REGULAR MEETING OF THE RCWD BOARD OF MANAGERS
Wednesday, September 28, 2016
Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota

Approved 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-Pres. Barbara Haake, 2nd Vice-Pres. 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, District Technician Samantha Berger,
Technician Lauren Sampedro, Office Manager Theresa Stasica.

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

Visitors: None.

SETTING OF THE AGENDA
District Administrator Belfiori added to the Consent Agenda item 16-095, Bethel University Storm
Sewer Project.

Permit Coordinator/Wetland Specialist Tomczik noted the second item on the Consent Agenda is
listed as 16-080 should be 16-091.

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

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the September 12, 2016, Board of Managers Workshop Meeting. Motion by
Manager Wagamon, seconded by Manager Haake, to approve the minutes.
Further Discussion:

President Preiner requested a change to the workshop minutes on lines 26-28 the minute’s show:
“Board members questioned if the project will address water quality/rate control and if the area near where AWJD4 crosses I35 be affected. MnDOT replied the project will rebuild two bridges and the rest will be mill and overlay.”

President Preiner requested the above to be replaced with:

“President Preiner questioned MnDOT on how they were going to address the drainage problem located in front of Freeway Storage where the untreated runoff from I35 creates flooding in front of the property. This has been occurring since the creation of I35 and she has contacted MnDOT many times asking them to address this problem. MnDOT replied this project will rebuild two bridges and the rest will be mill and overlay. RCWD permit requirements do not require water quality/rate control measures since it is a mill and overlay project. Board members questioned if the area near where AWJD4 crosses I35 will be affected.”

Then-continue with” Permit Coordinator . . . (line 28).

District Attorney Holtman noted he would like to offer a revision to one statement in the September 12 workshop minutes, under the MnDOT discussion. At lines 38-39, it states:

"District Attorney Holtman commented that the District's current resolution delegating certain permit approvals to the Administrator would fit well in this situation."

He indicated the current outstanding resolution delegates authority to District Administrator Phil Belfiori, similar to what he would exercise under the MnDOT permit, but as noted at the workshop, it will not in itself be sufficient, and the Board still will have to engage in a delegation as a part of its action on the permit. He stated he did not want the minutes to suggest that the existing delegation resolution is sufficient. Therefore, he offered the following substitute language:

"District Attorney Holtman noted that in approving a permit for the proposed work, the Board of Managers would need to delegate to the Administrator the authority to approve the subsequent RFCs as permit amendments. He added that there is a current resolution delegating certain permit approval authority to the Administrator that is similar to the delegation needed here and likely will cover a lot of the necessary ground."

The motion was amended by unanimous consent to include the two amendments. Motion carried 5-0.

Minutes of the September 14, 2016, Board of Managers Meeting. Motion by Manager Wagamon, seconded by Manager Haake, to approve the minutes.
Manager Bradley requested a change to the minutes on page 10, line 138, removing “they cannot” to “the Board can”. The sentence should read: “Manager Bradley asked staff previously if this particular buffer requirement could be waived in light of the new buffer law. He was advised that this was not a wetland and this was included within the buffer requirement and therefore the Board can provide a waiver.”

The motion was amended by unanimous consent to include the amendment. Motion carried 5-0.

Minutes of the September 14, 2016, Board of Managers Workshop Meeting. Motion by Manager Wagamon, seconded by Manager Haake, to approve the minutes as presented. Motion carried 5-0.

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>100</td>
<td>16-085 Boston Scientific</td>
<td>Arden Hills</td>
<td>Final Site Drainage</td>
<td>CAPROC 6 items</td>
</tr>
<tr>
<td>101</td>
<td>16-091 City of Lino Lakes</td>
<td>Lino Lakes</td>
<td>Street &amp; Utility Plan</td>
<td>CAPROC 4 items</td>
</tr>
<tr>
<td>102</td>
<td>16-095 Bethel University</td>
<td>Arden Hills</td>
<td>Final Site Drainage</td>
<td>CAPROC 4 items</td>
</tr>
</tbody>
</table>

Permit Coordinator/Wetland Specialist Tomczik noted for item 16-095, Bethel University, the District moved the proof of recording of the maintenance document to a stipulation. This is typically a CAPROC item, due to the emergency nature the District felt it might be best to place it here and receive it later.

