REGULAR MEETING OF THE RCWD BOARD OF MANAGERS
Wednesday, July 9, 2014
Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota

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, Lakes and Stream Specialist Matt Kocian.

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

Visitors:  None.

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

SETTING OF THE AGENDA
District Administrator Belfiori added under the discussion items a new number 2 Middle Rice Creek Restoration Project Process Overview.

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

PRESENTATION: EXEMPLARY ACHIEVEMENT RECOGNITION
District Administrator Belfiori stated Steve Duff the City of Hugo Senior Engineering Technician had served on the Bald Eagle Lake Watershed Stormwater Reuse Project since last fall and Water Resource Specialist Axtell will present the award.

Water Resource Specialist Axtell stated Mr. Duff was not in attendance today, but Mr. Duff had consistently been critical to the ongoing communication between the RCWD Oneka Ridge Golf Course, WSB Engineering and Rachel Contracting.

He noted heavy rains had caused gully erosion in an area that the contractor had recently seeded and bringing the contractor out to repair the area would have been an added expense to the project, but rather than ordering the contractor back out, Mr. Duff repaired the area and laid down new seed by himself while he was already onsite for an inspection, saving the project the extra charges. He recommended the Board recognize Mr. Duff’s contribution to this project and present him with a Certificate of Exemplary Achievement.
Manager Waller stated Mr. Duff was an essential part of the team at the City of Hugo. He was their wetland specialist and he was involved in the permitting area and while he was being awarded for this project, he was one of the key people involved in the permitting program. He was happy Mr. Duff was being awarded recognition for his work.

Motion by Manager Haake, seconded by Manager Waller, to present Steve Duff, City of Hugo Senior Engineering Technician, with a Certificate of Exemplary Achievement for his commitment to the Bald Eagle Lake Watershed Stormwater Reuse Project at Oneka Ridge Golf Course.

Manager Ogata stated he had spent considerable time onsite observing and he could attest to Mr. Duff's constant attendance and doing both the larger and smaller things that needed to be done on the project. He stated this was a well-deserved award.

Manager Waller stated Mr. Duff had an outstanding work ethic and was the reason Hugo's permitting program was so successful.

Motion carried 5-0.

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the June 25, 2014, Board of Managers Regular Meeting. Motion by Manager Wagamon, seconded by Manager Ogata, to approve the minutes as presented. Motion carried 5-0.

CONSENT AGENDA
The following applications have been reviewed by the District Engineer and Staff and will be acted upon without discussion in accordance with the Engineer's Recommendation unless a Manager or the Applicant or another interested person requests opportunity for discussion:

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PERMIT APPLICATIONS REQUIRING BOARD ACTION

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Motion by Manager Ogata, seconded by Manager Wagamon, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD staff and District Engineer's Findings and Recommendations, dated July 2, 2014. Motion carried 5-0.

ANNUAL PUBLIC INFORMATION MEETING ON THE DISTRICT'S STORM WATER POLLUTION PREVENTION PROGRAM (SWPPP) (KYLE AXTELL)
District Administrator Belfiori stated as in past years they were required under law to give the District's Stormwater Pollution Prevention Program information. He stated Water Resource Specialist Axtell would give an overview of the program.

Water Resource Specialist Axtell presented the annual Storm Water Pollution Prevention Program. He stated this was a federally mandated program by USEPA and administered by the Minnesota MPCA. The purpose was to authorize stormwater discharge from the Municipal Separate Storm Sewer System (MS4) to "Water of the State". He noted they were required to develop and implement a Stormwater Pollution Prevention Program (SWPPP) and the new MS4 permit became effective August 1, 2013. He outlined the six minimum control measures including Public Education and
Outreach; Public Participation/Involvement; Illicit Discharge Detection & Elimination; Construction Site Stormwater Runoff; Post-Construction Stormwater Management; and Pollution Prevention/Good Housekeeping. He noted they had two deficiencies in the program and they had until March 17, 2015 for completion. He stated the two deficiencies were the development of an operating procedures and training for the Illicit Discharge Detection & Elimination (IDDE) program and the development of written procedures for prioritization of construction site inspections and frequency of inspection.

