Minutes

ROLL CALL

Absent: None.

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

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


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

SETTING OF THE AGENDA
Permit Coordinator/Wetland Specialist Nick Tomczik requested the compliance hearing request portion of item 5 under Board action be adjusted in light of Mounds View email this morning to RCWD staff. District Administrator Belfiori requested item 1 under discussion be moved to after the public hearings.

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

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the August 11, 2014, Board of Managers Meeting Workshop Meeting. Motion by Manager Wagamon, seconded by Manager Ogata, to approve the minutes as presented. Motion carried 5-0.
Minutes of the August 13, 2014, Board of Managers Regular Meeting. Motion by Manager Wagamon, seconded by Manager Ogata, to approve the minutes as presented. Motion carried 5-0.

President Preiner recessed the regular meeting.


President Preiner stated the Rice Creek Watershed District Proposed 2015 Budget and Levy including the watershed wide property tax levy and special levies for the Bald Eagle Lake Water Management District, the ACD 15/JD4 Water Management District, ACD 53-62 Water Management District and the ACDE 10-22-32 Water Management District. She stated the purpose of the hearing is to hear comments and take testimony from parties having an interest in the proposed 2015 budget and levy. The levy will include a property tax levy on all properties located within the watershed district. It will also include additional special levies on four water management districts: the Bald Eagle Lake Water Management District, the ACD 15/JD4 Water Management District, the ACD 53-62 Water Management District and the ACD 10-22-32 Water Management District.

She asked Administrator Belfiori to provide a summary of the 2015 budget and levy impact as well as the water management districts.

She noted the hearing is not designed to get into a discussion with Boardmembers and for each person who wants to make comment, they should state his or her name and address for the record.

District Administrator Belfiori highlighted items on the 2015 budget. He noted the Board was proposing a zero percent increase in the levy for 2015.

President Preiner asked if there were any public comments.

Manager Waller stated he wanted to make a comment. He proceeded to the public podium to make comment.

John Waller, 14010 Homestead Avenue, Hugo. He stated he was the Manager for Washington County. He stated he wanted to discuss the taxes. He stated when he came on the Board in 2007 a few managers wanted to reduce the tax levy by 10 percent. He stated he remembered that because Manager Mastell made the motion, no one seconded it and it died. He indicated he made a motion to reduce the levy by 25 percent and that died also, but it made discussion on the budget easier. He stated that year they reduced the budget by 10 percent and by 10 percent the next year so the general tax levy was somewhere in the area of a 3.4 million dollar range. Now, one of the other items they had problems with was the Water Management Plan called for using minor maintenance expenditures from the general tax levy districtwide and it had not been performed for decades. So they created small tax districts in these areas with the first one being created in Bald Eagle Lake; the next one was Anoka County Ditch (ACD) 15/JD4 and then they went onto ACD 10-22-32 and now they are at ACD 53-62. Most recently, they were working on Ramsey County 1 in Mounds View and they were going to do that with ad velorem taxes. He stated when they began creating these taxing districts they began creating taxes for particular
services, which was outlined as to how much it would be this year. But, those folks in that area are still paying
the ad velorem tax rate at the same rate and amount as if they were going to receive minor maintenance from
the plan, so they were really being taxed twice. They are being taxed for ad velorem on a general wide
maintenance and they are being taxed for monies set aside in their district. He believed their ad velorem general
wide taxes for those particular areas needed to be reduced or adjusted so they are not paying twice. He stated
this was particularly a large problem for the City of Hugo. Washington County contributed about $833,056.00 to
the District last year in 2014 and Hugo creates the largest contributor in Washington County with a
contribution of $286,405.00. Hugo is unique in that they decided to become the general maintenance provider
of it as well as the wetland authority. He stated he was paying taxes as a citizen of Hugo for the administration
of services that the watershed district used to provide but is now having the City of Hugo do it. He stated he
was also paying the same rate of taxes on a general wide ad velorem at a district level. He stated he finds himself
paying twice for one set of services and he wanted an adjustment to be made for the City of Hugo. He asked the
Board that the smaller taxing district that were being double taxed that an adjustment be made. He stated he
wanted to focus on what Manager Mastell and he started years ago to reduce the budget. He indicated the
budget has grown to about 4 million dollars to where it was when they started and one way to start that was to
stop the double taxation for services that were not provided by the District or that were specifically taxed for
maintenance. He did not see that happening in the budget and as an individual citizen, he asked the budget be
adjusted or reduced to address the double taxation issue.

