REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, July 10, 2019

Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota

Approved Minutes

CALL TO ORDER

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

ROLL CALL

Present: President Patricia Preiner, 1st Vice-Pres. Barbara Haake, 2nd Vice-Pres. John Waller, and Secretary Michael Bradley.

Absent: Treasurer Steven Wagamon (with prior notice).

Staff Present: Interim District Administrator Nick Tomczik, Communications & Outreach Coordinator Beth Carreño, Project Manager Kyle Axtell, Office Manager Theresa Stasica.

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

Visitors: None.

SETTING OF THE AGENDA

Interim District Administrator Nick Tomczik stated that staff would like to add 1a, Administrator Hiring Process and 2a, Ratifying the Depository Designation.

Motion by Manager Bradley, seconded by Manager Haake, to approve the agenda, as modified. Motion carried 4-0.

READING OF THE MINUTES AND THEIR APPROVAL

Minutes of the June 26, 2019 Board of Managers Meeting.

Motion by Manager Bradley, seconded by Manager Waller, to approve the minutes as presented.

Motion carried 4-0.
CONSENT AGENDA

The following items will be acted upon without discussion in accordance with the staff recommendation and associated documentation unless a Manager or another interested person requests opportunity for discussion:

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Permit Applications Requiring Board Action

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Manager Haake stated that she had a question on Permit No. 19-047 regarding the water table and asked if this had both a WMO and the RCWD.

Interim District Administrator Tomczik stated that the permit application project is in both RCWD and Sunrise River WMO; there is a Joint Powers Agreement. He showed a diagram of the area and noted that the applicant does have planned for infiltration basins.

Manager Waller asked if the line between the Sunrise River WMO and the RCWD had been more clearly defined.

Interim District Administrator Tomczik showed a diagram that showed the RCWD jurisdiction and noted that the homes to the southeast of the new proposed roadway will be in the RCWD.

Interim District Administrator noted that staff is recommending an adjustment to 19-047 CAPROC to add a new CAPROC item I, number 5, and renumber accordingly, that states, “The applicant must clearly and accurately identify the centerline of the public drainage systems on the final plan set.”

Manager Waller asked if the purpose of identifying the centerline of the public drainage system would be to determine the easements.

District Engineer Otterness stated that the Engineer’s Report requires 20 feet from the top of bank on either side of the ditch, so the applicant will not only need to show the centerline, but also where the top of the bank is so the easement extent can be verified.

*It was moved by Manager Bradley, seconded by Manager Waller, to approve the Consent Agenda item for permits 19-047, 19-053, and 19-058 as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations dated July 1 & 2, 2019, subject to CAPROC requirements contained in the Findings and Recommendations including revisions. Motion carried 4-0.*

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

No Comments.

**ITEMS REQUIRING BOARD ACTION**

1. **Consider Outreach Document/Template for Distribution.**

   Communications & Outreach Coordinator Beth Carreño stated that staff had been working on the document “Water Knows No Boundaries” to educate legislators and the public about the role and importance of watershed districts. She noted that some of our partners have requested copies of the document and they will be distributed as a PDF so they cannot be changed. She stated that there will be a separate informational document in Word that can be modified to make it applicable to the partners.

   *Motion by Manager Haake, seconded by Manager Bradley, to approve sharing the watershed outreach sheet as a template with any necessary formatting and non-materials changes to partner organizations for use in their outreach and education efforts.*

   Manager Waller stated that he does not agree with many parts of the outreach document. He does not think it is factually correct. Manager Waller stated the District does not manage the example in the document on a watershed bases and have never managed it. But we do manage sub-watershed districts. This is an example that happened in the past: concrete had been placed in the Portland Avenue culvert without the proper process and procedures followed. Water is a liquid- clear, odorless and a solvent. The solvent dissolves organic materials and dissolved phosphorus is put into the system. This information has not been included in the document, and therefore I will not vote in favor of it.

   **ROLL CALL:**
   - Manager Waller – Nay
   - Manager Haake – Aye
   - Manager Bradley – Aye
   - Manager Wagamon – Absent
   - President Preiner – Absent
   *Motion carried 3-1.*

1a. **Consider District Administrator Recruitment Process.**

   Communications & Outreach Coordinator Beth Carreño explained the reason that this discussion had to happen at a regular Board meeting rather than a workshop as they had desired. She stated that after the July 8, 2019 workshop meeting, she was able to get input from District Attorney Holtman on the potential legal issues with the proposed
process. She noted that the proposed process would be that all of the applications would come in and then be sent out to each Board member for independent review. She stated that any communication would have to go through staff and not Board member to Board member. She explained that after each Board member reviews the applications, they will send their top 5 candidates back to her, but noted that there does not need to be any particular ranking of those 5 candidates. She will then take the list of names that the Board has submitted and compile them and share the new shortened list with various staff members as well as consultants. She reviewed some of the data privacy act restrictions and limitations.

