Minutes

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

ROLL CALL
Present: President Patricia Preiner, 1st Vice-Pres. Barbara Haake, 2nd Vice-Pres. John Waller, Secretary Michael J. Bradley, and Treasurer Steve Wagamon.

Absent: None

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Education, Outreach and Communication Coordinator Jessica Bromelkamp, Office Manager Theresa Stasica.

Consultants: District Engineer Mark Deutschman, Houston Engineering, Inc. (HEI); and, District Attorney Chuck Holtman from Smith Partners.

Visitors: Becky Rice, Bob Wolk, Dawn Pape.

SETTING OF THE AGENDA
District Administrator Belfiori removed Item three, Consider Fee Refund Request — Paul Heuer, Pulte Group RCWD File 13-077 & 15-015 and Added new Item three, Possible Tour of the Forest Lake/Clear Lake Water Quality Project.

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

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the March 25, 2015, Board of Managers Meeting Regular Meeting. Motion by Manager Wagamon, seconded by Manager Bradley, to approve the minutes as presented. Motion carried 4-0-1 (Manager Haake abstained due to her absence).

OPEN MIKE – LIMIT 12 MINUTES. Any RCWD resident may address the Board in his or her individual capacity, for up to three minutes, on any matter not on the agenda. Speakers are requested to come to the podium, state their name and address for the record. Additional comments may be solicited and accepted in writing. Generally, the Board of Managers will not take official action on items discussed at this time, but may refer the matter to staff for a future report or direct that the matter be scheduled on an upcoming agenda.

There were no comments made at Open Mike.
ADDITIONAL ITEMS REQUIRING BOARD ACTION

1. Consider request from Metro Blooms as related to the Blue Thumb Program

Administrator Belfiori explained to the Board that he and the Education, Outreach and Communication Coordinator Bromelkamp had a productive meeting with Metro Blooms on March 20, 2015 to discuss recent concerns raised by partners and possible terms for an agreement to address those concerns and transfer the Blue Thumb program and trademark to Metro Blooms. Mr. Belfiori discussed two primary concerns that need to be resolved because they are fundamental to the District and its partners’ participation. The first is the RCWD and other public water organizations have made substantial public investments in the Blue Thumb program and therefore the public benefit must be realized in the event of a transfer and second, their participation in the program requires that they be able to refer interested parties to the program and, through that, to landscaping services and suppliers on an open basis, without their referral constituting explicit or implied endorsement. RCWD staff is convinced that both of these concerns can be addressed.

Education, Outreach and Communication Coordinator Bromelkamp updated the Board on the Blue Thumb program and progress working with Metro Blooms to date.

Administrator Belfiori recommended that the Board does not approve the transfer until these concerns are adequately addressed. A transfer at this time would put the Board’s participation in jeopardy, and as the creators of the program, we are responsible for ensuring that the significant public investment in the program continues to generate public benefit moving forward. Staff is committed to working with Metro Blooms to address partner concerns and finalize the agreement.

Ms. Rice, Executive Director of Metro Blooms, stated they have come today to be supportive of this issue and to answer any concerns the Board may have. She stated she was pleased with the draft resolution coming to the Board and in particular that it states a specific date by which the Board would like the transfer agreement to be brought forward.

Manager Bradley stated the Board would be happy if Metro Blooms gave them a specific proposal to review or compare if they do not come to an agreement with staff.

Manager Haake stated in review of everything, it appeared the website was the place where the issue of Metro Blooms being seen as a preferred provider seemed most relevant. She wondered if something different could be done on the website. She stated she liked what was suggested by Manager Bradley. Administrator Belfiori stated there are really two main issues related to the main objective. Both have a legal dimension and a programmatic dimension. The Board needs to be assured that there will be a public benefit of this program moving forward given it was developed with public resources. The District also has to address the issue of the preferred provider so that there is a clear objective mechanism without bias so if a member of the public wishes to get further information, they could visit the website and it would be clear that one entity is not preferred over another that provides fee-based services.

Manager Bradley suggested that in the listing of providers, the Watershed District could have the right to determine who would be included on the list, allowing them to move forward.
Attorney Holtman stated he would prefer the District and other public partners, and Metro Blooms, agree on the process through which service providers generally could be included on the list or connected through Blue Thumb as opposed to the District identifying an individual provider.