There were no further comments made.

President Preiner recessed the public hearing.

**PUBLIC HEARING ON PROPOSED RULE REVISION**

President Preiner stated:

I would like to open the public hearing to receive comments on the proposed amendments to the Rules of
the Rice Creek Watershed District.

On July 23, the Board of Managers authorized the distribution of these proposed amendments for public
comment. We are presently in the middle of a 60-day period for receipt of written comments. The hearing
today is to allow interested members of the public to present comments to the Board directly.

Watershed districts are required by state law to adopt rules to accomplish the purposes of the Watershed
Act. These purposes include, among others, preventing flooding; conserving water for public uses;
controlling erosion and sediment of lakes, streams and wetlands; protecting water quality; and preserving
wetlands for flood control, water quality and other public purposes. The proposed amendments focus
mostly on the District’s stormwater and wetland rules as they apply to land development. They will be
reviewed in a moment by Nick Tomczik, the District’s permit coordinator.

The proposed amendments and a memorandum that explains the proposed changes are available on the
District web site and at the District office. We have also submitted the proposed amendments to the
Minnesota Board of Water and Soil Resources, the Minnesota Department of Transportation, municipalities,
counties and other interested parties in order to receive their input. The Board of Managers encourages
comment today and any further written comment before the end of the comment period on September 23, 2014.

I will now ask Mr. Tomczik to offer further background on this rulemaking action and briefly review the proposed changes. When he has finished his remarks, the floor will be open for comment.

At that time, if you wish to comment, please come forward and state your name and address for the record. We ask that you limit your comments to five minutes. If you have a written copy of your statement, or any other documents that you would like to submit, please give them to Theresa Stasica, our meeting clerk.

During public comment, managers are welcome to ask questions of commenters to clarify their remarks. I also may ask Mr. Tomczik or our engineer to respond to any technical questions raised. I would ask however that if a manager then wishes to speak to the merits of a proposed change, this be reserved for a later time when the board will have the opportunity to discuss the changes.

Permit Coordinator/Wetland Specialist Tomczik reviewed the background on the current rules and complications including references to TP-40 when NOAA had issued Atlas 14; Absence of subdivision trigger for stormwater regulation; limitations of stormwater treatment single family residential; no limit to untreated run-off from public linear projects; design obstacles in capturing residential stormwater to BMPs; potential stormwater rate issues with mass grading; inaccuracy of landscape WMC boundary; limited flexibility in defining site WMC and WMC buffer requirement; cloudiness of maintenance responsibility for crossing public drainage system.

President Preiner asked if there is anyone else who wishes to offer comments. Seeing none, the public hearing is now closed.

President Preiner noted the Board of Managers has provided that the record will remain open until September 23, 2014 for the District to receive written comments on the proposed rules amendments. Anyone who wishes to submit further written comments may send them by mail or email to Mr. Tomczik’s attention. Mr. Tomczik’s contact information, as well as the rule amendment documents, can be obtained by coming to the District office or visiting the District web site at www.ricecreek.org.

President Preiner stated the Board of Managers will carefully consider all of the comments that have been offered today and all comments received in writing. On the basis of comments, we will consider whether and how the proposed revisions should be modified before they are adopted. Thank you for your interest and for coming today.

