

Approved



RICE CREEK WATERSHED DISTRICT

4325 Pheasant Ridge Dr. NE #611 • Blaine, MN 55449-3070
Phone: 763-398-3070 • Fax: 763-398-3088

www.ricecreekwd.com

REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, November 12, 2003

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

Minutes

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ROLL CALL

Present: President Andrew Cardinal, 1st Vice-Pres. James Leroux, , Secretary Roger Aiken, Treasurer Robin Doege
Absent: 2nd Vice-Pres. Barbara Haake absent until 7:15.

Staff Present: Administrator Steve Hobbs, Office Manager Theresa Stasica
Consultants: District Engineers Brett Emmons and Jason Naber of EOR; Attorney Louis Smith, Smith Parker
Visitors: John Waller, Paul Haik, Bart Rehbein, Robert Eriksson, Roger D. Wilson, Chuck Lenthe, Vince Niemczyk,
Loren Hentges, Joe Preiner, Deloris Preiner

CALL TO ORDER

President Cardinal called the meeting to order, a quorum being present, at 7:00 p.m.

SETTING OF THE AGENDA

President Cardinal asked for any additions.
President Cardinal requested an additional item under Items for Discussion and Information: Minnesota Association of Watershed Districts (MAWD) Annual meeting Board delegates.
The Board adopted the Agenda by consensus.

READING OF THE MINUTES AND THEIR APPROVAL

Minutes of the October 22, 2003, Board of Managers Meeting. *Motion by Manager Leroux, seconded by Manager Doege to approve the minutes as presented. Motion carried 4-0.*
Minutes of the November 5, 2003, Board of Managers Special Meeting. *Motion by Manager Leroux, seconded by Manager Aiken to approve the minutes as presented. Motion carried 4-0.*

Manager Haake joined the meeting at 7:15 p.m.

OPEN MIKE *Individuals may address the Board of Managers about any item not included on the regular agenda. Speakers are requested to come to the podium, state their name and address for the record, and limit their remarks to three minutes. Generally the Board of Managers will not take official action on items discussed at this time, but may typically refer the matter to staff for a future report or direct that the matter be scheduled on an upcoming agenda.*

BOARD OF MANAGERS

A.J. Cardinal, Sr. Anoka County Roger K. Aiken Ramsey County James A. Leroux Washington County Barbara A. Haake Ramsey County Robin C. Doege Anoka County

34 Mr. Paul Haik, representing Mr. Joe Preiner, stepped up to the podium. Mr. Haik presented the Board with additional
35 information regarding Mr. Preiner's permit application and requested that the Board hear his clients permit at the Boards
36 next meeting.

37
38 Mr. John Waller, representing Margaret Waller, stepped up to the podium. Mr. Waller asked for an update on
39 obstructions and beaver removal on JD2.

40
41 Administrator Hobbs replied that the trapper is done with his work and that District Inspector Daleiden has been out to
42 survey the blockages. These blockages cannot be removed by hand so they will have to wait for the ground to freeze so
43 they can bring a backhoe out to clear the ditch.

44
45 Mr. Waller inquired if the removal will be dug out to the profile of the ditch.

46
47 Administrator Hobbs replied that it would.

48
49 Mr. Loren Hentges, landowner on ditch 53-62 asked the Board why they had not paid for I&S's, an independent
50 engineering firm, invoice for review of Anoka County Ditch 53-62 Comprehensive Wetland Management Plan. Mr.
51 Hentges believed that Administrator Hobbs had told him that the District would pay all costs for a third party review of
52 the plan. Mr. Hentges reported that the invoice has been accruing late fees.

53
54 Manager Haake asked that this item be put on the Boards next meeting agenda.

55
56 Manager Leroux asked why the bill had not been paid.

57
58 Administrator Hobbs replied that he was directed by the Board to work with the landowners to jointly hire an engineering
59 firm to review the Plan and the District would cost-share the fee with the landowners. Administrator Hobbs reported that
60 he was never consulted on hiring the engineer.

61
62 Manager Doege asked to look at the invoice. The original invoice to I&S was for \$3,790 and now with late fees the balance
63 is \$3,990.

64
65 Vince Niemcyk, landowner who lives in Hugo and on Washington County JD2, stepped up to the podium. Mr. Niemcyk
66 reported that JD2 water level has not lowered. Mr. Niemcyk believes there are still blockages and beavers.

