REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, July 23, 2014

Minutes

ROLL CALL

Absent: None.

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Water Resource Specialist Kyle Axtell, Office Manager Theresa Stasica, Technical Specialist/Permit Reviewer Chris Buntjer.

Consultants: District Engineers Mark Deutschman and Nancy Stowe, Houston Engineering, Inc. (HEI); District Attorney Chuck Holtman from Smith Partners. District Drainage Attorney Kale Van Bruggen


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

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

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the July 7, 2014, Board of Managers Meeting Workshop Meeting.

Motion by Manager Wagamon, seconded by Manager Ogata, to approve the minutes as presented. Motion carried 4-1 (Manager Waller).

Manager Waller stated President Preiner had left the meeting before it was over and that was not noted. He stated there was a discussion about Manager Ogata’s conflict of interest on the Bald Eagle workshop on the next day and that was not noted so he did not approve of the current meeting minutes. President Preiner replied the minutes could be amended.
Motion by Manager Haake, seconded by Manager Ogata, to reconsider the minutes. Motion carried by consensus.

Manager Haake stated Manager Waller was correct that around 4:30 p.m. President Preiner left the meeting and Manager Haake was the vice chair. She also stated there was a discussion that had to deal with the Bald Eagle meeting discussing the culvert/dam and that perhaps Manager Ogata should recuse himself because he lived on Bald Eagle Lake. President Preiner stated the minutes needed to be corrected.

Motion by Manager Haake, seconded by Manager Ogata, to approve the minutes as corrected. Motion carried 4-1 (Manager Waller).

Minutes of the July 8, 2014, Bald Eagle Lake Outlet Meeting. Motion by Manager Wagamon, seconded by Manager Ogata, to approve the minutes as presented. Motion carried 4-1 (Manager Waller).

Minutes of the July 9, 2014, Board of Managers Regular Meeting. Motion by Manager Wagamon, seconded by Manager Haake, to approve the minutes as amended. Motion carried 5-0.

President Preiner recessed the regular meeting.

PUBLIC HEARING: CORRECTION OF ANOKA-RAMSEY JUDICIAL DITCH 1 DRAINAGE SYSTEM RECORD

President Preiner read the following statement of the Watershed District:

At this time we will recess the regular meeting and open the public hearing on the proposed reestablishment and correction of the drainage system records for Anoka/Ramsey Judicial Ditch 1 under statutes section 103E.101, subdivision 4a.

I would like to welcome everyone who has come today. Under consideration at today's hearing is the reestablishment and correction of the drainage system records for ARJD 1 including defining the alignment, cross-section, profile, hydraulic structure locations, materials, dimensions, elevations, and right-of-way of this public drainage system.

The purpose of this hearing is to review the engineer's investigation and report of findings and receive comment from those affected by the proposed reestablishment and correction of the public drainage system record.

This is an evidentiary proceeding. The proceedings are being recorded in order to preserve the record.

The order of business for this hearing will be as follows. First, Mr. Van Bruggen, District's legal counsel, will present the legal standard for the Board's decision and a brief, procedural background.

Following Mr. Van Bruggen, Administrator Belfiori and the engineer hired by the Board to assist in investigating the existing records and evidence, Ms. Stowe, will present her report summarizing the historical review of ARJD 1 and describe recommended actions to correct the legal drainage system record.

Following Mr. Belfiori and Ms. Stowe, I will open the hearing for public comment. The Board would like to hear your comments on the proposed reestablishment and correction of the drainage system records and any information relevant to that purpose. This hearing is not an appropriate time to discuss issues related to the repair of the drainage system. The purpose of this hearing is to review the findings and evidence regarding records defining the alignment, cross-section, profile, hydraulic structure locations, materials, dimensions, and elevations, or right-of-way of the drainage system as originally constructed or subsequently improved. Other
procedures are available for discussion of drainage system repairs and there will be other opportunities for that
discussion outside of this hearing.

During the public hearing, managers may ask questions of staff or consultants making presentations and of
commenters, in order to clarify any testimony.

In addition, if a member of the public asks a question and a manager believes that a response from the District
staff or a District consultant can readily resolve the question or enrich the testimony, the manager may ask me
to have the appropriate staff member or consultant speak to the question. I will exercise my judgment as to
whether to allow such discussion.

However, managers’ expression of their positions and general discussion concerning the subject of the public
hearing should be avoided during the public comment portion of the public hearing. Board discussion will
occur after all members of the public have had a chance to speak and the public comment period has been
closed. Board discussion may occur and be concluded at this or a subsequent meeting, as the Board decides.

If a member of the public would like to make a comment, please stand and address the Board when I
recognize you. Speak clearly and state your name and address for the record. If you have a specific question
concerning the proposed reestablishment and correction of the public drainage system record, we may ask
our administrator, engineer, or legal counsel to respond. If you have anything in writing you wish to submit,
you can provide it to me before the close of the public comments and I will note its receipt in the record.

To ensure that all wishing to comment on the proposed reestablishment and correction of the public drainage
system record have time to speak, I may limit the time any single speaker may comment to five minutes.
Please limit redundant or repetitive comments.