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

There were no comments made at Open Mike.

ITEMS REQUIRING BOARD ACTION

1. Consider Project Award for Anoka County Ditch 53-62 Branch 1 repair project (Phil Belfiori)

Administrator Belfiori explained the District received six bids for the work on June 13, 2014 with Dave Perkins Contracting coming in with the lowest bid of $237,951.00. He stated the Engineer’s Cost Estimate was $284,577.00.

District Engineer Deutschman recommended awarding the contract to Dave Perkins Contracting noting the bid came in roughly at $238,000.00. He stated there were still issues pending on the project they were trying to work through. He stated there was a long construction window and the items they were working through included the rare plants found along the ditch alignment. He noted the District Engineer included in the contract language that the project can be modified by the District with no change in the unit cost in the contract documents. He stated one of the ways they anticipate managing the District’s risk was prior to issuing the notice to proceed is the issuance of short report describing how the rare plants would be avoided, which could be submitted to the DNR. He noted the basics of the avoidance strategy are described in a memorandum attached to the award recommendation. Mr. Deutschman noted that the District needs an avoidance strategy which guards against knowingly taking rare plants. He stated that after award, the Engineer would meet with the contractor and Mr. Husveth to look at implementing the avoidance strategy and see if a change order needs to be issued. He stated the 20% contingency was higher for this project than previous projects, because of the many issues involved. He stated they would work with legal counsel to provide information about what the District’s fiscal liability might be if this contract had to be delayed or cancelled. He noted that the Notice to Proceed needs to be issued by September 1, prior to when construction begins.

President Preiner asked if the District had ever worked with this company before and if they were local. District Engineer Deutschman responded he did not believe the District had worked with the contractor in the past and they were a local company. He stated while the District has not done work with them before, but staff at Houston Engineering has worked with them.

Manager Haake stated she wanted to vote against the whole idea of doing it now because there were so many things that still needed to be done, but after they had gone through this and the memorandum that would be attached, she felt more comfortable with it now than before. She thanked Houston Engineering for their work on this. District Engineer Deutschman noted on a construction contract there would always be a risk regardless of the situation. He believed the drop dead date would be September 1 and they would be bringing more information back to the District prior to that date.
President Preiner asked what the rare plants were. Manager Waller stated he did not recall the names of them but there were rare prairie grasses there.

Manager Waller asked on the memorandum would they include both the engineering and legal point of views. District Engineer Deutschman believed legal counsel would review the plan for compliance with the rare plant statute prior to formalizing it.

Manager Ogata asked if they would still check into liability insurance. District Administrator Belfiori responded he had a brief conversation with the insurance company's representative as well as the District Attorneys and generally they stated that every situation is different and that they cannot specifically answer this question until a situation /claim occurs and all the facts are known. The insurance representative did state that generally any public body should go through the process of reviewing information at a necessary level for due diligence if a defense was needed. He believed the motion and the two memorandums would start the process of due diligence level of review by the Board.

Motion by Manager Ogata, seconded by Manager Wagamon, to award the contract to Dave Perkins Contracting in the amount of $237,951.00 and to authorize the District Administrator to issue a notice of award accordingly, based on the District Engineer's memorandum dated July 8, 2014. An additional 20% contingency of the contract amount (i.e., $47,590.00) is established for use by the Administrator for managing the contract to address change orders, should they arise during project construction. The Administrator shall not exceed a total amount of $285,541.00 for the base construction contract and change orders without approval by the Board of Managers. The Administrator shall receive authorization from the Board of Managers, prior to issuing the Notice to Proceed. The Administrator and District Engineer are further directed to take reasonable and necessary steps to manage the Districts liability associated with this contract prior to seeking authorization from the Board to issue the Notice to Proceed. Motion carried 5-0.

