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REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, June 23, 2021

Meeting conducted by alternative means
(teleconference or video-teleconference) from remote locations

2 Note: It has been determined that an in-person meeting is not prudent due to the health pandemic, and therefore
3 the meeting is being conducted by teleconference or video-teleconference. All votes must be by roll call.

4 **Minutes**

5 **CALL TO ORDER**

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

7
8 **ROLL CALL**

9 Present in District conference room: President Patricia Preiner, 2nd Vice-Pres. John Waller,
10 Treasurer Steven Wagamon, and 1st Vice-Pres. Michael Bradley

11 Present via video\phone conference: Secretary Marcie Weinandt

12 Absent: None

13 Staff Present in District conference room: District Administrator Nick Tomczik, Office Manager
14 Theresa Stasica

15 Staff Present via videoconferencing: Permit Coordinator/Wetland Specialist Patrick Hughes,
16 Acting Public Drainage Inspector Ashlee Ricci, Inspector Terrence Chastan-Davis (District
17 Office); Technician Lauren Sampedro; Project Manager Kyle Axtell

18 Consultants via videoconferencing: District Engineer Chris Otterness from Houston Engineering,
19 Inc. (HEI); District Attorney Louis Smith from Smith Partners; Attorney John Kolb from Rinke
20 Noonan (portion of meeting); Erika Salina from WorkingSmarts (portion of meeting)

21
22 **SETTING OF THE AGENDA**

23 District Administrator Tomczik asked to add an item #2 under Discussion and Information to give
24 an update on the Seletskiy enforcement matter.

25
26 ***Motion by Manager Bradley, seconded by Manager Wagamon, to approve the agenda as
27 amended.***

28 ***Roll call vote – All Ayes. Motion carried.***

29
30 **READING OF THE MINUTES AND THEIR APPROVAL**

31 ***Minutes of the June 7, 2021 Board Workshop. Motion by Manager Weinandt, seconded by
32 Manager Bradley, to approve the minutes as presented. Roll call vote – All Ayes. Motion
33 carried.***

34
35 ***Minutes of the June 9, 2021 Board of Managers Regular Meeting.***

36 **Motion by Manager Weinandt, seconded by Manager Wagamon, to approve the minutes as**
37 **presented.**

38 **Roll call vote – All Ayes. Motion carried.**

39

40 **Minutes of the June 9, 2021 Public Hearing on Reestablishment and Correction of Drainage**
41 **System Records for Anoka County Ditch 10-22-32. Motion by Manager Weinandt, seconded by**
42 **Manager Bradley, to approve the minutes as presented. Roll call vote – All Ayes. Motion**
43 **carried.**

44

45 **CONSENT AGENDA**

46 The following items will be acted upon without discussion in accordance with the staff recommendation
47 and associated documentation unless a Manager or another interested person requests opportunity for
48 discussion:

49 **Table of Contents-Permit Applications Requiring Board Action**

50 No.	Applicant	Location	Plan Type	Recommendation
51 21-026	Fenway Investments Inc.	Forest Lake	Final Site Drainage Plan	CAPROC 7 items

52

53 21-040	R & R Leasing	Centerville	Final Site Drainage Plan	CAPROC 10 items
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54

55 **It was moved by Manager Wagamon, seconded by Manager Bradley, to approve the consent**
56 **agenda as outlined in the above Table of Contents for permits 21-026 and 21-040 in**
57 **accordance with RCWD District Engineer’s Findings and Recommendations, dated June 15,**
58 **2021. Roll call vote – All Ayes. Motion carried.**

59

60 **Annual Public Information Meeting on the District’s Storm Water Pollution Prevention** 61 **Program (SWPPP)**

62 President Preiner asked District Technician Lauren Sampedro to provide a brief presentation for
63 the audience.

64

65 District Technician Lauren Sampedro explained that under the MS4 permit the District is required
66 to hold an annual public informational meeting on the District’s Stormwater Pollution Prevention
67 Program (SWPPP). She reviewed the MS4 General Permit and noted that it is a Federally
68 mandated permit by the EPA that is administered locally by the Minnesota Pollution Control
69 Agency. The current MS4 permit became effective on November 16, 2020 and stated that the
70 District has completed a two-part application for continued coverage. The District proactively
71 revised Rule C, Storm Water Management, to align with the 2020 MS4 Permit public linear water
72 quality treatment standards. The MPCA recently determined that the District’s application was
73 complete and the next step is to place the District’s SWPPP on a 30-day public notice period. She
74 reviewed the current MS4 coverage area and noted that the District is a non-traditional MS4 in
75 that it is considered to be the public drainage system only within the urbanized area. She noted
76 that the coverage area may change in the future based on the results of the 2020 census and the
77 outcome of staff discussions with the MPCA. She reviewed the six minimum control measures

