REGULAR MEETING OF THE RCWD BOARD OF MANAGERS
Wednesday, July 25, 2018
Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota

Approved Minutes

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

ROLL CALL
Present: President Patricia Preiner, 1st Vice-Pres. Barbara Haake, 2nd Vice-Pres. John Waller, and Treasurer Steven Wagamon.
Absent: Secretary Michael Bradley (with prior notice)

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Technician Samantha Berger, Technician Lauren Sampedro, Water Resource Specialist Kyle Axtell, Communications & Outreach Coordinator Beth Carreño, Office Manager Theresa Stasica.

Consultants: District Engineers Chris Otterness and Garrett Monson from Houston Engineering, Inc. (HEI); and District Attorney Louis Smith from Smith Partners

Visitors: Todd Kaufman, Melissa Barrett, Joe Radach.

APPOINT ACTING SECRETARY
Motion by Manager Waller, seconded by Manager Wagamon, to appoint Manager Haake as the Acting Secretary. Motion carried 4-0.

SETTING OF THE AGENDA
Motion by Manager Haake, seconded by Manager Wagamon to approve the agenda, as presented. Motion carried 4-0.

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the July 9, 2018 Workshop. Motion by Manager Wagamon, seconded by Manager Waller to approve the minutes as presented. Motion carried 4-0.

Minutes of the July 11, 2018 Board of Managers Meeting. Motion by Manager Wagamon, seconded by Manager Haake 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 Permit No. 18-016 appears to have a lot of impervious surface and she would like to make sure it is contained and noted that at one time there was something called the Comprehensive Wetland Management Plan designed to make sure it has handled.

Technician Samantha Berger stated that this permit is actually part of a larger development that will be discussed later in the meeting. In order to treat the water on site, they will be installing four different infiltration basins which will overflow into a stormwater pond. She stated that they are also creating an open area lake. She stated that this project has been discussed at a previous Board meeting because they are also proposing a ditch realignment.

Permit Coordinator/Wetland Specialist Nick Tomczik noted that this particular component of the project does not impact any wetlands. He suggested that staff could do a quick overview of the variance application that is later on the agenda, so the Board can get a better idea of the full parcel context. He showed a graphic that illustrated the isolated wetland impact areas. He noted the larger wetland basin on the opposite west side of the project are the CWMP Wetland Management Corridor which is where the buffering will take place. He stated that the overall project does address the CWMP.

Manager Haake stated that she appreciates that staff does an excellent job looking out for the District. She stated she also had a question about Permit No. 18-060. She stated that the permit states that this site will flow to Spring Lake and Long Lake and asked how Long Lake would receive any of the water.

Technician Samantha Berger stated that the majority of this project area will flow to Spring Lake and the small portion that will flow to Long Lake is pervious area that drains into the city storm sewer and eventually to Long Lake. She noted that all of the impervious surfaces will be treated by the biofiltration basin before it discharges into the ditch system that makes it way into Spring Lake.

Manager Haake asked what maintenance agreements are in place to make sure this works the way it is planned.

Technician Samantha Berger noted that this is in the flood management zone which requires a 20 percent reduction in rate. She stated that as with all applications, the RCWD requires the maintenance obligation to be recorded on the property.
Manager Haake asked who would actually be doing the drainage and liable for the maintenance.

Technician Samantha Berger stated that it is the landowner, but noted that they may contract with an outside management company to complete the maintenance.

*It was moved by Manager Wagamon, seconded by Manager Waller to approve the consent agenda for permits 18-016, 18-055, and 18-060 as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations dated July 18, 2018. Motion carried 4-0.*

**PERMIT APPLICATIONS REQUIRING BOARD ACTION**

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*CAPROC= Conditional Approval Pending Receipt of Changes*

 Permit Coordinator/Wetland Specialist Nick Tomczik stated this is a CAPROC item that also requires a variance and he reviewed the project with the Board.

 Permit Coordinator/Wetland Specialist Tomczik stated the project proposes roadway construction and a storm water management system for a mixed-use development known as Lexington Meadows in Blaine. The water management system consists of constructing a stormwater pond and lake. The project is located on 2 parcels totaling 75.21-acres at the SW corner of 109th Ave & Lexington Ave intersection. The parcel currently consists of grasslands, wetland and ACD 53-62. The project also includes the addition of turn lanes on 109th Ave. NE. The permit proposes to disturb 56.50 ± acres overall and increases 3.75 acres of impervious surface; however, the storm water is being designed for an estimated 27.27± post-developed acres of impervious surface. The site drains to a proposed stormwater NURP pond which outlets an additional construction water feature refered to as the Lake which is hydraulically connected to ACD 53-62 that ultimately flows into Golden Lake, which is the resource of concern. Proposed stormwater treatment for the project consists of one stormwater pond designed to NURP standards.

