

Approved



**RCWD**

RICE CREEK WATERSHED DISTRICT

**REGULAR MEETING OF THE RCWD BOARD OF MANAGERS**

Wednesday, March 26, 2014

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

**Minutes**

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**ROLL CALL**

Present: President Patricia Preiner, 2<sup>nd</sup> Vice-Pres. John Waller, Secretary Harley Ogata, and Treasurer Steve Wagamon.

Absent: 1<sup>st</sup> Vice-Pres. Barbara Haake (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 Engineer Chris Otterness, Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners.

Visitors: Dean Faymoville, David Smart, Michael Murlowski, Clark Arneson, Jim Hafner.

**CALL TO ORDER**

President Preiner called the meeting to order, a quorum being present, at 9:00 a.m.

**SETTING OF THE AGENDA**

*Motion by Manager Ogata, seconded by Manager Waller, to adopt the agenda as presented.*

*Motion carried 5-0.*

**READING OF THE MINUTES AND THEIR APPROVAL**

**Minutes of the March 10, 2014, Board of Managers Meeting Workshop Meeting.**

*Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as presented. Motion carried 3-0-1 (Manager Ogata abstained).*

**Minutes of the March 12, 2014, Board of Managers Regular Meeting.**

Manager Waller requested further detail on the cash surety discussion. The Board was given 4 different numbers for the costs associated with the excavation of soils and offsite haul \$50, \$23 \$2.40 and \$ 1.75 and if the real issue is whether the Board is concerned with the security of the District's cost or are we concerned with the balance sheet of the developer/applicant. Is the role of Board to be concerned about the balance sheet of the permit applicant or are we here to worry about the District being properly financed for any kind of problem that occurs if a permit is not followed properly.

President Preiner replied for the purpose of the minutes, staff will go back and review and update the minutes, but she didn't feel that was the issue.

40 **Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as amended. Motion carried 3-**  
41 **0-1 (Manager Ogata abstained).**

42  
43 **CONSENT AGENDA**

44 The following applications have been reviewed by the District Engineer and Staff and will be acted upon without  
45 discussion in accordance with the Engineer’s Recommendation unless a Manager or the Applicant or another interested  
46 person requests opportunity for discussion:  
47

48 **Table of Contents**

49 **PERMIT APPLICATIONS REQUIRING BOARD ACTION**

No.	Applicant	Location	Plan Type	Recommendation
14-006	Northwestern College	Roseville	Final Site Drainage	CAPROC 5 items

50  
51  
52  
53 Permit Coordinator/Wetland Specialist Tomczik deleted on page 24 of the packet above finding 3, the second to the last  
54 sentence which reads "applicant must verify design criteria of Rule C.9 accordingly."  
55

56 **Motion by Manager Wagamon, seconded by Manager Ogata, to approve the consent agenda as outlined in the above**  
57 **Table of Contents in accordance with RCWD staff and District Engineer’s Findings and Recommendations, dated**  
58 **March 19, 2014 with corrections. Motion carried 4-0.**

59  
60 President Preiner recessed the regular meeting.  
61

62 **PUBLIC HEARING: LOCKE COUNTY PARK RAINGARDEN PROJECT**

63 President Preiner stated:

64  
65 “The Rice Creek Watershed District’s funding of the proposed Locke County Park Raingarden Project.”  
66

67 “The purpose of the hearing is to hear comments and take testimony from parties having an interest in  
68 the proposed project to be constructed in partnership with the City of Fridley.”  
69

70 Water Resource Specialist Axtell presented the Locke County Park Raingarden project. He indicated this was an important  
71 raingarden project as it would treat a large residential area. He stated the Anoka Conservation District has worked with  
72 staff on the design of the project. He noted the City of Fridley was also a partner on the project and the City would  
73 provide the curb-cut work at their cost. The planting work would be done by a group of Locke Lake volunteers. He noted  
74 the total approximate cost was \$16,000. He indicated there would be a \$10,000 DNR grant that would be applied to this  
75 cost. The grant resulted from restitution paid by BNSF Railway to the DNR for the July 2011 train derailment and corn  
76 spill into Locke Lake. He stated 4-8 pounds of phosphorus was expected to be reduced. He believed the project would  
77 function well.  
78

79 Manager Ogata asked on a project this size would they rely on natural water for the planting to take hold. Water Resource  
80 Specialist Axtell responded in this case, natural water should be sufficient. He indicated they would be putting the  
81 plantings in in the spring and if they go through long stretches of dry conditions, water might be required which the City  
82 would be looked to provide. He noted the neighbor adjacent to this project was very interested in landscaping and they  
83 believed he would be helping as well, but it would be the City’s responsibility.  
84

85 Manager Ogata asked about the ongoing maintenance. Water Resource Specialist Axtell responded they hoped to get the  
86 volunteers performing the maintenance along with the City, but it was the City’s ultimate responsibility.