Would any of the board members wish to offer any further remarks before we begin? There were no board
comments.

With that, District Drainage Attorney Kale Attorney Van Bruggen will give legal background on the process.

Attorney Van Bruggen, Rinke Noonan Law Firm, stated this was a public hearing on the reestablishment and
correction of Anoka-Ramsey Judicial Ditch 1 drainage system records under statutes section 103E.101,
subdivision 4a. He stated the drainage system is located in the cities of Lexington, Blaine, Mounds View, and
Shoreview. He indicated inspection of ARJD 1 by the Drainage Authority’s staff revealed several documented
and undocumented modifications of the drainage system, lack of written documentation describing elevations
and grades throughout the system, several areas of disrepair, and portions of branches or laterals absent from
the landscape as a result of changed land use from agricultural production to urban, commercial, and
residential development.

He stated the Drainage Authority’s engineer investigated and drafted a historical and technical analysis for the
system, which is contained in the Engineer’s Historical Review Memorandum of ARJD 1 dated May 3, 2013.
He noted as part of her analysis of the drainage system, the engineer had identified the existing functional
alignment, dimension and grade of this system as it provides beneficial public drainage today. This functional
alignment, dimension, and grade match the basic functional efficiency of the system as designed and
established to provide beneficial public drainage.

He noted several owners of land benefitted by the drainage system had inquired with the Drainage
Authority regarding property development and the level of expected service of ARJD 1 as an outlet for
beneficial drainage. In order to properly manage the drainage system in a way that recognizes its
intended, beneficial public function, the Drainage Authority initiated proceedings to identify the extent
of its jurisdiction over the system as currently existing and providing beneficial public drainage.

He stated Statutes section 103D.335, subdivision 8, allowed the Board of Managers to "construct, clean,
repair, alter, abandon, consolidate, reclaim or change the course or terminus of any public ditch... within the
watershed district." Since statutes Chapter 103D does not provide specific guidance on proceedings to implement the powers of the managers under 103D.335, subdivision 8, the Board followed the processes contained in statutes Chapter 103E as instructive of a process to assure proper notice and hearing for the owners of properties affected by correction of the drainage system record.

He indicated on February 26, 2014, the Drainage Authority adopted findings and an order to follow the procedures of statutes section 103E.101, subdivision 4a, to reestablish and correct the drainage system record of ARJD 1 to reflect the functional alignment, dimension, and grade of the system. The February 26, 2014 Order directed the district engineer to investigate and report findings defining the alignment; cross-section; profile; hydraulic structure locations; materials; dimensions; elevations; and right-of-way of the drainage system as a final addendum to the May 3, 2013 Historical Review Memorandum.

He stated the Board noticed and held an informational meeting on May 20, 2014 at 6:00 p.m. at the Mounds View Banquet Center, in Mounds View, Minnesota. The purpose of the informational meeting was to inform the public of the proceedings and the proposed action. At the informational meeting, the Board's staff reviewed the information contained in the engineer's Historical Review Memorandum, describing the history of the system, its current condition and the proposal to establish a functional alignment, grade and capacity of the system, which continues to perform a beneficial public drainage function.

He indicated on July 16, 2014, District Engineer, Nancy Stowe of Houston Engineering, Inc. delivered a Final Addendum to ARJD 1 Historical Review Memorandum meeting the requirements of the Board's February 26, 2014 Order.

He stated pursuant to the requirements of 103E.101, subdivision 4(c), the Board mailed notice of this final hearing to the commissioner of natural resources, the executive director of the Board of Water and Soil Resources, and all property owners benefited or damaged by the drainage system. Other interested parties were provided notice by publication in the Pioneer Press, New Brighton-Mounds View Bulletin newspaper, Blaine/SLP Life newspaper, and Quad Press newspaper. In addition, notice was published on the Drainage Authority website, posted at the Drainage Authority office, and emailed to the Drainage Authority's general circulation listserv. Evidence of all notices was on file with the District.

He noted during the pendency of the proceedings, the District received comments regarding property affected by the reestablishment and correction of the drainage system records. The Board directed its staff to investigate those concerns. Upon investigation, the Board's staff recommended the following:

a. Several residents near the Branch 4 system of ARJD 1 communicated to the District that reoccurring and problematic high water issues exist. Further investigation by staff verified that portions of the north-south segment of the historic Branch 4 open channel still exist today, confirming the physical establishment of that branch. The proposed functional alignment and grade of Branch 4 of ARJD 1, as described in the engineer's Final Addendum dated July 16, 2014, reflects the level of performance similar in nature to the as-constructed, subsequently improved condition of the drainage system considering the function required by the change in land use to reestablish the historic drainage function of benefited lands.

b. Public comments were received from Ken Bursaw, Marlan J. Arndt and M.J. Arndt Construction Co., Leigh Anne Price, Rich Price, and LRP Properties also regarding reoccurring and problematic high water issues. Further investigation by staff revealed that these concerns were related to requests for repair of the ARJD 1 system and not the reestablishment and correction of the drainage system records pertaining to these specific proceedings.
He indicated substantive comments received during today's hearing would be incorporated into the final findings for the Board.

