REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Monday, November 4, 2019

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

Approved Minutes

CALL TO ORDER
President Patricia 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, and Secretary Michael Bradley,
Absent: Treasurer Steven Wagamon (with prior notice)
Staff Present: District Administrator Nick Tomczik, Project Manager Kyle Axtell, Office Manager Theresa Stasica, and Beth Carreno, Communications and Outreach Coordinator
Consultants: District Engineer Chris Otterness from Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners
Visitors: Bryan Bear, City of Hugo

SETTING OF THE AGENDA
Motion by Manager Haake, seconded by Manager Waller, to approve the agenda as presented. Motion carried 4-0.

READING OF THE MINUTES AND THEIR APPROVAL
Minutes of the October 23, 2019 Board of Managers Meeting. Motion by Manager Bradley, seconded by Manager Haake, to approve the minutes as presented. Motion carried 4-0.
CONSENT AGENDA

The following items will be acted upon without discussion in accordance with the staff recommendation and associated documentation unless a Manager or another interested person requests opportunity for discussion:

Table of Contents-Permit Applications Requiring Board Action

<table>
<thead>
<tr>
<th>No.</th>
<th>Applicant</th>
<th>Location</th>
<th>Plan Type</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>19-013</td>
<td>R.L. Companies, LLC</td>
<td>Lino Lakes</td>
<td>Final Site Drainage Plan</td>
<td>CAPROC 6 items</td>
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<td>DM Land LLC</td>
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<td>Fracout Properties LLC</td>
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<td>Gregory Ganyo</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19-084</td>
<td>Don Hawkins</td>
<td>Centerville</td>
<td>Final Site Drainage Plan</td>
<td>CAPROC 6 items</td>
</tr>
<tr>
<td>19-092</td>
<td>Roseville Area Schools ISD 623</td>
<td>Roseville</td>
<td>Final Site Drainage Plan</td>
<td>CAPROC 4 items</td>
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<tr>
<td></td>
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<td></td>
<td>Floodplain Alteration</td>
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</table>

It was moved by Manager Haake seconded by Manager Bradley, to approve the Consent Agenda item for permits 19-013, 19-084, and 19-092 as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations dated October 28, 2019. Motion carried 4-0.

PUBLIC HEARING: 2020 RCWD WATERSHED MANAGEMENT PLAN

President Preiner read the following statement:

The regular Board meeting is now recessed, and the public hearing is opened on the Rice Creek Watershed District’s 2020 Watershed Management Plan.

The purpose of this hearing is to receive comments from parties having an interest in the Rice creek Watershed District’s 2020 Watershed Management Plan, pursuant to Minnesota Statutes 103B.231, subdivision 7(c).

Notice of this hearing was published in the St. Paul Pioneer Press, e-mailed to all plan review agencies within the watershed district, and posted on the District’s website.

First, I would ask Kyle Axtell, our Project Manager, to give a brief history and summary of the watershed management plan update process. When his remarks are completed, the floor will be open for any members of the public who wish to address the board regarding the watershed management plan. 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. Today’s hearing is intended to record additional comments on the
Project Manager Axtell gave a brief overview of the 2020 Watershed Management Plan (WMP) including the measurable goals, the capital improvement program, anticipated costs and funding options. He gave an overview of the process to develop the WMP and summarized the comments received on the plan. He noted that while a number of the comments resulted in proposed changes, many of the comments addressed District rule administration and the WMP is not the correct vehicle for discussing rule language. He stated that the next step is for the Plan to be released for BWSR review and the final plan should be adopted by the Board sometime on or before March 25, 2019. He stated that the District had a very productive discussion with the City of Hugo last week and noted that they are here to provide some additional comments.

President Preiner invited anyone who would like to offer comments about the 2020 Watershed Management Plan (WMP) to the podium.

