



REGULAR MEETING OF THE RCWD BOARD OF MANAGERS
Wednesday, February 14, 2024

Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota
and
Meeting also conducted by alternative means
(teleconference or video-teleconference) from remote locations

Minutes

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CALL TO ORDER

1st Vice-Pres. John Waller called the meeting to order, a quorum being present, at 9:05 a.m.

ROLL CALL

Present: 1st Vice-Pres. John Waller, 2nd Vice-Pres. Steve Wagamon and Treasurer Marcie Weinandt

Absent: President Michael Bradley and Secretary Jess Robertson (with prior notice)

Staff Present: District Administrator Nick Tomczik, Regulatory Manager Patrick Hughes, Watershed Technician/Inspector Will Roach, Outreach & Grant Technician Molly Nelson, Lake & Stream Manager Matt Kocian, Inspection Coordinator Terrence Chastan-Davis; Drainage & Facilities Manager Ashlee Ricci, and Office Manager Theresa Stasica

Consultants: District Engineer Chris Otterness from Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners

Visitors: Dale Reed-White Bear Township, Terri O’Connell-Citizens Advisory Committee, Nick Neylon (video-conference); Lucas Miller (video-conference)

SETTING OF THE AGENDA

District Administrator Tomczik requested the following additions to the agenda:

- 2. Common Carp Program – Annual Contracts
- 5. Permit and Administrative Fee Schedule Amendment
- 6. Centerville Inspection Joint Power Agreement

Motion by Manager Weinandt, seconded by Manager Wagamon, to approve the agenda as revised. Motion carried 3-0.

Motion by Manager Waller, seconded by Manager Weinandt, to appoint Manager Wagamon to serve as Pro-Tem Secretary in the absence of Manager Robertson. Motion carried 3-0.

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BOARD OF MANAGERS	Jess Robertson Anoka County	Steven P. Wagamon Anoka County	Michael J. Bradley Ramsey County	Marcie Weinandt Ramsey County	John J. Waller Washington County
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READING OF THE MINUTES AND THEIR APPROVAL

Minutes of the January 24, 2024 Board of Managers Regular Meeting. Motion by *Manager Wagamon*, seconded by *Manager Weinandt*, to approve the minutes as presented. Motion carried 3-0.

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

No.	Applicant	Location	Plan Type	Recommendation
24-002	City of Blaine	Blaine	Final Site Drainage	CAPROC 3 items
24-003	Wynco Properties, LLC	Forest Lake	Final Site Drainage Wetland Alteration	CAPROC 7 items

It was moved by Manager Waller and seconded by Manager Wagamon, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations, dated January 29, 2024, and February 6, 2024, respectively. Motion carried 3-0.

Water Quality Grant Program Cost Share Application

No.	Applicant	Location	Project Type	Eligible Cost	Pollutant Reduction	Funding Recommendation
R24-001	James Julkowski	Shoreview	Shoreline stabilization & Restoration	\$21,983.75	Volume: 61% TSS: 97% TP: 60%	50% cost share of \$7,500 not to exceed 50%; or \$7,500 whichever cost is lower

It was moved by Manager Weinandt, and seconded by Manager Wagamon, to approve the Water Quality Grant consent agenda as outlined in the above table, in accordance with RCWD Staff’s Recommendation based on established program guidelines, dated February 8, 2024. Motion carried 3-0.

PUBLIC HEARING ON STORMWATER MANAGEMENT GRANT REQUESTS FROM CITIES OF ARDEN HILLS, FRIDLEY, NEW BRIGHTON, WHITE BEAR TOWNSHIP, AND WILLERNIE

1st Vice-Pres. John Waller recessed the regular Board meeting and opened the public hearing on the Rice Creek Watershed District’s proposed selection of projects for funding through the District’s Stormwater Management Grant Program.

1st Vice-Pres. John Waller stated the purpose of this hearing is to receive comments from the public on the projects that the Board is considering for cost-share assistance in the Cities of Arden Hills, Fridley, New Brighton, White Bear Township, and Willernie. Before the watershed district can provide funds for the

66 capital work of these applicants, state law requires that the Board of Managers hold a public hearing,
67 receive public comments and make a judgment that each selected project is a sound and cost-effective
68 project to help fulfill our water resource goals.

