



1

REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, March 8, 2017

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

2

3

Approved Minutes

4

CALL TO ORDER

5

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

6

7

ROLL CALL

8

Present: President Patricia Preiner, 2nd Vice-Pres. John Waller, Secretary Michael J. Bradley, and Treasurer Steve Wagamon.

9

10

Absent: Manager Barbara Haake (with prior notice)

11

Staff Present: Administrator Phil Belfiori, Permit Coordinator/Wetland Specialist Nick Tomczik, Water Resource Specialist Kyle Axtell, Office Manager Theresa Stasica.

12

13

Consultants: District Engineers Chris Otterness and Joe Lewis, Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners, and Drainage Attorney John Kolb-Rinke Noonan.

14

15

16

Visitors: John Smyth, Bill Lynch, Mary Jo Truchon, Dottie McKinley, Diana Anderson, Barclay Anderson.

17

18

19

SETTING OF THE AGENDA

20

District Administrator Belfiori indicated staff had no changes.

21

22

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

23

Motion carried 4-0-1.

24

25

READING OF THE MINUTES AND THEIR APPROVAL

26

Minutes of the February 22, 2017, Board of Managers Meeting.

27

28

Manager Waller indicated he had a couple of corrections to the minutes. Page 12, line 361, "...been notified of danger and they will be vigilant to move forward to work with the MPCA..."

29

30

31

Manager Waller stated the second correction is on page 22, line 809 "Finally, ~~he believed~~ he preferred option three ~~was a possibility here~~ but he would accept option two. ~~because the situation is not remote to him.~~ The word remote means inconsiderable which means to unimportant to merit attention. He did ~~not~~ believe that definition fits this situation. ~~that this is too unimportant to bear attention."~~

32

33

34

35

36 *Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as amended.*
37 *Motion carried 5-0.*

38

39 **PUBLIC HEARING REGARDING ANOKA COUNTY DITCH 53-62, BRANCH 2 REPAIR**
40 **REPORT & WATER MANAGEMENT DISTRICT (WMD)**

41 President Preiner opened the public hearing at 9:03 a.m.

42

43

STATEMENT OF WATERSHED DISTRICT PRESIDENT

44

FINAL HEARING:

45

Repair of Branch 2, Anoka County Ditch 5362 and

46

Adoption of Water Management District Charges for the Repair of Anoka County Ditch 53-62

47

March 8, 2017

48

This is the Final Hearing on the proposed repair of Branch 2 of Anoka County Ditch (ACD) 53-62 and
49 for the adoption of water management district charges for the repair of ACD 53-62.

50

I would like to welcome everyone who has come today. Under consideration at this evening's
51 hearing is the Engineer's recommended repair for Branch 2 of ACD 53-62 and the adoption of water
52 management district charges to pay the local allocation of costs for the repair.

53

The purpose of this hearing is to review the Engineer's recommended repair, the allocation of costs
54 and basis of water management district charges, and to receive comment from those affected by
55 the proposed repair and charges.

56

This is an evidentiary proceeding. The proceedings are being recorded in order to preserve the
57 record.

58

The order of business for this hearing will be as follows. First, Mr. Belfiori, the District's
59 administrator, will introduce a presentation of information related to the proposed repair and water
60 management district charges; the District's legal counsel will provide an overview of the actions
61 taken by the Watershed District bringing us to the hearing and the District's engineer will present
62 information related to proposed repair and the establishment of charges.

63

Following the staff presentation, I will open the hearing for public comment. The Board would like to
64 hear your comments on the proposed repair and water management district charges and any
65 information relevant to that purpose.

66

During the public hearing, managers may ask questions of staff or consultants making presentations
67 and of commenters in order to clarify any testimony.

68

In addition, if a member of the public asks a question and a manager believes that a response from
69 the District staff or a District consultant can readily resolve the question or enrich the testimony, the
70 manager may ask me to have the appropriate staff member or consultant speak to the question. I
71 will exercise my judgment as to whether to allow such discussion.

72 However, managers' expression of their positions and general discussion concerning the subject of
73 the final hearing should be avoided during the public comment portion of the public hearing. Board
74 discussion will occur after all members of the public have had a chance to speak and the public
75 comment period has been closed. Board discussion may occur and be concluded at this or a
76 subsequent meeting, as the Board decides.

77 If a member of the public would like to make a comment, at the appropriate time, please stand and
78 address the Board when I recognize you. Speak clearly and state your name and address for the
79 record. If you have a specific question concerning the proposed repair or charges, we may ask our
80 administrator, engineer, or legal counsel to respond. If you have anything in writing you wish to
81 submit, you can provide it to me before the close of the public comments and I will note its receipt
82 in the record.

83 To ensure that all wishing to comment on the proposed repair and charges have time to speak, I
84 may limit the time any single speaker may comment to five minutes. Please limit redundant or
85 repetitive comments.