 Permit Coordinator/Wetland Specialist Tomczik stated the District Engineer evaluated the variance request by applying the “practical difficulties” test set forth in the District’s variance rule. This standard is applied through the Board of Managers’ consideration and weighing of the following criteria:

(a) How substantial the variation is in relation to District Rule requirement(s);

(b) the effect the variance would have on government services;

(c) whether the variance will affect 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 landowner 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.
Permit Coordinator/Wetland Specialist Tomczik stated ultimately, the Board determines whether consideration of the above criteria supports approval of a variance. The Board may exercise discretion in analyzing the applicant’s compliance with the variance criteria – both generally and with regard to application of the individual variance (and other rule) criteria. The Board also may require input from legal counsel. Nothing in the presented variance memorandum should be construed as rendering a legal opinion.

Permit Coordinator/Wetland Specialist Tomczik informed the Board that he would reiterate the above criteria and District Technician Berger would reply with the District Engineer’s response.

Permit Coordinator/Wetland Specialist Tomczik asked per practical difficulties criterion (a), how substantial the variation is in relation to the RCWD Rule requirement(s).

District Technician Berger replied: the applicant has not wholly met the non-invasive buffer vegetation requirement of Rule F. 6(e)(1). The applicant is proposing 4.22 acres of native, non-invasive dominated buffer within the eastern edge of the WMC boundary directly adjacent to the proposed development project. The WMC buffer within these areas includes both a native upland buffer and a native dominated stormwater pond feature, which is consistent with Rule F. The vegetative management plan for these features is found in Exhibit A Request for Variance dated 3-23-2018. The applicant is proposing to vary from the non-native dominated buffer requirement on the west side upland buffer area, totaling 3.52 acres. The request for variance is due to the invasive dominated adjacent wetlands, both on site and off the site, to the north, south and west, creating an unsustainable condition for the restoration of the upland buffer to a native, non-invasive condition. Other than Rule F.6(e)(1) the applicant will meet the remaining provisions of the buffer requirements, including minimum and average width requirements.

Permit Coordinator/Wetland Specialist Tomczik asked per practical difficulties criterion (b) the effect the variance would have on government services.

District Technician Berger replied: issuance of a variance for the Lexington Meadows project is not expected to increase flooding (see criterion (c)) or have a negative effect on government services.

Permit Coordinator/Wetland Specialist Tomczik asked per criterion (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 waterbodies as defined by various laws including the Minnesota Pollution Control Agency stormwater 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.

Permit Coordinator/Wetland Specialist Tomczik asked: In assessing whether a substantial change in the character of the watershed resources may occur, we considered, not exclusively but as a measure of impact, the presence of and potential impact to the following:

- a 303(d) listed water body (i.e., an impaired water);
- a high quality or non-degraded wetland;

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• a federally listed threatened or endangered species or state threatened, endangered or species of special concern and their critical habitat;
• a Scientific and Natural Area as defined by the Minnesota Department of Natural Resources;
• resources protected from nondegradation as identified within 7050.0180 Nondegradation for Outstanding Resource Value Waters; and
• Other generally sensitive resources.

District Technician Berger replied: The proposed variance on the buffer requirements will have a minimal effect on the adjacent wetland resources. The existing wetland on site, the western upland buffer, and surrounding lands to the north, south and west of the property are composed of ditched, drained peatlands resulting in extensive areas dominated by monocultures of the invasive species reed canary grass, which, in this landscape setting (drained peatlands), is highly difficult to manage. The applicant is not proposing on-site mitigation; therefore, the buffer standards would require the applicant to restore the upland buffer to non-invasive vegetation with the surrounding lands remaining a monoculture of the invasive species. These areas would continue to contribute to the invasive population. The management of a non-invasive upland buffer strip within the far western edges of the site would be non-sustainable as a long-term condition. To be a sustainable condition, the wetland and uplands onsite, and on the adjacent properties to the north, south and west would need to undergo aggressive restoration activities simultaneously. Since these adjacent properties to the north, south and west are not under the ownership of the project applicant, this is not a possible or financially feasible option for the project proposer.

The applicant is partially meeting the non-invasive buffer standards in the area adjacent to the proposed development area to the east of the wetland management corridor. The applicant is proposing a native upland and wetland seeding mixture. In these areas, the upland buffer areas are being regraded, which will allow for propagation of the native seed mixes to compete with aggressive invasive species. Additionally, the applicant is collecting and treating the majority of the project runoff from the newly created impervious surface via one NURP stormwater pond, so minimal direct runoff will enter the wetland without treatment.

Golden 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. As the invasive vegetation is an existing condition, the variance will not have an effect on Golden Lake.