Bryan Bear, City of Hugo, stated that he appreciates the process that this Board has used to develop their WMP and noted that it has also been pretty good about collecting input and feedback. He stated that he appreciates the fact that the Board has been responsive to the feedback as well. He noted that the Hugo City Council had submitted a total of 26 comments on the WMP but he would like to focus on 3 of them. He stated that the first is comment #12, related to land use section 3.2.4.2. He stated that Hugo feels that land use doesn’t have a place in a WMP and land use does not affect run-off or flooding. He stated that the policies in this section are not related to land use and would like the Board to change or delete this section. He stated that the second comment is on #17 regarding section 3.2.6.2 on funding distribution. He stated that this section is related to the conversation the Board has been having regarding the pending legislation. He stated that the City of Hugo discussed the legislation last spring and has decided not to support this legislation. He stated that they felt this discussion should happen in the WMP and not at the State legislation and asked the Board to include a section regarding geographic equity into the WMP. He stated that the third comment he would like to highlight is a combination of #18 and #23 that are similar, regarding permitting and enforcement from sections 3.2.8.3 and 4.2.13. He stated that he believes there should be a discussion about the local government unit (LGU) responsibility. He stated that the Districts program for permitting and regulatory management is getting to be pretty expensive. He stated that they are not suggesting an immediate change, but believe the District should take a look and evaluate it to determine if there is a more efficient way of implementing rules. In summary, he noted that their expectation is that #12 will be eliminated or changed significantly with regard to land use. He stated that they believe #17 is a significant issue for the District and should be carefully considered before the WMP is adopted. He stated that their final comments were related to LGU and their hope is that this will initiate a longer-term discussion about this program and whether there should be a different way of funding.
Manager Bradley thanked Mr. Bear for coming today and noted that the Board is trying to work as collaboratively as possible. He stated that at the last Board meeting, the language in response to #17 was amended.

Mr. Bear stated that he feels the language is very vague and they would like to see some specificity and some actual guidelines in the policy. He stated that he feels this is the time for the Board to create this policy that provides direction and includes a geographic component.

Manager Bradley stated that he feels there are two ways to address this concern. He stated that the first way would be to arbitrarily donate money into three pots, or take a careful look at whether the needs of those three pots have been met. He stated that the needs will change every year which is why he felt this issue should be addressed by ensuring that the District is responsive to “needs” rather than just assuring a certain amount of money is in each pot. He read aloud the language that was adopted at the October 23, 2019 meeting, “RCWD is committed to treating its LGUs, County partners, and landowners equitably, addressing needs and concerns in a respectful and responsive manner. When a new concern and/or request for assistance is received, RCWD will evaluate the issue considering the urgency of the problem, the nature of the District’s responsibility, and the capacity of the District to respond, including available funding and staffing considerations. In all cases, the matter will be fairly considered and evaluated.”

Manager Bradley suggested that a conversation about land use be brought back to a future meeting. He stated that the Board understands that they cannot do anything that affects land use. He stated that perhaps a language change could be made to alleviate their concern because it was never the intent of the District to do anything about land use. He noted that the Board has already agreed to take a look at the rules and want to keep the rules effective and efficient. He reiterated his appreciation for Mr. Bear’s leadership and participation in this process.

Project Manager Axtell stated that staff has a plan to deal with the language in the land use chapter to make it closer to the intent of the District.

Manager Waller stated that at the last meeting he voted in support of the changes to be in the majority, but commented that he did not agree with Manager Bradley’s language regarding #17. He stated that he is unsure if he should remain at the dais when sharing additional comments or go to the podium.

President Preiner asked if he was representing himself or the Board and if his comments were as a citizen, he should go to the podium.

John Waller, 14010 Homestead Avenue, Hugo, stated that he disagrees with the program titled “Water Knows No Boundaries” because the WMP does designate boundaries.