86 Would any of the board members wish to offer any further remarks before we begin?

87 Administrator Belfiori explained District Drainage Attorney Kolb was at the meeting to discuss this item.

88

89 District Drainage Attorney Kolb stepped up to the podium. He stated the purpose of this hearing is for
90 the Board to decide whether the proposed repair of Branch 2 of ACD 53-62 is necessary and in the best
91 interest of the property owners, municipalities and road authorities that utilize the ditch as a beneficial
92 outlet for drainage. Also under consideration is the method of raising revenues to finance the repair.
93 This process is consistent with what the Board has adopted previously in its Watershed Management
94 plan including a combination of water management district charges and ad valorem tax to pay a portion
95 of the cost of the repair. The legal standard in regard to those are whether or not the charges are
96 reasonable and consistent with the plan and are adequately distributed in order to acknowledge the
97 burden placed on the ditch by those properties who are discharging or utilizing the ditch for beneficial
98 drainage. This action dates back to initial review of Anoka County Ditch 53-62 in its entirety back in
99 2011 and 2012. In 2014, the Board initiated proceedings to identify and correct the drainage system
100 record for the entire ACD 53-62 system and subsequently embarked on a repair of branch one of ACD
101 53-62. As part of the process, the Board coordinated with the City of Blaine, Lino Lakes, Lexington and
102 Circle Pines in order to gain authorization to conduct the repair activities with alternative authorities
103 under Minnesota Statutes Chapters 103B and 103D, which are the Watershed Laws as opposed to solely
104 being bound by the requirements of Chapter 103E, which is the drainage code.

105

106 District Drainage Attorney Kolb stated by Resolution 2015-33, the Board adopted findings and an order
107 directing repair proceedings for the repair of Branch 2 of ACD 53-62 by Resolution 2017-01, the Board
108 accepted the Engineer's final report for the repair and concurred with the Engineer's recommended
109 repair alternative and accepted the charge analysis and the recommended allocation of costs for the
110 repair of branch 2 of ACD 53-62. Finally, the Board directed proceedings which brings them to the
111 hearing today.

112

113 District Drainage Attorney Kolb indicated notices have been provided and are consistent with the
114 requirements of Statute. He read the publications where the notices were published.

115

116 District Drainage Attorney Kolb stated in addition to the Engineering report the Engineers provided,
117 after consultation with the Board, an opinion of probable costs for the recommended repair alternative
118 and the charge analysis with the recommended allocation of costs under the Water Management
119 District charge system which was established by amendment to the Boards Watershed Management
120 Plan and the charge analysis recommends an allocation of costs between Water Management District
121 charges and ad valorem taxes has been the previous policy of the Board. The recommended allocation
122 developed in consultation with the Board takes into consideration past legal authorizations and policies
123 of the Board related to drainage system maintenance, current policies as articulated in the Watershed
124 Management plan, consideration of the District wide benefits of the ecological floodplain management
125 and other ecological components of the proposed repair and the direct local benefit of restoring the
126 core drainage function and accommodating future stormwater demands that are placed on the function
127 of Branch 2 of ACD 53-62.

128
129 District Engineer Otterness made a presentation to the Board. He discussed the timeline to date,
130 standard for the decision made, the drainage system conditions, proposed plans to repair the drainage
131 system, the total project costs and allocations and the anticipated schedule for the repairs to be made.

132
133 District Engineer Otterness recommended the District repair Branch 2 and its laterals to the As-
134 Constructed and Subsequently Improved Condition and to establish Water Management District charges
135 as described in the February 27, 2017 memorandum.

136
137 Manager Bradley asked even though they are going to use the same Water Management District area
138 they will not be added together. District Engineer Otterness indicated that was correct. He stated the
139 initial charge for the previous repair was completed as of 2017 so the charges will not be overlapping for
140 the primary additional charged based on the current land use.

141
142 President Preiner asked if there was anyone else who wished to speak.

143
144 Ms. Dotty McKinley, 3900 125th Avenue NE, Blaine, stated she has 53 acres of farm land. She asked if
145 the cost of the repairs will be \$28/acre again and that she will be assessed for this work. She noted the
146 land is agriculture, hay fields. District Engineer Otterness stated he was not sure what they have listed
147 for this property without looking at the charge table. He stated if it is identified as being farm land then
148 that charge category would be \$28/acre as they have listed in the table.

149
150 Ms. McKinley stated when this was repaired three years ago, the work was done on the other side of
151 Lexington Avenue and they were all charged to help pay for that repair and she wondered if the other
152 side of Lexington Avenue will help pay for the proposed repairs in the same way. District Administrator
153 Belfiori stated that was the charge for Branch one of Anoka County Ditch 53-62, that charge was for
154 three years for branch one which paid sixty percent of the charge for that project. He noted that the
155 charge for branch 1 would be running out at the end of this year, and that this proposed charge would
156 be for the same area from 2018 to 2020, however, the Board has also discussed at workshops that they
157 have anticipated going forward and doing other projects in the 53-62 system after this and for those
158 projects also, it is likely that this same area will be utilized for the water charge as well. There is an
159 overall goal for the District that over approximately the next ten plus years that this would be a charge
160 that they would use each time to complete all of the current and future projects in the ACD 53-62
161 system. There would be at least one or two other possible repair projects in the 53-62 system if the

162 Board wished to proceed with those at that time and they would anticipate, based on their discussion
163 and in the water plan, that this same area would be charged.

164 Ms. McKinley stated she was ok with paying the \$28/acre cost for the next three or more years because
165 the ditch needed to be cleaned up.