**PUBLIC HEARING ON MIDDLE RICE CREEK RESTORATION PROJECT**

President Preiner stated:

I would like to welcome everyone this morning and now open our public hearing. The purpose of this hearing is to receive comments from the public on the board of managers’ decision to establish and order the Middle Rice Creek Restoration Project.
This project will involve stabilizing a section of Middle Rice Creek on land owned by Ramsey County Parks within Arden Hills, and possibly additional segments within Shoreview and New Brighton. We would stabilize the creek by reintroducing the natural curvature of the creek and repairing areas where the creek banks have eroded and are contributing sediments to the creek and to Long Lake downstream. The Minnesota Pollution Control Agency has designated both Middle Rice Creek and Long Lake as impaired as they do not meet state water quality standards.

The primary planning tool that our watershed district uses is a 10-year management plan. The plan identifies capital projects to be considered over a 10-year period to help achieve our watershed goals. Our management plan, adopted in 2010, includes the Middle Rice Creek Project with an estimated cost of $1.4 million and a scheduled construction date of 2015. However, before we can proceed to spend our funds on the design or construction of the project, state law requires that the board of managers hold a public hearing, receive public comments and make a judgment that the project is a sound and cost-effective project to help fulfill our water resource goals. That is the purpose of today’s hearing. In accordance with state law, notice of this hearing was published for two successive weeks in the St. Paul Pioneer Press and mailed to all cities within the District and the District’s four counties.

First, I would ask Matt Kocian, our lake and stream specialist, to give a brief presentation of the project and project background. When his remarks are completed, the floor will be open for any members of the public who wish to address the board. At that time, if you wish to comment, please come forward to the podium and state your name and address for the record. If you have a written copy of your statement, or any other documents that you would like to submit, please give them to Theresa Stasica, our meeting clerk.

During public comment, managers are welcome to ask questions of commenters to clarify their remarks. I also may ask Mr. Kocian or our engineer to respond to any technical questions raised. Managers will hold their own comments about the project until the public hearing is closed. At that time, the board will have the opportunity to discuss the project. If the board feels prepared to act at that time, it will consider a resolution to order the project later in today’s agenda.

Lake and Stream Specialist Kocian presented the Middle Rice Creek Restoration project including the location and history of Middle Rice Creek, the current condition, the project goals, the estimated costs, and the timeline. He noted Middle Rice Creek runs from Baldwin Lake into Long Lake. He stated the section they were focusing on was in the TCAAP area in Arden Hills. He indicated Middle Rice Creek was straightened sometime prior to the first aerial photos, taken in the 1930’s, presumably for agricultural purposes. He stated the current condition has caused the creek to down cut and become unstable. He stated the project goals was to reduce downstream sediment transport by approximately 107 tons per year which addresses the Long Lake impairment and it will also improve in-stream habitat for fish and invertebrates which addresses the Middle Rice Creek impairment.

He stated the total project cost was $870,000 of which the District would cover $250,000 with the remainder covered by the grant. He stated the timeline would include the hiring of a project engineer in fall/winter 2014; engineering plans/permitting in winter/spring 2014/2015; hiring of a contractor in summer 2015; construction – phase 1 – in fall/winter 2015; planting in spring/summer 2016; construction – phase 2 – in fall/winter 2016; and project completion in summer/fall 2017.
President Preiner invited anyone who would like to offer comments about the project.

Gary Meehlhause, 7400 Parkview Drive, stated he was also a member of the Mounds View City Council. He stated in the notice he received it stated the RCWD’s share of the project would be approximately $250,000 and would be funded by a general tax levy within the watershed. He asked if there would be a tax levy increase or would they planning no levy increase so the $250,000 was coming out of existing revenues.

President Preiner responded that was correct it was coming out of existing revenues.

President Preiner stated there being no further testimony from the public, I close the public hearing.