He stated evidence of all actions in this matter, including preliminary orders, appointments, oaths, affidavits of mailing, publication or posting as well as hearing agendas and presentation materials shall be considered the record of proceedings in this matter.

He indicated at this hearing, the District Engineer would present her reports. The engineer would also provide an explanation of her process and information used to determine the existing functional alignment, dimension, and grade of the system as it provides beneficial public drainage today.

He stated the Drainage Authority is proceeding under its general obligation to maintain drainage systems under its jurisdiction and is acting in response to landowner concerns over the condition of ARJD 1 and in response to an inspection report showing that records establishing the alignment, cross-section, profile, or right-of-way are lost, destroyed, or otherwise incomplete.

He stated the intent of the proceedings was to reconcile the historical record of the drainage system with the functional alignment, dimension and grade of the system to describe the equivalent of the as-constructed and subsequently improved condition.

He indicated future work on the drainage system would utilize the as-constructed and subsequently improved condition established in these proceedings, as a baseline for determining repair or improvement of the system.

He stated based on the comments and testimony today, the Drainage Authority may make one or more of the following decisions:

a. Adopt an order affecting reestablishment and correction of the drainage system records as described in the engineer's Historical Review Memorandum and Final Addendum.

b. Direct the engineer to further review the area or portions of the drainage system and determine if adjustments should be made to the proposed drainage system records.

c. Adopt an order rejecting the engineer's report and directing a new report be conducted.

d. Direct the engineer to make adjustments and submit a revised report.

He stated as requested by the Drainage Authority, he asked to please limit the comments to the reestablishment and correction of the drainage system records. Comments related to repair of the drainage system are not germane to this public hearing.

He stated the decision standard for the Board was whether, based on the proceedings herein, the evidence presented at this hearing and the testimony of the consulting engineer and the public, the Board finds that the existing and reestablished records together define the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of the drainage system.

District Administrator Belfiori stated the purpose of today's hearing was to summarize the historic review of the Anoka/Ramsey Judicial Ditch (ARJD) 1 public drainage system and to recommend actions to correct the legal drainage system record as well as to receive comments from the public regarding the As Constructed and Subsequently Improved Condition of ARJD 1.
He stated the system was located in five communities and drained ultimately to Rice Creek. He stated the purpose of ARJD 1 historical review was to investigate the historical development of ARJD 1 system, to establish the "As Constructed and Subsequently Improved Condition" and to describe the specific problem areas and needs of the current system necessary to maintain historic function similar to when the drainage system was originally constructed and subsequently improved.

Engineer Stowe showed the benefitted area as it was established in 1911 and the As-Designed Alignment of the ditch system based on the 1911 drawing. She presented the current alignment of the ditch as it was found today noting there had been quite a few modifications to the alignment. She stated they needed to evaluate all of the modifications and determine whether they should be included/adopted into the subsequently improved condition. She stated they looked at three conditions: Whether an alteration was completed per the requirements of drainage law and if that was not the case they looked at the new alignment to see if it still served the lands and provided the drainage as originally intended and if neither of those cases were true then they looked to see if the drainage was still needed.

She showed examples of where the modification was and was not completed per drainage law. She stated once they determined the As-Constructed and Subsequently Improved alignment they moved onto the ditch profile or the grade/elevation of the ditch bottom through review of historical documents, old surveys, and any information they could locate and they plotted that alignment up.

She stated the third preface of the historical review was to identify problem areas in the system such as excessive sediment, vegetation, fallen trees, etc. were impeding the flow in the ditch and would need to be looked at in more detail in a future repair. She stated they also looked at areas at potential risk of flooding at high rain fall events.

She stated Branch 4 was originally designed to convey flow to the main ditch from the west and was aligned along County Road J about 2,000 feet to the west and then 1,800 feet to the north. She indicated that Branch 4 was a unique condition as it was found that the east/west portion of the ditch no longer existed, and although the ditch no longer served its original purpose for agricultural drainage, the right to drainage still exists. The District has received comments from residents who expressed concern about high water, and it was determined that drainage is necessary in this area and they were recommending to retain the ditch.

She recommended legal proceedings take place to correct the drainage system record to reflect the current alignment, including changes in alignment that were not documented through a legal ditch proceeding and to note that Branch 4 is included in the recommended functional alignment as it had not been legally abandoned and would provide an outlet to several properties. She showed the recommended functional alignment including Branch 4.

She stated the next steps would include a consideration by the Board for a Resolution for correcting the public drainage system record and complete a repair report or memorandum to guide repair strategies.

President Preiner invited public comments and to please state your name and address as you begin your comments.

Ken Bursaw, 8601 Xylite Street NE 55449, stated the handout had his name, address, and contact information. He stated he owned 6 acres, which had been in his family for 50 years. He stated the engineer’s report was encouraging from his point of view because his land had gradually been flooding more each year. He stated he only had one acre that he could use and the water did not drain at all. The water soaked into the soil or it evaporated. He stated his neighbors could not use their backyard and Casey’s Store also had flooding issues. He stated when 85th Avenue was improved by the city the drainage should have been fixed, but it was not. He
292 asked if the ditch along 85th was going to be abandoned and he was glad to hear it was not going to be abandoned. He believed this would help them out and he appreciated it.