87

88 Manager Waller asked if the 4-8 pounds of phosphorus dissolved or undissolved phosphorus. Water Resource Specialist  
89 Axtell responded he did not have that information from this particular drainage area.

90

91 Manager Waller asked if they had an idea of how to calculate the removal of phosphorus. Water Resource Specialist Axtell  
92 replied that the 4-8 pound estimate was from literature values based on the drainage area and size of the raingarden.  
93 Reducing phosphorus in general was a good thing, they did monitor Rice Creek, and they would be monitoring directly  
94 downstream from the stormsewer outlet. They also did monitoring of Locke Lake downstream on a routine basis so  
95 whether they would see a direct and immediate impact they would need to look at the data, which would take time.

96

97 Manager Waller stated he wanted to see the proficiency measurements on these projects so he could see what they were  
98 doing and he wanted a system developed for the entire District when they put the projects in.

99

100 President Preiner invited the public to make comments. There were no comments made at the public hearing.

101

102 President Preiner closed the public hearing.

103

104 **PUBLIC HEARING: PROCEEDINGS TO REESTABLISH AND CORRECT THE DRAINAGE SYSTEM**  
105 **RECORD, FUNCTIONAL ALIGNMENT, DIMENSION AND GRADE OF THE ANOKA COUNTY DITCH**  
106 **72 SYSTEM**

107 President Preiner stated:

108

109 The purpose of our meeting is to receive comments from the public on the District's intent to adopt an  
110 Order to Correct the drainage system record, identify the scope of the drainage system and abandon  
111 portions of the system. Following the Board's action, the Watershed District will be completing a repair  
112 report that will consider alternatives for the future repair and maintenance of the system.

113

114 The Board of Managers has reviewed a historical and technical analysis of the system, which is contained  
115 in engineer's historical review dated February 25, 2014.

116

117 Inspection of ACD 72 reveals several undocumented modifications of the drainage system, several areas  
118 of disrepair, portions of numerous branches or laterals absent from the landscape and other branches or  
119 laterals providing only private benefit.

120

121 As part of its analysis of the drainage system, the engineer has identified the existing functional  
122 alignment, dimension and grade of this system as it provides beneficial public drainage today. This  
123 functional alignment, dimension and grade match the basic functional efficiency of the system as  
124 designed and established to provide beneficial public drainage.

125

126 Authority for the Board to take action related to Ditch 72 is found in Statutes Section 103D.335, subd. 8,  
127 which allows the Board of Managers to "construct, clean, repair, alter, abandon, consolidate, reclaim or  
128 change the course or terminus of any public ditch...within the watershed district.

129

130 The Board possesses further authority under statutes Section 103E.101, subd. 4a, to reestablish records  
131 defining the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and  
132 elevations; or right-of-way of a drainage system as originally constructed or subsequently improved.

133

134 The Board initiated these proceedings by Resolution 2014-03 on January 22, 2014.

135  
136 District Administrator Belfiori highlighted the Ditch 72 ditch system and the timeline of recent activities.

137  
138 District Engineer Otterness presented the benefitted area on Ditch 72, the as designed ditch system, the current system,  
139 the history of the drainage system, and the recommendations for the ditch system including the recommended  
140 alignment, and the proposed abandonments.

141  
142 District Administrator Belfiori noted the RCWD would be responsible for the maintenance of the drainage system and  
143 would continue the maintenance on the problem areas on the drainage maintenance program, as well as completing the  
144 repair memorandum, which had been prepared in the 2014 budget.

145  
146 President Preiner asked if anyone from the public wanted to make comment. There were no comments made at the  
147 public hearing.

148  
149 President Preiner closed the Public Hearing and opened the regular meeting.

150  
151 **OPEN MIKE – LIMIT 12 MINUTES.** Any RCWD resident may address the Board in his or her individual capacity, for up to  
152 three minutes, on any matter not on the agenda. Speakers are requested to come to the podium, state their name and address for the  
153 record. Additional comments may be solicited and accepted in writing. Generally, the Board of Managers will not take official action on  
154 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  
155 agenda.

156  
157 There were no comments made at Open Mike.

158  
159 **ITEMS REQUIRING BOARD ACTION**

- 160 1. **Consider Findings and Order correcting drainage system record, identifying scope of drainage system and**  
161 **abandoning portions of drainage of Anoka County Ditch 72 (Phil Belfiori)**  
162 Administrator Belfiori explained this was a revised Resolution 2014-14 related to the last public hearing heard at  
163 the meeting today.

