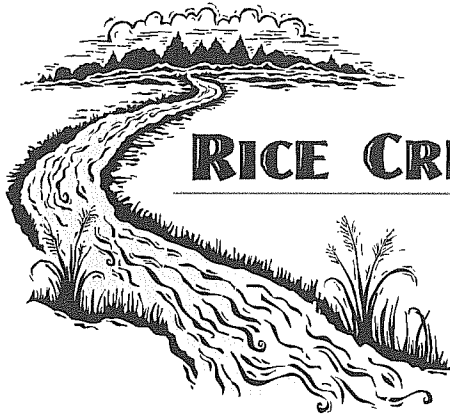


Approved



RICE CREEK WATERSHED DISTRICT

4325 Pheasant Ridge Dr. NE #611 • Blaine, MN 55449-4539

Phone: 763-398-3070 • Fax: 763-398-3088

www.ricecreek.org

REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, February 22, 2012

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

Minutes

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ROLL CALL

- Present: President Patricia Preiner, 2nd Vice-Pres. John Waller, and Treasurer Steve Wagamon.
- Absent: 1st Vice-Pres. Barbara Haake (with prior notice) and Secretary Harley Ogata (with prior notice).
- Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Water Resource Specialist Kyle Axtell, Office Manager Theresa Stasica, Public Ditch Inspector Tom Schmidt.
- Consultants: District Engineers Mark Deutschman, Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners.
- Visitors: Tamara Cameron and Andy Beaudet, Army Corp of Engineers

CALL TO ORDER

President Preiner called the meeting to order, a quorum being present, at 9:30 a.m.

President Preiner stated an acting Secretary would need to be appointed for this meeting due to Manager Ogata's absence.

Motion by President Preiner, seconded by Manager Wagamon, to appoint Manager Waller as acting Secretary for this meeting. Motion carried 3-0.

SETTING OF THE AGENDA

The agenda was adopted by consensus as presented.

READING OF THE MINUTES AND THEIR APPROVAL

Minutes of the February 6, 2012, Board of Managers Meeting Workshop Meeting. Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as presented. Motion carried 3-0.

Minutes of the February 8, 2012, Board of Managers Meeting.

District Attorney Smith requested the following changes:

34
35 Line 115, Page 3, replace "currently" with "current".

36
37 Line 215, Page 5, replace "weight" with "weigh".

38
39 Line 219, Page 5, replace "legislators" with "legislature".

40
41 ***Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as amended. Motion carried 3-***
42 ***0.***

43
44 President Preiner recessed the regular meeting.

45
46 **PUBLIC HEARING: PROPOSED MINOR AMENDMENT TO THE FIVE COMPLETED**
47 **COMPREHENSIVE WETLAND PROTECTION AND MANAGEMENT PLANS (CWPMPs) AND**
48 **AMENDMENTS TO THE DISTRICT RESOURCE MANAGEMENT**

49 President Preiner stated the purpose of the hearing was to hear comments and take testimony from parties having an
50 interest in Rice Creek Watershed District's Proposed Minor Amendment to the Five Complete Wetland Protection and
51 Management Plans (CWPMP's) and Amendment to the Five Resources Management Plans (RMP's).

52
53 District Administrator Belfiori provided a history and summary of the CWPMP and RMP Amendment process.

54
55 President Preiner emphasized the purpose of the hearing was to receive comments from interested parties. She indicated
56 the hearing was not designed to get into a discussion with Board members. She opened the hearing for public comments.