78 and highlighted some of the ways that the District achieved the minimum control measures in
79 each area: Public Education and Outreach; Public Participation/Involvement; Illicit Discharge
80 Detection and Elimination; Construction Site Stormwater Runoff Control; Post-Construction
81 Stormwater Management; and Pollution Prevention/Good Housekeeping. She noted that every
82 RCWD staff member plays a role in meeting the permit requirements. She explained that in
83 addition to the six minimum control measures, the District also reports on discharges to impaired
84 waters with an approved Total Maximum Daily Load.

85
86 Manager Bradley stated that he was surprised that there is only one pond listed as a structural
87 stormwater bmp on page 47 of the packet and asked why only one pond is listed.

88
89 District Technician Sampedro explained that the pond that was included is the Ramsey-
90 Washington JD-1 and Highway 61 treatment pond.

91
92 Manager Bradley asked why something like the Hansen Park pond would not be included.

93
94 District Engineer Otterness stated that the Hansen Park pond is something that was constructed
95 by the City of New Brighton in the 1960s, so the pond itself is not a District facility, but there are
96 components of the project, such as the IESF system that are considered District facilities. He
97 stated that there are a few facilities like that within the District, such as the Long Lake sediment
98 basin and the Locke Lake sediment basin.

99
100 Project Manager Kyle Axtell clarified that for Hansen Park, the City of New Brighton is the owner
101 of the property contained within the park, which includes the pond. The southern basin of the
102 pond is established as a sediment basin that the District is responsible for and the Long Lake
103 sediment basin is located within a public water.

104
105 District Engineer Otterness stated that he believes that Ramsey County Parks owns the property
106 at the Long Lake sediment basin.

107
108 Manager Bradley read aloud part of question 60 from the draft MS4 annual report and noted
109 that it references that this should not include privately owned ponds, but everything staff has
110 just listed off is publicly owned.

111
112 District Engineer Otterness stated that the way the questions are set up is with the mindset of a
113 municipality being the MS4 permittee, which explains some of the wording in the questions.

114
115 District Technician Sampedro added that part of staff's conversations with the MPCA are related
116 to the District's facilities and public drainage system and which are actually part of the District's
117 MS4 boundary.

118
119 Manager Waller stated that, in the future, he would like to get a copy of the MS4 boundary map
120 that District Technician Sampedro shared as part of her presentation.

121
122 President Preiner opened the meeting for public comment as part of the public information
123 meeting. There were no comments.

124
125 District Technician Sampedro noted that comments can be submitted via e-mail or phone call at
126 any time throughout the year.

127
128 ***Motion by Manager Bradley, seconded by Manager Waller, to accept the 2020 MS4 Annual***
129 ***Report and direct the District Administrator to submit the report to the MPCA. Roll call vote –***
130 ***all ayes. Motion carried.***

131
132 **OPEN MIC/PUBLIC COMMENT**–*Any RCWD resident may address the Board in his or her*
133 *individual capacity, for up to three minutes, on any matter not on the agenda. Speakers are*
134 *requested to come to the podium, state their name and address for the record. Additional*
135 *comments may be solicited and accepted in writing. Generally, the Board of Managers will not*
136 *take official action on items discussed at this time, but may refer the matter to staff for a future*
137 *report or direct that the matter be scheduled on an upcoming agenda.*

138 No one appeared to address the Board.

139

140 **ITEMS REQUIRING BOARD ACTION**

141 **1. Findings And Order Correcting Drainage System Record for Ramsey Washington Judicial**
142 **Ditch 1 Records Reestablishment**

143 President Preiner reconvened the public hearing for the drainage system record for
144 Ramsey-Washington JD-1 records reestablishment.