164  
165 ***Motion by Manager Ogata, seconded by Manager Wagamon, to approve Resolution 2014-14, Findings and***  
166 ***Order Correcting Drainage System Record, Identifying Scope of Drainage System and Abandoning Portions of***  
167 ***Drainage System of No Substantial Public Purpose.***

168  
169 **ROLL CALL:**  
170 ***Manager Waller – Aye***  
171 ***Manager Haake – Absent***  
172 ***Manager Ogata – Aye***  
173 ***Manager Wagamon – Aye***  
174 ***President Preiner – Aye***

175  
176 ***Motion carried 4-0-1.***

177  
178

179 2. **Consider Resolution Ordering Locke County Park Raingarden Project and Approving Intergovernmental**  
180 **Agreement with the City of Fridley (Phil Belfiori)**

181 Administrator Belfiori stated in 2013 the RCWD executed a grant contract with the DNR that gave the District  
182 \$10,000 to construct the Locke County Park Raingarden Project. He noted the project proposed constructing a  
183 large raingarden to treat runoff from a 4.4 acre residential drainage area. He indicated currently the area drained  
184 untreated to Rice Creek and Locke Lake. He stated in addition to the \$10,000, staff was estimating an additional  
185 \$6,000 would be required to construct the project with the extra funding coming from the Southwest Urban  
186 Lakes Implementation Fund. He indicated pursuant to statutes, today's public hearing was needed before the  
187 additional funding could be committed.

188  
189 **Motion by Manager Ogata, seconded by Manager Wagamon, to approve Resolution 2014-15, Ordering the**  
190 **Locke County Park Raingarden Project Pursuant to Minnesota Statutes §103B.251.**

191  
192 **ROLL CALL:**

193 **Manager Waller – Aye**

194 **Manager Haake – Absent**

195 **Manager Ogata – Aye**

196 **Manager Wagamon – Aye**

197 **President Preiner – Aye**

198  
199 **Motion carried 4-0-1.**

200  
201 3. **Consider Resolution Regarding Construction Area for Repair of Anoka County Ditch 53-62. (Phil Belfiori)**

202 Administrator Belfiori explained this Resolution adopted the areas necessary for entry and occupation during the  
203 repair of the drainage system and directed implementation of the repair of ACD 53-62 consistent with the  
204 previously adopted Resolution 2013-27. He noted the Resolution also directed the Administrator to coordinate  
205 and take all subsequent actions necessary for implementation of the repair in a manner consistent and  
206 compliance with existing law.

207  
208 **Motion by Manager Wagamon, seconded by Manager Ogata, to approve Resolution 2014-16, Order Adopting**  
209 **Repair Area for the Repair of Branch 1 of Anoka County Ditch 53-62.**

210  
211 Manager Waller asked if the controversy with the DNR regarding the project had been resolved and would this  
212 resolution be impacted. District Administrator Belfiori responded this was strictly related to the area defined in  
213 the maps in the packet. It did not relate to the issue ongoing discussions with the DNR related to the potential  
214 work in public waters. He indicated that was an ongoing discussion and he anticipated a meeting with counsel for  
215 the department and would give an update the next workshop meeting.

216  
217 **ROLL CALL:**

218 **Manager Waller – Aye**

219 **Manager Haake – Absent**

220 **Manager Ogata – Aye**

221 **Manager Wagamon – Aye**

222 **President Preiner – Aye**

223  
224 **Motion carried 4-0-1.**

225

- 226 4. **Consider Check Register dated 03/26/14, in the amount of \$254,526.02, prepared by HLB Tautges Redpath.**
- 227 **Motion by Manager Wagamon, seconded by Manager Ogata, to approve check register dated March 26, 2014**
- 228 **in the amount of \$254,526.02, prepared by HLB Tautges Redpath. Motion carried 4-0.**
- 229

**ITEMS FOR DISCUSSION AND INFORMATION**

**1. Follow Up Discussion (from 03/12/14 Board Meeting) related to floodplain surety.**

District Administrator Belfiori stated as a follow-up from the March 12, 2014 Board meeting, the Managers had asked staff to provide an update on the City of Blaine’s methodology as well as to provide some information on the cost of obtaining a surety from a bank.

Permit Coordinator/Wetland Specialist Tomczik stated the City of Blaine’s approach was to secure 125% of the total cost of the required improvements, which was a combination of 10% cash and a letter or bond, which was 90%, and it included a potential of a reduction in those amounts. He noted this was similar to what the District had in place. He stated they did have a specific cash amount as well as an option for a letter or bond and a reduction. The total cost to determine the 125% is estimated by the engineer. It was a determination from the engineer that the costs were reasonable, realistic to cover the project. The surety was intended to cover the cost of the project and in most cases that was utilities, roads, sidewalks, etc. as well as the grading for the items of District interest, under its regulations. Staff suggested there was a fair amount of time and cost the District would incur through the District engineer in defining the costs of the specific interests covered under the regulations as well as discussion between the District’s engineer and the project’s engineer.