166

167 Ms. MaryJo Truchon, 12917 Buchanan Street, Blaine, stated she serves on the CAC for the Rice Creek
168 Watershed and the Anoka County Conservation District Board. She stated she was at the meeting as a
169 member of the Natural Resources Conservation Board of Blaine. She thanked the Board for the
170 cooperation that they have shown their 500-acre wetland park establishment. She stated their
171 consultant with Critical Connections is going to be working with them for quite a long time. She stated
172 their 500-acre wetland park was established as part of a citizen vote for a 3.5-million-dollar bond to
173 begin their open space plan and trail system in Blaine and they have done a good job. She requested to
174 take special care, as they have in the past, with their wetland park. They have completed their
175 restoration of the acreage in the southern half of the park and that is what the Weir was helpful in
176 establishing the hydrology in that area. The project they are engaged in with Jason Husveth is the
177 (ENRV) Exceptional Natural Value Wetlands parcel they will get credit for in the upper two hundred
178 acres and that purchase is in the northern section of the park and their first purchase with the 3.5-
179 million-dollar bond issued in 2003. They knew then how valuable that could be if they could keep going
180 with their plan. They also purchased ten more acres going out to Lexington where they will have a
181 nature center, trail head and parking lot. She thanked the Board for the repairs and hoped the wetland
182 will be restored back to what it previously was. She stated it was very important to them to maintain
183 the hydrology and the plant communities.

184

185 District Engineer Otterness stated they have had extensive communication with Mr. Husveth, not only
186 with regard to the District project and how it fits in the City of Blaine's wetland project but with how it
187 also fits with the ditch. They have communicated extensively over the last year or so regarding how the
188 two projects are going to work together. He thought they were both very comfortable with where they
189 are at.

190

191 After asking if there were any others wishing to comment, and seeing none, President Preiner closed the
192 public comment portion of the hearing and opened the matter for Board discussion and action.

193

194 Manager Waller thanked the public for coming to the meeting and voicing their concerns. He thought
195 the District has developed a very strenuous protocol to work with the land owners along the drainage
196 system so that what needs to be disturbed is held to a minimum as far as vegetation growth goes along
197 and access to it. He stated this has been very successful. He stated this repair will also provide a benefit
198 to the wetland park because they will be able to use the weir structure. He stated contrary to what
199 people believe, too much water in the wetland is detrimental to it and makes the wetland dysfunctional.
200 He stated at the workshop meeting the Mayor of Blaine and City Administrator for Blaine came and they
201 were concerned with tree removal but it was pointed out that most of the complaints were coming from
202 people in the Coon Creek Watershed District. While technically they are not in the park area they are
203 talking about or the benefit of it. Finally, they are going to distribute the taxes to everyone in the area,
204 which will continue and with Ms. McKinley's particular property he wanted her to make sure that when
205 the spoil piles are put along the ditch, if it is in her property that her access to the private ditches are not
206 impeded and the water will flow off the property into the ditch and not piling up. He believed the
207 project needed to be done.

208

209 ***Motion by Manager Wagamon, seconded by Manager Bradley to direct staff to prepare***
210 ***findings and an order consistent with the proceedings, including responses to all comments***
211 ***received through the public comment process; that the draft findings and order be written to***
212 ***affect the repair of Branch 2 of ACD 53-62 according to the engineer's recommendation and***
213 ***to establishment water management district charges according to charge and cost allocation***
214 ***analysis; and that we recess this hearing to the Board's regular meeting on March 22, 2017,***
215 ***at 9:00 a.m., or by adjournment to an appropriate time on the Board's agenda, at which***
216 ***meeting we will consider findings and an order for the proposed repair and establishment of***
217 ***water management district charges. Motion carried 4-0.***
218

219 **PUBLIC HEARING REGARDING ANOKA-WASHINGTON JUDICIAL DITCH 3, BRANCH 2 &**
220 **3, PETITION TO IMPOUND WATERS, RE-ALIGN, & ABANDON**

221 President Preiner opened the public hearing at 9:55 a.m.
222

223 **STATEMENT OF WATERSHED DISTRICT PRESIDENT**
224 **PUBLIC HEARING:**

225 **Petition of Martin LaValle to modify portions of Anoka-Washington Judicial Ditch 3 (AWJD 3).**
226 **March 8, 2017**

227 This is a public hearing on the petition of Martin LaValle to modify portions of Anoka-Washington
228 Judicial Ditch (JD) 3.

229 I would like to welcome everyone who has come today. Under consideration at today's hearing is
230 LaValle's petition to: (1) impound waters on branch 2 of JD 3; (2) abandon a portion of branch 3 of
231 JD 3; (3) realign a portion of branch 3 of JD 3; and (4) encroach upon the required right of way of the
232 main channel of JD 3.

233 The Board's consideration of this request is governed by statutes sections 103E.227 and 103E.806.
234 Section 103E.227 allows a person to petition to impound, reroute, or divert drainage system waters
235 for beneficial use. Section 103E.806 allows an owner of benefited property to petition the drainage
236 authority to abandon any part of the drainage system that is not of public benefit and utility and
237 does not serve a substantial useful purpose to property remaining in the system.

238 The purpose of the hearing is to review the engineer's investigation and report of findings and
239 receive comment from those affected by the proposed action.

