MINUTES

REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, August 26, 2015

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

Minutes

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

ROLL CALL
Present: President Patricia Preiner, 1st Vice-President Barbara Haake, 2nd Vice-President John Waller, Secretary Michael J. Bradley, and Treasurer Steve Wagamon.

Absent: None.

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Water Resource Specialist, Kyle Axtell, Lakes and Streams Specialist Matthew Kocian, Technical Specialist/Permit Reviewer Chris Buntjer, Regulatory Assistant Patrick Hughes.

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

Visitors: Mark Casey, Donald Jensen.

SETTING OF THE AGENDA
District Administrator Belfiori indicated there were no additions or changes to the agenda.

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

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the August 10, 2015, Board of Managers Meeting Workshop Meeting. Motion by Manager Wagamon, seconded by Manager Haake, to approve the minutes as presented.

Attorney Smith stated there was discussion on the buffer legislation at the meeting and he wanted to make sure the Board understands that any area that is regulated by the NPDES, MS4 permit is exempt from the buffer legislation which would be a good part of the District and the roles that are taken on are voluntary roles.

Manager Waller indicated he was glad to hear about the NPDES exemption and hoped there was some evidence to point that out. He noted he was not questioning the attorney’s judgment. He also understood that if the volunteered was
not exercised there was a penalty for that and that penalty being that you would not be eligible for grants. Attorney
Smith stated there is a great amount of correspondence with Director of BWSR, Mr. Jaschke, and their view is if they
decide to take on the role and then the obligations are not fulfilled they are subject to placing the funding in jeopardy but
if the role is not taken on the funding would not be in jeopardy.

Attorney Smith stated what is very clear is if they voluntarily take on the role of the Buffer Legislation of the local unit of
government and then do not fulfill the obligations, they would jeopardize their funding. Secondly, no local unit of
government is obligated to take on the role. If they receive State funding under some of those designated programs, there
is less clarity about whether or not they are obligated to assume that local role. The last area is a grey area but the first
two points are rather clear.

President Preiner asked Attorney Smith if he could put that in writing for them so people are clear on that. Attorney
Smith indicated that could be done.

Motion carried 5-0.

Minutes of the August 12, 2015, Board of Managers Regular Meeting. Motion by Manager Wagamon, seconded by
Manager Haake, to approve the minutes as presented.

Manager Waller thought a part of the minutes were missing. He thought he had a chat during the meeting about culverts
and the cost of culverts and how the road authorities have yet done in JD-2 and now they are doing some up in Columbus
and in Blaine assessing the costs to those water management districts instead of having the road authority pay for it and
thus the cost was higher for the folks in the Water Management District than it would be if the Road Authority did it
because the Road Authority has a wider tax base for the costs and is also eligible for other funding’s that the Water
Management District is not necessarily such as the bridge funds. He believed he even asked Attorney Smith if his memory
was correct about how the bridge funds were used and the funding of the Road Authorities and the first ditch that was
cleaned which was Washington County JD2. He would like to have the minutes reviewed.

Attorney Smith stated on line 145 on page 10 there is a small typo. It refers to the total of the slope and should read “toe”
of the slope.

Manager Haake removed her second. Manager Waller asked to have the minutes reviewed and bring back to the next
meeting with the corrections.

Manager Wagamon withdrew his motion.

Minutes of the August 12, 2015, Board of Managers Regular Meeting. Motion by Manager Haake, seconded by
Manager Wagamon, to table the minutes. Motion carried 5-0

PUBLIC HEARING MIRROR POND RESTORATION PROJECT.

President Preiner stated the regular Board meeting is now recessed and the public hearing is opened on the Rice Creek
Watershed District’s proposed ordering of the Mirror Pond project component of Basic Water Management Project 2013-
01.

The purpose of this hearing is to receive comments from the public on the project, proposed to be constructed in
partnership with the City of Saint Anthony.
Before the watershed district can provide funds for this capital improvement, 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 watershed district, as well as the district’s four counties.

First, I would ask Kyle Axtell, our Water Resource Specialist and Project Manager, to give a brief presentation of the proposed project. 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 our meeting clerk.

During public comment, managers are welcome to ask questions of commenters to clarify their remarks. I also may ask Mr. Axtell 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 projects.

President Preiner asked Water Resource Specialist Kyle Axtell to give a brief presentation.

President Preiner asked if she was a resident of St. Anthony she would want to know what the difference would be if this was done versus what she saw with seven inches of rain in three hours. Water Resource Specialist Axtell thought they were confident that adding the storage capacity to Mirror Pond that is not currently there will help reduce the stress on the storm water drainage system downstream from Mirror Pond. They could hold the water there or let it go down and hold it on Foss Road. It is one piece of the puzzle and there are several other pieces needed in order for that entire system to have hundred year capacity. That is part of the petition process they are working through with the City. This is the first project there that is being implemented. It will improve the flood condition down there and certainly for the businesses there if they were to get a hundred year storm they should not see overflow coming in their doors because it will be held in the basin.