145

146 Acting Public Drainage Inspector Ashlee Ricci explained that Resolution 2021-10 is before
147 the Board for the findings and order for re-establishing and correcting the drainage
148 system record for Ramsey-Washington JD-1. She noted that the Resolution incorporates
149 the comments that were received.

150

151 Manager Bradley noted that on page 57 of the packet, the top line says, “There are
152 currently no plans or requests for any major construction on RWJD-1.” He asked if the
153 word construction should have been “repair”.

154 District Attorney Kolb stated that sentence could be amended and believes the question
155 that was posed to the Board during the public hearing was phrased more broadly than the
156 word “repair” and they were trying to address it in terms of the answer provided by the
157 engineers at the hearing.

158 ***Motion by Manager Waller, seconded by Manager Bradley, to adopt Resolution 2021-***
159 ***10: Findings and Order Reestablishing and Correcting Drainage System Record for***
160 ***Ramsey/Washington Judicial Ditch 1 (Statutes §103E.101, subd. 4a).***

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162 Therefore, the RCWD Board of Managers makes the following:

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ORDER

The Board of Managers hereby reestablishes and corrects the drainage system record of RWJD 1 to reflect the alignment; cross-section; profile; hydraulic structure locations, materials, dimensions, and elevations; and right-of-way of the drainage system as detailed in the engineer’s amended Technical Memorandum dated May 4, 2021, attached as Exhibit A to this Order.

- ROLL CALL:**
Manager Waller – Aye
Manager Weinandt – Aye
Manager Bradley – Aye
Manager Wagamon – Aye
President Preiner – Aye

Motion carried 5-0.

President Preiner reconvened the regular Board meeting.

2. Findings And Order Correcting Drainage System Record for Anoka County Ditch 10-22-32 Records Reestablishment

President Preiner reconvened the ACD 10-22-32 record re-establishment public hearing.

Acting Public Drainage Inspector Ashlee Ricci explained that this item is for Resolution 2021-11 for the findings and order correcting the drainage system record for ACD 10-22-32 records re-establishment. The resolution incorporates the past work that has been done as well as what has been discussed and found in the District Engineer’s report.

District Administrator Tomczik noted that the Board had directed that staff draft an order for consideration. He explained that he participated in a number of discussions on the process of determining the as-constructed and subsequently improved condition and suggested that the Board consider the methods and approach in determining the as-constructed and subsequently improved condition and may want to have some discussion on these matters.

District Engineer Otterness reviewed the profile that was contained in the report especially near Jodrell Street. He explained that the solid line in the graphic is the as-constructed and subsequently improved condition as determined from the report. The dashed line is the current channel bottom that was surveyed in October of 2020, which is essentially where the District’s contractor, Scandia Trucking, worked and had dug to the bottom or hard pan of the ditch. They also did some borings and probing along the

205 bottom to confirm whether there was any sediment accumulated or built up in any of
206 these locations that were surveyed. They all coincided very closely with the survey
207 channel bottom, meaning there was very little accumulated sediment and they found that
208 when the work was completed, he dug down to the hard pan elevation and there has
209 been very little accumulation in these areas since that time. He noted that when they are
210 putting together their determination, they use multiple pieces of data when putting
211 together the as-constructed condition and not just one means of evidence. He reviewed
212 various scenarios for 'as-constructed' that would happen if they just used one portion of
213 data rather than multiple sources. He noted that the reason Jodrell was not specifically
214 mentioned in the report was that even though it is higher than the elevation of the ditch,
215 its deviation from the as-constructed conditions wasn't the same magnitude as some of
216 the other culverts downstream and the purpose of the report was not to describe current
217 conditions along the ditch, but rather the as-constructed condition. Potential further
218 repairs to the system, including modifications at Jodrell, may be appropriate for
219 consideration following the conclusion of the records reestablishment proceeding.

220
221 Manager Waller stated that the high areas he described are included in the profile of the
222 report but there is not a written narrative.

223
224 District Engineer Otterness confirmed that was constructed and each of these is shown as
225 being higher than the as-constructed elevation within the mapping. He explained that he
226 did not provide a narrative of all of these locations in the report because that was not the
227 purpose or intent of the report.

