district is laid out with this lake being within two cities, one township, and three counties, the Watershed District
is a good entity, they believe, to take on a project of this type. That transcends municipal boundaries like this
project would.

Manager Waller stated when a city owns a road right-of-way, and Hugo does not have any paperwork that
indicates they do have the right-of-way, when that has been in the past, the road authority had the responsibility
to provide the crossings for the water crossings and the actual channel, which there is not. If there was an actual
channel, then it is the city’s responsibility for the road crossings. Mr. Bear believed there were some cases where
this is true.

Manager Waller stated he was trying to get a clear understanding of how to approach this problem.
Manager Haake asked if 129th Street is the road that crosses over and becomes Clear Water Creek. Mr. Bear stated that was correct. Manager Haake stated it looks like the dam is holding in the water from Clear Water Creek with a judicial ditch.

Manager Waller stated the creek may be within a natural water course but the water course is within Clear Water Creek.

Manager Haake thanked Mr. Bear for the presentation but did not know what the Watershed District would do because they have already stated where they stand. They need to wait for the decision from the Legislature to see what they plan to do.

Manager Ogata asked how Mr. Bear thought the Watershed District could help today. Mr. Bear stated what the City is asking for with the letter that was sent to them was help with the ongoing maintenance of $20,000. They have some commitment from White Bear Township and the City of Centerville has it on their agenda. There is $20,000 roughly for maintenance that will occur within the next month. Once the Legislative process is over and they know where they stand with the balance of what it takes to replace the structure, they may be back again asking for further assistance depending on the shortage.

Mr. Bear stated as soon as road restrictions are removed, they plan on installing rip rap on the dam, roughly the middle of May. If there is a very urgent need to do that before the restrictions are lifted, the City will cause that to happen.

Manager Ogata asked what amount the City of Hugo will contribute. Mr. Bear indicated they will take the rest of the costs after they receive funding from the Legislature and other entities. They plan on doing the repairs.

Manager Waller stated since they had their last meeting three years ago and their application was made, that was the only application filed with the Watershed District. Mr. Bear stated that was correct. Manager Waller stated the application was changed to include flood control so he expected the City will reapply under the flood control issue.

District Administrator Belfiori stated that would be up to the City. Based on RCWD Board consensus, the City could choose to provide an additional proposal that included water quality and or flood control components. With the previous City proposal for urban storm water cost share program the Board decided, based on program guidelines for that program, that the application could be strengthened by include additional descriptions or components related to water quality. This was discussed at the previous joint City and watershed workshop. Since that point, the Board reached consensus to develop this draft policy on considering and prioritizing partnership projects. He stated the Board wished to develop this advisory tool to provide better focus of looking at high priority areas for both water quality and flood control.

Mr. Bear stated the City has not submitted any formal application. For lack of a better entity to be involved, they have started to do some work on this structure. They are not sure if they even have the authority to make an application to the Board to repair the structure so he thought they were going to move through some process to make a repair or replace a structure that is not theirs or the Board’s and they are just going to ask if there is a way the Board can assist with that.

Mr. Bear stated so far what they have heard from the Watershed Board is that they would like the City of Hugo to add something to the structure that would help with water quality or flood control and they are not going to do that. They think the structure itself is the water quality and flood control device. He did not know if they were
going to do an extensive analysis on pollutant removal or things that the process would ask them to do. The City of Hugo is taking a lead and thought the Watershed District is well positioned to help.

Manager Haake wondered if there has been any type of letter via consensus that they would send to the Governor, Bonding Chair, House, or Senate regarding the importance of this and whether other entities done something like that. District Administrator Belfiori stated if that is the direction of the Board, staff could draft a letter for them to sign.

Mr. Bear thought if the Watershed District could show some support either with a resolution or a letter, it would help.

Manager Ogata appreciated Mr. Bear coming in the interest of trying to work things out between the two entities. He thought it would be better to work directly with the Watershed District rather than through a newspaper article, by putting them in a box. Mr. Bear stated over the last few years, this has been an ongoing conversation. They are not intending to put anybody in a box or surprise anybody. This is nothing new, it is an ongoing situation. He apologized if the Watershed Board feels the City has put them in a box and he does appreciate the partnership they have had so far.

President Preiner thought part of the organization would have been to organize and prioritize. If they would have known earlier what they were actually doing, they could have contacted every entity. They are going to be up against time to get this done. Manager Ogata thought it would have been best to get the two boards together to sit down and discuss. Mr. Bear thought the Hugo City Council would be amenable to sit down with the Board to discuss.

Manager Waller suggested once Mr. Bear knows what the city's contributions will be he should come back to the Board for further discussion of possible contribution.

Manager Haake asked if they should make a consensus on the letter release. She asked Mr. Bear to have the entities also write letters.

President Preiner stated they can agree to get a letter out to the Legislature.

There was further discussion between the Board Members regarding who on the Legislature and DNR the letter should be directed to.

2. **Staff Reports**
   There were no comments.

3. **May Calendar**
   There were no comments.

4. **Manager's Update**
   There were no comments.

**ADJOURNMENT**

*Motion by Manager Ogata, seconded by Manager Haake, to adjourn the meeting at 11:32 a.m. Motion carried 5-0.*