Manager Waller asked if the ordinary high water mark has been reduced. Water Resource Specialist Axtell stated the plan is to drop the ordinary high water mark by approximately two feet and the extra excavation within the pond will allow that to happen while still actually increasing the dead pool storage within the basin.

Manager Waller asked if the plan has been approved by the Department of Natural Resources. Water Resource Specialist Axtell stated it has not, there is a regulatory process that they need to go through, similar to Hanson Park. Manager Waller asked if the basis for the reduction in capacity was that the capacity has been increased by the depth of the pond. Water Resource Specialist Axtell indicated that was correct. Manager Waller asked if that was to provide for flood control. Water Resource Specialist Axtell stated that was correct.

Manager Waller stated he would like to hear if the DNR does approve this.

Water Resource Specialist Axtell stated St. Anthony City Manager Mark Casey was at the meeting to answer questions.

President Preiner opened the public hearing at 9:27 a.m.

Water Resource Specialist Axtell stated they had one written comment received from Mr. Jim Ericson, Mounds View City Administrator dated August 10, 2015:
“Today we received a hearing notice from RCWD regarding the Mirror Pond Restoration Project (see attached). The notice indicates that a project concept plan can be reviewed on your website. I searched the website for ‘Mirror Pond’ and all that popped up was the diagram on the back of the notice. Where is Mirror Pond? What is being done and for what purpose?

This project will cost taxpayers within the RCWD area $500,000 yet I don’t see what’s being done or why. If our residents want to know what their tax dollars are funding, it would be helpful to have some information posted.

As you might know and as I may have mentioned previously, the City of Mounds View is going to be dealing with a major stormwater infiltration basin restoration project in the near future, that being the removal of accumulated sediment from Silver View Pond. How do we get our pond project identified as a priority for RCWD and receive grant and watershed district dollars to help improve the water quality before it flows into Rice Creek?

I look forward to your response.”

Water Resource Specialist Axtell stated that Administrator Belfiori and he had prepared a response to Mr. Ericson and that Manager Haake responded to him as well.

President Preiner closed the public hearing at 9:29 a.m.


President Preiner stated the purpose of the hearing is to hear comments and take testimony from parties having an interest in the proposed 2016 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 three water management districts: the Bald Eagle Lake Water Management District, the ACD 15/JD4 Water Management District, and the ACD 53-62 Water Management District.

President Preiner asked Administrator Belfiori to provide a summary of the 2016 budget and levy impact as well as the water management districts.

Administrator Belfiori made a presentation to the public.

President Preiner opened the public hearing at 9:37 a.m.

No one wished to speak.

President Preiner closed the public hearing at 9:38 a.m. and indicated this item will be back on the agenda at the September 9, 2015 meeting.

PERMIT APPLICATIONS REQUIRING BOARD ACTION

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:
CONSENT AGENDA

<table>
<thead>
<tr>
<th>No.</th>
<th>Applicant</th>
<th>Location</th>
<th>Plan Type</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>15-070</td>
<td>Parkside North, LLC</td>
<td>Blaine</td>
<td>Final Site Drainage</td>
<td>CAPROC 6 items</td>
</tr>
<tr>
<td>15-075</td>
<td>Java Capital Partners</td>
<td>Roseville</td>
<td>Final Site Drainage</td>
<td>CAPROC 6 items</td>
</tr>
<tr>
<td>15-078</td>
<td>City of Spring Lake Park</td>
<td>Spring Lake Park</td>
<td>Final Site Drainage, Wetland Alteration</td>
<td>CAPROC 5 items</td>
</tr>
</tbody>
</table>

Permit Coordinator Nick Tomczik introduced the consent agenda and noted that the applicant for 15-070, Parkside North, 3rd Addition is present.

Manager Haake stated on item 15-070 it talks about some of the floodplain and wetland impacts. The area in Blaine, she always worries about filling in wetlands, building homes and then later finding out there are issues with water in basements. She asked what has been done additionally for the additional impervious surface that will be there. Technical Specialist/Permit Reviewer Buntjer stated this was a large residential development, and the adjacent areas to the north and east were previously permitted under 14-061. He reviewed the area with the Board. He believed all of the areas were designed to flow to regional ponds and the additional areas that were not quite planned out yet were to be permitted by additional permitting actions. Areas were identified for this site that could be infiltrated and six different infiltration basins are being proposed and the areas that cannot be infiltrated due to high ground water table are being routed to those ponds.