Manager Haake asked if the agreement would be able to include what is being discussed. President Preiner indicated they needed to discuss that in the finalization of the process.

President Preiner stated that in the “Finally Be It Resolved,” she thought that an hourly rate and a deadline of May 27, 2015 for spending up to $3,000 should be added, along with a description of the specific administrative tasks involved. Administrator Belfiori believed they had a rate schedule from Metro Blooms, which could be utilized for that purpose. Attorney Holtman advised that the intent is to give Ms. Bromelkamp the authority to commit the funds to Metro Blooms in writing, in which the hourly rate and scope would be stated.

Education, Outreach and Communication Coordinator Bromelkamp indicated she would refer to the 2014 contract to see if there are any rates listed, it may be broken down by tasks. Staff will determine the activities requiring support and an hourly rate, with all work to conclude on May 27, 2015.

**Motion by Manager Wagamon, Seconded by President Preiner, to amend the last Be It Resolved of the proposed resolution to include an end date of May 27, 2015.**

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

**Motion carried 5-0**

**Motion by Manager Wagamon, seconded by President Preiner, to adopt Resolution 2015-14 as amended, THEREFORE BE IT RESOLVED that the Rice Creek Watershed District Board of Managers will not approve a transfer of the Blue Thumb program or an assignment of the registered trademark until it finds, on advice of District staff and counsel, that the transfer agreement prescribes the governance and operation of the program sufficiently to give reasonable assurance that the program’s partner base will be preserved and enhanced and that the public benefits of the program will endure:**

**BE IT FURTHER RESOLVED that, specifically but not exclusively, the agreement must provide for an “objective” referral system for fee-for-service program activity and must provide for an opportunity for the parties to evaluate the referral system and otherwise collaborate on features of program governance and operation, for a period adequate to assess the program, before trademark assignment is irrevocable, to ensure the program’s continued partner base and sustainability:**

**BE IT FURTHER RESOLVED that the transfer agreement shall state measurable benchmarks that will be used to determine that public outcomes are satisfactory for final program transfer and trademark assignment to Metro Blooms:**
BE IT FURTHER RESOLVED that the District administrator and District staff will work in good faith with Metro Blooms representatives, and with all due speed consistent with other demands, to resolve outstanding concerns, and will bring a transfer agreement to the Board for consideration by May 27, 2015, or else by that date will advise the Board as to why an agreement has not been achieved;

BE IT FURTHER RESOLVED that in working out outstanding concerns, District staff will engage Blue Thumb partners as staff determines to be achievable, but that the District, through the Board, will retain its prerogative to determine and approve final terms of the transfer agreement; and

BE IT FINALLY RESOLVED that the District Education, Outreach and Communication Coordinator is to take reasonable steps to ensure that the Blue Thumb program continues to be available and of benefit to the public until such time as the District ceases to have responsibility for day-to-day program administration, and for that purpose may, in writing, task Metro Blooms to perform administration functions on an hourly rate basis, up to an aggregate amount of $3,000 with an end date of May 27, 2015.

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

Motion carried 5-0

2. Consider resolution 2015-12 related to work to establish an open water channel upstream of weir on Washington County Judicial Ditch 2/Rice Lake.

Manager Waller Recused himself of discussion and voting for this item, he left the council chambers.

Administrator Belfiori stated Resolution 2015-12 has been slightly revised under Item 2, page two. Everything else is the same. He reviewed the history of the project with the Board.

Administrator Belfiori indicated that it has been suggested to identify that staff would suggest a fourth item. The project will be monitored to determine the success of the open water creation and will be reported back to the Board the findings of that monitoring.

President Preiner indicated she would like the fourth item in the resolution to discuss that the site treatment would be monitored for some period of time and then the Board could revisit it and the board could have the option later on to considering doing more of the channel. Administrator Belfiori stated the resolution intent is not to preclude the need for additional work after the monitoring period of two to three years based on the engineer’s recommendation. Additional work may be necessary upon evaluation of the success or not success of this work.