There are no high-quality or nondegraded wetlands (as identified within the CWPMP) within the project area, or near the project area. The applicant has requested consultation from the MN Department of Natural Resources regarding threatened and endangered species within and near the project area.

State-listed threatened and endangered species are also a consideration for the WCA permit, and the project will not occur without MnDNR concurrence that no state-listed species will be affected, or with the issuance of a takings permit. There are no Scientific and Natural Areas within or near the project area.

Permit Coordinator/Wetland Specialist Tomczik asked: Per criterion (c) and whether issuing the variance has a negative effect to the neighboring properties, we considered whether the granting variance will:
• cause or contribute to a change in the 100-year floodplain elevation immediately downstream or upstream of the project site
• increase the frequency or magnitude of flood damages to adjacent properties; or
• increase hardship downstream from peak flow and flood duration.

District Technician Berger replied: The proposed variance is for the buffer requirements will have no effect of flood elevations. The applicant has complied with the Rule C stormwater requirements for peak rate and water quality.

Permit Coordinator/Wetland Specialist Tomczik asked: Per criterion (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.

District Technician Berger replied: The applicant has indicated that the project cannot be built without the variance, as the required short and long-term intensive management work that would be necessary to maintain a non-invasive upland buffer on the west side of the site will result in undue hardship.

Permit Coordinator/Wetland Specialist Tomczik asked: Per criterion (e), we considered how the practical difficulty occurred, including whether the landowner created the need for the variance requires consideration.

District Technician Berger replied: The District Engineer finds that the current landowner did not complete actions prior to applying for the permit which caused the situation which lead to the implied practical difficulty. The existing degraded plant community was not caused by the land owner. Rather the need for the variance is created by the fact that the buffer is surrounded by other property not within the applicants control that has well-established invasive that make it impossible/financially infeasible to establish and maintain a native seed, and thus the variance is created by the proposed project rule requirements.

Permit Coordinator/Wetland Specialist Tomczik asked: In consideration of criterion (f), some determination of whether in light of all of the above factors, allowing the variance will serve the interests of justice is necessary.

District Technician Berger replied: 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 Districts buffer requirements of F.6(e)(1). Other applicants have had the ability to feasibly meet these requirements onsite because the site constraints presented here were not evident in the previous applications.

Permit Coordinator/Wetland Specialist Tomczik referred the Board to page 34 of their packet and asked if there were any questions.

Manager Haake asked if this was the whole 75.71 acres or if the land extends beyond what is shown.

Permit Coordinator/Wetland Specialist Tomczik clarified the entire parcel is subject to the permit application and noted that the apartment building was just approved as part of the Consent Agenda.
District Technician Berger noted that as the developers come through to develop these properties, they will be subject to District rules and will need to determine if they can infiltrate on site and provide on-site stormwater treatment. She explained that the overall grading permit is to create the large stormwater pond that is sized for future development.

Manager Haake asked if there would be mitigation or replacement needed since they should be able to handle everything on-site.

Permit Coordinator/Wetland Specialist Tomczik explained that this permit proposes the wetland impacts and mitigation off-site via wetland bank which is in the contributing drainage area and noted this is consistent with the CWMP rule. He stated that these developments trigger the obligation to establish the Wetland Management Corridor.

Manager Haake asked if these plans were still contingent on the DNR approval.

Permit Coordinator/Wetland Specialist Tomczik clarified that the DNR is a noticed party for replacement plans. The DNR has taken a greater interest in the Anoka sandplain and the presence of threatened species of both plants and animals. He stated that on this site, they found some lance-leaved violets and the applicant is working closely with the DNR on a takings permit.

Manager Haake confirmed that the drainage maintenance would not be the RCWD’s responsibility.

President Preiner stated that she thinks recording the maintenance obligation on the property is an excellent way to make sure this is completed.

Manager Waller stated that over the years there has been a lot of study and work put into this particular piece of property. He is happy to see this project moving forward and supports the variance and the use of the property for senior housing.

Motion by Manager Waller, seconded by Manager Wagamon to Approve the Variance request for variance application 18-015 as outlined in accordance with RCWD District Engineer’s Variance Technical memorandum, dated July 18, 2018.

Manager Waller asked about the signature on page 45 where it appears that Ms. McDonald signed the document on behalf of Ben Jore.

District Engineer Otterness stated that was true and noted that Greg Bowles had also signed the document.

Motion carried 4-0.

Permit Coordinator/Wetland Specialist Tomczik stated that staff had a few adjustments to make to the engineer’s report for CAPROC 18-015. On page 37 of the packet, CAPROC item #14, he asked that “escrow agreement” be struck and replaced with “stormwater pond surety”.

Permit Coordinator/Wetland Specialist Tomczik referred to page 38, removing the final sentence of Findings item #1 to new #7 CAPROC item and renumber the remaining CAPROC items. CAPROC item #7
would read, “The applicant must submit an updated permit application correctly noting the new
impervious surfaces.”