69
70 1st Vice-Pres. John Waller turned the meeting over to Watershed Technician/Inspector Roach.
71

72 Watershed Technician/Inspector Roach reviewed the 2024 Stormwater Management Grant Program goals
73 and guidelines. He noted the District received five applications from five different applicants for funding
74 through its 2024 Stormwater Management Grant program. He explained that applications were due on
75 December 21, 2023, and the District received 5 eligible applications requesting a total of \$375,800 and
76 noted that there is a total of \$300,000 available for project cost-sharing with an applicant 50% match
77 funding requirement.

78
79 Watershed Technician/Inspector Roach provided a presentation and answered questions regarding the
80 five applications:

81 City of Arden Hills – 2024 PMP Street & Utility Improvements

82 This project proposes to install 9 sump manhole with SAFL baffles to replace the final storm
83 sewer infrastructure prior to an outfall. Sumps do not directly discharge into a resource of
84 concern, but eventually outlets to Valentine Lake. The total project is \$189,300 and the
85 request is for \$94,650.

86
87 City of Fridley – City of Fridley 2024 Street Rehab Project

88 This project proposes to install a hydrodynamic device at Channel Road to capture sediment and
89 pollutants from untreated stormwater runoff prior to discharging to Rice Creek. The total
90 project cost is \$60,000 and the request is for \$30,000.

91
92 City of New Brighton – 4th St BW Storm Sewer Improvements

93 This project proposes to install a second trunk storm sewer line on 4th Street to reduce street
94 flooding and the potential for adjacent property damage. The total project cost is \$851,994
95 and the request is for \$100,000.

96
97 White Bear Township – Bellaire Ave Stormwater Pond

98 This project proposes the construction of a new stormwater pond to alleviate chronic overflows
99 from an existing stormwater pond in Bellaire Park. The total project cost is \$236,000 and the
100 request is for \$118,000.

101
102 City of Willernie – Craig Place Storm Sewer Improvements

103 This project proposes upsizing an existing storm sewer pipe from 6” to 12” to reduce street and
104 potential property flooding at Kindross Road and Craig Place and to include a sump in the
105 stormwater structure. The total project cost is \$66,300 and the request is for \$33,150.

106
107 Watershed Technician/Inspector Roach reviewed the application rankings from the Citizens Advisory
108 Commission (CAC) which were as follows:

109 White Bear Township – 85

110 Fridley – 80.6
111 Arden Hills – 80.3
112 New Brighton – 79.3
113 Willernie – 64.7

114
115 Watershed Technician/Inspector Roach noted that the total requests from the applications are about
116 \$75,000 over the District’s budgeted amount. He explained that the next steps would be to consider
117 public comment and for Board consideration and noted that Board action is scheduled for February 28,
118 2024.

119
120 Manager Wagamon asked about the application that was received from White Bear Township and
121 explained that he had been told that they had come to the District a few years ago for funding to clean
122 another pond but does not believe the District had approved it. He asked if the pond had been cleaned
123 out because Watershed Technician/Inspector Roach had described it as overtopping and reiterated his
124 question on whether it had ever been cleaned out.

125
126 Watershed Technician/Inspector Roach stated that the Township did submit an application in 2022 that
127 was denied because the Board considered it general maintenance of an existing BMP which did not qualify
128 for the grant. He explained that this same question was raised at the CAC and the City has indicated
129 that maintenance for that BMP is upcoming.

130
131 Manager Weinandt asked about the application from New Brighton and whether this one was of the
132 projects within the suite of RCD 2, 3, and 5 projects. She asked where this project would fit into the whole
133 RCD 2, 3, 5 scheme.

134
135 District Administrator Tomczik stated that there are numerous locations of flooding that were of concern
136 to the three petitioning cities for the RCD 2, 3, and 5 suite of projects. He explained that the suites do
137 include this as a recommended project location but the technical considerations of the various projects and
138 solutions are not definitive on who does what or when.