295 Rich Price, 8700 Xylite Street, stated a majority of their property drained toward the airport and would have drained to the ditch that was removed. He indicated his concern was he was not sure exactly what they were doing, but it sounded like they were trying to straighten up the record and then correct the problem. He stated his concern was that they would correct the record and then somewhere down the line he would end up paying for the ditch that the prior owner already paid for. He stated his land flooded every year and his concern was that his blacktop was going to start breaking up due to the water. He asked how long it would take to correct the problem. He stated the retention pond was always full and the weir was not skimming the water because it was always under water. He asked how the city could fill the ditch in without a solution to the problem before it was filled in. President Preiner stated this was for public comment and staff would address his concerns with him afterwards.

306 Manager Haake stated she did not believe any one intentionally filled in the ditch and it just filled in with sediment, etc.

309 Mr. Price stated he believed the engineer had indicated the ditch was filled in by the city when 85th was upgraded. The Engineer responded sediment had filled in the ditch.

312 Mr. Price stated he did not believe sediment had filled the ditch, but rather the ditch had been eliminated.

314 Manager Waller stated this was a hearing to correct the record and President Preiner was correct that there would be a separate meeting for the actual repairs of the ditch. He encouraged everyone in attendance today to also attend the repair meeting and right now this was the correction time as to what would be corrected and then action would be taken at the next meeting.

319 Mr. Price stated the ditch did not serve him any longer and it was not doing its purpose. President Preiner stated this would be addressed at the next step, which was the repair meeting.

322 Leigh Anne Price, 8700 Xylite Street NE, stated she was confused as she came to the June meeting and she was told she was at the wrong meeting and to come back to this meeting to express her concerns and issues. She stated now she came to this meeting and they were being told they could not get information. President Preiner stated she was confusing the issues. She noted this step was to establish and correct the official ditch profile and the next meeting was to discuss the actual repair of the ditch and that was when they took public comments regarding individual concerns. She noted this was the legal and engineering portion of the meetings where they brought to the Managers everything they had found so far.

330 Ms. Price asked if this would take away any of their right to get this resolved. President Preiner stated no rights would be taken away and the next meeting was when they would look at individual concerns.

333 Manager Haake stated she understood Ms. Price's confusion because if she had not come to their last meeting they would not be aware of this issue. She stated the information she provided at the last meeting was helpful.

336 Manager Waller thanked everyone for coming but asked them to come to the next meeting also. He stated they would not have known branch 4 was as dysfunctional as it was without their previous comments and they had accomplished something by coming to the past meetings and bringing this issue to their attention.

340 District Engineer Deutschman stated when they prepared the historical review memorandum they appreciated the public's comments as they did not always have the information as to what was happening on
the ground and by gaining this input they modified their original recommendation and decided to not abandon branch 4 as it had been brought to their attention that there was an issue with water in that area. He stated to fix it meant to get it back into the record and then they could figure out how to fix it.

Manager Waller stated at the last meeting the public got the Board to look at something that had been overlooked and now at this meeting they included something that they originally were not going to include in the record and now at the next meeting they would discuss how deep the drainage needed to be – how deep they would dig the ditch. He stated this process was long, repetitive, tedious, and boring but it was necessary especially if it was their basement, lawn, or parking lot that had standing water that would not drain. He stated this was a property right and it went with the properties they owned. He thanked them for participating on this.

There were no further comments from the public.

President Preiner closed the public hearing and reconvened the regular meeting.

District Attorney Holtman noted for the record that during the public comment portion they had received two documents, which would become part of the record. One being Mr. Bursaw’s letter and the other being the photograph provided by Mr. Price.

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:

Table of Contents
PERMIT APPLICATIONS REQUIRING BOARD ACTION

<table>
<thead>
<tr>
<th>No.</th>
<th>Applicant</th>
<th>Location</th>
<th>Plan Type</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>14-025</td>
<td>City of Spring Lake Park</td>
<td>Spring Lake Park</td>
<td>Street &amp; Utility Construction</td>
<td>CAPROC 4 items</td>
</tr>
</tbody>
</table>

Manager Haake asked the area be shown where the street and utility construction was occurring. Technical Specialist/Permit Reviewer Chris Buntjer stated there were two sections of street. One being the frontage road along Highway 65 and the other being Arthur Street closer to Highway 10. He stated Arthur Street was being rehabilitated, where the asphalt is milled down to the gravel base with millings being left in place and new asphalt being put on top. He stated three rain gardens would also be added. On the frontage road they did not have any right-of-way and that was why treatment was being provided along Arthur Street. He stated they both drained to city storm sewer and then to Rice Creek to Locke Lake, which is the resource of concern.

Manager Haake asked if the frontage road had a storm sewer going to Locke Lake and did not have any drainage to Spring Lake. Technical Specialist/Permit Reviewer Chris Buntjer stated that he believed that the City had indicated in their application that the storm sewer drained to Rice Creek and not to Spring Lake. She noted Spring Lake was getting filled in on the fish tail part of it. She wanted to make sure there was no infringement on Spring Lake.