Permit Coordinator/Wetland Specialist Tomczik noted that sequencing for infiltration must be met by
each future project that comes in. If the future development has more than 70% impervious, then
additional methods to meet the requirement may be necessary. He stated that there was a comment
regarding the excavation of the lake and whether its size would enable the existing wetlands in the area
to drain. He noted that the District Engineer reviewed and does not find it will be an issue. There is a
water budget for these areas and the water will not be drained away by the excavation area. It is
controlled by a downstream condition.

District Engineer Otterness that they took a look at it because of a comment from the Anoka
Conservation District and they found that the size of the excavation pond didn’t have any effect on how
much of a draw is coming from the western side of the property. He stated that they have done a
review for the ability of the drainage system in its current location to be able to drain the adjacent
wetlands and right now it does not have an impact on those wetlands in its current condition.

Motion by Manager Waller and seconded by Manager Wagamon, to CAPROC permit 18-015 as
outlined in accordance with RCWD District Engineer’s Findings and Recommendations, dated July 18,
2018, with the additional new CAPROC item #7 per Permit Coordinator/Wetland Specialist Tomczik’s
recommendation and the language change in item #14. Motion carried 4-0.

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CAPROC= Conditional Approval Pending Receipt of Changes

Permit Coordinator/Wetland Specialist Nick Tomczik stated this is a CAPROC item that also requires a
variance and he reviewed the project with the Board.

Permit Coordinator/Wetland Specialist Tomczik stated the project proposed is the reconstruction of
West Shadow Lake Drive north of Birch Street as well as Shadow Court and Sandpiper Drive in the City
Lino Lakes. Project elements include subgrade and aggregate conditioning, reclamion of bituminous
pavement, bituminous paving at proposed roadway widths, and concrete surmountable curb and gutter
installation. As part of the roadway reconstruction, the portion of West Shadow Lake Drive that
intersects Reshanau Lake and Rice Lake will be widened and increased in elevation to provide a safer
crossing, prevent the road subgrade from being regularly inundated from high water levels and reduce
the potential for flooding of the roadway. Additionally, the culvert under West Shadow Lake Drive that
equalizes Rice Lake and Reshanau Lake will be replaced at the same size and slope with the addition of a
control weir on the upstream side. Total land disturbance will be 13.44± acres with an increase of
impervious area from 4.62± acres to 5.58± acres. The OHW of Reshanau and Rice Lake is 883.5 and
883.1 (NAVD88) respectively. The project discharges to Rice Lake, Reshanau Lake and George Watch, the
three Resources of Concern (ROC). Fill within the floodplain will occur within the Reshanau Lake
floodplain, from widening and raising the road. The project will place a total of 1,208 CY (cubic yards) of
fill within the floodplain, but will provide 923 CY of compensatory floodplain mitigation volume. The
applicant has requested a variance for the remaining 285 CY. The proposed application is compliant with all other RCWD Rules.

Permit Coordinator/Wetland Specialist Tomczik stated the District Engineer evaluated the variance request by applying the “practical difficulties” test set forth in the District’s variance rule. This standard is applied through the Board of Managers’ consideration and weighing of the following criteria:

(a) How substantial the variation is in relation to District Rule requirement(s);
(b) the effect the variance would have on government services;
(c) whether the variance will affect 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 landowner 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.

Permit Coordinator/Wetland Specialist Tomczik stated ultimately, the Board determines whether consideration of the above criteria supports approval of a variance. The Board may exercise discretion in analyzing the applicant’s compliance with the variance criteria – both generally and with regard to application of the individual variance (and other rule) criteria. The Board also may require input from legal counsel. Nothing in the presented variance memorandum should be construed as rendering a legal opinion.

Permit Coordinator/Wetland Specialist Tomczik informed the Board that he would reiterate the above criteria and District Technician Berger would reply with the District Engineer’s response.

Permit Coordinator/Wetland Specialist Tomczik asked per practical difficulties criterion (a), how substantial the variation is in relation to the RCWD Rule requirement(s).

District Technician Berger replied: the applicant has not met compensatory floodplain storage volume requirements of Rule E.3(b). The project will place a total of 1,208 CY of fill within the floodplain, but will only provide 923 CY of compensatory floodplain volume, 285 CY less than the required volume. This shortfall in floodplain volume compensation is negligible when compared to the overall available floodplain storage in Reshanau Lake (3.1 million cubic yards).

Permit Coordinator/Wetland Specialist Tomczik asked per practical difficulties criterion (b) the effect the variance would have on government services.