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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<th>Location</th>
<th>Plan Type</th>
<th>Recommendation</th>
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<tbody>
<tr>
<td>14-060</td>
<td>Build to Suit, Inc.</td>
<td>Mounds View</td>
<td>Final Site Drainage</td>
<td>CAPROC 6 items</td>
</tr>
<tr>
<td></td>
<td>Manager Haake asked for an explanation of this permit. Technical Specialist/Permit Reviewer Chris Buntjer pointed out where the proposed infiltration basin was located on the site, which overflowed into an existing regional pond and then flowed into a ditch, to Rice Creek, and eventually went to Long Lake. He noted that the infiltration basin would provide volume reduction.</td>
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<td>14-064</td>
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<tr>
<td>14-065</td>
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<td>JSLJ LLC</td>
<td>Roseville</td>
<td>Final Site Drainage</td>
<td>CAPROC 5 items</td>
</tr>
</tbody>
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Manager Haake asked for an explanation of this permit. She asked how the infiltration would happen. Technical Specialist/Permit Reviewer Chris Buntjer responded that a portion of the existing building and parking lot would be torn down and reconstructed with underground infiltration trench, which would overflow north into the existing storm sewer and then to the ditch.
Motion by Manager Ogata, seconded by Manager Waller, 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 August 19, 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.

There were no comments made at Open Mike.

ITEMS REQUIRING BOARD ACTION

1. Consider Ordering the Middle Rice Creek Restoration Project (Phil Belfiori)
   Administrator Belfiori stated as a follow-up from the public hearing, the Resolution 2014-27 would Order the Middle Rice Creek Restoration Project pursuant to Minnesota Statutes Section 103B.251.

   Motion by Manager Haake, seconded by Manager Ogata, to approve Resolution 2014-27, Ordering the Middle Rice Creek Restoration Project Pursuant to Minnesota Statutes §103B.251.

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

   Motion carried 5-0.

2. Consider Final Payment request from Sunram Construction for the Lower Hardwood Creek Restoration and Stabilization Project (Phil Belfiori)
   District Belfiori explained this project had been finalized and completed and it was recommended the final payment to Sunram Construction be paid in the amount of $23,159.00.

   Motion by Manager Ogata, seconded by Manager Wagamon, to approve the final payment request from Sunram Construction for the Lower Hardwood Creek Restoration and Stabilization Project in the amount of $23,159.00.
District Attorney Smith noted in the letter from Mr. Eshenaur he referred to the warranty work would be covered by a "payment bond" and this should be corrected to read a "performance bond".

Motion carried 5-0.

3. Consider Hanson Park Project Task Order for Feasibility and Concept Refinement (Phil Belfiori)

District Administrator Belfiori stated this project was related to the Targeted Watershed Demonstration (TWD) Project grant. He noted this was in a City park located in the City of New Brighton. He stated Houston Engineering, Inc. (HEI) has estimated the total cost of services at $87,000. He indicated the estimated total cost for these services was included in the TWD project budget as defined in the approve Board of Water and Soil Resources (BWSR) work plan and grant agreement and is appropriate for the first phase of the engineering and design process. He recommended the Board approve the HEI request for services with a total cost of $87,000.

Motion by Manager Wagamon, seconded by Manager Ogata, to approve the Houston Engineering request for services with a total cost of $87,000 as defined in the attached HEI Task Order 2014-30 dated August 20, 2014 and authorize the Board President to execute the document.

Manager Waller stated the actual Task Order was for $87,036.00. He asked in this needed to be corrected.

District Engineer Deutschman stated he rounded down the amount and they could live with the rounded down figure.

Motion carried 5-0.

4. Consider Permit 06-005 Request for Permit Renewal (Nick Tomczik)

Permit Coordinator/Wetland Specialist Tomczik stated on July 10, 2008 the RCWD issued a permit for development with an expiration date of January 10, 2010. The applicant subsequently requested three separate extensions of the permit term and in each case, the extension was granted. On May 4, 2014 the applicant again requested an extension, but in this case staff is recommending denial of the request because no earth work has been undertaken at the site; the applicant has expressed potential for changes in the site's development plans; the District having adopted revised Rules that may result in a substantial change in the project when complying with the regulations; and the applicant having been notified of the regulatory process, the need for compliance with the current regulations as well as the potential denial and has not submitted further documentation demonstrating compliance with District regulations. Permit Coordinator/Wetland Specialist Tomczik stated that Administrator Belfiori asked him to mention that the applicant was not adversarial on this recommendation, proposed decision; situation.