President Preiner asked which comments Mr. Waller was referring to.
Mr. Waller stated that he is referring to comments #17, #18, and #23 which refer to distribution of money and geographical areas. He stated that after the last meeting he feels there was no substantive change to provide the distribution of money as there had been in 1992. He stated that at that time, Ramsey County complained about money being spent in Anoka County. He stated that he agrees with Mr. Bear that it would be best to solve this issue without going to the legislature. He noted that the proposed bills are very widely supported in Washington County and presented signatures of 1,157 individuals that have shown their support for the proposed legislation. He stated that the citizens of Washington County wish to see the funding that is taxed from them be spent in their County. He stated that the amended language is nice, but explained that he feels there is no substantive change. He stated that ensuring that residents of the County that pay into the watershed benefit directly from its activities has not yet been accomplished in this plan which he feels really needs to be looked at. He stated that in 1992 things were reconsidered when Ramsey County came forward and noted that he believes that the District has arrived at that junction where change is once again needed.

President Preiner asked that a copy of the petition be submitted so it is on the record. She stated that she would like to know what people signed and asked if they understood that what they were signing could mean higher taxes.

Mr. Waller stated that higher taxes are always possible and feels the people who signed understood that. He stated that he feels that the citizens who signed would like those tax dollars to stay within their communities and focus on their particular problems.

There being no further testimony from the public, 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.

None.

ITEMS REQUIRING BOARD ACTION

   District Administrator Tomczik stated that at the workshop, staff provided the Board with the MAWD agenda for their upcoming annual meeting. He stated that the Board gave some feedback to staff and now they are asking for Board action on that direction. He noted that this item was a new handout at today’s meeting and that the materials were available to the public.
Communications and Outreach Coordinator Beth Carreño reviewed the agenda and resolutions that the District received for the MAWD annual meeting. She explained that the task items for the workshop were to discuss the 13 resolutions and come to an agreement on the Board position as well as identify two delegates and an alternate for the MAWD annual meeting. She explained that the response lists the resolution and the RCWD position to support or oppose and comments based on the discussion from the workshop. She stated that also in the MAWD packet was a proposed 2020 budget and an updated strategic plan and noted that the Board is welcome to give any feedback to staff on those items as well.

**Motion by Manager Haake, seconded by President Preiner, to designate Manager Bradley and Manager Waller as the delegates to the 2019 MAWD annual meeting on December 6, 2019, with Manager Wagamon as the alternate. Motion carried 4-0.**

**Motion by Manager Haake, seconded by President Preiner, to instruct the delegates to vote in accordance with the stated RCWD positions related to the thirteen resolutions and other matters on the agenda at the MAWD 2019 meeting.**

District Administrator Tomczik stated that for clarity, the “other matters” referenced in the motion language are the 2020 budget and the strategic plan.

Manager Haake stated that she has only reviewed the resolutions and not the other documents, so she would like to keep things clear in her motion that it is just regarding the 13 resolutions.

Manager Bradley noted that the motion, as presented would sweep in any future actions by this Board on those other two items.

District Administrator Tomczik stated that staff has taken a generalized look at the budget and there were some sweeping changes in 2016 when the new executive director came on board, but there were not large changes in the proposed budget amounts and noted that the changes were more attributable to inflationary costs and staff did not find anything that stuck out as concerning.

Communications and Outreach Coordinator Beth Carreño stated that the real difference in the strategic plan seems to be in the appendices and the additional documents they have included in the strategic plan.

**Manager Haake withdrew her motion. President Preiner withdrew her second.**

**Motion by Manager Haake, seconded by President Preiner, to instruct the delegates to vote in accordance with the stated RCWD positions related to the thirteen resolutions on the agenda at the MAWD 2019 meeting.**
Manager Waller noted that in the past, the Board has gone through each individual resolution so the public was aware of what was supported or opposed, which does not appear to be what the Board is doing today. He stated that he, as an individual, disagrees with resolution #6 but as a delegate is bound by the majority of the Board.

Communications and Outreach Coordinator Beth Carreño stated that she wasn’t sure of the protocol in this situation and noted that she would be happy to read the resolutions aloud.

Manager Waller stated that he is asking that in the record of the minutes, the resolutions and the decisions be recorded. He stated that he believes all but resolution #6 were voted on 5-0.

Manager Haake stated that if the resolution information is available on the website, she does not think it needs to be read aloud.