District Technician Berger replied: issuance of a variance for the West Shadow Lake Drive project is not expected to increase the cost or difficulty of providing governmental services. The road is being increased in elevation by approximately 1-foot to prevent the road subgrade from being consistently inundated. This will reduce the annual maintenance required and increase the life of the roadway.

Permit Coordinator/Wetland Specialist Tomczik asked per criterion (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 waterbodies as defined by various laws including the Minnesota Pollution Control Agency stormwater 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.

Permit Coordinator/Wetland Specialist Tomczik asked: In assessing whether a substantial change in the character of the watershed resources may occur, we considered, not exclusively but as a measure of impact, the presence of a potential impact to the following:
- a 303(d) listed water body (i.e., an impaired water);
- a high quality or non-degraded wetland;
- a federally listed threatened or endangered species or state threatened, endangered or species of special concern and their critical habitat;
- a Scientific and Natural Area as defined by the Minnesota Department of Natural Resources;
- resources protected from nondegradation as identified within 7050.0180 Nondegradation for Outstanding Resource Value Waters; and
- Other generally sensitive resources.

District Technician Berger replied: Floodplain alteration is not expected to affect watershed resources except for flooding as discussed below. Full compliance with Rule E would involve further wetland impacts. The project is fully compliant with the stormwater requirements of Rule C and the Wetland Alteration requirements of Rule F.

Permit Coordinator/Wetland Specialist Tomczik asked: Per criterion (c) and whether issuing the variance has a negative effect to the neighboring properties, we considered whether the granting variance will:
- cause or contribute to a change in the 100-year floodplain elevation immediately downstream or upstream of the project site
- increase the frequency or magnitude of flood damages to adjacent properties; or
- increase hardship downstream from peak flow and flood duration.

District Technician Berger replied: The proposed variance of 285 CY of floodplain alteration will not cause a measurable increase in the 100-year floodplain elevation in Reshanau Lake or the Chain of Lakes. The project proposes rate control on-site in the form of biofiltration basins, storage basins and floodplain mitigation sites that will act as storage. The applicant has complied with Rule C stormwater requirements for peak rate. Downstream peak flow and flood duration will not be impacted.

Permit Coordinator/Wetland Specialist Tomczik asked: Per criterion (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.

District Technician Berger replied: Several options were considered by the City to meet the project goals without a variance including: limiting the increase in roadway elevation, limiting the increase in roadway
width, reducing side slopes of the road, and searching for alternative locations for floodplain mitigation. These options were deemed infeasible and unsafe for the public. After meeting with local safety officials and considering neighborhood concerns, the increase in roadway width is deemed a necessary safety requirement, and the increase in roadway elevation is necessary to maintain a dry road subgrade during annual storm events. The road side slopes were reduced to a 3:1 slope where possible, however rural sections without guardrails need to have a 4:1 slope to provide a safe and practical road design. Alternative floodplain mitigation areas were considered within the project area, near the project area, and on City-owned property within the Reshanau Lake floodplain area, however none were considered suitable without further wetland impacts. The areas considered are provided in Figure 3, on page 65.

Permit Coordinator/Wetland Specialist Tomczik asked: Per criterion (e), we considered how the practical difficulty occurred, including whether the landowner created the need for the variance requires consideration.

District Technician Berger replied: 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 existing roadway design which does not meet current safety standards and site constraints which include wetlands. Per the discussion previously, the applicant finds that there is no feasible way to do the project which meets the requirements of the applicant and the District without a variance.

Permit Coordinator/Wetland Specialist Tomczik asked: In consideration of criterion (f), some determination of whether in light of all of the above factors, allowing the variance will serve the interests of justice is necessary.

District Technician Berger replied: 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 Districts floodplain alteration requirements of Rule E.3(b). Other applicants have had the ability to feasibly meet these requirements onsite because the site constraints presented here were not evident in the previous applications.

Manager Waller asked about the location of the culvert that will be replaced and asked about the addition of the weir structure and why is was necessary.

Permit Coordinator/Wetland Specialist Tomczik stated that RCWD met with staff at the City of Lino Lakes and found that the owners of the property are concerned about the lake’s fluctuating elevation. He noted that the DNR is considered the authority in control of outlets on lakes and they came up with an elevation number that will now be controlled by the weir structure.

District Engineer Otterness stated that the weir elevation is designed to be lower than the normal water elevation of the lake. The weir structure is only intended to affect water elevations if there is a very dry period and the lake levels draw down. He stated that the residents surrounding the lake were concerned because during dry periods, there was the ability for water to go through the culvert into Rice Lake. He stated that the culvert currently has debris and blockage, so when there are low water periods it is still potentially holding the water up in the lake so it isn’t just going over to Rice Lake.
Manager Waller confirmed that the road structure is above the weir structure and the flooding issues should be resolved. He stated that he is concerned that the weir structure makes for a loss of bounce or the lake to go up and down and absorb the water and expressed concern that the equalization between the lakes will be lost.