<table>
<thead>
<tr>
<th>No.</th>
<th>Applicant</th>
<th>Location</th>
<th>Plan Type</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>14-029</td>
<td>Wal-mart Stores Inc.</td>
<td>Blaine</td>
<td>Bridge/Culvert Crossing Land Development Public/ Private Drainage Systems Wetland</td>
<td>CAPROC 8 items</td>
</tr>
</tbody>
</table>
Manager Haake asked for further clarification on this development. Technical Specialist/Permit Reviewer Buntjer showed the map for the Walmart along with Ball Road. He stated the stormwater from the Walmart site would drain into two wet ponds for rate control before draining into two infiltration basins. He clarified that the ponds were only sized to provide pre-treatment and then the site drained to ACD 53-62. He noted the unusual drainage pattern.

Manager Haake asked where were the homes that had drainage problems. Technical Specialist/Permit Reviewer Buntjer stated this permit was only for the Walmart project and originally they were going to do some ditch realignment along with the project but there had been some added complications and so the ditch realignment and repair of the ditch would take additional time and it would not be included in this project.

Manager Haake asked if this had anything to do with the housing on the northeast part of Ball Road. District Administrator Belfiori responded that was correct and that the application before them for consideration did not require the construction of the ACD 53-62 Br. 1 repair project to comply with District freeboard requirements according to the Houston Engineering's analysis.

Permit Coordinator/Wetland Specialist Tomczik stated there had been a modification recommended on page 30 of their packet by adding a third stipulation as follows: Applicant must provide an As-Built Survey of the flood plain mitigation area to the District for verification of compliance with the approved plans.

<table>
<thead>
<tr>
<th>No.</th>
<th>Applicant</th>
<th>Location</th>
<th>Plan Type</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>14-035</td>
<td>City of Blaine</td>
<td>Blaine</td>
<td>Bridge/Culvert CAPROC 5 items</td>
<td>Crossing Street &amp; Utility Construction</td>
</tr>
</tbody>
</table>

Manager Haake asked for an explanation of this permit. Technical Specialist/Permit Reviewer Buntjer responded there would be a turn lane added on the northbound 35W where it exited onto Lexington as well as another turn lane and adding of curb and gutter along Ball Road as well as two infiltration basins which would drain to the ditch.

Permit Coordinator/Wetland Specialist Tomczik stated there had been an addition to this permit on page 39 of their packet under wetland, the second to the last sentence at the end of the sentence he added: An administrative decision consistent with submittal on 7/1/2014. He stated with the addition and the clarification these two engineer reports under consideration were no longer consent items and the board should address them individually.

Manager Haake stated they had so many concerns with this area and what was happening with the wetland would they be held harmless and would it drain as they wanted it to and would everything work as intended. She asked if this was what they had to guarantee. District Engineer Deutschman stated both permits complied with the District rules for rate and volume control. He stated the District asked that the applicant for the Walmart stores remove the ditch realignment from the project, which was done. He stated this would not fix the issues for the upstream homes along Ball Road as they needed to repair the drainage system that went through this area. He stated essentially they were complying with the requirements but they still needed to repair the ditch/drainage system which was what they were working on now.

Motion by Manager Ogata, seconded by Manager Wagamon, to CAPROC permit 14-025 with additions in accordance with RCWD staff and District Engineer's Findings and Recommendations, dated July 14 & 15, 2014. Motion carried 5-0.
Motion by Manager Ogata, seconded by Manager Wagamon, to CAPROC permit 14-029 with additions in accordance with RCWD staff and District Engineer's Findings and Recommendations, dated July 14 & 15, 2014. Motion carried 5-0.

Motion by Manager Ogata, seconded by Manager Wagamon, to CAPROC permit 14-035 with additions in accordance with RCWD staff and District Engineer's Findings and Recommendations, dated July 14 & 15, 2014. 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.

Matthew Schaap stated he was in attendance for Butch Robinson, 310 Main Street, Lino Lakes. He stated he spoke with the Administrator earlier and there was confusion as to whether this should be on the agenda. He stated his client had received a letter regarding Anoka Ditch 10-22-32. He stated there was some discussion in May 2014 regarding some erosion that had occurred at this ditch. He indicated his client was in the landscaping business and on that date there was a conversation including Mr. McAlpine, Tom Schmidt and Mr. Peterson and on that date they were doing a post construction inspection of that area and his client Mr. Robinson approached them and was discussing some of the areas of erosion that was occurring on that ditch on his property. There was a letter that Rinke Noonan sent to his client on July 8 of this year and in that letter there was some statements that his client had said during the May 21 conversation said that he had sprayed or applied herbicide to this area and there was also a suggestion that the killing went up and over the ditch area. There was a letter asking his client to respond to these claims. He stated they went to the site and took photographs of the site and tried to piece together what they believed the issue was. It seemed to him there was a clear disagreement as to what happened or what was said at the May 21 conversation. He stated his client was an expert in landscaping and in horticulture and so application of herbicide to anything was something that his client took very seriously and his client did not believe that any application of herbicide had occurred that early in the season and even if it had it would have been 2,4-D and it would not have killed Canary Grass which was the culprit and issue. He stated the Canary Grass in the ditch happened to coincide with erosion, which happened to coincide with very heavy rains. To suggest that this area or this problem area was caused by the application by herbicide by someone who has been in the landscaping business since his grandfather turned it over to him many many decades ago was difficult for them to understand and for his client to reconcile with his own personal participation in growing the sod that is adjacent to this ditch. He stated so the Board had the opportunity to review and see what the issue was he handed out some documents to the Board.