228
229 Manager Wagamon noted that he was not aware the Board would get to discuss this today
230 and he did not bring any of the information that he had intended to show the Board. He
231 stated that he thinks this information should be included and believes there is a way to
232 work with the City of Columbus on this because he is fairly certain that they are cognizant
233 of a problem and are interested. He stated that he would like to hold off on this discussion
234 for a workshop, so he could show the information.

235
236 District Administrator Tomczik noted that it is important to follow the distinct processes
237 within ditch law.

238
239 Manager Bradley explained that this is his 7th year living with this ditch and every time the
240 District comes back to look at this it is because it was not done correctly the first time. He
241 asked what would have to be done in order to make it right this time and noted that it is
242 possible that Jodrell and the culverts solve it. He stated that he has not heard anything
243 about what will solve the problem due to the underlying flooding problem. He stated that
244 the entire Board has been out to the property and know that it has been damaged as a
245 result of the ditch not functioning properly. He asked which of the alternatives just
246 reviewed by District Engineer Otterness will solve the problem. He noted that he
247 understood the alternative recommended by City Engineer is a reasonable alternative, but

248 it may not be the best alternative. He stated that without knowing the consequences of
249 each of the options, he doesn't know which one is the best option.

250
251 District Attorney Kolb explained that the information provided by District Engineer
252 Otterness was intended to give context to what is located at approximately paragraph 16-
253 19 of the draft order, which is a response to the written materials that were submitted by
254 Manager Wagamon during the continued written comment open period. He stated that
255 the Board is called upon by Statute to consider the evidence and adopt an order and
256 technical grade line configuration, hydraulic efficiency alignment, and all other things that
257 are specified in the Statute that are best supported by the weight of the evidence. He
258 clarified that the Board is not considering what fixes a problem, but what the evidence
259 indicates is the most likely as-constructed condition of this drainage system. He asked the
260 Board to refocus and remember that this is an evidentiary proceeding that they are being
261 called upon to make a decision based on the weight of evidence as best available during the
262 proceedings. He agreed that the Board is not in a hurry to adopt this, but they are in the
263 midst of a proceeding and can further continue in order so there can be more evaluation of
264 the evidence.

265
266 Manager Wagamon confirmed that he does have additional evidence that he would like to
267 share with the Board and reiterated that he did not have it with him today because he did
268 not realize that he would have the opportunity to share it.

269
270 District Administrator Tomczik acknowledged that there is not a rush and that concerns
271 about drainage in the contributing area caused the Board to direct staff to look further at
272 establishing an as-constructed and subsequently improved condition. He suggested that the
273 evidence that Manager Wagamon has be shared so that the District Engineer can provide a
274 technical response.

275
276 Manager Waller stated that there is more evidence to be presented by Manager Wagamon,
277 but he would also like to hear from the Drainage Inspector Tom Schmidt (medical leave)
278 because he was very instrumental in the beginning of this and assumes he will be back to
279 work shortly. He stated that he has missed hearing his opinion on this item as well as the
280 prior agenda item.

281
282 Manager Bradley stated that he takes umbrage to District Attorney Kolb's statement that
283 selecting one of the other alternatives because it would fix this and return it to a state where
284 it is no longer flooding property is contrary to the intent of selecting an as-constructed
285 condition. He stated that he would like to pick an as-constructed condition that, like when
286 the ditch was built, does not flood property. He stated that they were shown four
287 alternatives and he believes the Board should know which of those alternatives do what
288 the ditch originally did, which is not flood the property.

289

290 District Attorney Kolb stated that he appreciates that sentiment, but unfortunately the way
291 the law has developed, you can no longer do that under the drainage code and put it back
292 to the anticipated function and result of that function. After the case, the required repair
293 to be based on the as-constructed condition, the ditch could no longer be reconfigured to
294 perform as it originally performed because now, they are dealing with the change,
295 magnitude, and frequency of storm events as well as changes in land uses that accelerate
296 and change the rate and volume and demand placed on the ditch. The courts have been
297 very clear about what constitutes repair versus what constitutes improvement. He noted
298 that there seems to be a general desire among the Board to open the proceedings back up
299 to the receipt of evidence so they can better inform their ultimate decision.

300
301 President Preiner stated that she also feels the Board needs to understand the costs
302 associated with the alternatives as well, to ensure they are not prohibitive.