District Engineer Otterness stated that was one of the concerns when reviewing this and noted that the City is raising the road level as well to try to get it up above some of the low to mid-level flood events. He noted that there will be equalization in the capability of the culvert for most of the time period when you have normal water levels in the lake.

Manager Waller stated his opinion that the weir structure will be permanent and the RCWD will lose the storage capacity that is in that lake.

District Engineer Otterness stated that in the District Engineer’s opinion, there will not be a loss in the storage capacity for the 100-year flood event due to the installation of the weir.

**Motion by Manager Wagamon, seconded by Manager Haake to Approve the Variance request for variance application 18-045 as outlined in accordance with RCWD District Engineer’s Variance Technical memorandum, dated July 25, 2018.**

Manager Waller stated that he will vote in favor of the motion to be in the majority of the Board, but reiterated his concern with the loss of the storage capacity and expressed that he disagreed with the District Engineer’s assessment about how minimal the difference was going to be.

President Preiner stated that in order to keep the roads safe, she believes this work needs to be done.

Manager Waller stated that he is in favor of raising the road but, would like to hold the water capacity because the RCWD is short on storage up in the Chain of Lakes.

Manager Wagamon stated that he trusts the District Engineer’s calculations and his statement that the RCWD will not lose any storage.

Manager Haake stated that she shared Manager Waller’s concern.

**Motion carried 4-0.**

Permit Coordinator/Wetland Specialist Tomczik referred to page 57 of the agenda packet proposed adding a new CAPROC item #8 “The applicant must provide written evidence of an easement or other legally appropriate property access rights on all parcels of property where work is to be performed.”

**Motion by Manager Wagamon and seconded by Manager Haake, to CAPROC permit 18-045 as outlined in accordance with RCWD District Engineer’s Findings and Recommendations, dated July 18, 2018 and with the additional new CAPROC item #8 per Permit Coordinator/Wetland Specialist Tomczik’s recommendation. Motion carried 4-0.**

Administrator Belfiori asked to take a moment to acknowledge how hard the staff is working and noted that 2018 has been a very challenging and busy year for permit review. He noted that the permit review
team is going above and beyond. He stated that the amount of detail that they have to keep track has been impressive. He commended, Nick, Sam, Ashlee and Patrick at the RCWD, as well as the team at HEI and Smith Partners, who have also been working really hard to keep up.

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.

None.

ADDITIONAL ITEMS REQUIRING BOARD ACTION

1. Consider Farrel’s Lake (E2 Wetland) Access Agreement.

Permit Coordinator/Wetland Specialist Tomczik explained that the District is working to recognize and maintain its facilities. He stated that there is an E2 outlet located in the MnDot right-of-way that the District has accessed off of 35W as well as the County Road F. He stated that recent changes to County Road F and the design build project on 35W is creating a pond in the vicinity. They have spoken with MnDot about an agreement to maintain an access point there to go along the edge of the pond. He stated one part of the agreement is that if the District needs to be onsite with heavy equipment for more than a day, it will need to get a permit from MnDot.

Manager Haake confirmed that even though MnDot is doing work to increase the run off in this area, the maintenance for this facility remains with the District.

Permit Coordinator/Wetland Specialist Tomczik stated that this is the outlet for Farrel’s Lake and the E2 wetland and does provide retention of waters, water quality and flood control upstream of the outlet.

District Engineer Otterness stated that the Board may recall this structure was replaced about eight years ago and had a very challenging access along Lake Valentine Road/County Road F. He stated that since that time, the ability to access it has only gotten worse and this design build project on 35W presented the opportunity for a better access point.

Motion by Manager Waller, seconded by Manager Wagamon, to adopt Resolution 2018-21: Approving Farrel’s Lake (E2 Wetland) Access Agreement.

THEREFORE BE IT RESOLVED that the President, District Board of Managers, is authorized to sign the access agreement on behalf of the District, with any final changes and on advice of counsel.

ROLL CALL:

Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Absent
Manager Wagamon – Aye
President Preiner – Aye

Motion carried 4-0.
Permit Coordinator/Wetland Specialist Tomczik explained that the facility is in need of some work and the general position of the District is to get out there and get it done. He stated that the District is waiting for the design build package for the 35W project and noted that the District may go out for bid with MnDot’s same contractor to complete the work at the same time as their project.