57
58 Tamara Cameron, Chief, Regulatory Branch, Army Corp of Engineers (ACOE), stepped up to the podium. Ms. Cameron
59 stated she was in attendance to discuss the proposed amendment and how it related to their regulatory program. She
60 stated they did regulate discharges and shared permitting responsibility with the District. She stated they worked
61 collaboratively together on the resource plans and rules and had published notices to the public indicating that they
62 would support and incorporate the plans as it was a collaborative project. She understood the amendments applied to
63 the District's activities only. She stated the ditch maintenance was an exempt activity and not really a concern, but the
64 water resource projects were a concern. She stated the Lino Lakes RMP was a special area management plan and they had
65 a general permit, which was very beneficial to people who had a very streamlined permit process. This amendment
66 conflicted with the 2008 mitigation rule and the 2008 District policy, so they would need to exclude the District from that
67 general permit but others proposing the activities under the plan would be eligible for the permit, but not the District.
68 She stated for day to day activities, there was not an effect, but it would affect the water resource projects. She stated they
69 had concerns with the underlying study which supported this amendment and they would be providing detailed
70 comments on the amendments as well as the study. She asked if this was only for RCWD activities. President Preiner
71 responded that was correct and they were not judging practicality for anyone else.

72
73 Ms. Cameron noted the effect would be fairly limiting from their perspective, but she wanted to comment on this and say
74 she really appreciated the collaborative work done and she hoped the rules and plans stayed in effect for the majority of
75 the projects. She stated they would need to manage things with the other partners as well.

76
77 Manager Waller asked if there would be more specific in the written comments. He asked if there was anything specific
78 she wanted to comment on. Ms. Cameron responded generally this proposed amendment conflicted with Federal
79 Mitigation Rules and ACOE District policy and that was their main concern. She stated this hit at the heart of what the

80 ACOE and RCWD worked together in the plans and how they had addressed permits within the Watershed District. She
81 noted they would be providing detailed comments.

82
83 John Kolb, District Attorney, stated they were still in the administrative process and there was still an
84 opportunity to make adjustments to the comments both oral and written. He stated Ms. Cameron understood
85 the general premise of the amendments. He stated if this was limited to wetland impacts resulting from public
86 drainage system repairs, would that eliminate the majority of the concern. Ms. Cameron responded that would,
87 but there was still a general concern about ditch maintenance being exempt, which would leave the notices and
88 the reliance on the plans intact.

89
90 Mr. Kolb stated it was not the District's intent to have this apply to those activities outside of the wetland
91 impacts resulting from public drainage system repairs. He suggested there be additional contact with Ms.
92 Cameron's office to ensure they were addressing the concerns of the ACOE. and to make any changes necessary
93 in advance of a final decision. He believed they were close together and some language changes could help.

94
95 Manager Waller stated he hoped the language could be coordinated. He stated there was no intention on the Board's part
96 to return to the former situations they had with the ACOE in the past. He stated the primary problem the District had
97 was with the State law rather than with the Federal law. He noted he personally did not believe there was a significant
98 cost savings with the amendment, but that was another issue.

99
100 District Engineer Deutschman asked Ms. Cameron what her comments about the "watershed approach" meant. Ms.
101 Cameron is looking at the wetlands and how they can offset losses.

102
103 President Preiner closed the Public Hearing and opened the regular meeting.

104
105 **CONSENT AGENDA**

106 The following applications have been reviewed by the District Engineer and Staff and will be acted upon without
107 discussion in accordance with the Engineer's Recommendation unless a Manager or the Applicant or another interested
108 person requests opportunity for discussion:

109
110 **Table of Contents**

111 **PERMIT APPLICATIONS REQUIRING BOARD ACTION**

No.	Applicant	Location	Plan Type	Recommendation
11-059	City of New Brighton	City of New Brighton	Street & Utility Plan	CAPROC 7 items
11-101	Affinity Plus Federal Credit Union	Roseville	Final Site Drainage	CAPROC 6 items
12-001	AABCO Auto Parts	Fridley	Final Site Drainage	CAPROC 7 items
12-002	City of Mounds View	Mounds View	Street & Utility Plan	CAPROC 5 items
04-005	Centerville Senior Housing	Centerville		Close permit, accepting the project in its current state. The necessary ponding and flowage

easements have been confirmed as recorded. The infiltration basin is functioning like the neighboring pond and is being maintained as such

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Motion by Manager Wagamon, seconded by Manager Waller, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD staff and District Engineer's Findings and Recommendations, dated January 12, 2012, January 30, 2012, February 2, 2012, February 10, 2012, and February 15, 2012.