Manager Haake asked if they have any guarantees that there will not be water infiltration into basements. Permit Coordinator/Wetland Specialist Tomczik stated the District rules say nothing about preventing wet basements. None of the rules suggest that permitted locations are good places to build, that aside, the rules deal with storm water treatment and rate control. The blue locations on the map are infiltration basins and there are some regional ponds. Those features have calculated regional events for rainfall events and the structures to be built must meet a freeboard requirement for their low floor and low entry to those critical events. That is how the potential for flooding is addressed within their rule.

Manager Haake asked where the regional ponds are located. Technical Specialist/Permit Reviewer Buntjer showed on the map where the ponds are located.

Manager Haake stated on Item 15-078, Spring Lake Park, on page 35 it states this drains to Locke Lake so is there another piping system that takes the water all the way to Lock Lake. Permit Coordinator/Wetland Specialist Tomczik stated the resource of concern is Locke Lake and the water is going to travel through numerous pipes and features to get it there. Technical Specialist/Permit Reviewer Buntjer showed a photo of the system where the water will travel.

Manager Waller stated in regards to 15-070 and the number of homes, in the past few years they have had a homes downstream of here that have had issues with flooding and flood control and he saw that the water for this plan is going to go into a private system and he wondered how in the future will this area be affected by the water flow before it reaches the Rice Creek system. Technical Specialist/Permit Reviewer Buntjer stated the District has a rate control requirement at the project boundary and they have looked at that and it has shown there will be no increase in the rate of storm water flow from that site and should not exacerbate any flooding conditions. Manager Waller understood that but in the past that presumption has resulted in numerous issues over the years. He wondered if it would be necessary to make a change in the rules. Technical Specialist/Permit Reviewer Buntjer stated the District has implemented a flood management zone in the south western portion of the District which does ask for discharge rates to be at eighty percent of the existing rate in order to alleviate some of the flooding concerns in the north part of the District. That flood management plan does not extend up into Blaine where the project is.
Manager Bradley stated on page 25 there is a chart that shows as a result of the ponding being put in there will be less discharge after this project then there is today, which leaves open the question of whether the project changes where the water will go. Technical Specialist/Permit Reviewer Buntjer stated the chart indicates there will not be an increase in any direction and that they are not significantly changing the drainage patterns.

Manager Waller thought they should explore the option that is presented about the southwest rule of eighty percent and may be something that a regulatory action could help in the future for other parts of the District. Permit Coordinator/Wetland Specialist Tomczik stated the challenge is the volume of stormwater so although the rate remains the same the volume of water, the continuous flow through the culverts will have a longer duration as it heads through the conveyances, that perhaps is historically different and they have made note of that. He hoped in the near future they will have a grasp of that in greater detail from the expansion of the district wide model and they will be able to propose something in the rule that will address the Board’s concerns.

Manager Waller stated this is not only the concern of the Board, it is also a concern of the public.

President Preiner stated her concern is with the private ditch where the water flows through because if the land owner does not clean their ditch then there are problems. Manager Waller thought they may need some joint agreements with the cities in order to make sure the drainage areas work.

Permit Coordinator Nick Tomczik stated certainly municipalities have an interest in development. If we try and manage the entire volume of stormwater on applicant’s parcel, the stormwater facilities would be enormous, and in his general opinion, no development could take place. He believes he understands the concern once stormwater leaves property, what private ditch might it go into, and how is it being managed. However, District rules do not have any authority or regulation to compel landowners to apply and maintain private drainage system.

Mr. Donald Jensen, representing owner, Parkside North, LLC, stated the site in question is contributing to the previous permit and permitted activities, the previous grading immediately to the east of their project. He reviewed the proposed development plan with the Board and indicated the new homes are significantly higher than the current homes that are there. Technical Specialist/Permit Reviewer Buntjer stated the way that the District deals with some of the volume issues is they require infiltration where it is feasible and so they do not have a mechanism to do volume control on sites where there are C or D soils or high water tables and that may be something to discuss at a workshop.

**Motion by Manager Wagamon, 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 & 20 2015. 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.

**ADDITIONAL ITEMS REQUIRING BOARD ACTION**

1. **Consider Mirror Pond Water Quality & Flood Control Project.**

   Water Resource Specialist Kyle Axtell explained much work has been undertaken over the last year, in consultation with City of Saint Anthony staff, to develop a concept plan for a proposed water quality and flood...
control project within Mirror Pond that is acceptable to both parties. The District and City have settled on the pursuit of the City’s concept plan, noted as Alternative 5 in Houston Engineering’s Mirror Pond Conceptual Design Memorandum. Please remember that this is still only a concept plan and there may be design modifications made in the coming months. For now, we feel we have a concept that meets or exceeds the established goals of the project and is acceptable to both the District and City. Because the City is taking over primary responsibilities for implementing this project, the District’s review of the project plans will be limited to ensuring that the design meets or exceeds the requirements of the BWSR grant agreement and approved work plan.