2. Consider City of Hugo Local Water Management Plan. 

Technician Lauren Sampedro noted that the City of Hugo submitted their final draft of the local water management plan on July 2, 2018 that sufficiently addressed all the District’s comments from the earlier submittal. She noted that the City of Hugo assumed permitting authority for RCWD Rules C, E, and F and WCA LGU duties in 2004. They would like to continue with their permitting authority, however the District rules and watershed management plan have changed since 2004 and now has a few additional requirements for cities to be able to retain the permitting authority. In order to maintain permitting authority, the City of Hugo needs to, within 180 days of Board resolution: update its ordinances/adopt RCWD rules by reference; execute an updated MOU with RCWD; and provide inspection and administrative procedures to the RCWD as defined in the 2010 watershed management plan.

Technician Sampedro reviewed the City of Hugo’s water resource issues, especially regarding water quality impairments, limited capacity of ACD 55, and potential future flooding issues. She reviewed the CIP plan and potential partnership between the District and the City of Hugo to address these issues.

Manager Waller stated that he thought the reports for both the City of Hugo and the next agenda item on Circle Pines were well defined and he particularly like the tables with the costs of the projects outlined. He stated that item 6.3 Financial Considerations, spells out the city’s responsibilities, but not the District’s help and yet, on the tables the possible funding sources often list the RCWD. He stated he would like to see a conscious effort on these particular projects to add some funding to it and have something more definite in the agreements. He stated that he thinks this would increase the strength of the partnership between the RCWD and the cities and provide them more motivation for long term funding. He stated that the District knows exactly what the cities pay in and would like to see some of that go back to them for the projects that are outlined.

President Preiner stated that when cities come in and ask for grants, that is when they get their funding and the Board doesn’t know what anybody will give them for funding. She thinks it would be very difficult to put that detail into the agreement.

Administrator Belfiori noted that the Board has already approved funding for Water’s Edge Phase 2 as well as the urban stormwater partnership. He stated that this is a local water planning opportunity and the RCWD has specially designed the timing of our watershed plan based on the Board’s input and vision to actually change the way we are doing business and it is innovative throughout the entire metro area. He stated that the District is waiting for local plans to be developed so it can capitalize on these conversations and partnership with local communities.
Manager Haake stated that the District was formed in order to benefit the entire 28-member cities and 186 square mile District and not just individual entities within the District.

Manager Waller stated that what Manager Haake stated was a wonderful philosophy, but in practicality does not happen and hasn’t happened in 40 years. He stated that he would like to see something more substantial, on the District’s portion, to use funding that comes from those cities and use it to pay back into those cities.

Motion by Manager Wagamon, seconded by Manager Waller, to adopt Resolution 2018-19: Approving City of Hugo Local Water Management Plan.

THEREFORE BE IT RESOLVED that the City of Hugo LWMP is approved;

BE IT FURTHER RESOLVED that, pursuant to Minnesota Statutes §103B.235, subdivision 4: (a) within 120 days, the City shall adopt its LWMP; and (b) within 180 days, it shall adopt official controls and inspection and administrative procedures that have been approved by the District; the controls and procedures will be in effect; and the MOU, conforming materially to the MOU draft attached to and incorporated into this Resolution, shall be executed;

BE IT FINALLY RESOLVED that if the 180-day deadline in the preceding clause is not met, the District may reassume regulatory authority under District Rules C, D, E and F within the City.

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

Technician Lauren Sampedro noted that the City of Circle Pines submitted their final draft of the local management plan on July 11, 2018 and sufficiently addressed all the District’s comments from the prior submittal. She stated that the city of Circle Pines assumed sole permitting authority for District Rules C, D, E, and F in May of 2016 and assumed WCA LGU duties. The City of Circle Pines has fulfilled the level 2 requirements as defined in the District’s 2010 watershed management plan.

Technician Sampedro reviewed the water resource issues identified in the City of Circle Pines and noted that they have water quality impairments, limited funding for TMDL projects and have a volume debit with the District. She reviewed the CIP projects in the City of Circle Pines and noted that they are requesting assistance with funding these projects from the District. In order to address the volume debit with the District, the City of Circle Pines is committed to coordinating with the District to find potential project sites through street reconstruction projects and redevelopment opportunities to resolve the debit.

President Preiner asked for an explanation of the volume debit issue.
Technician Sampedro explained that through the previous regulatory program the District had, cities could bank volume credits, which means they could have volume debits, as well. In the City of Circle Pines, there was a project that did not have a stormwater feature built, so they did not meet the required volume control, which means they now have a debit that they need to resolve.

Administrator Belfiori added a few more points to the explanation and noted that the City of Circle Pines has done several stormwater re-use projects that are regional, in nature, because they are a city that has been a leader in stormwater re-use practices. He stated that the City of Circle Pines has used these to meet their requirements for their projects and many of those are still under review with the three-year monitoring to see how much volume those systems could use. He explained that the City of Circle Pines has several projects in play so it is somewhat of an open book.

Manager Waller noted that both the City of Hugo and the City of Circle Pines have taken over a great deal of responsibility. He stated that they use their own taxing funds which saves the District from having to hire extra personnel and should be taken into consideration for future funding assistance. He stated that in his opinion both of these cities are going the extra mile.