President Preiner suggested that next year staff go back to reading aloud the resolutions and the District responses. She stated that Manager Waller’s objection is on the record.

Motion carried 4-0.

Manager Haake stated that because staff has taken a look at the proposed 2020 MAWD budget, she has no problem with that. She stated that with regard to the strategic plan, she has not read it and cannot vote on it.

Communications and Outreach Coordinator Beth Carreño reiterated that the changes in the strategic plan appear to be the supporting documentation and the plan itself has not changed substantially.

Motion by Manager Haake, seconded by President Preiner, to direct the delegates to vote yes on the proposed 2020 MAWD budget at the annual MAWD meeting.

Manager Waller stated that he would prefer that the delegates be allowed to use their best judgement and not be bound.
Roll call vote:

Manager Waller – Nay
Manager Bradley – Nay
Manager Haake – Nay
Manager Wagamon – Absent
President Preiner – Nay

Motion failed 4-0.

2. Consider City of Fridley Civic Center Complex Project pay request, Metropolitan Council grant and RCWD cost share.

Project Manager Axtell stated that he is here on behalf of District Technician Lauren Sampedro since he was already going to be in attendance at today’s meeting. He explained that this pay request is for cost share funding for the City of Fridley Civic Center redevelopment project. He noted that the only thing yet to be completed is the installation of some educational signage.

Motion by Manager Bradley seconded by Manager Waller, to approve payment of $206,100.00 to the City of Fridley as a 90% payment for this project in accordance with the Met. Council grant agreement and MOA between the City and District. Motion carried 4-0.

3. Consider November 27, 2019 Check Register – Resolution Authorizing Treasurer Approval.

District Administrator Tomczik explained that the Board only holds one meeting in November, yet financial obligations continue, so staff is looking for authorization for a check register later this month with a limitation of $375,000 for operating expenses and $150,000 for surety returns.

Motion by Manager Haake, seconded by Manager Bradley, to adopt Resolution 2019-28: Authorization For Payment Of November 2019 Check Register.

ROLL CALL:
Manager Waller – Aye
Manager Haake – Aye
Manager Bradley – Aye
Manager Wagamon – Absent
President Preiner – Aye

Motion carried 4-0.
4. Consider League of Minnesota Cities Liability Coverage Waiver Form.
   District Administrator Tomczik stated that that this is another issue that comes before the Board annually; to consider waving the statutory limits of liability.

   District Attorney Smith clarified that this is not simply a waiver, but is a waiver to the limits of the District’s policy.

   Motion by Manager Haake, seconded by Manager Bradley, to WAIVE the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04 to the extent of the limits of the liability coverage obtained from LMCIT. Motion carried 4-0.

5. Consider Check Register dated November 4, 2019, in the amount of $46,090.35 prepared by Redpath and Company.

   Motion by Manager Haake, seconded by Manager Bradley, to approve check register dated November 4, 2019, in the amount of $46,090.35, prepared by Redpath and Company. Motion carried 4-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. November/December Calendar.
   Manager Haake stated that she will attend the CAC meeting on November 6, 2019.

2. Managers Update.
   District Administrator Tomczik noted that the Permit Coordinator/Wetland Specialist position has been posted internally and there was one candidate, Patrick Hughes who was interviewed by himself and Houston Engineering. He stated that the interviewee was successful and an offer intended to be extended to Mr. Hughes to fill this position.

   President Preiner asked if Mr. Hughes former position will now need to be posted.

   District Administrator Tomczik stated that his position will need to be posted.

   Manager Bradley stated that he attended the annual Bald Eagle Lake Area association meeting. He noted that Matt Kocian attended and did a very nice job with his presentation. He noted that the association received authorization from their due paying members to allow them to use funds not spent on weed control this year on matching grants for water quality programs such as rain gardens or rip rap.

ADJOURNMENT

   Motion by Manager Haake, seconded by Manager Bradley, to adjourn the meeting at 10:02 a.m. Motion carried 4-0.