303
304 District Administrator Tomczik noted that it may be important for additional borings to be
305 completed in the area and that may help verify anything that is submitted with the
306 additional research.

307
308 Manager Wagamon stated that he would think the District would want to wait until after
309 he presents his evidence because it may make a difference.

310
311 District Attorney Kolb shared some suggested language for a motion that reflects the
312 discussion of the Board.

313
314 ***Motion by Manager Waller, seconded by Manager Bradley, to re- open the public***
315 ***hearing for submission and evaluation of additional evidence relative to Reestablishing***
316 ***and Correcting Drainage System Record for Anoka County Ditch 10-22-32 (Statutes***
317 ***§103E.101, subd. 4a) to reflect the definition of the grade; alignment; cross-section;***
318 ***profile; hydraulic structure locations; materials; dimensions; and elevations; and right-***
319 ***of-way of the drainage system, and continuing the public hearing to a date to be***
320 ***determined and to be noticed in accordance with Statute.***

321
322 President Preiner noted that she would really like the Board to get this correct this time.

323
324 Manager Waller reiterated the importance of having Drainage Inspector Schmidt present
325 for the evidentiary hearings.

326
327 ***Roll call vote – All Ayes. Motion carried.***

328
329 **3. Terminate Alternative Board Meeting Format**
330 District Administrator Tomczik gave an overview of the COVID-19 pandemic and the
331 reasoning behind undertaking the Alternative Board Meeting format. Staff is

332 recommending the Board approve the attached resolution to terminate the Alternative
333 Board Meeting format and update the Board’s calendar.

334
335 ***Motion by Manager Wagamon, seconded by Manager Bradley, to adopt Resolution***
336 ***2021-12: Terminating Meetings by Alternative Format Under Minnesota Statutes***
337 ***§13D.021***

338
339 **THEREFORE BE IT RESOLVED** that on the filing of the Board President's withdrawal, and
340 effective July 1, 2021, public meetings of the Board no longer will be conducted by
341 alternative means under Minnesota Statutes §13D.021;

342
343 **BE IT FURTHER RESOLVED** that the official meeting schedule of the Board is amended to
344 reflect that the July 12 workshop meeting will be held at the District offices, and the July
345 14 and July 28 business meetings will be held at Council Chambers, City of Shoreview,
346 and that the District Administrator is to provide further notice of this change as he
347 determines warranted to inform those who may wish to attend those meetings;

348
349 **BE IT FINALLY RESOLVED** that the Board reserves the authority to impose measures for
350 in-person meetings as it finds reasonable and appropriate to protect District managers
351 and staff, and members of the public, from remaining or ongoing risks of the pandemic.

352
353 ***ROLL CALL:***
354 ***Manager Waller – Aye***
355 ***Manager Weinandt – Aye***
356 ***Manager Bradley – Aye***
357 ***Manager Wagamon – Aye***
358 ***President Preiner – Aye***

359
360 ***Motion carried 5-0.***

361
362 Manager Bradley asked if the City of Shoreview would let the Board use their chambers
363 for meetings once again.

364
365 District Administrator Tomczik stated that Office Manager Stasica has been in
366 communication with the City of Shoreview on this matter and is working on the
367 arrangements to have the typical things in place, such as video recording, for Board
368 meetings.

369
370 **4. District Office Transition to Open-Governor’s Order 21-21**

371 District Administrator Tomczik noted that similar to the Board meetings moving to an
372 alternative format, the District office went into remote status as well with employees
373 working from home with only essential staff coming in to execute essential duties. He
374 noted that the Governor’s Order 21-21 rescinds requirements to work from home and

375 preparedness plans, have face-mask coverings, and to socially distance. He stated that
376 they would like to transition the office to pre-pandemic operations during the month of
377 July and fully re-open the office on August 2, 2021 with staff full-time in the office.

378
379 ***Motion by Manager Waller, seconded by Manager Bradley, to open the District office***
380 ***on August 2, 2021, after a July transition period.***

381
382 Manager Waller emphasized the statement within the memo: “All are encouraged to
383 practice precautions of continued mask use or social distancing, hand washing, and
384 disinfecting surfaces. The District will continue to encourage safety precautions to
385 support good health.” He stated that he has found the mask to be helpful to him for his
386 health and plans to continue to use it. He stated that he wants to make sure that staff do
387 not feel compelled to stop any of these practices if they choose to continue.