Manager Bradley stated that he believes that the District will need to advise the people that we request private data from on how the data will be used.

Communications & Outreach Coordinator Carreño asked if he was referring to the Tennessen warning and noted that she had already planned to check with District Attorney Holtman to see if anyone else should be identified beyond District staff and managers.

Manager Bradley stated that he believes the Board should consider whether to include the Tennessen warning in the announcement regarding the job opening.

Communications and Outreach Coordinator Carreño stated that there was some discussion about not only including it in the announcement but also upon receipt of the applications. She stated that there may be a way to number the applicants rather than including their names in the public record. She stated that if she were an applicant, she would want to know at what point it would become public knowledge that she was seeking employment.

Manager Bradley stated that the applications and resumes can be stamped private data when they are sent out to the Managers and the applicant can expect this to be private data until such time as they are deemed to be a finalist. He stated that they should be informed that their resume will be shared with Board members, selected staff, and consultants.

District Attorney Smith stated that he believes this approach will save the Board from having to answer a lot of questions from applicants. He stated that he believes it would be a prudent thing to do and consistent with the Tennessen warnings. He suggested that they include a few sentences in the announcement that indicate the nature of how their information will be handled just as Manager Bradley described.

Manager Waller stated that he would prefer to have numbers rather than names until it is down to the actual finalists. He stated that he believes that will make for a much more objective and impartial selection process.
Communications and Outreach Coordinator Carreño noted that there are other organizations that are turning to a nameless application process so she can check on their methods. She asked if there would be a disadvantage in a situation where an internal candidate would apply because that would be obvious to the Board who that individual is.

District Attorney Smith stated that would be up to the Board and noted that legally the applicant information needs to remain private until you get to the point of selecting finalists. He stated that it would be at the Board’s discretion to follow a procedure that when an application is received a number is assigned and the name is blocked out. He stated that Communications and Outreach Coordinator Carreño’s point is well taken because there will be other identifying information available on some of the applications whether they are internal or external candidates.

Manager Bradley stated that he would like to take Manager Waller’s suggestion and have everyone assigned a number and when the Board is sending back their list of the top 5 candidates it be sent in number form.

Manager Haake stated that she would still like the candidates to be “Googled” which would have to be done via report ahead of time if the Board won’t have access to any of the names.

Manager Bradley stated that he thinks the Board can be trusted with the names.

Communications and Outreach Coordinator Carreño stated that she wanted to reiterate the process to ensure that she was understanding the Board’s direction based on their discussion. She stated that the applications would come in, be assigned a number, but still have their name included, and be sent out to the Board for review. She explained that when the Board goes into its first meeting to discuss candidates, they will refer to people by their number and not their name. She stated that once the Board narrows down their finalist selections, the names will be listed and they will no longer be referred to by number. She asked whether staff could contact the candidates at this time to inform them that they have been selected for an interview, let them know how many people are being interviewed and the fact that it will be a public meeting and ask them if they are interested in continuing in the process. She stated that if they say “yes”, then it would be part of the public record.

District Attorney Smith stated that he thinks the process she outlined is exactly right.

President Preiner suggested that the final step be done in writing and require a signature to make sure they understand that it will be public information at that time.
Communications and Outreach Coordinator Carreño stated that she will continue coordinating with legal counsel concerning the management of note taking and data records issues.

Communications and Outreach Coordinator Carreño stated that she knows it is very common when people apply for positions for hiring managers to Google them and noted that she will check with District Attorney Holtman to see if there is anything that the District needs to be wary of before proceeding to do this.

Manager Waller asked the consultants for any thoughts or advice in reviewing internet information on the candidates.

District Attorney Smith stated that one matter of prudence would be news articles that may turn up regarding their professional activities. He noted that because these articles may not always be factually accurate, it may simply be an opportunity for a question or inquiry to the candidate. He stated that the other thing he could think of is possible professional presentations that would show up in that type of search.

District Attorney Smith stated that background checks are typically conducted at the finalist level or when a candidate is at the point of being offered the position.