139
140 District Engineer Otterness confirmed that the proposed 4th Street project was part of the RCD 2,3,5 suite
141 of projects and noted that in most cases, it is necessary to construct the envisioned storage projects prior
142 to increasing conveyance capacity so that there is a place to store the additional water flow. He stated
143 that for the 4th Street project, the City completed modeling, confirmed by the District’s modeling that
144 demonstrates the project will not increase flooding downstream, as the higher peak outflow from the
145 project will occur prior to the peak flow and flood elevation in RCD 2. So, the project will be beneficial to
146 leveling out flood flows.

147
148 Manager Weinandt pointed out that this was a 1:7 match and the District would not be the major
149 contributor of funding. She stated that she supports this request.

150
151 Manager Wagamon stated that he had one more question regarding the request by White Bear Lake. He
152 asked if there was a reason that the first pond cannot be expanded.

153

154 Watershed Technician/Inspector Roach explained that p the city has an interest in preserving usable park
155 space and believes that they have several upcoming improvements to the park including an underground
156 storage area under the parking lot.

157
158 District Engineer Otterness further elaborated that the drainage area being address by this project is, for
159 the most part, untreated right now and the has relatively little storage . He explained that the pond
160 in the park area is not large enough to accommodate the existing flow, and while their proposal for storage
161 will help the issue, more storage in the watershed is necessary. He stated that the City's approach is to
162 add a little storage here and there as space becomes available to both improve water quality and attenuate
163 the flow of water which is causing the erosion.

164
165 1st Vice-President Waller asked if there was anyone from the public who wanted to speak regarding this
166 issue.

167
168 Dale Reed, White Bear Township, explained that with this proposed project, they are trying to continue to
169 improve the lake water quality. He stated that this was developed many years ago and there is not much
170 real estate on the south side of the lake. He explained that there was not a lot of planning for treatment
171 at the time, but has become a larger concern so they are looking at more storage under the parking lot.

172
173 Terri O'Connell, CAC, asked if White Bear Township had any intention of adding greenery, such as sedge
174 grass, closer to the shoreline to attempt to help with holding everything back.

175
176 Mr. Reed stated that they have done some improvements to help stabilize the shoreline a few years ago.
177 He noted that water is down similar to what had happened about 10 years ago but stated that they can
178 always look at further measures in the future.

179
180 1st Vice-President Waller noted that Bellaire Beach has been there since he was a little boy which is why
181 there is a lot of sand because it is one of the few swimming beaches on the south side of White Bear Lake.
182 He stated that he just wanted to point out that sometimes vegetation will clash with what the purpose is.

183
184 There being no additional comment, 1st Vice-President Waller closed the public hearing.

185
186 Manager Weinandt expressed her appreciation to the CAC and the others that reviewed these applications.

187
188 1st Vice-President Waller stated that he had attended the CAC meeting where they had a very active and
189 lively discussion of these projects. He explained that he was impressed with the detail and the astuteness
190 of their questioning. He reviewed some of the questions that had been asked at the CAC meeting,
191 including, why these proposals were 25% over budget and whether there was actually a limit in place
192 because the request from White Bear Township was over \$100,000, which was supposed to be the limit.
193 He noted that the CAC was very conscious of the cost issues with these requests.

194
195 District Administrator Tomczik asked the Board to share general or specific direction regarding the future
196 deliberations and what staff may be able to bring in order to assist in those Board discussions.

197

198 Manager Wagamon shared that he believes the Board should stick to their budget.

199

200 1st Vice-President Waller noted that he would agree and believes that these requests are ‘asks’ which has
201 been made very clear by District staff. He stated that when the Board acts he would like to see them have
202 a reduction of \$75,800 in order to stick to their budget. He noted that one of the recommendations from
203 the CAC was that every city receive something and that none were completely eliminated. He stated that
204 he felt that there were all good projects, but the Board would have to make some hard decisions in order
205 to help them but not go over budget.

206

207 Manager Weinandt stated that she would be curious to see the calculations done by the CAC on the cost
208 per pound of phosphorus removal.

209

210 1st Vice-President Waller reopened the regular Board meeting.