Motion by Manager Haake, seconded by Manager Wagamon, to deny the request to extend permit 06-005.
Manager Ogata asked at this point what did the permitee lose. Permit Coordinator/Wetland Specialist Tomczik stated they would lose the fee and presumably engineering costs.

*Motion by Manager Haake for a friendly amendment to include the four reasons for denying the permit extension as noted in the memorandum, Manager Wagamon accepted her amendment.*

*Motion carried 5-0.*

5. **Consider Permit 14-014 Longview Estates Compliance Hearing Request/BMP maintenance obligations (Nick Tomczik)**

Permit Coordinator/Wetland Specialist Tomczik this morning he received communications from the City of Mounds View accepting maintenance responsibility for the BMPs on the site and so the request for compliance hearing was being withdrawn at this time.

Permit Coordinator/Wetland Specialist Tomczik continued that he wished the Board to be aware of the complications that can occur in securing BMP maintenance obligations for any given project. He stated that typically a CAPROC item is present requiring the applicant to demonstrate compliance with formalizing the BMP maintenance obligation. As it is a CAPROC item no work is to begin on site until the CAPROC items are addressed and permit issued by the District. At times this CAPROC item has been moved to stipulation when staff has received some assurance that the formalization of the maintenance is in the works; such as a pending city council meeting. However that does pose some risk for the District in that there are circumstance in which the city council might take issue with the language as written and change it to language which might not be consistent to the District’s interests; meanwhile work may already be underway on site. Recently, city’s appear to have greater interest in taking on maintenance of the BMPs and that arrangement is often in a development agreement with the city. however, the District is not a party to those arrangements and it is not clear that the District’s interests are being met. An applicant’s approach often shifts to see the requirement to be between RCWD and the city when the responsibility remains on the applicant. The applicant can address the issue by simply recording the obligation on the property. The landowner’s responsibility for maintenance can be fulfilled by any third party arrangement; including the maintenance being taken on by the city. He reviewed some of the ways the responsibility could be configured noting some level of risk for the RCWD in some of the arrangements; specifically when the maintenance relies on a drainage and utility easement to which the District is not a party.

Manager Haake stated she believed they should do a workshop on this subject. She stated the City would be benefitting from the development of the property and the additional property taxes.

6. **Consider Check Register dated 8/26/2014, in the amount of $326,779.48, prepared by Redpath and Company.**

*Motion by Manager Wagamon, seconded by Manager Ogata, to approve check register dated 8/26/2014 in the amount of $326,779.49, prepared by Redpath and Company. Motion carried 5-0.*
ITEMS FOR DISCUSSION AND INFORMATION

1. Discuss DNR’s request for additional time/postponement of the Notice to Proceed/construction related to ACD 53-62, Branch 1 repair project.

District Administrator Belfiori stated an email was received from Ms. Daniels of the DNR regarding the RCWD’s strategy for the Rare Plant Strategy Report. She asked for an extension to respond to the report to September 12, 2014, which would mean withdrawing the notice to proceed until after that date. He stated that the engineer and counsel have advised that it would be challenging to do this, which he explained to Ms. Daniels. He stated he had also explained the costly due diligence undertaken and that the Board believed this provided the appropriate process. He stated Ms. Daniels expressed her wish to review this and it was standard protocol within the DNR. He stated the earliest their staff person could look at this was September 2 and she would attempt to expedite this as fast as possible. He asked for the Board’s direction on the response to the DNR’s request, given that the contractor had been retained and the notice to proceed had been issued.

The managers discussed the advice from the district engineer and legal counsel that withdrawing the notice to proceed to the contractor would create complications and uncertainties, and so recommended against doing do. Manager Waller expressed his concern with any step that would leave the District vulnerable to enforcement action by the DNR. Mr. Smith noted that at the same time, the District can take confidence in the committed expertise and extensive effort devoted to the plant avoidance plan, and therefore has good reason to believe that any issues or concerns that might be raised by DNR staff can be effectively addressed within the practical timelines of the contractor’s work schedule. Following discussion, the managers directed Mr. Belfiori to respond to the DNR consistent with Mr. Smith’s comments, informing the DNR that it does not seem prudent to withdraw the notice to proceed, but also reaffirming the District’s willingness to work with the DNR in addressing concerns that it may identify, consistent with the District’s work on the plant avoidance plan.