388
389 District Administrator Tomczik noted that he had heard similar sentiments from other
390 staff members and noted that sanitizers and disinfectant are on hand and feels some of
391 these things are just good general health practices.

392
393 ***Roll call vote – All Ayes. Motion carried.***

394
395 **5. City of Roseville – Ramsey County Ditch 4 Basic Water Management Project, Ad Valorem**
396 **Reimbursement #1**

397 Project Manager Kyle Axtell gave an update on the former Ramsey County Ditch 4 and
398 noted that the work is well under way and the District’s portion of the project is nearly
399 complete. He shared some photographs of the area that outlined the work that had been
400 completed. He stated that he believes the contractor will wrap up the pipe work by the
401 end of the month. He explained that the City of Roseville has requested that the District
402 consider making a partial reimbursement for some of the project costs. The City has
403 expended, as of a few weeks ago, just about \$770,000 which included much of the pipe
404 that was placed on site. He stated that he believes they have gone far past that at this
405 point in time. The City has asked that the District consider reimbursement of 50% of the
406 ad valorem contribution to the project. The District had budgeted \$640,000 in 2021 to
407 cover the ad valorem contribution and another \$450,000 in RCD-4 water management
408 district funding that would, over a period of 3-years, be transferred to the City of Roseville
409 after being received by the District. Staff finds it prudent and reasonable to provide the
410 first reimbursement of \$320,000 and will reconcile the final project costs at the end of
411 construction before the remainder of the ad valorem funds are conveyed to the City of
412 Roseville.

413
414 ***Motion by Manager Weinandt, seconded by Manager Bradley, to approve the City of***
415 ***Roseville’s reimbursement request and directs staff to issue a payment in the amount***
416 ***of \$320,000.***

417 ***Roll call vote – All Ayes. Motion carried.***

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6. RCWD – Public Drainage System (PDS) & Facilities Job Description

District Administrator Tomczik explained that there was consensus at the April 26, 2021 special workshop to engage consultants in developing the lead position for public drainage and district facilities. He introduced Erika Salina from Working Smarts who has been working with staff to develop a job description for this position. He noted that the position placed by Gallagher as a Grade 10, and not subject to change if providing day to day direction of two positions. The position to be funded by District Fund 80, Ditch and Creek Management and Fund 95, Facilities, potentially fund balance spending dependent on hire date. He stated that the position is an exempt position, which was incorrectly noted as non-exempt in the packet description.

Motion by Manager Waller, seconded by Manager Bradley, moves approval of the Public Drainage and Facilities position description funded from fund 80 Ditch and Creek Maintenance and fund 95 Facilities, and post the position for applicants.

Manager Waller suggested that the position title be changed to include Public Drainage Inspector in keeping with the statutory requirements of 103.065.

District Administrator Tomczik noted that there is already a Public Drainage Inspector position at the District.

District Attorney Smith read aloud Statute 103.065 and offered his interpretation.

The Board discussed details surrounding the new Public Drainage and Facilities position; reporting relationships; exempt status; potential internal conflicts; degree requirements for the position; day to day supervisory responsibilities; reliable vehicle requirements for employees; changing the language to 6a to something more broad, to recognize assignment of staff to work under this position day to day direction; physical requirements, such as being able to lift 50 pounds; use of the term watercraft.

The Board recessed for a 5-minute break at 10:58 a.m. and reconvened at 11:01 a.m.

***Following discussion, the Board had consensus to amend the title of the position for 103.065 obligations and the language in item 6a as discussed.
Roll call vote – All Ayes. Motion carried.***

7. Check Register Dated June 23, 2021, in the Amount of \$283,609.71 Prepared by Redpath and Company

Motion by Manager Wagamon, seconded by Manager Bradley, to approve check register dated June 23, 2021, in the Amount of \$283,609.71 prepared by Redpath and Company.

Roll call vote – All Ayes. Motion carried.

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ITEMS FOR DISCUSSION AND INFORMATION

1. Public Drainage System Culvert Selection - Presentation

Acting Public Drainage Inspector Ashlee Ricci and District Engineer Chris Otterness gave a presentation to the Board on the process of selecting culverts.