211 **OPEN MIC/PUBLIC COMMENT**

212 Terri O’Connell, CAC, explained that she lived in Lino Lakes and a question she had brought up was about
213 the work that had been done to be brought to other people by things like signage. She stated that
214 something that came to her mind when she was kayaking around on Bald Eagle Lake and noticed that you
215 can really only see the wonderful work that was done when you are in the water and not from the road.
216 She asked if rather than putting signage up if the Bald Eagle Lake Association would contact someone like
217 the Peltier Lake Association and have them come and take a look at what things look like on Bald Eagle
218 Lake. She stated that she had attended on the Peltier Lake meetings and the woman from the DNR
219 brought up chemical usage but also that they should look at the restoration of areas going into the lake.
220 She noted that she felt this may be a good way to reach out and have them show them what things could
221 look like. She stated that they would also like there to be signage that shares information every time it is
222 cleaned up and say ‘This is how much has been done’ perhaps on a changeable sign similar to the ones used
223 when they are advertising road closures.

224 1st Vice-President Waller asked if she was referring to Peltier or Centerville where the District was planning
225 to do phosphorus reduction.

226 Ms. O’Connell stated that she was referring to Peltier Lake.

227 **ITEMS REQUIRING BOARD ACTION**

228 **1. RCWD Official Depository and Newspaper Designation**

229 District Administrator Tomczik explained that per the Bylaws, the Board’s designation of a official
230 depository and newspaper is an annual requirement.

231

232 ***Motion by Manager Weinandt, seconded by Manager Wagamon, to designate PMA Financial***
233 ***Network, LLC. administering the 4M Fund with US Bank as the financial institution as the official***
234 ***depository and St. Paul Pioneer Press the official newspaper of the Rice Creek Watershed District.***
235 ***Motion carried 3-0.***

236

237

238 **2. Common Carp Program – Annual Contracts**

239 Lake & Stream Manager Kocian gave a brief update on the Carp Management Program which helps
240 improve the water quality and reminded the Board that the goal of the program was not eradication,
241 but management within the Long Lake/Lino Chain of Lakes system. He summarized the
242 management plan and explained that the two primary things they were focusing on was removing
243 at least 50% of adult carp on an annual basis and suppressing reproduction by blocking migration
244 and access to spawning and nursery habitat areas. He noted that since the program began they
245 have been able to remove around 56,000 carp from the system, and carp overall density was down
246 by 90%. He stated that in 2023 they were able to meet their long-term carp density goals for the
247 first time. He noted that the coverage of native aquatic plants has also increased which is a
248 positive. He explained that the phosphorus levels have fallen significantly in both basins of Long
249 Lake, and algae was reduced slightly. In the Lino Chain of Lakes, algae levels have been very low
250 the past few years. He reviewed the strategy for the Carp Management Program in 2024 and
251 noted that they will continue using the NEPTUN system to capture migrating carp as well as the
252 NEMO electric 'herding' system. This system has proven effective, and efficiency is good, and not
253 changing. He stated that they think that box netting is no longer an efficient tool as costs per-carp-
254 removed have increased as the population decreased. He noted that they are planning to do some
255 additional removals at the Johanna Creek Barrier again this year. He stated that in addition to the
256 Long Lake/Lino Chain of Lakes, they are proposing to also do some work on Centerville and Peltier
257 system and hopefully conduct a carp population survey on Howard Lake. He reminded the Board
258 that carp management is a program and not a project because it is a long-term process.

259
260 Manager Weinandt explained that she had a number of questions that she would ask all at once and
261 allow staff to answer what they could when she was done. She asked if the delisting of Long Lake
262 would occur in the near future. She asked if there was security efforts included in the budget
263 figures. She asked if the public would be given any notice when the staff would be on site removing
264 the carp so the public would actually see what is going on. She questioned when the program
265 becomes more of a maintenance based activity how it would effect staff time. Lastly, she asked if
266 the recent dredging in the Long Lake Sedimentation Basin was affecting the program.