He stated with respect to the municipal administration of the watershed district’s regulations. He stated he did not believe there was a large amount of interest at this time on the City’s part. He noted the City had indicated they were not currently in the mode of hiring additional staff or taking on additional workloads and the it was the City’s opinion that the existing arrangement between the City and the District had been working. He stated the basis of the District rules provided for the municipalities to adopt the administration of the District rules, which had been done by Hugo.

He indicated the other item was the applicant’s cost to obtain surety. He stated he had spoken with Anchor Bank regarding a letter of credit and the bank indicated typically people came to them with a template document and the District did have such a template, which was on the website and had been reviewed by the District attorney. He noted the bank was looking to secure the value of the required letter of credit, which is the same as in the letter of credit document. He indicated a letter of credit for \$200,000 would require \$200,000 in a bank account. He noted there was a fee of 1 to 1.5 percent of the face value associated with the letter of credit. Alternatively, if it was a small amount of surety, there would be a flat fee for the administrative efforts. The time length for the credit or how long it would be in play, would be a factor in determining the cost and that would vary by project and construction schedules. An alternative item of value instead of cash for the letter of credit typically came with a discount. With respect to bonds, those were typically handled by an insurance company and Anchor Bank shared the response from an insurance company they had done business with in the past. That representative indicated a bond was similar to a letter of credit. It started at .5 and went up to 3 percent of the face amount. Larger firms with greater revenue were in the lower range the smaller firms with less revenue were in the higher amount of the range. Experience of the firms also came into play on the bond rates; small firms with experience and good liquidity were eligible for lower rates.

He stated Houston did a memo defining a dirt work cost based on past projects. The District requested and Blaine shared bid and project information they had on past projects. HEI reviewed the developer’s agreement along with the bid information in an effort to improve or confirm the dirt work cost in the memo. Houston Engineering found it difficult to utilize the information. He asked the District Engineer for his opinion.

270 District Engineer Otterness stated they had reviewed the data provided by Blaine and the data provided was cost  
 271 data that was either project wide or it was broken out into large components and there was no way to use the  
 272 data to come up with a cost that would reflect the type of work the District needed to do in order to meet the  
 273 rules if a developer were to default on the property. He stated this would be typical of any project that would be  
 274 occurring in that they would not be able to obtain those types of costs from the developer unless they specifically  
 275 ask for each line item cost and even then they would not likely get all of the costs that would be associated with  
 276 coming back in after the fact to finish up the stormwater portion of the construction.

277 Permit Coordinator/Wetland Specialist Tomczik stated in the evaluation of any projects, the dirt numbers as they  
 278 were presented to the District were often arranged in a way that may or may not be beneficial to the District. It  
 279 was the applicant or the person seeking to win the bid putting the costs in a bid document where it benefitted  
 280 them and fit into their goals. With that, he asked if they had a reasonable number from their work, and that was a  
 281 question for the Board. He noted they had put some effort into this, the \$23.00 for dirt work seemed reasonable,  
 282 and they had a basis for that number. He stated if the Board wanted staff to research this further, they could, but  
 283 there could be cost involved in research this further. He stated staff was looking for feedback from the Board. He  
 284 stated they could utilize the number that the Houston memo determined and look at the surety schedule, apply  
 285 the dirt work number across-the-board, and then show a range of risks and then the Board could gauge their  
 286 tolerance and move on from there. He noted some representative of the City of Blaine were present also.

287 President Preiner noted this presentation was for information only.

288 Manager Waller asked if he could ask some questions. President Preiner stated he could tell staff what  
 289 information he wanted presented at the workshop, but the information given today was for information only and  
 290 they were waiting for Manager Haake to be present for the discussion.

291 Manager Waller stated he wanted clarity about engineers. He stated they were assuming it was the District's  
 292 engineer that calculated the cost, was that correct. Permit Coordinator/Wetland Specialist Tomczik responded  
 293 he believed he referred to engineer two different times, one specifically to the City of Blaine's process in that their  
 294 engineer was involved in the calculation of the city of Blaine's number. On the District's side, they would be  
 295 similarly situated, but typically, the engineer would develop confirm the cost number.

296 Manager Waller believed the presentation was fine.

297  
 298 **2. Staff Reports**

299 There were no comments.

300  
 301 **3. April Calendar**

302 There were no comments.

303  
 304 **4. Manager's Update**

305 Manager Waller stated he attended along with the Administrator a Washington County presentation on One  
 306 Watershed One Plan. He noted that this plan was mostly for outstate Minnesota.

307  
 308 Manager Waller stated he had also attended the Legislative breakfast/lunch where there was a very interesting  
 309 presentation on invasive carp and the reproduction of the carp.

310  
 311 **ADJOURNMENT**

312 ***Motion by Manager Ogata, seconded by Manager Wagamon, to adjourn the meeting at 9:53 a.m. Motion carried 4-0.***