Engineer Deutschman suggested that be put into the agreement with the DNR stating a set amount of time after the second herbicide application if it is not working they get to revisit hydraulic dredging. President Preiner felt that was fine.
Manager Haake stated in reading over some of the details, she noticed the various alternatives had various price tags attached to them. Some laid out as to who is responsible for what but if it does not work then what happens and who would take on the responsibility of additional money that would be done for this. Engineer Deutschman thought the details of the cost share are still to be worked out and cost was considered in the Engineers recommendation and was considered specifically in regards to alternative three where that alternative consisted of hydraulic dredging and at the time they did the memorandum, they were not sure as to whether a permit could be obtained from the DNR to place the spoil material next to the channel and that was part of the reason why they moved to alternative two as a recommendation because without knowing that, if that material had to be removed from the site, there was no additional way to estimate the cost of that. He stated that DNR did provide them with specific examples of where this has been used to open channels.

Motion by Manager Haake, seconded by Manager Bradley, to amend Item four to read: Project herbicide application will be monitored for success of open channel after the second application and the results will be reported back to the Board.

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

Motion carried 4-0-1

Motion by Manager Bradley, seconded by Manager Haake, to approve Resolution 2015-12, For the Repair of Washington County Judicial Ditch 2 (JD2) to Establish an Open Water Channel Upstream of the Department of Natural Resources Sheet Pile Weir in the Channel of JD2 at the outlet of Rice Lake, Public Waters #82-146P.

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

Motion carried 4-0-1

Manager Waller returned to the meeting.

3. This item was removed from the agenda.
Permit Coordinator/Wetland Specialist Tomczik explained Pulte Homes is proposing a residential housing development riparian to ACD 53-62, Main Trunk, located in the northwest quadrant of 109th Avenue and Lexington Avenue Blaine, MN. At the Boards March 11, 2015 regular meeting, the Board accepted Pulte Homes petition as well as their bond, and appointed Houston Engineering to review their petition for proposed
realignment. Houston Engineering’s memos conclusion can be found on page 47 of the agenda packet. Permit Coordinator/Wetland Specialist Tomczik read a portion of the memo’s conclusion: “The results of the modeling show that the water surface elevations and peak discharge on the Main Trunk upstream and downstream of the proposed realignment are not impacted by the construction and should not impair the utility of the ditch or deprive affected land owners of its benefit.” He pointed out that the resolution in the packet accepts the engineer’s report for filing and to set the public hearing for this petition - our recommendation is April 22, 2015 9 a.m. Board meeting - and provide appropriate noticing.

Motion by Manager Waller, seconded by Manager Bradley, to approve Resolution 2015-13, Accepting Engineer’s Report for Filing and Setting Date for Hearing on Petition of Pulte Homes for Realignment of a Portion of ACD 53-62.

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

Motion carried 5-0

5. Consider reschedule June 24, 2015 Board meeting to June 23, 2015 due to MAWD summer tour schedule.
District Administrator Belfiori stated staff is recommending rescheduling the June 24th regular Board meeting to June 23rd due to MAWD summer tour schedule.

Motion by Manager Haake, seconded by Manager Wagamon, to reschedule the June 24, 2015 Board meeting to June 23, 2015. Motion carried 5-0.

Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated April 8, 2015, in the amount of $35,260.18, prepared by Redpath and Company. Motion carried 5-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. Engineers Update and timeline.
District Engineer Deutschman stated the Army Corp of Engineers signed the Brown’s Preserve Mitigation Bank Instrument. He stated along with that there was a credit deposit, which occurred for 15% of the total credits for 2013. They are still working on trying to get a deposit for 2014. They also received final notice that the Centerville Floodplain revisions are now done and accepted/endorsed by FEMA.

 Permit Coordinator/Wetland Specialist Tomczik clarified that the initial 15% was the 2012 credit allocation and the 2013 proposed credits are under review.

3. Possible Tour of the Forest Lake/Clear Lake Water Quality Project at 6:00 p.m. on April 27, 2015.
Administrator Belfiori noted a possible tour at 6:00 p.m. on April 27, 2015 before their 7:00 p.m. meeting. After board discussion, He stated he would publically notice this tour.
2. Manager’s Update
Manager Waller updated the Board on the Hugo City Council workshop on water conservation priorities he attended.

ADJOURNMENT
Motion by Manager Haake, seconded by Manager Wagamon, to adjourn the meeting at 10:00 a.m. Motion carried 5-0.