2. Staff Reports

Permit Coordinator Tomczik updated the Board on the Dellwood Golf Course. In the past, the Board was copied on communication concerning violation at the Dellwood Golf Course which was some time ago. While the concerns remain for District staff, the landowner has secured a wetland delineator and it appears that concerns are beginning to be addressed by the landowner.

He stated he had recent exchanges with Mr. Dan Hair regarding his frustration with the ACOE’s timeline in the completion of their review of RCWD/Hair MBI and approval of the wetland bank. We are waiting on Mr. Hair’s signed and recorded conservation easement so we can package it up with the District’s response to the ACOE for their 45 day review. Mr. Hair has informed us that he has done this but at this time we do not have the document. It is in the interest of both parties to have this resolved.

Permit Coordinator Tomczik also wanted to note manager’s interest in a recent permit that which had some groundwater items. He stated TCAAP is gearing up for their development and there is a good attentiveness to groundwater issues. However our rules have their limits on how your staff enforce or recognize or address ground water and if as a Board there is a larger goal that is not currently recognized
in our rule we should be having that conversation now before we get further down the path. Certainly with the rules we administer I think they represent what you want to achieve with the stormwater management but again it does have its limitations when we look at contaminated property or how those two may interplay.

Manager Haake replied that we know that there are groundwater issues, issues in New Brighton with the Army and that they don’t want to keep that purification plant going and Ramsey County is pushing the Army to continue with it. She thought the Board should have more of a conversation on contaminated groundwater. President Preiner would like to make sure other agencies are not covering those issues so we are not doubling the issue. But we should definitely look at it. Permit Coordinator Tomczik replied that our rules have their limitations as you may have concerns to contamination and I just wanted to be clear with the Board.

4. September Calendar
The calendar dates were reviewed.

5. Manager’s Update
Manager Waller stated he had some comments regarding the letter to the DNR. He stated he would be careful with the word Board consensus as that only reflected the majority of the Board and not everyone. He stated he would caution that any kind of legal action would result in a larger amount of money for the taxpayers that are in that small taxing district for ACD 53-62. President Preiner replied that lets state that it is a majority consensus of the Board.

Manager Haake stated that this is a follow up to what Manager Waller stated when he stood up to speak at the public hearing for the budget. First of all the average price anyone pays on their property taxes in the district is somewhere around $50.00 depending on the whole evaluation. President Preiner stated that is not businesses just homes. Manager Haake replied that is true, just homes because business are putting more burdens on our facilities then a single home. Manager Haake explained this is ad velorem, so everyone pays that because we are looking at the District as a whole 187 square miles of property and making sure that we are all paying attention to water quality and some flood control. But there is also a section in law 429 which is a cost benefit analysis and that is why we have these water management districts. As I have said in the past, my community in Mounds View will be redoing all their roads and stormsewers and we are paying 100% for it, to take care of all the water that we convey and that leaves our community. When we get our ditch repairs, we are repairing ditches and making them water conveyance systems which is the same thing as water stormwater systems. These ditch repairs help the developing cities that are north of the Ramsey County line. The reason we have the water management districts there is because of the cost benefit analysis and those people are going to be the ones that are benefitting from it. And they should pay a little bit more. We also divided the project off so that there is an ad valorem cost on anything to do with water quality. So that is another item we have to do. So I am not endorsing what Manager Waller is saying, I am someone that also wants every bit reduction in taxes but these water management districts are benefiting those affected people and the other developed cities had to pay for it all on their own.
ADJOURNMENT

Motion by Manager Ogata, seconded by Manager Wagamon, to adjourn the meeting at 10:34 a.m. Motion carried 5-0.