Permit Coordinator/Wetland Specialist Tomczik stated the closure of permit 04-005 was for a public entity.

Motion carried 3-0.

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 Authorizing Submittal of Replacement Plan for Anoka County Ditch 15/Anoka-Washington Judicial Ditch 4 realignment and banking plan part B for excess credit. (Phil Belfiori)

Administrator Belfiori explained the memorandum and Resolution were related to the submission of the forms necessary to submit the Minnesota local/state/federal applications for water/wetland projects for the Anoka County Ditch 15/Anoka-Washington Judicial Ditch No. 4 (ACD 15/JD4) public drainage system repair project. He noted the application included two main components: 1) Exemption Application, Permit Application and Replacement Plan Application (replacement plan) for Anoka County Ditch 15 / Anoka-Washington Judicial Ditch 4 (JD4/ACD 15) Drainage System maintenance and repair and 2) Houle/Hair Wetland Restoration and Banking Application.

He noted the repair project essentially consists of realigning a portion of the open channel of the public drainage system to avoid and minimize adverse impacts to wetland, rather than repairing and maintaining the current open channel alignment, to provide the As-Constructed and Subsequently Improved Condition drainage level of service. Completion of the repair project is expected to result in a net reduction of wetland impact compared to repairing the maintaining the public drainage system along with current alignment.

He stated overall the replacement plan identifies that the project repair design has gone to great lengths to minimize and essentially eliminate a significant amount of existing and potential future wetland impacts, while maintaining the same level of drainage as originally constructed. The RCWD (pursuant to the WCA) and ACOE have already provided concurrence on the preliminary sequencing details, including the project purpose and need and the analysis of the range of alternatives.

172 He stated based on initial correspondence from Agency/COE staff, the timeline for review is anticipated to be at
173 least 120 days depending on the magnitude of comments. In order to achieve a fall construction schedule, staff is
174 requesting permit decisions no later than June 2012.

175
176 He indicated the credits that remain following the on-site replacement of those wetlands impacted will be placed
177 in the state (State Wetland Conservation Act administered by the Board of Water and Soil Resources) and federal
178 (Federal Clean Water Act, administered by the US Army Corps of Engineers) wetland banks. Credits will also be
179 determined specific to the Rice Creek Watershed District within the JD-4 RMP-2 area.

180
181 He stated it should be noted that the above mentioned credits are the absolute maximum available/possible and
182 credits awarded will be dependent on the RCWD management activities undertaken to restore the site and
183 vegetation performance standards and will be finalized and certified as the site responds to restoration activities.
184 Based on a recent TEP meeting, staff feels a reasonable expectation is a minimum of 50% credit. He noted the
185 timeline was five years.

186
187 He noted credits will be certified and banked for successful implementation of the wetland mitigation banking
188 plan and when performance standards are met.

189
190 He stated it should be noted that final approval of the project construction plans and authorization for
191 submitting bids will be brought forth to a future board meeting for consideration.

192
193 District Engineer Deutschman stated the hope was to have permits in hand from the Army Corp of Engineers by
194 June with the idea to begin construction fall 2012. He pointed out the potential adverse impacts associated with
195 the repair. He noted there were unavoidable impacts of 6.7 acres which would require mitigation which would
196 come from the Houle/Hair wetland complex. He stated the reroute of the channel might require mitigation and
197 therefore the mitigation under the ACOE was expected to be 7.32 acres of mitigation. He noted they were still
198 working with the ACOE on this issue. On the credit side, the maximum credits would be about 69 Houle acres
199 versus 32 Hair acres. He stated staff anticipates achieving 50 percent of the total credits were likely. He noted
200 some minimum vegetation would need to be met and staff believed that was attainable, but those details still
201 needed to be worked out. He noted this was not a huge concern however. He stated what was stimulating this
202 was the repair project.

203
204 Manager Waller stated on page 64 was a letter from the Army Corp of Engineers. He read the second paragraph
205 to the Board. He stated it appeared the Army Corp of Engineers was not in opposition at this time.