67
68 Manager Cardinal closed open mike.

69
70 **ADDITIONAL ITEMS REQUIRING BOARD ACTION**

- 71 1. **Consider acceptance of Findings of Fact regarding Anoka County Ditch 53-62 Repair Petition and CWMP.**
72 ***Motion by Manager Leroux, seconded by Manager Haake, to to approve the Findings of Fact regarding***
73 ***Anoka County Ditch 53-62 Repair Petition and CWMP.***

74 District Counsel Smith suggested the following corrections:

75 Page 1, item 1, changing the draft CWMP date to "July 17, 2003."

76 Page 7, item 29, under list of documents add: November 10, 2003 Paul Haik letter, November 7, 2003
77 BWSR letter,

78 District Counsel Smith also informed the Board that the District received a letter on November 12, 2003 from
79 GGG, Inc. Since the Board set a deadline to receive documentation from the public by November 10, 2003, it is at
80 the Boards discretion to decide if the document should be included in the Findings.

82 **Manager Leroux amended his motion to incorporate the suggested changes by Counsel including GGG**
83 **Inc.'s letter. Manager Haake seconded the motion.**

84
85 District Engineer Emmons suggested a correction to the CWMP date on page 24, under the Order, number 1, the
86 date should read July 17, 2003.

87
88 Mr. Paul Haik stepped up to the podium. Mr. Haik commented that the Findings violate state statutes and that
89 public notice had not been sent 10 days prior to the November 5th meeting date. Mr. Haik submitted to the
90 Board a transcript of the Boards November 5th meeting and a letter from Mr. Haik dated November 12, 2003.

91
92 Manager Haake questioned if the notice of the meeting was within 10 days.

93
94 Administrator Hobbs replied that the meeting announcement had been published in the Pioneer Press on
95 October 26, 2003 and was followed with a postcard mailing of the meeting to effected landowners.

96
97 **Manager Leroux amended his motion to incorporate the suggested changes by District Engineer Emmons.**
98 **Manager Haake seconded the motion. Motion carried 5-0 to accept the amendments to the Findings of**
99 **Fact.**

100
101 **Motion carried 5-0 to accept the Findings of Fact.**

102
103 Mr. Paul Haik asked District Counsel Smith if this was a final order so Mr. Haik knows when the appeal time clock
104 begins.

105
106 District Counsel Smith replied that several processes are beginning. The Findings and Fact is a final order, next
107 there will be a CWMP hearing and review with the Board of Water and Soil Resources (BWSR), after the review by
108 BWSR, there may be changes to the Plan before implementation.

- 109
110 2. **Consider Approval of Distribution of Draft Rule M regarding CWMP.**
111 **Motion by Manager Haake, seconded by Manager Leroux, to approve of distribution of draft Rule M**
112 **regarding CWMP.**

113
114 Manager Leroux questioned if the motion was to begin distribution of the proposed rule to start consideration.

115
116 District Counsel Smith replied that the Board has not adopted the rule they are only approving distribution of the
117 draft rule for comment.

118
119 Manager Haake asked District Engineer Emmons how they arrived at the 50-foot buffer in the CWMP.

120
121 District Engineer Emmons replied that when writing the CWMP they decided 50 feet would be an average buffer
122 width and it could be wider or narrow at any particular point within a parcel. District Engineer Emmons added
123 that this buffer will help protect the integrity of the wetland.

124
125 Mr. Paul Haik, stepped up to the podium. Mr. Haik pointed out the following items in the draft rules: on page 7
126 Item D, revokes all exemptions under the Wetland Conservation Act; on page 3 Item E, it suggests that the
127 landowner submit a wetland delineation which could show more wetlands for a landowner then depicted in the

129 CWMP; and page 3 Item D, which directs the landowner to conduct an assessment of protected plant or animal
130 species within the CWMP I area this would have profound implications to the landowners.

131 Administrator Hobbs replied that the landowner already exhausts their mitigation options under WCA in
132 exchange for not having to deal with the wetland sequencing issue of WCA and being allowed to fill marginal
133 wetlands.. The wetland delineation is needed to amend the CWMP map to verify if the land in question is upland
134 or wetland. Administrator Hobbs pointed out that this rule is the same one that was distributed back in August
135 2003.