Manager Haake asked regarding Item 16-091, the City of Lino Lakes, they are doing some street and utility work underneath with sewer and water going underneath Rice Creek. She wondered how far below the surface will the water and sewer main be placed. District Engineer Otterness explained the City is planning on providing approximately five feet of cover over the pipe below the bottom of the channel.

Manager Haake wondered how far apart the water and sewer will be placed. District Engineer Otterness stated generally the State rules require a ten-foot separation horizontally between the water main and the sanitary or storm sewer main.

Manager Preiner asked if there is a process for the District to issue a permit for emergency work. Permit Coordinator/Wetland Specialist Tomczik noted the District does not have an emergency protocol. The District suggests to the applicant in an emergency situation, to proceed with the
necessary items that need to be done and be mindful of the rules and to obtain a permit as soon as possible.

Water Resource Specialist Axtell stated the issue at Bethel University has been known as a preliminary matter for a couple of months. Bethel University knew there was a blow out in their pipe and recent heavy rainfalls have caused it to become an emergency issue. Bethel University has been working diligently to put a plan together for a permanent fix.

*Motion by Manager Haake, seconded by Manager Bradley, to conditionally approve pending receipt of changes (CAPROC) the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations, dated September 20 and 27, 2016. Motion carried 5-0.*

District Administrator Belfiori commended staff on their hard work on the Bethel University issue.

Permit Coordinator/Wetland Specialist Tomczik stated both projects 16-091 and 16-095 are projects that are triggering Rule G. These type of culvert replacements typically do not raise permitting issues. He thinks it may be reasonable for the Board to delegate permitting authority to the District Administrator for this type of work, which also would allow for rapid District response in emergency situations. He suggests this be brought to a workshop meeting for further discussion.

President Preiner recessed the regular meeting to go into the public hearing.

**PUBLIC HEARING ON PROPOSED WATERSHED MANAGEMENT PLAN (WMP) AMENDMENTS**

President Preiner stated the purpose of the hearing is to hear comments and take testimony from parties having an interest in the proposed minor watershed management plan amendment.

President Preiner asked District Technician Samantha Berger to provide a brief summary of the proposed plan amendment.

District Technician Berger made a presentation to the Board on the proposed minor amendments to the Districts WMP.

President Preiner stated the purpose of the public hearing is to receive comments from interested parties.

There was no one from the public at the meeting who wished to speak.

President Preiner closed the public hearing.

**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 order effecting the reestablishment and correction of the public drainage system records for Washington Judicial Ditch 5, 6, 7.

Administrator Belfiori explained the Board is asked to approve Resolution 2016-22, Findings and Order correcting drainage system records for Washington County Judicial Ditches 5, 6 and 7.

Administrator Belfiori reviewed the report with the Board.

*Motion by Manager Haake, seconded by Manager Waller, to approve Resolution 2016-22, Findings and Order Correcting Drainage System Records for Washington County Judicial Ditches 5, 6 and 7. Ordering:

A. The Board of Managers hereby corrects the drainage system records of WJDs 5, 6 and 7 to reflect the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions and elevations; and right-of-way of the drainage systems as detailed in the Engineer's Historical Review Memorandum dated January 8, 2015 (Exhibit A); the Revised Historical Review Memorandum dated June 13, 2016 (Exhibit B); and the Historical Review Addendum dated August 12, 2016 (Exhibit C).

B. The Board of Managers further directs filing and recording of documents necessary to reflect the reestablishment and correction of the public drainage system records established herein.