He showed the pictures of the area and an aerial map. He stated the problem area was located on the lower right of the aerial map. He noted Canary Grass was growing in pictures 1 and 2, which showed a healthy ditch on his client's property. He stated it was clear that sod was being farmed/produced adjacent to the ditch. Pictures 3 and 4 also depicted a healthy ditch with Canary Grass. Picture 5 was the beginning of the problem area. He stated the left hand side was his neighbor's property, which did not reflect a lot of Canary Grass and showed a lot of erosion. On picture 6 was the main problem area with little Canary Grass and erosion reflected. Pictures 7 through 10 showed pictures of further erosion. He noted on the pictures there was no Canary Grass growing on the neighbor's property. He stated his client cannot control what happened on the other side of the Canary Grass on the neighbor's side. He stated picture 11 showed a rut that developed due to erosion on the property. Picture 12 showed the opposite view facing north showing erosion on the neighbor's side. He stated this was not an accusation against the neighbor but it was a depiction of the erosion in the area. On pictures 13 and 14 there was little Canary Grass showing. Picture 15 showed how close the
erosion came to the tillable land and the sod farming. Picture 16 showed erosion on his client's side. Picture 17 showed the erosion on the neighbor's side. Picture 18 showed the problem area where there was little Canary Grass growing. On pictures 21 and 22 it showed some Canary Grass but it was being eroded and the root systems were exposed on the neighbor's side of the property. He stated the bottom line was that there seemed to be a disconnect between the accusation of intentional damage or harm to a ditch bank and the reality that his client sees on the ground. He stated it seemed very unusual and highly unlikely that an experienced person who knows about 2,4-D broadleaf herbicide especially early in the year before germination of weeds for the need to spray herbicide would go and spray just a small portion on an area of a ditch bank that is surrounded on the other side by an area of almost no Canary Grass. The response they wanted to present to the Board was that they believed this was a misunderstanding. He stated he was not present at the conversation but his client was and his client denies ever saying anything about herbicide and particularly Round Up, which was the only thing that would kill to the level of what had been suggested, and there was no reason to apply Round Up in May 2014 to this limited area. To suggest the sod farmer would even be spraying Round Up was an unusual occurrence and he asked the Board to take that into consideration. With respect to the legal aspect, the Statute cited in the letter he did not believe those statutes applied to this situation as they applied to intentional destruction or damage to a system. What they have here was essentially a heavy rain with a lot of erosion causing a problem and to the extent Canary Grass was not growing as it should or was damaged by the erosion he believed was clearly depicted in the pictures. He stated he wanted to make the presentation and he apologized for not being on the agenda and it appeared there was some miscommunication as to whether his client should have appeared and be on the agenda.

President Preiner thanked him for all of the information and stated staff would look into this issue.

ITEMS REQUIRING BOARD ACTION


Administrator Belfiori explained that given that the Board did receive comments from the public during the hearing, that staff recommended the Board consider "option 2" language on page 42 of their packet, which would direct staff to prepare findings and an order consistent with the proceedings.

Motion by Manager Haake, seconded by Manager Waller, to direct staff to prepare findings and an order consistent with the proceedings, including responses to all comments received through the public comment process; that the draft findings and order be written to affect the reestablishment and correction of the public drainage system records consistent with the engineer's findings; direct recording of the order to reflect the reestablishment and correction of the public drainage system record; and that we recess this hearing to the Board's regular meeting on August 13, 2014. Motion carried 5-0.

2. Consider Directing Distribution of Proposed RCWD Rule Revision and Notice of Public Hearing (Nick Tomczik)

Permit Coordinator/Wetland Specialist Tomczik stated in the packet were the proposed revisions to the rules consistent with past discussions with the Managers. He stated there are three items: the resolution for the Board to authorize notice and public hearing, statement of need and reasonableness (SONAR), and the redline document showing the adjusted rule language. He stated the revisions would be sent to all parties that required notice and the SONAR, redline rule document and foundation HEI memos would be placed on the District's website.

Motion by Manager Haake, seconded by Manager Ogata, to approve Resolution 2014-24, Directing Distribution of Proposed Rule Revisions and Notice of Public Hearing.
ROLL CALL:
Manager Waller – Aye
Manager Haake– Aye
Manager Ogata – Aye
Manager Wagamon – Aye
President Preiner – Aye

Motion carried 5-0.