2. Consider Check Register dated 7/9/2014 in the amount of $162,986.51, prepared by HLB Tautges Redpath.

Motion by Manager Wagamon, seconded by Manager Ogata, to approve check register dated 7/9/2014, in the amount of $162,986.51, prepared by HLB Tautges Redpath. Motion carried 5-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. Presentation of the Hardwood Creek Restoration Project

District Administrator Belfiori stated this project was basically completed. He stated Lakes and Streams Specialist Kocian would present a summary of the project and the benefits.

Lakes and Stream Specialist Kocian presented and overview of the project along with a history and project goals. He stated the project was about 98 percent complete with some vegetative work still to be done. He indicated the project had been done on time and within budget. He outlined the program highlights and presented photographs of the project. He stated the final steps would be a final payment request, a final grant report to the MPCA, and monitoring which would be ongoing.

Manager Ogata stated the cattle crossing was a good idea. He asked how they got the cattle to cross there though. Lakes and Stream Specialist Kocian responded they picked two areas of the creek were the cows were preferring to cross anyway.

Manager Waller asked if they would fence the actual water way so the cattle could still access it, but keep them out of the field. Lakes and Stream Specialist Kocian responded the cattle had access to water at all times and
swinging gates were put in when the landowner wanted to keep the cattle within one of the two fenced grazing areas. He stated they might want to consider providing a fence along there so the cattle had access to water and access to the grass. He suggested some kind of a temporary fence, which would act better as guidance.

Manager Haake asked when the water came out of the tile was there an apron. Lakes and Streams Specialist Kocian stated rock will be place around the outlet to dissipate the energy and reduce any erosion.

Manager Waller asked if the creek straightening on the Lino Lakes property was done during the construction of Interstate 35E. Lakes and Streams Specialist Kocian responded he believed that was correct.

2. Middle Rice Creek Restoration Project Process Overview

Lakes and Stream Specialist Kocian stated this project would begin this year. He noted many sections had been straightened resulting in an unstable channel. He showed a map showing the area. He stated the reason they were focusing in this particular area was because they believed it was the most unstable section of the creek and contributed the most amount of material downstream. He noted the anticipated timeline would include hiring a project engineer this winter, the engineering plans/permitting would be in winter/spring 2014/2015; hiring the contractor in summer 2015; construction of phase 1 for the fall/winter 2015; planting in spring/summer 2016; construction phase 2 for fall/winter 2016; and project completion in summer/fall 2017. He noted the first step would be to select a project engineer. He recommended the Board form a subcommittee to review engineering proposals and interview the engineers.

District Administrator Belfiori stated he recommended one Manager along with two staff that could conduct the interview in September or October.

Managers Haake and Waller stated they would like to be on the committee.

District Attorney Holtman stated the Managers could be appointed as Board liaison members.

Motion by Manager Wagamon, seconded by President Preiner, to put this item back to items requiring Board action. Motion carried 5-0.

Motion by Manager Ogata, seconded by Manager Wagamon, to appoint Managers Haake and Waller as Board Liaison to a group that will be interviewing candidates for the engineering services for the Middle Rice Creek Restoration Project. Motion carried 5-0.

3. District Engineer’s Update and Timeline

District Engineer Deutschman updated the Board on upcoming projects. Permit Coordinator/Wetland Specialist Nick Tomczik noted that the MBI for Brown’s Preserve required Mr. Hair’s conservation easement. Mr. Hair is independently working with BWSR and the City of Columbus. The intent is to vacate public drainage easements on his plat to record the conservation easement as BSWR will not accept both.

4. Manager’s Update

Manager Haake stated on 7/15 was the metro MAWD meeting at 7:00 p.m.

President Preiner thought the meeting at Hugo went well.

Manager Ogata stated Mr. Gwynn had indicated he would be applying for an opening at BWSR.
ADJOURNMENT

Motion by Manager Ogata, seconded by Manager Wagamon, to adjourn the meeting at 10:06 a.m. Motion carried 5-0.