**ROLL CALL:**

Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
Manager Waller – Aye
President Preiner – Aye

*Motion carried 5-0.*

District Engineer Deutschman stated when the District Engineer has been preparing the historical memorandum, one of the things they try to do is to be intellectually honest about the accuracy of the as constructed elevation. On the bottom of the page 64, there is a root mean square error which is basically what they believe the accuracy is in terms of that elevation.
2. **Consider release of proposed RCWD rule amendments for public review**

Permit Coordinator/Wetland Specialist Tomczik stated District Staff and consultants have completed revision of the RCWD rules consistent with discussions to date. Staff presented a review of the proposed rule changes, including a few proposed new changes at the September 12, 2016 Board workshop for Board consideration. There was consensus to draft the final proposed rule language and bring forward the rule revision materials to the September 28, 2016 meeting for final Board consideration and authorization to notice for comment. Mr. Tomczik added that a sheet has been distributed to the managers listing additional proposed changes arising from Manager Bradley’s review and also from the District engineer’s clarification of certain submittal matters. These are primarily for clarity and not substantive. He noted in the Resolution the Board should recognize the hand out so it is part of the record.

Manager Bradley thanked staff and Houston Engineering for working with him on this item and correcting items 8 and 9. Manager Haake thanked Manager Bradley for reviewing this item.

President Preiner stated she does have an issue with resurfacing if there is no water quality requirement attached to it. Manager Waller stated they have to remember that some of these things were done before the rules were put into place. He stated these would be grandfathered in and it would be difficult to change those until the applicant did something significant to change their situation.

District Attorney Holtman stated the Board has regulatory authority to require correction of past errors in the process of doing a new project. The proposed change to eliminate the requirement to provide water quality treatment for reconstruction of public roadways isn’t based on lack of District authority, it’s an engineering feasibility issue based on the experience and judgment of District staff and the District engineer that, in such situations, substantial public resources are spent trying to retrofit meaningful water quality practices into limited right-of-way and that the effort rarely is successful.

District Attorney Holtman suggested in the Therefore Be It Resolved to insert “that the District Administrator shall distribute the proposed rule documents with further revisions as distributed in writing at the September 28, 2016 meeting in Accordance with Minnesota Statutes §§103D.341, ...”

**Motion by Manager Bradley, seconded by Manager Waller, to approve Resolution 2016-23, Directing Distribution of Proposed Rule Revisions and Notice of Public Hearing including The District Administrator distributing the proposed Rule documents with further revisions as distributed in writing at the September 28, 2016 meeting in Accordance with Minnesota Statutes §§103D.341 and otherwise make the documents available for public review and comment for at least 45 days and further that in accordance with all legal requirements the District Administrator give notice of a public**
hearing on the proposed rules and regulations to be held in conjunction with the regular meeting of the Board on October 26, 2016.

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

3. Consider HEI task order for Lower Rice Creek Sediment Source Management.
District Administrator Belfiori stated surveys conducted by Houston Engineering (HEI) indicate that. Further, HEI found that sedimentation rates from eroding streambanks located in lower Rice Creek have increased in recent years. The Board directed HEI to investigate channel stability in Lower Rice Creek and develop sediment source estimates and management recommendations.

Motion by Manager Waller, seconded by Manager Wagamon, to authorize the Board President to execute HEI Task Order 2016-13, Lower Rice Creek Sediment Source Management, in the amount not to exceed $49,745.00.

Manager Bradley asked for clarification on page 184 regarding the first bullet point. District Engineer Deutschman stated Q10 is the ten-year flood, Q25 is the twenty-five-year flood and Q50 is the fifty-year flood. He stated what the task order is aimed at is trying to get information ultimately in front of the Board about the best approach for the long term management of Locke Lake. What the last task order did is identifies sediment sources; this moves toward working concept designs.