3. Consider R14-01 MAPE cost-share application, City of Shoreview, Commercial Stormwater Retrofit (Kyle Axtell)

Water Resource Specialist Axtell noted there was no cost-share application submitted at this point and this discussion was intended to give him some direction to give the MAPE. He stated Plan A would be a full site retro-fit and they were looking at bio-swales and raingardens to treat run-off with a full build-out cost estimate of just over $154,000. He stated in looking at this if they made an application the cost-share would not accommodate 50 percent of the estimate. He stated his recommendation would be to not come in over $25,000 cost-share, which would match the Ramsey County Conservation District’s State cost-share if the application was approved. He stated this would allow some room for additional Ramsey County projects. He stated this was a very beneficial project with high visibility. He stated due to financial consideration the MAPE Board was also considering a retro-fit of just the western portion of the property, which included the small front parking lot and runoff from the building that would be 2 bio-swales and 2 raingardens. He stated Ramsey Conservation District would potentially make a cost share of $24,778. He stated there was some precedent previously established by the District to do a 25 percent cost-share on a large project along with state funding so there would be a total 75 percent cost-share. He believed either way this was a beneficial project and they get a better deal if they did a full site retro-fit, but both options were similar in benefits. He noted MAPE only has one quote from a contractor due to the nature of the project and if they did a full site retro-fit they would do a mill and overlay of their parking lot and there were not many contractors around that could do this work and the quote they received was in line with the Ramsey County Conservation District and staff was not concerned about this at this point.

Manager Ogata asked what was the cost share allocable to Ramsey County this year. Water Resource Specialist Axtell responded they usually make $50,000 available to each of the three counties. He did not believe it was a good idea to propose the use of all of the funding toward one project and he expected more projects to come in over the next couple of months.

Manager Ogata asked if this was for this year or next year. Water Resource Specialist Axtell responded it would be for the 2014 calendar year.

Manager Ogata asked how much the District had used to date for Ramsey County. Water Resource Specialist Axtell responded this was the first application they had received for Ramsey County.

Manager Ogata asked how they went about doing this. He believed this was a remarkable achievement to get them to do this project. Water Resource Specialist Axtell responded all of the credit went to Joe Lochner at the Ramsey Conservation District who has been working on this for many months.

Joe Lochner, Ramsey County Conservation District Design Specialist, stated MAPE had great vision
also and this had grown with ideas they received from a contractor and his openness to reduce the asphalt and have a more pleasant environment for his employees and clients.

Manager Haake asked if 90 percent of this area was impervious surface. Water Resource Specialist Axtell responded he did not have the exact figure, but there was a large impervious surface and the only green space was a few areas up by the street.

Manager Haake stated if the west portion was contributing the most then she was thinking the west portion should be treated now. Water Resource Specialist Axtell responded it would be ideal if they would treat the entire site, but financially it could be a challenge. He noted the west portion of the site was more visible. He stated the east portion was $100,000 and the west portion was $50,000 but they were nearly equal in terms of pollution reduction. He stated for aesthetic purposes the western half would have greater aesthetic impact.

Manager Waller stated generally the entire project was $154,000 including the parking lot but how much was just for the water quality issues. Water Resource Specialist Axtell responded it was $154,000. The mill and overlay on the parking lot they were considering was not a part of that cost and it was an additional cost, which was not eligible for cost-share.

Manager Waller stated once the RCWD had put in a cost-share contribution and the Ramsey Conservation District had put in a portion for cost-share, the landowner would pay the remainder. Water Resource Specialist Axtell responded that was correct.

Manager Waller stated the landowner was asking about 1/3 from the government at this time. Water Resource Specialist Axtell responded that was correct under proposal number 1. Under proposal number 2 they would be looking at a 75 percent potential public cost-share.

Manager Waller noted they would pick up an additional $100,000 out of their own pocket. Water Resource Specialist Axtell stated under Plan A there would be a potential $50,000 cost-share with them picking up the $100,000 and under Plan B the cost estimate would be $50,000 and they would be looking at approximately a $36,000 cost-share for that project.

Manager Ogata stated when he looked back on the larger projects done in the past a lot of those were done in phases. As he looked back on those they funded those on a phase by phase process and for the benefit they were getting was modest in comparison to some of the other large projects done in the past. To the extent if they had the money available, he would be in favor of funding it to the 25.

Manager Haake asked if Mounds View was still doing street reconstruction. Water Resource Specialist Axtell responded they were.

Manager Haake stated they were going to do raingardens and they were supposed to do cost-sharing with them also. She stated when they considered other communities, they had no place do to water quality and it had to be done through raingardens on each lot and if this took 25 percent, she wanted to know what was on the plate for other things coming up for Ramsey County. Water Resource Specialist Axtell replied they had one other similar project on a smaller scale in the works as well as a couple of rain gardens. To date for this year they have received one inquiry from a Mounds View resident and that might come in as well. He stated from 2013 to 2014 there was a substantial carry over and there were additional funds available if they wanted to use them.

President Preiner asked if Ramsey County had a preference would they want to do this project with
full funding or would they prefer to have funds for future projects. Mr. Lochner responded it would
be great to see this entire project done as it had been over a year now on working on this and other
projects would potentially be held until next year. He noted they had additional cost-share funding
that they might consider putting toward other projects also. He stated at the time of the year they
were getting to, he did not believe some of the projects would not get done this year.

Manager Waller stated so far this year none of the funds had been spent for Ramsey County and there
was some carry over money from 2013 that could be brought forward and they did not know exactly
what the needs would be for Mounds View as well as an additional project that might come forward
for Ramsey County. Water Resource Specialist Axtell responded that was correct.