Motion by Manager Haake, seconded by Manager Wagamon, to adopt Resolution 2018-20: Approving City of Circle Pines Local Water Management Plan.

THEREFORE BE IT RESOLVED that the District Board of Managers hereby approves the City’s revised local water management plan;

BE IT FURTHER RESOLVED that the memorandum of understanding signed by the parties on May 5, 2016, to guide regulatory implementation under the WMP and local plan remains in full effect.

Roll Call:
Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Absent
Manager Wagamon – Aye
President Preiner – Aye

Motion carried 4-0.

4. Consider Pay Request #4 from North Pine Aggregate, Inc. for Anoka County Ditch 53-62 Branch 2 Repair Project.
Administrator Belfiori explained that the contractor has substantially completed the work, including sections of curb along Austin Court. He noted the final tally is within the contingency and does not include the $20,000 that the District will receive from the City of Blaine because of the partnership with the culverts that the Board approved a few months ago. Staff is recommending approval.

District Engineer Otterness noted that this is still partial payment and not the final payment because they have a few close out items that are not yet completed.
Motion by Manager Haake, seconded by Manager Waller, to approve Partial Payment #4 in the amount of $94,227.63 to North Pine Aggregate, Inc. for work completed under this pay request related to the Anoka County Ditch 53-62 Branch 2 Repair Project. Motion carried 4-0.

5. Consider Check Register dated July 25, 2018, in the amount of $350,857.50 prepared by Redpath and Company.

Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated July 25, 2018, in the amount of $350,857.50, prepared by Redpath and Company. Motion carried 4-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. Discussion on BWSR Watershed-Based Funding Pilot Program (WBFPP) survey results.

Administrator Belfiori explained that this survey is part of the BWSR Watershed-Based Funding Pilot Program and noted that the District will be moving to an urban stormwater-like grant program for the next year. He noted that the District had tallied a survey with the 32 eligible entities to work through that pilot program and were given pretty clear direction and suggestions on the survey. He explained that staff is looking for a consensus from the Board that the messaging and the direction that staff with be presenting to the cities and counties on August 2, 2018, is consistent with their wishes.

Water Resource Specialist Axtell gave an overview of the survey results and reviewed the tentative WBFPP/USWR timeline. He noted that the USWR cost share will remain the same and the WBFPP are additional funds on top of their program. He reviewed the proposed scoring criteria that mimics what BWSR is using for their clean water fund projects and practices program. He stated that in an effort to rank feasibility studies, there is separate scoring criteria which closely mimics the BWSR CWF accelerated implementation grant program. He reviewed how the selection process would work for the applications. He noted that applicants may be eligible for both their county based BWSR funds and urban stormwater funds, so they could receive in excess of $50,000. He stated that they are proposing that the District’s urban stormwater funds not be eligible to be used for the 10% match requirement for BWSR. He reviewed examples of how the funding would be allocated.

There was consensus by the Board to authorize moving forward with staff’s recommendation to mirror the survey results in the guidelines; keep the proposed scoring mechanism; and not to have external review of the applications.

Water Resource Specialist Axtell stated that they will present this at the August 2, 2018 City-County meeting.

2. Discussion Anoka County Ditch 53-62 Branch 2 project closeout presentation.

District Engineer Garrett Monson gave a report to the Board on the ACD 53-62 project and showed before and after pictures from the beginning of the project to its current state. He stated that this project involved excavation of the channel, removal of trees, sediment and vegetation and replacing culverts. He noted that the original engineering estimate for the project was $364,389 and the estimated final construction cost came in at $266,500. He stated that North Pine Aggregate, Inc. was very easy to work with and did good work. He reminded the Board that the City of Blaine will
be paying $20,000 towards the culvert replacement which brings the District’s cost for the project down to $246,500. He thanked the project team for working so well together and making this project run smoothly.

Manager Waller asked if there was a way to say how much capacity had been restored so temporary bounce could be taken into consideration.

District Engineer Otterness stated that when projects are completed they are brought into the District-wide modeling. He stated that they did not evaluate, for example, a certain number of inches difference a 100-year water would make if it came through. He noted that in other projects where they have done more extensive evaluation, these repairs do not make a huge difference for the 100-year rainfall events, but make a big difference on the two-year rainfalls.

3. **Staff Reports.**
   No comments.

4. **August Calendar.**
   Administrator Belfiori reviewed dates to remember for August.

5. **Managers Update.**
   Manager Waller attended a tour of the St. Croix River.

**ADJOURNMENT**

*Motion by Manager Wagamon, seconded by Manager Waller, to adjourn the meeting at 11:34 a.m.*
*Motion carried 4-0.*