Manager Waller stated as he understood what the first project has done already is identify what the problem was so he was surprised to see so many different options to look at on the study purposes and thought it had been narrowed down already. He wondered why there were five options. District Engineer Deutschman stated there were five options because a piece of the pie they are missing yet is although primary sources of sediment have been identified, they may be also the most expensive sources to fix. This further review will consider cost-effectiveness, which may result in the District finding certain other options to be cost-effective based on dollars per pound of reduction.

Motion carried 5-0.

4. Consider City of Saint Anthony Pay Request #1 for Mirror Lake Improvements Project.
Water Resource Specialist Axtell stated on August 25, 2015 the District and City of Saint Anthony (City) entered into a cooperative agreement to implement the Mirror Lake Improvements Project. The City has worked swiftly to get the project underway as
outlined in the agreement. The first reimbursement request of $113,017.75 was received on 09-15-2016 for engineering expenses incurred through June 2016. A Notice to Proceed was issued to Sunram Construction, Inc. on 09-19-2016, fulfilling the City’s prerequisites for reimbursement within the cooperative agreement.

Water Resource Specialist Axtell indicated future reimbursement requests will include both engineering and construction expenses. Staff is diligently tracking the expenses associated with the project to ensure compliance with the cooperative agreement and that the fiscal arrangement between the two partners – including use of BWSR Clean Water Fund grant dollars is carried out as intended.

**Motion by Manager Bradley, seconded by Manager Wagamon, to approve the City of Saint Anthony’s reimbursement request pursuant to the August 25, 2015 Cooperative Agreement in the amount of $113,017.75. Motion carried 5-0.**

5. **Consider Check Register dated September 28, 2016, in the amount of $592,448.07, prepared by Redpath and Company.**

*Motion by Manager Wagamon, seconded by Manager Haake, to approve check register dated September 28, 2016, in the amount of $592,448.07, prepared by Redpath and Company. Motion carried 5-0.*

**ITEMS FOR DISCUSSION AND INFORMATION**

1. **Staff Reports.**

There were no comments.

2. **October Calendar**

There were no comments.

3. **Manager’s Update**

Manager Waller stated on September 27, 2016, he and Tom Schmidt met in Forest Lake with the City Administrator, City Engineer, the head of the Public Works Department, Susan Moore and her consultant. Susan Moore presented an estimate of around $6,000 for her work. The City offered to pay half of it if the District paid the other half. He stated as he and Mr. Schmidt left the meeting and proceeded down Hwy 61 they saw a heavy excavating equipment driving over Branch #1, Lateral #1 of AWJD #4, which was transferred to the City of Forest Lake in 2006 and is the ultimate outlet for Susan Moore’s property. He noted that while the District has approved the plan for the runway extension and that the District had transferred authority over this portion of AWJD #4, he was not in favor of giving up authority because the cities are not, in his opinions, staffed with the specialists necessary for operating and maintain this type of drainage system (drain tile). He felt that, as the quality of staff has improved immensely in the district, it would be better left under the authority and supervision of RCWD
Manager Waller stated after the meeting in Forest Lake the District had he talked to a citizen who has surface drainage and was told he wanted to fix his portion of the private ditch so he could access the public system. As he left the meeting he realized they have had a lot of these types of issues with surface drainage problems and they put money in. He wondered if it is possible if they could expand the program they have for water quality to include some flood or surface drainage issues. They grant money for raingardens but those do not necessarily fit for the upper part of the watershed district because the ditches are larger and often times when the systems were put in on the properties they were larger pieces of property and a different point of view about it. He wondered if they could have a grant program to expand that money to include more than raingardens.

President Preiner thought if the Board agreed they could bring it to a workshop meeting to discuss. District Technician Berger stated every year they review the Cost Share Program and at this point in time they will be reviewing it at the next CAC meeting, scheduled for Wednesday and can be discussed then if the Board wants them to. She thought this is a good item that can be discussed. The Board did not have a problem with the CAC discussing this item.

ADJOURNMENT

Motion by Manager Haake, seconded by Manager Bradley, to adjourn the meeting at 9:57 a.m. Motion carried 5-0.