267
268 Lake and Stream Manager Kocian stated that he feels that they are moving in the right direction
269 with Long Lake but does not think they are at the delisting stage yet. He explained that the MPCA
270 uses a 10-year rolling average to determine compliance with state standards. He noted that they
271 had included \$3,750 in their budget for security purposes but does not think they will use it all. He
272 stated that they have not had the vandalism issues that they had in the first few years of the
273 program. He stated they have tried some outreach efforts in the past to get people to the site with
274 some media releases but it can be difficult to coordinate because carp are not on the same planning
275 schedule as the District. He explained that Carp Solutions can remotely monitor when there are
276 carp in the traps so they can send out the crews when they know there are lot in the trap. He
277 stated that many times the District doesn't really know that they plan to come out until that same
278 day. He stated that the Long Lake sediment removal did change things a bit in the area but noted
279 that over the past few years, things have worked fine, but it is something that they will need to
280 attend to over the long-term. He noted that related to staffing he believes that overall staff time has
281 decreased as they have entered into the long-term maintenance phase of the program.

282

283 Manager Wagamon asked why staff felt the chlorophyll and water quality were a tougher issue to
284 address.

285

286 Lake and Stream Manager Kocian stated that a large part of that is the aquatic plant response. He
287 noted that his hope is that as they continue to move towards better coverage of native aquatic
288 plants and more diversity that they will see algae levels decrease.

289

290 ***Motion by Manager Wagamon, seconded by Manager Weinandt, to authorize the Administrator***
291 ***to enter into a professional services agreement with Carp Solutions, LLC for an amount not-to-***
292 ***exceed \$98,900.00. The Administrator is further authorized to approve contract amendments for***
293 ***additional work, not to exceed 20% of the contract cost (\$19,780). Motion carried 3-0.***

294

295 District Administrator Tomczik asked Lake and Stream Manager Kocian to make a statement about
296 game fish for the viewing audience.

297

298 Lake and Stream Manager Kocian explained that the system on Rice Creek just upstream from Long
299 Lake is only operated for a short time each spring when common carp are migrating up the channel.
300 He noted that this was not a year-round operation and was typically done from late March through
301 mid-May. He stated that there tend not to be many game fish running at the same time so there
302 are very few game fish that are caught in the trap and those that do are quickly moved through the
303 trap and back into the stream. No species other than common carp are removed from the system.

304

305 **3. 2023 Financial Report Metro Shooting/Trost Settlements**

306 District Administrator Tomczik noted that this is the Board's annual review of the level of liability
307 associated with the Metro Shooting/Trost settlements. He noted that there had been a memo put
308 together by Smith Partners which was included in the packet. He stated that in 2023 the Board
309 elected to proceed under the third option listed in the packet.

310

311 Manager Wagamon asked if it was necessary that this be passed at this particular meeting because
312 both Manager Robertson and President Bradley were not able to be present today or it could wait
313 until the next meeting.

314

315 District Administrator Tomczik stated that he did not believe it was imperative that it be done at this
316 particular meeting and noted that the purpose is for this be included in the 2023 audit which is
317 underway but would not be concluded immediately.

318

319 Manager Wagamon stated that he feels like Manager Robertson would like to have some input on
320 this issue.

321

322 1st Vice-President Waller stated that he would agree that Manager Robertson would like to be
323 present for this discussion. He stated that the District has done this for a long time and noted that
324 he was the one who had originally instigated this process of reviewing it annually. He stated that
325 one of the things they have done over the long process they have developed in the Brown's Preserve
326 and also created a wetland bank. He noted that the District has done a study since that time to
327 determine how many credits they would need to meet this contract if it was implemented. He

328 explained that the Board has taken the action to protect themselves from it. He asked District
329 Attorney Smith to bring back some language to the next meeting that would involve some way that
330 the District could monument the number of credits, in writing, what they have determined to be
331 necessary to fulfill this contract, if it is ever implemented. He explained that he was afraid that the
332 individuals on staff and the Board that understood this situation would eventually be gone and he
333 did not want this information to get lost.

334
335 District Attorney Smith stated that he understood Manager Waller's request and can work on some
336 language for the next meeting.

337
338 1st Vice-President Waller stated that he feels this additional language would essentially add a 'belt
339 and suspenders' to this issue.

340
341 ***Motion by Manager Waller, seconded by Manager Wagamon, to postpone action on 2023 Financial Report***
342 ***Metro Shooting/Trost Settlements until the next meeting on February 28, 2024, when all the Managers are***
343 ***able to be present. Motion carried 3-0.***

344
345 District Administrator Tomczik noted that as alluded to by District Attorney Smith there are a lot of
346 'ifs' and assumptions with this and feels it would be good for the Board to maintain some flexibility
347 in recognizing the credit amount. He stated that ultimately, he thinks that dollars, just like wetland
348 credits, can be scarcer at some points so the Board will have to make a balance between public
349 drainage projects or retaining a balance for what may come.