206
207 President Preiner noted there was a typo on page 59, Raylor should read Taylor. She asked even though they were
208 rerouting the ditch would the old ditch still be maintained. District Engineer Deutschman responded the ditch
209 would be maintained in the sense it would be kept open so the hydraulic structure was the dominate feature. He
210 stated water would flow over the water control structure once it was constructed and that was part of the
211 restoration.

212
213 Manager Waller asked if the ditch would be abandoned. Permit Coordinator/Wetland Specialist Tomczik
214 responded that was correct.

215
216 **Motion by Manager Wagamon, seconded by Manager Waller, to approve Resolution 2012-03, Approving the**
217 **Submission of Wetland Replacement Plan Application, Application for Exemption/No Loss Determination;**
218 **Joint Project Notification and Permit Applications for Wetland Impacts Associated with the Repair of Anoka-**

219 *Washington Judicial Ditch 4 (JD 4) and Anoka County Ditch 15 (ACD 15); and Approving the Submission of*
 220 *Wetland Banking and Compensatory Mitigation Applications Related to the Restoration of Wetland on the*
 221 *Houle and Hair Properties Associated with the Repair of ACD15 and JD 4.*
 222

223 **ROLL CALL:**
 224 *Manager Haake – Absent*
 225 *Manager Ogata – Absent*
 226 *Manager Waller - Aye*
 227 *Manager Wagamon – Aye*
 228 *President Preiner - Aye*
 229

230 *Motion carried 3-0-2.*

231
 232 2. **Consider Anoka County Ditch 10-22-32 “South of Pine” replacement plan approval and authorize project**
 233 **(Nick Tomczik)**

234 Manager Wagamon noted he was in this ditch system.
 235

236 Permit Coordinator/Wetland Specialist Tomczik stated staff was looking for approval of the ACD 10-22-32
 237 replacement plan. He stated this plan had been sent to the Army Corp of Engineers. He stated the project did
 238 impact wetlands, which were exempt. He stated no permit was required. He recommended the Board approve
 239 the replacement plan and Resolution.
 240

241 ***Motion by Manager Waller, seconded by Manager Wagamon, to approve Resolution 2012-04, Resolution***
 242 ***Approving Impact Sequencing and Approving Partial Replacement Plan for Impacts to Wetland Related to the***
 243 ***Repair of a Portion of Anoka County Ditch 10-22-32.***
 244

245 **ROLL CALL:**
 246 *Manager Haake – Absent*
 247 *Manager Ogata – Absent*
 248 *Manager Waller - Aye*
 249 *Manager Wagamon – Aye*
 250 *President Preiner - Aye*
 251

252 *Motion carried 3-0-2.*

253
 254 District Engineer Deutschman outlined the process for completion of the project

255
 256 President Preiner asked if it would be necessary to go out for bids. District Engineer Deutschman responded the
 257 work would be done with day labor but the Jodrell culverts would be by bid.
 258

259 District Administrator Belfiori stated the 30 day comment period would end on March 16 and those comments
 260 would be brought to the Board at the first meeting in April with a public hearing in May.
 261

262 ***Motion by Manager Waller, seconded by Manager Wagamon, to authorize the District Administrator to enter***
 263 ***into the Purchase Agreement for the wetland credits. Motion carried 3-0.***
 264

265 3. **Consider Amendment to Right Of Entry Agreement with Ramsey County Parks to perform additional work**
266 **associated with the Long Lake Inlet Project (Phil Belfiori)**

267 District Administrator Belfiori stated this amendment would extend the date for the Long Lake Inlet project
268 completion from January 31, 2012 to June 30, 2012 to complete the additional dredging activities. He noted the
269 RCP and the RCWD entered into an Agreement dated August 2, 2011 for Right of Entry on to Park Property to
270 excavate accumulated sediments from Rice Creek and adjacent bed areas where the creek outlets into Long Lake,
271 to improve water quality and stabilize the streambank.

272
273 He noted as previously discussed, additional dredging activities are required for the Project and the project
274 completion date will need to be extended from January 31, 2012 to June 30, 2012 to complete the additional
275 dredging activities.

