RCWD BOARD OF MANAGERS
PUBLIC HEARING ON PROCEEDINGS TO CORRECT THE DRAINAGE SYSTEM RECORD AND FUNCTIONAL ALIGNMENT, DIMENSION AND GRADE OF WASHINGTON COUNTY JUDICIAL DITCHES 5, 6, AND 7

Wednesday, September 21, 2016, 6:30 p.m.
City of Forest Lake Council Chambers
1408 Lake Street South Forest Lake, Minnesota

Approved Minutes

CALL TO ORDER
President Preiner called the meeting to order, a quorum being present, at 6:30 p.m.

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

Absent: None.

Staff Present: Administrator Phil Belfiori; Public Drainage Inspector Tom Schmidt, Office Manager Theresa Stasica.

Consultants: District Engineers Chris Otterness and Nancy Stowe– Houston Engineering (HEI); Drainage Attorney John Kolb-Rinke Noonan.

Visitors: see attached sign-in sheet

President Preiner read the following statement of Watershed District President.

PUBLIC HEARING:
Reestabishment and Correction of Drainage System Records
for Washington County Judicial Ditches 5, 6 and 7 (Minn. Stat. § 103E.101, subd. 4a)
September 21, 2016

This is a public hearing on the reestablishment and correction of Washington County Judicial Ditches 5, 6 and 7 drainage system records under statutes section 103E.101, subdivision 4a. I would like to welcome everyone who has come this evening. Under consideration at this hearing is the reestablishment and correction of the drainage system records for Washington County Judicial Ditches 5,6 and 7 including defining the alignment; cross-section; profile;
hydraulic structure locations, materials, dimensions, and elevations; and the 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 records.

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. Belfiori, the District’s administrator, will introduce a presentation of information related to the District and its function; the District’s management of public drainage systems; the engineer’s review of this public drainage system; and subsequent actions that may occur following these proceedings. Mr. Belfiori will be assisted by Mr. Kolb, the District’s legal counsel, and Mr. Otterness, the District’s engineer.

Following the staff presentation, 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.

Specifically, the Board is interested in:

- Whether it is missing information used to define the public drainage systems
- Whether the recommended alignment, grade or configuration of the ditch creates concerns about loss of drainage benefit
- Whether and how your land drains to the public system
- Whether you have concerns or issues associated with any portion of the public systems crossing your property

Though information will be presented regarding possible, future actions to repair the drainage systems, this hearing is not an appropriate time to discuss issues related to possible, future actions. If such actions are warranted, the Drainage Authority will initiate separate proceedings to discuss those issues. However, if you have an immediate concern, we invite you to contact our drainage inspector, Tom Schmidt. Tom will be available after the hearing and can also be contacted at the District offices.

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 systems as originally constructed or subsequently improved.

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?

The Board Managers introduced themselves to the public.

Manager Bradley arrived at 6:36 p.m.

Administrator Belfiori, Drainage Attorney John Kolb, and District Engineer Chris Otterness gave a presentation of information related to the District and its function; the District’s management of public drainage systems; the engineer’s review of this public drainage system which will define and describe the “as-constructed and subsequently improved” public system; and subsequent actions that may occur following these proceeding.

Manager Bradley asked Mr. Otterness what the series of blue hashmarks represent on JD 7. District Engineer Otterness stated the blue hashmarks are segments of tile that have previously repaired.

At the conclusion of the presentation, President Preiner stated: With that, we are ready to hear from members of the public who wish to comment. Again, please state your name and address as you begin your comments. Is there anyone else who would care to speak? Does anyone have written materials they wish to present?
Commentors:

Mr. Wesley Salverda, 19930 Harrow Ave N., Forest Lake stated he was looking at item 7 where there have been a bunch of improvements made on the north end but it looks like a little stint plugged with tree roots before entering the creek and he wondered if this will be cleaned out. Public Drainage Inspector Schmidt stated the reason why that has not been done to this point was there was some disagreement about the ability to go in and remove trees. This process is establishing the right-of-way that would allow for those trees to be cleared out and the tile repaired.