350
351 1st Vice-President Waller stated that he thought the District had a particular hard number for the
352 Metro Gun Club and acreages which he thinks is slightly less than what is left in the bank. He
353 reiterated that he just wanted to have this earmarked so there is some consciousness there. He
354 explained that he realized that there are a lot of moving factors but until it is determined that it is
355 or is not needed, he wants to make sure the District holds onto what they have.

356
357 District Administrator Tomczik noted that in the past, the District has identified a presumed amount
358 but there is not a definitive in the documents as to the credit amount.

359
360 District Engineer Otterness stated Houston Engineering and District staff have kept a running tally
361 in a spreadsheet of what the District has for remaining credits as well as projecting wetland
362 crediting needs for future projects. He explained that, to his knowledge, the spreadsheet only
363 has included forecasted RCWD projects and has not projected a future need for wetland credits due
364 to the Metro Gun Club or Trost settlement, because as District Administrator Tomczik alluded to, it
365 is infeasible to accurately predict an obligation, if any, when no project has been proposed on
366 either site.

367
368 **4. RCWD Facilities Vegetation Maintenance Contracts**
369 Drainage & Facilities Manager Ricci stated this was briefly discussed at the Board Workshop on
370 February 12, 2024. She explained that this refers to District facilities that are either District owned
371 properties or obligations for the District to maintain and operate these facilities. She noted that in
372 2020 the District had done a controlled burn for Brown's Preserve and they do have a long-term

373 management plan up to 2030 as part of their obligation to the State. She stated that they are also
374 pursuing a controlled burn in 2024 with Red Rock Fire. She noted that they are pursuing a contract
375 with Davey Resource Group for the Hansen Park and Bald Eagle Lake sites and explained that this is
376 expected to be the last year for the District obligation related to Hansen Park and the expectation is
377 to turn it over the park maintenance following this year.

378
379 ***Motion by Manager Weinandt, seconded by Manager Wagamon, to approve the attached Red***
380 ***Rock Fire contract for the Brown's Preserve and Walls/Taylor wetland bank sites in amount of***
381 ***\$22,636.78 on advice of counsel and authorizing the Administrator to execute the document.***
382 ***Motion carried 3-0.***

383
384 ***Motion by Manager Weinandt, seconded by Manager Wagamon, to approve the attached Davey***
385 ***Resource Group, Inc. contract for the Hansen Park sites in amount of \$27,010.00 and including***
386 ***contingency "add-on" work not to exceed \$10,000.00 on advice of counsel and authorizing the***
387 ***Administrator to execute the document. Motion carried 3-0.***

388
389 ***Motion by Manager Weinandt, seconded by Manager Wagamon, to approve the attached Davey***
390 ***Resource Group, Inc. contract for the Bald Eagle Lake IESF sites in amount of \$11,330.00 and***
391 ***including contingency "add-on" work not to exceed \$10,000.00 on advice of counsel and***
392 ***authorizing the Administrator to execute the document. Motion carried 3-0.***

393
394 **5. Permit and Administrative Fee Schedule Amendment**

395 Regulatory Manager Hughes noted that the Board had discussed this item at the Board Workshop
396 held on February 12, 2024 related to the City of Centerville JPA for inspection services, which is the
397 next agenda item. The Centerville JPA includes a reference to a District fee schedule. This agenda
398 item is to revise the permit fee schedule to include a staff hourly rate for administrative purposes.
399 The revised document will be renamed the Permit and Administrative Fee schedule.

400
401 ***Motion by Manager Waller, seconded by Manager Weinandt, to adopt Resolution 2024-01***
402 ***Adopting Revised Permit And Administrative Fee Schedule***

403 THEREFORE BE IT RESOLVED that the Board hereby revises the District's existing permit fee schedule
404 by approving the attached "RCWD Permit & Administrative Fee Schedule," which supersedes and
405 replaces the preexisting fee schedule; and

406
407 BE IT FURTHER RESOLVED that the change is effective as of February 14, 2024.