276
277 He stated staff was recommending the Board approve the proposed amendment to the site access agreement
278 with Ramsey County and authorize the Board President to sign the amendment as presented or with further non-
279 material changes as counsel may advise.

280
281 *Motion by Manager Wagamon, seconded by Manager Waller, to approve the proposed amendment to the site*
282 *access agreement with Ramsey County and authorizes the Board President to sign the amendment as*
283 *presented or with further non-material changes as counsel may advise. Motion carried 3-0.*

284
285 4. **Consider 05-061 Ivy Estates Compliance hearing request (Nick Tomczik)**

286 Permit Coordinator/Wetland Specialist Tomczik stated staff is seeking the Board to authorize a compliance
287 hearing for Ivy Estates. He noted staff was having difficulty with the applicant responding. He noted the
288 structures being built were not in accordance with the plan and may be subject to flooding.

289
290 Manager Waller stated he looked at this site and he did not see any present construction going on, but there had
291 been some homes already completed. He requested this be resolved without spending a lot of money.

292
293 *Motion by Manager Waller, seconded by Manager Wagamon, to authorize the Administrator to give notice of*
294 *a Board compliance hearing for Ivy Estates (permit file #05-061) on April 11, 2012. Motion carried 3-0.*

295
296 5. **Consider Check Register dated 2/22/2012, in the amount of \$350,343.19, prepared by HLB Tautges**
297 **Redpath.**

298
299 *Motion by Manager Wagamon, seconded by Manager Waller, to approve check register dated 2/22/2012, in*
300 *the amount of \$350,343.19, prepared by HLB Tautges Redpath. Motion carried 3-0.*

301
302 **ITEMS FOR DISCUSSION AND INFORMATION**

303 1. **Update on Dan Hair Agreement**

304 District Attorney Kolb updated the Board on the status and timeline for potential agreements with Mr. Hair. He
305 stated at a recent meeting, Mr. Hair indicated he was in agreement to proceed with the wetland restoration on his
306 property. He stated Mr. Hair had been provided with all of the necessary information along with the framework
307 for the core wetland banking instrument. He anticipated a signed copy of that document soon. He stated Mr.
308 Hair will be provided a final framework for the agreement by the end of week and hoped to have a response back
309 soon.

310

311 President Preiner inquired about the 12 acres he was withholding and that they would be responsible if this would
312 be put into the wetland bank. Mr. Kolb responded during the 5 year period of maintenance if Mr. Hair chooses it
313 to be brought in it would be at the same costs, but if it was after the 5 year period the District would not be
314 obligated for any of the finances.

315
316 President Preiner asked what would happen if he came in in year four, Mr. Kolb responded this was a technical
317 piece they were still working on, but he anticipated there would be some type of an administrative process that
318 would need to be worked through.

319
320 District Engineer Deutschman stated there would be some costs associated with this and he would work with the
321 attorney on this issue. He believed there were some financial items that should be worked into the agreement.

322

323 **2. Staff Reports**

324 There were no comments.

325

326 **3. March Calendar**

327 District Administrator Belfiori asked if the Board would like to have a USGS presentation on April 11.

328

329 **4. Manager's Update**

330 Manager Waller stated last night he and Manager Wagamon attended the USGS presentation regarding their
331 findings from the first part of a White Bear Lake Groundwater/Surface Water Interaction Study at the White Bear
332 City Hall. He noted there was a loss of water in White Bear Lake contributed to the wells that were drawing out
333 of the aquifer. He noted they were at the north end of the aquifer. He stated the wells that were the culprits,
334 some people in the audience wanted those wells shut down. However, most of those wells were in White Bear
335 Lake, which would shut off their own water. He stated the lake's biggest problem was that it was a small
336 watershed and the USGS has not proposed anything to increase the watershed to the lake. He also stated that
337 these findings were in concurrence with a study previously completed by U of M graduate students at no cost.

338

339 **ADJOURNMENT**

340 *Motion by Manager Waller, seconded by Manager Wagamon, to adjourn the meeting at 10:22 a.m. Motion carried 3-*
341 *0.*

342