Manager Waller asked if this additional large project would be 2014 funds or 2015 funds. Water
Resource Specialist Axtell replied the larger project he spoke about earlier would probably not come
forward until 2015.

President Preiner asked if staff was looking for a consensus. Water Resource Specialist Axtell
responded that was correct.

The Board’s consensus was that the maximum proposed level of RCWD cost-share for the two
scenarios currently under consideration by the MAPE Board be $25,000.

4. Consider Mahtomedi Local Surface Water Management Plan (Kyle Axtell)

Water Resource Specialist Axtell stated in March 2014 the RCWD received the City of Mahtomedi’s
Local Surface Water Management Plan for its review, comment, and approval. The District in its
review of the plan provided several comments, all of which had been addressed in the Plan revision
received in June 2014. He indicated the City’s Plan is now consistent with the District’s 2010
Watershed Management Plan and provided a thorough description of the surface water regulatory
framework within the City, including its relationship with the RCWD. He noted the Plan clearly
identifies the RCWD’s regulatory role in implementing its Rules and enforcing the Wetland
Conservation Act within its portion of the City. He noted the Metropolitan Council in April 2014
completed its review of the Plan and concluded that it was consistent with the City’s Water Resource
Management Plan Policy.

He stated based on staff review of the draft Plan along with the changes made to reflect the District’s
comments the Plan had been determined to be consistent with the District’s Watershed Management
Plan and associated Rules. He recommended the Board approve the Plan as submitted.

Motion by Manager Ogata, seconded by Manager Haake, to approve Resolution 2014-25,
Resolution to Approve Mahtomedi Local Surface Water Management Plan.

ROLL CALL:
Manager Waller – Aye
Manager Haake– Aye
Manager Ogata - Aye
Manager Wagamon – Aye
President Preiner - Aye

Motion carried 5-0.
5. **Consider Budget Fund Transfers (Phil Belfiori)**

District Administrator Belfiori stated based on follow up from Board discussions on the draft 2015 budget and approval of the Targeted Watershed Demonstration (TWD) projects grant agreement and work plan, the proposed transfers and recommended fund balances were being presented to the Board. He noted these transfers were recommended to develop the necessary fund balances/revenues in the funds for the three TWD project funds (60-30 Hanson Park project, 60-31 Mirror pond project and 60-03 Middle Rice Creek Restoration project).

He stated based on the discussions at the workshop use of some of the District’s fund balances is recommended to develop the necessary revenues needed to implement the design and construction costs of the above mentioned projects. The use of some of the District’s fund balance was needed in this situation given the cost of these projects relative to the District annual budget, uncertainty of exactly when these projects would be implemented, and based on the direction from the Board that it does not wish to pursue Bondings or similar revenue options to finance any part of these large scale CIP projects or sharply increase RCWD revenues for construction. He noted over the next several years, the Board intended approach to finance these large projects would require the Board to consider fund balance in both 2015 and future years to ensure the District’s fund balance policy was maintained and appropriate reserves were available.

He noted that the approved 12/7/2011 General Fund Balance policy identified that the District would maintain an unassigned General fund balance of not less than 40% of budgeted operating expenditures.

Manager Haake stated she was not opposed to this but wanted everyone to understand that this might be a Water Management District where everyone would have to pay for the matching funds they were doing. District Administrator Belfiori responded he anticipated they would bring forward a discussion with the Cities related to the specific parts in the future and that the BWSR grant agreement did require the District to ensure operation of these facilities for 25 years.

Manager Waller asked which Cities were involved in the partnership. District Administrator Belfiori responded it involved the City of Roseville, City of St. Anthony, and City of New Brighton.

Manager Waller stated the 1.7 million dollars they were talking about was already money they collected for the previous southwest project. District Administrator Belfiori responded that was correct.

*Motion by Manager Wagamon, seconded by Manager Ogata, to direct and authorize staff to instruct the District’s Accountant to make the adjusting entries noted in the above memorandum dated July 16, 2014 and attached table titled “Fund transfers related to the Targeted Watershed Demonstration project.” Motion carried 5-0.*

6. **Consider Check Register dated 07/23/2014, in the amount of $271,237.34 prepared by HLB Tautges Redpath.**

*Motion by Manager Wagamon, seconded by Manager Ogata, to approve check register dated July 23, 2014, in the amount of $271,237.34, prepared by HLB Tautges Redpath. Motion carried 5-0.*
ITEMS FOR DISCUSSION AND INFORMATION

1. Staff Report
   There were no comments.

2. August Calendar
   District Administrator Belfiori reminded the Board that on August 8 at 8:45 a.m. to 10:00 a.m. was a
tour of Oneka Ridge Bald Eagle Stormwater Reuse project. He stated on August 27 was the BWSR
Board tour.

Office Manager Stasica reminded the Board that the August 27 Board meeting would be held on
Tuesday, August 26 at 9 a.m., Shoreview City Hall Council Chambers.

3. Manager's Update
   There were no comments.

ADJOURNMENT

Motion by Manager Ogata, seconded by Manager Wagamon, to adjourn the meeting at 10:43 a.m. Motion
carried 5-0.