240 This is an evidentiary proceeding. The proceedings are being recorded in order to preserve the
241 record.

242 The order of business was as follows. First, Mr. Belfiori, the District's administrator, will introduced a
243 presentation of information related to the District and its function; the District's management of public
244 drainage systems, the engineer's review of LaValle's petitioned actions, and subsequent actions that
245 may occur following the proceedings. Mr. Belfiori was assisted by the District's legal counsel and
246 engineer. Administrator Belfiori introduced District Drainage Attorney Kolb and Mr. Lewis from Houston
247 Engineering.

248
249 Attorney Kolb stated as previously discussed Marvin LaValle through his consultants Stantec petition the
250 Board of Managers for the actions that the President discussed and it is important to note that there are
251 four actions that are taking place and some are preconditioned on other actions. The petition proposes

252 to impound portions of the judicial ditch for the beneficial purpose of creating a wetland restoration and
253 bank. To facilitate the development of the wetland bank they need to realign a portion of the drainage
254 system and to satisfy the requirements of their wetland bank approval entity, the Board of Water and
255 Soil Resources, a portion of the drainage system that is being realigned, the remnant of the old system
256 has to be abandoned. That is the portion that is contingent on the actual realignment taking place.
257 When the Engineer reviewed this the question they are trying to ask and the standard that forms their
258 decision is whether or not the proposed action, the impoundment, will adversely affect other properties
259 on the drainage system or deprive those properties of the benefit of the drainage system. That is one
260 piece of information that the engineer has to look at. The engineer's will look at the overall watershed
261 that is draining to this site that is proposed to be impounded, what the relative elevations are of the
262 impoundment structures themselves and what the water staging elevations would be to see whether or
263 not those impacts end up affecting other properties or diminishing capacity of the ditch to carry water
264 from those other properties.

265
266 Attorney Kolb stated looking at the realignment and the subsequent abandonment the Engineers have
267 to look at whether that realignment portion is designed in such a way that it will deprive or reduce the
268 efficiency of the drainage system for other properties. In this case, since there is a realignment that is
269 coinciding with the abandonment, the abandonment standard which is, does the portion proposed to be
270 abandoned serve any substantial useful purpose to properties remaining. The Board's job is to
271 determine whether or not there is a benefit to what is being proposed, the proposed actions will deprive
272 other land owners of the utility of the ditch and whether or not it will cause adverse impacts.

273
274 Attorney Kolb noted the fourth item is the idea of encroaching on the existing right-of-way of the main
275 channel of the judicial ditch. That has to do more with the mechanics of creating the impoundment area
276 for the wetland bank. The Engineer believes that it can be designed in a way that will not limit or
277 impede future maintenance, which is the primary concern there.

278
279 Attorney Kolb indicated notices have been provided and are consistent with the requirements of
280 Statute. He recited the published, mailed and posted notice dates and recipients.

281
282 Engineer Lewis stated the purpose of the petition is to restore wetlands on the petitioner's property and
283 to establish a wetland bank; impounding, rerouting and diverting drainage systems waters and under
284 MS103E.227, the project must be a public or private benefit, not impair the utility of the ditch and not
285 deprive affected landowners of benefit. He reviewed the location of Anoka-Washington Judicial Ditch 3.

286
287 Engineer Lewis stated the proposed modifications to Branch 2 include impound at 2 locations, upstream
288 impoundment to collect sediment and distribute flow to the wetland and downstream impoundment to
289 create permanent pooling. The proposed modification to Branch 3 includes abandoning the lower 1,150
290 feet and blocking the open channel and replace with a new open channel approximately 250 feet to the
291 west.

292
293 Engineer Lewis reviewed the proposed plan modifications with the Board.

294
295 Engineer Lewis stated the benefits of the modifications will create wetland banking credits for multiple
296 purposes; restore wildlife habitat; improve water quality and provide additional flood storage.

297

298 District Engineer Lewis stated regarding the system maintenance, the petitioner's maintenance
299 responsibility will be:

- 300 • Outlet control structures
- 301 • Emergency Overflow Structures
- 302 • Sedimentation basin
- 303 • Main Trunk near the outfalls.

304

305 Drainage Authority (RCWD) Responsibility will be:

- 306 • Realigned Branch 3 open channel ditch
- 307 • Branch 2 upstream of sedimentation basin

308

309 Engineer Lewis stated the proposed modifications have a public and private benefit, do not impair the
310 utility of the public drainage system, and do not deprive affected landowners of benefit. He
311 recommended the Rice Creek Watershed District to order abandonment, realignment and
312 impoundment.

313

314 Manager Bradley asked who was responsible for the financial cost of the realignment. District Engineer
315 Lewis stated the petitioner was responsible.

316

317 Manager Waller stated this is a really large drainage area, approximately five miles. Particularly in the
318 upstream part of the project, Drainage Ditch 2, is all private drainage ditches that feed into this system
319 and also an area where there is City sewer and water and developing at this time. He asked if they have
320 taken into consideration, the current, with their Lidar, what the current flow is so they have an idea as it
321 increases and the use of the land changes, that the amount of water will be able to flow through the
322 ditch and not be interrupted by the ponding being proposed. The same is true with the north half,
323 above Frenchman's Drive. He stated there is a high probability of land use change and density. He
324 wondered how they are going to be able to maintain those effectively. District Engineer Lewis stated
325 regarding Branch 2, there is a significant grade on that branch that he thinks lends itself to having
326 adequate capacity because of that and also diminishes the impact on upstream areas because of that
327 significant grade in the ditch.