Mr. Salverda stated the blockage fills the field up with water. District Engineer Otterness stated this process is establishing the record and then once that is done then the Watershed District can consider what steps it needs to take to further maintain the system. There will be more analysis done.

Mr. Pete Larsen, 18655 Forest Blvd, Forest Lake stated what he has heard is alignment with drain tile and record corresponding to that. He wondered what the records are for surface drainage. District Engineer Otterness stated on this drainage system it is almost one hundred percent tile on the system so there is no portion of the drainage system that would be surface drainage other than just the small portion where it outlets into the creek. In this process they are not looking at that as part of the scope of the process for JD 6, on the other two there is a very short distance that is open channel and they looked at that, taken a couple of survey shots but they identified no current issues with those two issues right now and it is a very small portion of the system.

Mr. Larsen indicated he was in JD 7 system and close to branch 2 tile. His property drains to the north and empties into the drain tile on the neighbor’s property. He stated what concerns him is that approximately five years ago he had someone from the Rice Creek Watershed District approach him on his property indicating they were considering realignment which would raise the water level on his surface drainage ditch by over two feet wondering if that would be a problem for him and he never heard anything back. He thought it was important that the records show there should be some reference to the surface water drainage. Public Drainage Inspector Schmidt stated those areas are established public drainage system and does not look at surface drainage of how that water flows to that tile.

District Attorney Kolb reviewed the surface drainage issue presented by the resident. He stated the surface drainage that drains the water from his property to the tile is not part of the public drainage system. It is a part of a drainage system that carries water to the public tile. Mr. Larsen stated if this is not public then it is private and he would be responsible for maintaining that. District Attorney Kolb indicated that was correct. Mr. Larsen asked if a person fills in the ditch downstream and it is not a public system what would be his recourse. District Attorney Kolb indicated he would have multiple avenues of recourse. He reviewed what the property owner could do for recourse.
Mr. Larsen asked who constructed the drain tiles. District Engineer Otterness stated the ditches were typically constructed by a contractor that was hired by the County. Mr. Larsen stated Mike Daninger had a lot of information regarding WJD 7, were you able to get some of this information in locating the drain tile. Manager Waller replied Mike Daninger helped out quite a long time ago. It was the first time we did no. 7. Jim Leroux was on the Board, and at that time Mike was still alive and so he drew the maps.

Mr. Dan Stark, 20010 Jeffrey Ave N, Forest Lake stated he lived within the JD 6 system. He stated when he first moved in a representative from Rice Creek came out and explained how the system worked. At that time, they explained there were some branches through the property that had been abandoned. District Engineer Otterness indicated they were not abandoned but that actually they were not constructed as part of the original system. The RCWD is unsure if there is tile located in that general area but any tiles that are located in that portion of the drainage area going into JD 6 would not be a part of the public system.

Mr. Stark indicated he understood that. He stated he contacted Rice Creek Watershed District two months ago and he does have a pond there and someone was supposed to get back to him about this. He stated he wants to do some improvements on his property and he has cleaned the pond out and is keeping it clean, but he would like to dig it out but wants to get someone’s permission to do this. District Engineer Otterness stated the Rice Creek Watershed District does serve as the local government unit that manages the wetland conservation act within the District so they would be the place he would start with to determine whether or not what he is proposing would require regulatory action, permitting, etc.

District Attorney Kolb explained to Mr. Stark if he wanted to excavate the pond for maintenance issues he would need to contact Mr. Nick Tomczik at the District Office.

President Preiner closed the public comment portion of the hearing.

**Motion by Manager Haake, seconded by Manager Wagamon, move that we 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 September 28, 2016, at 9:00 a.m., or by adjournment to an appropriate time on the Board’s agenda, at which meeting we will consider findings and an order for the proposed reestablishment and correction of the public drainage system records. Motion carried 5-0.**

President Preiner recessed the meeting at 7:35 p.m.