District Engineer Otterness stated that he has not yet been asked by the Board to contemplate what kind of role this would be, so he cannot answer Manager Waller’s question. He stated that if the Board would like him to provide input, he would need direction on what they would be looking for.

Communications and Outreach Coordinator Carreño stated that in her past experience when she has “Googled” people there have been blogs or Facebook posts that can both reinforce a positive impression or raise red flags for the person. She stated that if the Board moves forward and approves the proposed motions, she will change the language in the announcement as discussed and can also include it in the position profile.

Manager Waller stated that there are background and experience bullet points and noted that management of the District finances are listed third where it is asking for knowledge in that area. He stated that he considers the RCWD to be a public municipal corporation and feels that they already have lots of experts in conservation areas. He stated that he feels the business point of view of someone like a Chief Financial Officer will be very important to the District moving forward. He stated that would like to see some sort of statement regarding financial experience be listed in the bullets at the top of the page.
Communications and Outreach Coordinator Carreño stated that it would probably be prudent to put a statement that asks for experience with organizational budgets and finances.

President Preiner noted that this was already listed under item 3 and would not want to lose a good candidate because they don’t have the financial background.

Manager Haake stated that she likes the idea of listing it as a bullet point even though it is already listed further down the page.

Manager Bradley stated that he believes the District is looking for someone with three main qualities: they know what the District is doing, can manage staff, and can manage our money. He stated that adding a bullet point that mentions some sort of financial management makes sense to him. He stated that he would also like to see a sentence added to the announcement that asks for some type of knowledge of financial planning and implementation.

Communications and Outreach Coordinator Carreño stated that she believes that the announcement of the position could be posted sometime within the next week and look to have them returned by around August 16, 2019.

Motion by Manager Haake, seconded by Manager Bradley, to approve the proposed process with changes as discussed, and any necessary legal modifications (and with any significant changes to be brought back to the Board). Motion carried 4-0.

Motion by Manager Bradley, seconded by Manager Waller, to approve posting and promoting the position announcement with any necessary legal notifications, formatting, and non-material changes. Motion carried 4-0.

Communications and Outreach Coordinator Carreño stated that she will let the Board know when the announcement is sent out.

2 Consider Partial Pay Request #16 from Rachel Contracting, Inc. for Hansen Park Project.

Project Manager Kyle Axtell stated they are very close to this project being completed. He noted that there is also a pending change order #7 that is expected to come in soon. Staff recommends approval of the partial pay request from Rachel Contracting, Inc.

Motion by Manager Haake, seconded by Manager Bradley, to approve Rachel Contracting, Inc.’s pay request as submitted and certified by the District Engineer and directs staff to issue a payment in the amount of $32,756.91. Motion carried 4-0.
3. **Consider Depository Designation.**

Interim Administrator Nick Tomczik stated that this item is to ratify the depository designation and make the record of Board and staff actions clear. He explained that the board did designate a depository on February 27, 2019 under Resolution 2019-04 and identified for 4M fund as the depository. He stated that with the transition of the District Administrator those funds were not transferred.

Manager Haake asked where Old National Bank was located, how long the District had used them and what is 4M.

Office Manager Stasica stated that the District has been with Anchor Bank/Old National Bank for about 10 years.

**Motion by Manager Waller, seconded by Manager Bradley, to adopt Resolution 2019-20: Ratifying Depository Designation Of Old National Bank.**

THEREFORE BE IT RESOLVED that as of and since February 27, 2019, Old National Bank has remained a designated District depository, and will so remain until the transfer of District funds from Old National Bank has been completed.

**ROLL CALL:**
- Manager Waller – Aye
- Manager Haake – Aye
- Manager Bradley – Aye
- Manager Wagamon – Absent
- President Preiner – Aye
  - Motion carried 4-0.

4. **Consider Check Register dated July 10, 2019, in the amount of $278,714.52 prepared by Redpath and Company.**

**Motion by Manager Haake, seconded by Manager Bradley, to approve check register dated July 10, 2019, in the amount of $278,714.52, prepared by Redpath and Company.**

**Motion carried 4-0.**

**ITEMS FOR DISCUSSION AND INFORMATION**

1. **District Engineer Update and Timeline.**
   - No comments.

2. **Managers Update.**
   - No comments.
ADJOURNMENT

Motion by Manager Waller, seconded by Manager Haake, to adjourn the meeting at 9:57 a.m.

Motion carried 4-0.