328

329 District Engineer Otterness stated they have done extensive modeling of the conditions out there which
330 has utilized that Lidar and through that process they looked at every substantial private system that
331 conveys enough of drainage area to make a difference in their modeling and have included those as
332 appropriate through their modeling.

333

334 Following the staff presentation, President Preiner opened the hearing for public comment.

335

336 District Administrator Belfiori read Alice Waller, 14189 Finale Ave N, Hugo, MN, email into the record:

337

338 Ms. Waller's email expressed concern that impounding water will create problems for adjacent property
339 owners because of the lateral movement of the water. She also expressed concern, based on past
340 experience, that she was not confident in the accuracy of the engineer's report. She does not believe
341 that impounding water restores a wetland and is opposed to this proposal.

342

343 District Administrator Belfiori read into the record an email from Tony Havranrek, WSB and Associates
344 forwarding a letter from Mr. Mark Erichson, PE, Senior Project Manager at WSB and Associates and
345 several attachments on behalf of the City of Hugo.

346
347 The City of Hugo's comments related to the proposed wetland bank application and the consistency of
348 the proposed project with flood plain and land use regulations of the City and future plans of the City
349 related to transportation and development. The City included with its comments substantial
350 documentation related to review of the proposed wetland restoration and banking plan for both the
351 Local Government Unit and the Corps of Engineers.

352
353 Attorney Kolb stated the Board's job and obligation under the drainage code is not to evaluate the
354 technical merits of the wetland restoration and all of those comments would go to the actual technical
355 merits of the wetland restoration and the preparation of a wetland bank and the issues that are relevant
356 to the preparation of mitigation banking instrument with the Corp. of Engineers. The Board can make a
357 decision here as to whether they want to hear those comments but his opinion is that they are not
358 relevant to their consideration as to the proposed impoundment realignment and version of the
359 drainage system waters.

360
361 Manager Bradley stated if it is not going to be a successful wetland why would they do this. Attorney
362 Kolb stated the decision whether to go forward or not with the wetland bank is really one of the
363 landowners. If the landowner wants to take this land use that might otherwise be allowed from a
364 zoning perspective and can get all of the necessary permits to go forward with it, even if it fails, that is a
365 risk that they take. What the engineer has implied is if there is some wetland restoration there and if
366 there is some modification of the land use even if it is not fully successful from a banking perspective, it
367 will result in the various benefits, both public and private dealing with ecological wildlife habitat and
368 those other things. He understands the concern but is really a risk that the applicant takes.

369
370 Manager Waller stated there are two comment periods from the City of Hugo, one refers to the wetland
371 banking and the other one is talking about streets and transportation plans and other issues. Are those
372 issues able to be resolved by the 22nd of March or would more time be necessary. District Drainage
373 Attorney Kolb stated as to the roads that are identified in the Comprehensive Plan they are not created
374 and he was not aware of any property interest that the City has acquired in those roads, they have
375 simply identified it as part of their transportation plan. The relevance to that as to whether or not the
376 Board can approve this or not approve this is really dependent on can Mr. LaValle get all of the
377 approvals that he needs to move forward. The District would recommend a specific provision in their
378 order that states something to the effect of the following:

379
380 That to the extent the modifications authorized require permits or approval of other regulatory
381 authorities including the Rice Creek Watershed District in its role as a Watershed District. The receipt of
382 such permits or approvals is a precondition to construction of the modifications. That provision which
383 they include fairly regularly protects the District from making a decision that binds some other entity
384 and makes it very clear as to what the applicants obligations are to receive those required approvals
385 prior to proceeding.

386
387 District Administrator Belfiori stated the email was 18 pages in total and was sent at 8:34 a.m., March 8,
388 2017.

389

390 Attorney Kolb stated staff will review those comments in detail and if they raise an issue that is material
391 and relevant to the Board consideration of the drainage code they could re-raise that issue on March 22,
392 2017 if this hearing is recessed. He noted that all of the comments related to FEMA flood plain and the
393 receipt of a CLOMA or no rise certificate falls into that other regulatory approval requirement and he
394 thought it would be relevant if the Engineer is prepared to do so today, to round out the testimony for
395 the Board for the Engineer to comment on Ms. Waller's concern, which he thought was also valid, that
396 the wetland restoration could actually seep onto other properties in a subsurface manner and cause
397 damage.

398
399 District Engineer Otterness stated the Branch 2 system, in terms of a public drainage system, is very
400 steep compared to the grades they have in other public drainage systems and reiterate that the outlets
401 that are into the public drainage system are well above the highest expected water elevation, in terms
402 of the 100-year flood elevation, that would be resulting from the impoundment. In their opinion, there
403 is going to be no relationship between the function of a drainage from any of the adjacent properties
404 into the public drainage system and the impoundment itself. The impoundment is that much lower that
405 it will not in any way be affecting the drainage on the properties adjacent to it.