Water Resource Specialist Kyle Axtell made a presentation to the Board.

Motion by Manager Wagamon, seconded by Manager Waller, to approve Resolution 2015-23, ordering and establishing the Mirror Pond Project Component of Basic Water Management Project 2013-01.

Manager Haake stated this is not a surprise to anyone about how she felt about this because they had an alternate planning in their planning and they were going to be spending $832,000 and it was done by their engineers and totally capable to handle what they were trying to achieve and everything. Then there was other discussion and now this motion has moved to alternate five. With the original option it was decided to put in $832,000 for this project which included $192,000 in ad valorem but they added another $60,000 because they decided they needed to have the bench and a different slope and everything so they added $60,000 to it and brought it up to $892,000. Now the project is coming back with another $500,000 in front of them and decided that could be a split between the District and St. Anthony and that brought that to $310,000 more for Rice Creek. The bottom line is she sees by doing Alternate two they would have been $192,000 ad valorem and they are now at a total of $502,000 that is going ad valorem and they know BWSR is giving them $640,000, Rice Creek is $502,000. She stated it has ended up where they are paying more than was planned and they had an alternate two that would have been sufficient and ended up negotiating which now they are putting more ad valorem on the taxpayers.

ROLL CALL:
Manager Haake – Abstain
Manager Bradley – Aye
Manager Wagamon – Aye
Manager Waller – Aye
Manager Preiner - Aye
Motion carried 4-0-1.

Motion by Manager _Wagamon, seconded by Manager Waller, to approve Resolution 2015-24, authorizing execution of a Cooperative Agreement with the City of Saint Anthony.

Manager Haake repeated her comments from the previous motion. Manager Bradley stated this Resolution relates to a cooperation agreement which would be the same regardless of the scope of the project.
ROLL CALL:
Manager Haake – Abstain
Manager Bradley – Aye
Manager Wagamon – Aye
Manager Waller – Aye
Manager Preiner - Aye
Motion carried 4-0-1.

President Preiner asked why Manager Haake would abstain rather than vote against this. Manager Haake stated she was not happy with the ad valorem funds being used and indicated they needed the Mirror Pond project but was abstaining.

2. Consider Findings of Fact and Record of Decision for the Middle Rice Creek Restoration Project
Environmental Assessment Worksheet (EAW).
Lake and Stream Specialist Matt Kocian stated the Rice Creek Watershed District (RCWD) has prepared and noticed a Mandatory Environmental Assessment Worksheet (EAW) for the Middle Rice Creek Restoration Project. The EAW was required by MN Rule 4410.4430, subparts 26 and 27, as the project will divert more than 500 feet of watercourse, and will change the course and cross-section of a public water. The RCWD served as the project proposer and the Responsible Governmental Unit (RGU) charged with preparing and reviewing the EAW.

Motion by Manager Waller, seconded by Manager Wagamon, to approve Resolution 2015-25, Resolution Adopting Findings of Fact and Negative Declaration on the Need for An Environmental Impact Statement for the Middle Rice Creek Restoration Project.

ROLL CALL:
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
Manager Waller – Aye
Manager Preiner - Aye
Motion carried 5-0.

Lake and Stream Specialist Matt Kocian updated the Board on the upcoming project timeline.

3. Consider Check Register dated 8/26/2015, in the amount of $475,573.55, prepared by Redpath and Company.

Motion by Manager Wagamon, seconded by Manager Bradley, to approve check register dated 8/26/2015, in the amount of $475,573.55, prepared by Redpath and Company. Motion carried 5-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. Schedule Special Board Workshop if Needed to Finalize Preliminary 2016 Budget
Administrator Belfiori stated on page 109 of the packet they usually have a Board Workshop before the regular meeting in September where they would approve their preliminary budget. The workshop will not be held because of Labor Day so the workshop will be held the following Monday, September 14th. He wondered if the Board would like to have any further discussion on the budget. Board consensus was they do not need a meeting to discuss the preliminary budget further.
2. **Staff Report**
   
   There were no comments.

3. **September Calendar**
   
   Administrator Belfiori reviewed the September calendar with the Board.

4. **Manager’s Update**
   
   Manager Waller stated he brought a copy of the Citizen Newspaper for August 20th and on the inside page there is a picture of a large development being proposed. He reviewed the article with the Board. He stated this is an example of the cities working as laboratories for using water. He thought this was something the District could work with the cities on.

   Manager Waller hoped they could put the issue of the ditch culverts and maintenance on a future workshop.

   Manager Haake asked if there was a way they could write a letter to Hugo’s Council and staff thanking them for adopting the water reuse system. Administrator Belfiori stated they could do that.

**ADJOURNMENT**

*Motion by Manager Haake, seconded by Manager Bradley, to adjourn the meeting at 10:28 a.m. Motion carried 5-0.*