136
137 Manager Haake stated that it has been known that the CWMP maps are working maps and will change when
138 delineations are received. Manager Haake also questioned if the Department of Natural Resources (DNR) and U.S.
139 Fish and Wildlife Service would also be involved in the process of locating protected plant or animal species.

140
141 Administrator Hobbs replied that CWMP involves protecting plant and animal habitat as part of the bigger
142 picture and the DNR would also be involved.

143
144 Mr. John Waller, approached the podium. Mr. Waller questioned if this rule was specific only to this particular
145 CWMP and not a general rule for all the ditches in the watershed district.

146
147 Administrator Hobbs replied that the rule is specific to the CWMP I within the City of Blaine.

148
149 *Motion carried 5-0.*

- 150
151 3. Consider October 15th claims by Jay Brothers, Inc. and update
152 *Motion by Manager Doege, seconded by Manager Haake, to accept the engineer's determination of*
153 *allowable claims submitted by Jay Brothers, Inc. for completion of the JD2 Culvert Replacement Project.*
154 Manager Cardinal stated that the total recommended compensation by the District Engineer was for \$537.92.

155
156 Manager Haake questioned if we will be going out for bids for the completion of the project.

157
158 Administrator Hobbs replied that the District at this time is working with a number of issues and is working with
159 Jay Brothers Inc. to justify their claims.

160
161 Manager Cardinal questioned if we are paying for the orange traffic control barrels in Hugo that have fallen into
162 the ditch.

163
164 Administrator Hobbs replied that District is not paying for the barrels and that District Inspector Daleiden is
165 working with the City of Hugo to remove the barrels.

166
167 *Motion carried 5-0.*

- 168
169 4. Consider Approval of Long Lake pay request.
170 *Motion by Manager Haake, seconded by Manager Doege, to authorize \$5,249.50 for payment of Pay*
171 *Request #4 as submitted by Veit & Company for release of Retainage on the Long Lake Inlet/Rice Creek*
172 *Dredging Project. Also, the Performance Bond will be returned to Veit & Company upon receipt of a lien*
173 *waver from its subcontractor (Premier Services) and receipt of a signed Notice of Completion form.*
174 *Finally, the payment bond should be retained by the District until the claim period for subcontractors and*

material suppliers has expired, up to a period of one year plus 90 days after the date that the payment is sent to Veit & Company. Motion carried 5-0.

- 5. Consider Check Register dated 11/12/03, in the amount of \$17,738.27, Prepared by HLB Tautges Redpath. Motion by Manager Doege, seconded by Manager Leroux, to approve the check register dated 11/12/03, in the amount of \$17,738.27, prepared by HLB Tautges Redpath. Motion carried 5-0.

ITEMS FOR DISCUSSION AND INFORMATION

- 1. **EOR Update and Timeline**
 District Engineer Emmons briefed the Board on the following projects.
Clearwater Creek Bank Stabilization Project
 EOR reported that construction has begun on the project.

Hardwood Creek Rehabilitation Plan
 EOR is in the process of amending the draft Hardwood Creek Summary document and that it will be available soon.

Highway 61 Water Quality Improvement Wetland Project
 Manager Cardinal asked for an update on the Highway 61 project.

 District Engineer Emmons reported that the fish screen was replaced with the right one and everything looks good.
- 2. **Minnesota Association of Watershed Districts (MAWD) Annual meeting Board delegates.**
 Manager Cardinal discussed with the Board the need to appoint delegates for the MAWD Annual Convention. The Board agreed to appoint Manager Haake and Manager Aiken as the District's delegates and Manager Cardinal will be the alternate.

ADJOURNMENT

Motion by Manager Leroux, seconded by Manager Haake, to adjourn the meeting at 8:10 p.m. Motion carried 5-0.

RICE CREEK WATERSHED DISTRICT

BOARD OF MANAGERS MEETING

11-12-03

SIGN-IN SHEET

Please check if you desire to speak before the Board	Name	Organization/ Reason Here	Permit Application
"Public Mtg" <input checked="" type="checkbox"/> Board <input type="checkbox"/> Action <input type="checkbox"/> open mike <input checked="" type="checkbox"/>	John Waller	HC	
✓	Pal Hank		
?	Bart Rehbein		
	Robert Finken	AREAS	
	Roger D. Wilsa	LAND OWNER	
	Chuck Lenthe	Plaine	
J.D.2	Vince Niemczyk		
53-62	Lorene Hentges		