406
407 Manager Waller asked for clarity on where the impoundment is located on Branch 2. He stated the
408 culvert is under Hwy 61 East and the impoundment is actually going to be west of Hwy 61. District
409 Engineer Otterness stated that was true and all of Branch 2 is west of Hwy 61.

410
411 Manager Waller stated there are properties to the south of this, farmers, that could possibly be
412 impacted by the impoundment. District Engineer Otterness stated the elevation of the impoundment is
413 in the low area and he did not anticipate there will be any issues due to the impoundment on the ability
414 of any of the properties to the south to drain or any sort of subsurface drainage of that impoundment
415 going to the south to get to those properties. It doesn't seem, from an engineering standpoint, rational
416 that the water would be going to the south rather than to the west toward the ditch.

417
418 Manager Waller stated for most of the system, both private and public portion of it the slope of fall is
419 not going to be impacted. District Engineer Otterness indicated that was correct and stated the pond is
420 a little higher than the main trunk of JD3 but it is closer in elevation to the remainder of the system.

421
422 President Preiner asked if there was anyone else who wished to speak.

423
424 Mr. Bill Lynch, 6607 145th Circle North, Hugo, representing Mr. Marvin LaValle, introduced John Smyth,
425 Stantec.

426
427 Mr. John Smyth, 4846 Mound, MN clarified, based on the comments, that this plan is actually addressing
428 a lot of the comments in the Corp. letter. That letter was based on a previous concept that they
429 presented to the City of Hugo and the process they are actually going through, Hugo is actually the
430 agent that approves the wetland bank application but they wanted to make sure they went through this
431 process first so they could go to Hugo because if the District does not allow the realignment the wetland
432 bank does not work. Hugo is aware of this project and they have two applications in front of them. He
433 stated the comment on the road, they do have a new easement that represents the road.

434
435 After asking if there were any others wishing to comment, and seeing none, President Preiner closed the
436 public comment portion of the hearing and opened the matter for Board discussion and action.

437
438 Manager Waller asked if staff felt that March 22nd was enough time for them to do their work. District
439 Ditch Attorney Kolb indicated it would be enough time.

440
441 ***Motion by Manager Waller, seconded by Manager Bradley, to direct staff to prepare findings and an***
442 ***order consistent with the proceedings, including responses to all comments received through the***
443 ***public comment process; that the draft findings and order be written to affect approval of LaValle's***
444 ***petition to modify portions of JD 3 and to partially abandon portions of JD 3 as set forth in the***
445 ***engineer's report. That they recess this hearing to the Board Regular Meeting of March 22 ,2017 at***
446 ***9:00 a.m. or by adjournment to an appropriate time on the Boards agenda at which meetings they will***
447 ***consider findings and an order to affect approval of LaValle's petition. Motion carried 4-0.***

448
449 **PUBLIC HEARING ON FOREST LAKE HIGH SCHOOL STORMWATER REUSE PROJECT**
450 **STATEMENT OF WATERSHED DISTRICT PRESIDENT**
451 **PUBLIC HEARING ON**
452 **FOREST LAKE HIGH SCHOOL STORMWATER REUSE PROJECT**

453
454 The regular Board meeting is now recessed and the public hearing is opened on the Rice Creek
455 Watershed District's proposed ordering of the Forest Lake High School Stormwater Reuse Project.

456
457 The purpose of this hearing is to receive comments from the public on the project, proposed to be
458 constructed in partnership with the City of Forest Lake and Forest Lake Area Schools.

459
460 Before the watershed district can provide funds for this capital improvement, state law requires that
461 the board of managers hold a public hearing, receive public comments and make a judgment that
462 the project is a sound and cost-effective project to help fulfill our water resource goals. That is the
463 purpose of today's hearing. In accordance with state law, notice of this hearing was published for
464 two successive weeks in the St. Paul Pioneer Press and mailed to all cities within the watershed
465 district, as well as the district's four counties.

466
467 First, I would ask Kyle Axtell, our Water Resource Specialist and Project Manager, to give a brief
468 presentation of the proposed project. When his remarks are completed, the floor will be open for
469 any members of the public who wish to address the board. At that time, if you wish to comment,
470 please come forward to the podium and state your name and address for the record. If you have a
471 written copy of your statement, or any other documents that you would like to submit, please give
472 them to Theresa Stasica, our meeting clerk.

473
474 During public comment, managers are welcome to ask questions of commenters to clarify their
475 remarks. I also may ask Mr. Axtell to respond to any technical questions raised. Managers will hold
476 their own comments about the project until the public hearing is closed. At that time, the board will
477 have the opportunity to discuss the projects.

478
479 President Preiner requested that Water Resource Specialist Kyle Axtell begin with his presentation.

480
481 Water Resource Specialist Axtell made a presentation to the Board. He reviewed the background
482 information of the project. He noted this plan is a concept and they expect the plans will likely change
483 as they move forward in working with the School District.

484
485 Water Resource Specialist Axtell reviewed the grant match and proposed project timeline. He stated
486 the District role in the project is fairly minimal aside from the funding component.

487
488 President Preiner noted there was no one in the audience for public comment so she closed the public
489 hearing and opened the matter for Board discussion and action because there was no further testimony
490 from the public.