408
409 **ROLL CALL:**

410 ***President Bradley – Absent***
411 ***Manager Robertson – Absent***
412 ***Manager Wagamon – Aye***
413 ***Manager Waller – Aye***
414 ***Manager Weinandt – Aye***
415 ***Motion carried 3-0.***

417 **6. Centerville Inspection Joint Power Agreement**
418 Inspection Coordinator Chastan-Davis stated that this item was discussed at the Board Workshop
419 that was held on February 12, 2024 and covers the extension of the JPA with the City of Centerville.
420 He reviewed the history of the agreement and outlined the notable changes within the JPA.

421
422 ***Motion by Manager Weinandt, seconded by Manager Wagamon, to approve the amended Joint***
423 ***Powers Agreement for a MS4 MCM 4 partnership extension with the City of Centerville. Motion***
424 ***carried 3-0.***

425
426 District Administrator Tomczik stated he felt it was important to recognize the discussion that took
427 place at the Board Workshop and noted that the value of this JPA to the District is that the City of
428 Centerville has a more efficient enforcement avenue in collaborating successful regulatory
429 outcomes.

430
431 1st Vice-President Waller stated that he believes the value to the District is that they are being paid
432 for their labor which he feels is an important point.

433
434 **7. RCWD 2024 Information Management – HEI Task Orders**
435 District Administrator Tomczik stated on an annual basis, the Board considers some task orders from
436 Houston Engineering which are to maintain the electronic world that the District lives in, such as
437 MS4 Front, mapping/GIS, and the Drainage DB.

438
439 ***Motion by Manager Wagamon, seconded by Manager Waller, to approval of HEI Task Order 2024***
440 ***– 003 and HEI Task Order 2024 - 004 and authorize the District Administrator to sign. Motion***
441 ***carried 3-0.***

442
443 **8. Jacon, LLC Partial Pay Request #3 Anoka-Washington Judicial Ditch 3 Phase 2 Repair Project**
444 Drainage & Facilities Manager Ricci gave an overview of Partial Pay Request #3 for Jacon, LLC for
445 work on JD3, branches 1, 2, and 4 – Phase 2 repair. She noted that it include tree removals,
446 excavation, spoil management as well as field and culvert crossings. She noted that this has all
447 been inspected and certified by the District Engineer. She stated that since this pay request was
448 submitted, Jacon has substantially completed most of the excavation along with some spoil
449 management and seeding. She explained that the substantial completion date of the contract is
450 March 1, 2024 and final completion set at July 1, 2024.

451
452 Manager Wagamon asked about the possibility that there could be a fine from the DNR and noted
453 that he had heard that the bond may not cover the fine. He asked if the District should be holding
454 money back in case there is a fine because he did not feel the District should be stuck with the fine.

455
456 District Administrator Tomczik stated that DNR met on site with the contractor and explained that
457 he sees the contractor as the responsible party, but wanted to be present to ensure that they
458 addressed that. He stated that Drainage & Facilities Manager Ricci was present for the meeting
459 and his understanding is that the DNR recognized that these things happen occasionally but it still
460 needed to be cleaned up and that they intended to come back and give an ‘all clear’ when the
461 contractor believed it had been completed.

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Drainage & Facilities Manager Ricci stated that they have been in communication with the engineer and the attorney and explained that, at this point, there is no concern about trying to withhold money for a fine. She explained that all the DNR has asked the contract up until now was to clean up the site and she believes that concern would be between the contractor and the DNR. She stated that they have been in close contact with the attorneys regarding the bankruptcy who have been in contact with the filing attorneys from Jacon, LLC and at this time, there is not concern, because the contract stands alone.

Manager Wagamon asked if staff was saying that the DNR has stated that there would be no chance of a fine.

Drainage & Facilities Manager Ricci explained that, at this point, the DNR has not indicated one way or the other.

Manager Wagamon explained that was his concern.

District Engineer Otterness stated that any action taken by the Contractor in violation with public waters law is outside of work authorized by the District under the contract. He stated that did not foresee the District at being in increased risk to a fine .

1st Vice-President Waller stated that his understanding is that the District is waiting for the DNR to inspect the clean up at which time they will communicate what their final decision will be.