491
492 **PUBLIC HEARING ON OASIS POND IRON-ENHANCED SAND FILTER (IESF) PROJECT**

493 President Preiner opened the public hearing at 10:51 a.m.

494
495 **STATEMENT OF WATERSHED DISTRICT PRESIDENT**
496 **PUBLIC HEARING ON**
497 **OASIS POND IRON-ENHANCED SAND FILTER PROJECT**

498
499 The regular Board meeting is now recessed and the public hearing is opened on the Rice Creek
500 Watershed District's proposed ordering of the Oasis Pond Iron-Enhanced Sand Filter Project.

501
502 The purpose of this hearing is to receive comments from the public on the project, proposed to be
503 constructed in partnership with the City of Roseville.

504
505 Before the watershed district can provide funds for this capital improvement, state law requires that
506 the board of managers hold a public hearing, receive public comments and make a judgment that
507 the project is a sound and cost-effective project to help fulfill our water resource goals. That is the
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516 written copy of your statement, or any other documents that you would like to submit, please give
517 them to Theresa Stasica, our meeting clerk.

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520 remarks. I also may ask Mr. Axtell to respond to any technical questions raised. Managers will hold
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525 proposed project timeline.

526
527 President Preiner noted there was no one in the audience for public comment so she closed the public
528 hearing and opened the matter for Board discussion and action because there was no further testimony
529 from the public.

530

531 **OPEN MIKE – LIMIT 12 MINUTES.** *Any RCWD resident may address the Board in his or her individual*
532 *capacity, for up to three minutes, on any matter not on the agenda. Speakers are requested to come to the*
533 *podium, state their name and address for the record. Additional comments may be solicited and accepted in*
534 *writing. Generally, the Board of Managers will not take official action on items discussed at this time, but may*
535 *refer the matter to staff for a future report or direct that the matter be scheduled on an upcoming agenda.*
536 There were no comments made at Open Mike.
537

538 **ADDITIONAL ITEMS REQUIRING BOARD ACTION**

539 **1. Consider City of Forest Lake/Forest Lake Schools cooperative agreement.**

540 Water Resource Specialist Axtell reviewed the background of the District’s collaboration with
541 the City of Forest Lake and the Forest Lake High School on submitting a Clean Water Fund grant
542 application and BWSR awarding the grant for this project in the amount of \$505,000. He
543 reviewed the funding proposals with the Board in which the District would have up to \$50,000 in
544 funding for the stormwater reuse project at the Forest Lake High School.
545

546 Manager Waller stated during the public hearing Mr. Axtell indicated they would be saving so
547 many pounds of phosphorus. He thought that was based on the modeling of what the
548 engineers have provided. Modeling is good, most reasonable way they have to move forward
549 and it improves over time but it is really not hard data taken in to input of water reaching the
550 lake. In this case, Clear Lake or Oasis Pond. He wanted to know how it is that they can look
551 forward to begin to establish a monitoring program that is going to say this is the hard data that
552 is the amount of phosphorus flowing in, then when they make an improvement, they see that
553 take place right at the inlet to the lake and not necessarily at the outlet of the project. That way
554 they have a little better idea of the effectiveness of these projects. He would like to see this
555 going on.
556

557 Water Resource Specialist Axtell stated what they have proceeded to do with the projects they
558 are involved in is to do project specific monitoring for a period of time so they know how they
559 are functioning over time. The advantage they have for both of these projects is that the
560 monitoring is relatively simple to do. In this case with the reuse system they know exactly how
561 much water is pulled out of the ponds and they can test that water to see how much
562 phosphorus is in it. The sand filter is similar where they will know how much water is pulled
563 from Oasis Pond and treated before returning it to the ditch and they can take samples both
564 within the pond and at the outlet as water is flowing through the filter to see what the pre and
565 post phosphorus levels are in that water.
566

567 Manager Waller stated the resource of concern is the lake and he was concerned about
568 checking the increase. They have a lakes report but he was looking for one that is a little more
569 consistent. Because they are continually spending these dollars he would like them to have
570 some quantitative evidence that shows of the qualitative improvement. Water Resource
571 Specialist Axtell stated with the lake monitoring program he thought that was something that all
572 of the major lakes in the District are routinely monitored.
573

574 ***Motion by Manager Waller, seconded by Manager Bradley, to approve Resolution 2017-07,***
575 ***Resolution ordering the Forest Lake High School Stormwater Reuse Project pursuant to MN***
576 ***Statutes 103B.251 and approving the cooperative agreement.***
577

578 **THEREFORE BE IT RESOLVED that pursuant to Minnesota Statutes § 103B.251 and the Water**
579 **Resource Management Plan (WRMP), the Project is ordered and the Board's President is**
580 **authorized to execute the attached cooperative agreement with the City of Forest Lake and**
581 **the Independent School District No. 831 with any non-material changes and on advice of**
582 **counsel.**

583
584 **ROLL CALL:**
585 **Manager Waller – Aye**
586 **Manager Haake – Absent**
587 **Manager Bradley – Aye**
588 **Manager Wagamon – Aye**
589 **President Preiner - Aye**

590
591 **Motion carried 4-0-1.**

592
593 **2. Consider Oasis Pond Iron-Enhanced Sand Filter Project Interagency Agreement & BWSR Grant**
594 **Agreement.**

595 Water Resource Specialist Axtell stated this is a similar action to the previous item. This
596 resolution is a little different and would authorize the District Administrator to execute the
597 BWSR Grant agreement. Execution of the grant agreement would not take place until BWSR
598 approves their work plan which is still pending.

599
600 **Motion by Manager Wagamon, seconded by Manager Waller, to approve Resolution 2017-06,**
601 **Resolution Ordering the Oasis Pond Iron-Enhanced Sand Filter Project pursuant to Mn Statutes**
602 **§103B.251;**

603
604 **THEREFORE BE IT RESOLVED that the Board of Managers hereby approves the grant**
605 **agreement with BWSR, and authorizes the District administrator to execute the agreement,**
606 **with any final non-material changes and on advice of counsel;**

607
608 **BE IT FURTHER RESOLVED that pursuant to Minnesota Statutes §103B.251 and the WRMP, the**
609 **Project is ordered and the Board's President is authorized to execute the attached cooperative**
610 **agreement with the City of Roseville with any non-material changes and on advice of counsel.**

611
612 **ROLL CALL:**
613 **Manager Waller – Aye**
614 **Manager Haake – Absent**
615 **Manager Bradley – Aye**
616 **Manager Wagamon – Aye**
617 **President Preiner - Aye**

618
619 **Motion carried 4-0-1.**

620
621 **3. Fee Refund Request – Patricia Preiner; Mary Preiner; Jesse Preiner; Columbus Place RCWD File**
622 **17-009**

623 President Preiner indicated she would step away from discussion and voting due to conflict of
624 interest.

625
626 Permit Coordinator/Wetland Specialist Tomczik stated this is a fee refund request. RCWD
627 practice regarding requests for refund of fees when review is underway is to subtract current
628 billable hours and present potential refund for Board consideration.

629
630 Permit Coordinator/Wetland Specialist Tomczik stated Patricia Preiner; Mary Preiner; Jesse
631 Preiner applied for a permit with RCWD. The application was for "Columbus Place" a 30-unit
632 assisted living building. The parameters of the proposed development project resulted in a
633 \$1,100 application fee; consistent with the RCWD adopted fee schedule.

634
635 Permit Coordinator/Wetland Specialist Tomczik stated the application materials and appropriate
636 fee were received by the RCWD office February 10, 2017 and processing began by HEI; RCWD
637 consulting engineer. The applicant on February 20, 2017 requested withdrawal of the submitted
638 application and requested refund of the submitted fee.

639
640 Permit Coordinator/Wetland Specialist Tomczik stated RCWD consulting engineer expended
641 time on review of materials since the point of application. The billable time of review \$234.00.
642 (Permit application fee \$1,100 - \$234 HEI billable hours = \$866 potential refund)

643
644 ***Motion by Manager Bradley, seconded by Manager Wagamon, to issue a permit fee refund in***
645 ***the amount of \$866.00 for permit application file #17-009. Motion carried 3-0-1. Manager***
646 ***Preiner Abstain.***

647
648 President Preiner return to her seat.

649
650 **4. Consider Check Register dated March 8, 2017, in the amount of \$832,664.02, prepared by**
651 **Redpath and Company.**

652 ***Motion by Manager Wagamon, seconded by Manager Bradley, to approve check register***
653 ***dated March 8, 2017, in the amount of \$832,664.02, prepared by Redpath and Company.***
654 ***Motion carried 4-0-1.***

655
656 **ITEMS FOR DISCUSSION AND INFORMATION**

657 **1. Engineer's Update and Timeline.**
658 Permit Coordinator/Wetland Specialist Tomczik updated the Board on the VanCanneyt pond on
659 Anoka County Ditch 31. He stated the landowner has concern regarding their pond. The Board
660 met at a workshop and discussed this item with the landowner and as a result of that there was
661 some offering of District funds; the landowner securing appropriate permits, establishing the
662 record, and the Board to consider

663
664 Permit Coordinator/Wetland Specialist Tomczik stated Mr. VanCanneyt applied to the District
665 and the materials submitted to date were found to be incomplete and he has expressed some
666 frustration of that to staff. Assistance has been extended to Mr. Vankynant. Staff will continue
667 to assist him as much as possible and bring it forward to the Board when things are appropriate.

668
669 **2. Manager's Update**
670 Manager Bradley informed the Board of his attendance and presentation at the March 7th BEAA
671 meeting. Manager Waller was also in attendance. The association was concerned with invasive

672 species. They also discussed training volunteers to aid in boat inspections at the public access
673 on the weekends.

674
675 Manager Waller stated he received a phone call from former Mayor Mike McAllister of Hugo
676 and he lives in the geographical area of that goes into Browns Creek Watershed District and his
677 question was since he was paying taxes into the Rice Creek Watershed District and his water is
678 going into the Browns Creek Watershed District, was the District going to use funding in the
679 future to help pay for a project in his area if there was a project that needed to be done. He
680 thought this could be discussed and decided.

681
682 Manager Waller stated he also attended the Washington County Consortium meeting where a
683 hydrologist from MDH gave a presentation about contaminated sites and certain chemicals.

684

685 **ADJOURNMENT**

686 ***Motion by Manager Wagamon, seconded by Manager Bradley, to adjourn the meeting at 11:23 a.m.***

687 ***Motion carried 4-0-1.***