Drainage & Facilities Manager Ricci that was correct and would be specifically directed to the contractor. She reiterated that any of the actions that were taken by the Contractor that would have required permitting by the DNR were not part of the contract with the District.

District Attorney Smith stated that none of the work that is at issue with the DNR that was performed by the contractor is within the scope of the contractors work with the District and therefore any concerns that the DNR has about exercising its enforcement authority is not exercises as to the District.

1st Vice-President Waller asked if that meant that District Attorney Smith was saying that it was alright for the Board to approve paying this bill.

District Attorney Smith confirmed that his understanding based on the discussion and review by Drainage Attorney Kolb that would be correct.

Manager Wagamon asked if District Attorney Smith was saying that if Jacon ends up in Chapter 7, there is no way for that fine to fall back onto the District under any circumstances.

District Attorney Smith stated that attorneys never like to say ‘absolutely never’, but he would say that it is exceedingly remote because the conduct that is at issue with the DNR is outside the scope of the contract between the contractor and the District.

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Manager Wagamon explained that the reason he was bringing this up is because his family’s business was impacted by several of its client’s bankruptcies and they were told by their attorneys not to worry and that did not work out. He stated that they ended up getting nailed on everyone of them which is why he is concerned and wants to ensure that the District is covered so there is no way that they will end up paying this fine if the Contractor goes bankrupt.

District Attorney Smith stated that it was his understanding that Drainage Attorney Kolb had specifically looked into Manager Wagamon’s questions regarding the bankruptcy and believes the District should proceed under the contract.

District Administrator Tomczik suggested that the reverse view may be important which is that he does not think that the District’s contractual arrangement with the contractor would allow them to withhold a partial payment.

Drainage & Facilities Manager Ricci reiterated the comment made by District Attorney Smith that the way the contract is written, even if the bankruptcy fine were to change, the District has provisions within the performance bonds to protect the District and its investment in the project. She stated that staff has been in close contact with Drainage Attorney Kolb on this issue.

Motion by Manager Weinandt, seconded by Manager Waller, to approve JACON LLC’s Partial Pay Request #3 as submitted and certified by the District Engineer and directs staff to issue a payment in the amount of \$113,545.90. Motion carried 3-0.

9. Check Register Dated February 14, 2024, in the Amount of \$161,843.61 Prepared by Redpath and Company

Motion by Manager Weinandt, seconded by Manager Wagamon, to approve check register dated February 14, 2024, in the Amount of \$161,843.61 as prepared by Redpath and Company. Motion carried 3-0.

ITEMS FOR DISCUSSION AND INFORMATION

1. District Engineers Update and Timeline

2. Administrator Updates

District Administrator Tomczik stated that he is working through the particulars of the District’s U.S. Trademark application regarding Blue Thumb – Planting for Clean Waters. He explained that was to be transferred to Metro Bloom but there were some complications so he is working with Smith Partners to see the trademark get successfully handed off. He stated that the District is continuing discussions with the City of Circle Pines regarding payment for the storm sewer outfalls that go into ACD 53-62 which has not yet been resolved or the District invoice paid. He noted that the Gallagher work on the salary schedule for the District is nearing completion and believes it best to be included in the February 28, 2024 meeting as an agenda item rather than discussed at a special workshop.

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3. Managers Update

Manager Weinandt that that the audit is moving along and believes that the Board will be seeing it in the near future. She stated that she and District Administrator Tomczik spoke to Representative Erin Koegel regarding the District’s work on RCD-2, 3, and 5 and felt it was a very helpful conversation. She noted that Representative Koegel gave them some additional items to track done related to bonding. She stated that in looking at the Minnesota Watershed agenda, it looks as though bonding is part of the agenda for updates which should be very interesting.

1st Vice-President Waller reiterated that he had attended the CAC meeting. He noted that he had also attended the subcommittee for Minnesota Water Policy and reviewed the topics of their discussion. He stated that he also attended the Washington County Consortium meeting and gave a brief overview of what was discussed.

ADJOURNMENT

***Motion by Manager Wagamon, seconded by Manager Weinandt, to adjourn the meeting at 11:10 a.m.
Motion carried 3-0.***