District Engineer Otterness explained that there are a lot of factors that go into determining the size, shape, and material of culverts and there is not a one-size-fits-all solution. He noted that in most cases, flow efficiency is most important in the middle of the culvert. He explained that they do not recommend a District-wide policy/preference for culvert type and would utilize staff to provide a recommendation based on the conditions, need, suitability, and capacity.

Manager Waller asked if bridges would be the best solution.

District Engineer Otterness stated that there are circumstances where a bridge may fit best with providing flow in the drainage system, but it may not necessarily decrease the amount of maintenance that is required and in some cases may increase it. He gave an example at bridge crossings where rip rap required along the abutments can navigate itself into the channel bottom and hinder drainage system maintenance.

President Preiner thanked Acting Public Drainage Inspector Ricci and District Engineer Otterness for their presentation and noted that it was good information because most of the Board doesn't know enough about culverts.

2. Seletskiy Matter-update

Inspector Terrence Chastan-Davis explained that staff went to the Seletskiy property yesterday along with Houston Engineering. Houston Engineering staked out the WMC boundary on the subject property to help visualize where it is located. They also staked the elevation of the regulated floodplain and assisted in discussion with the Seletskiy's. He noted the following discussion and observations at the site visit: 1. WMC infringements within the easement still remain on the property. The landowners continue to claim that it was not recorded on the property and they did not see the recording when it was purchased. Staff intends no change to the easement on the property and identified that there are infringements. 2. He noted that while they were on the property, they noticed some new public drainage system infringements in the public drainage easement on the property. The landowners recently did some tree plantings right along the ditch bank and have a fence that was installed to contain their animals. This was discussed with the landowners and noted that the trees and the fence are subject to removal when there was any maintenance that was required on the public drainage system. They refused to remove the fence and plantings at this time, but acknowledged that they would be fine having them removed or cut down if it was needed in the future. 3. Regulated floodplain – the estimate that was provided to the Board was

504 116 cubic yards of fill placed in the regulated floodplain. Staff worked with Houston
505 Engineering yesterday to more precisely evaluate the quantity of fill placed in the
506 regulated floodplain and it was determined that approximately 100 cubic yards remains
507 in the regulated floodplain. This was discussed with the landowners and they verbally
508 committed to submitting for a permit for that floodplain fill.

509
510 District Administrator Tomczik noted that the current property owners are quite
511 obstinate about any modification of their current use within the District's area of interest
512 in the property. He stated that there was some discussion about wetlands on the
513 property and wetland regulations. Staff advised them that any work within those defined
514 wetland areas was regulated under State adopted regulations and that they should
515 contact the District before doing anything. He noted that they have been advised not to
516 further fill the floodplain without further engagement with the District.

517
518 Manager Bradley asked if the District would require them to file for a permit even though
519 it will be exempt at the 100 cubic yards amount.

520
521 Inspector Chastan-Davis confirmed that the District rule requires them to file for a permit
522 for the 100 cubic yards that they currently have within the regulated floodplain which is
523 consistent with what they would do for any other applicant in this situation. He noted
524 that even if they are exempt from having to mitigate on their property, it still technically
525 requires a permit. He stated that staff wants to document the use of the exemption and
526 fill placed in the floodplain which is why the process requires a permit.

527
528 Manager Bradley asked if the Board would move this issue forward by issuing a permit on
529 its own. He stated that he would like to solve this problem in the easiest manner possible.
530 He stated that at this point, the Board has all the information, knows what has been done,
531 what they cannot do, and if the Board issues an order to them acknowledging that, this
532 could be finished.

533
534 District Administrator Tomczik reminded the Board that they had previously taken action
535 that the permit fee in this case would be around \$400 because of the District's time.

536
537 Manager Bradley and Manager Waller noted that they had voted against that action.

538
539 District Attorney Smith stated that the preferred posture is for an applicant to submit a
540 permit application so that it is all understood that they are seeking to meet a District
541 requirement and are documenting who the landowner is and have signed off on it. In
542 these circumstances, he appreciates Manager Bradley's suggestion and would
543 recommend that if staff has already communicated with the landowner about submitting
544 an application and this appears to be something that is in the works, and feasible, he
545 would not impede that process. If that is not the situation, then issuing a permit of record,
546 would have some special notations about the conditions in which it was issued, but they

547 would document the amount of fill, file, and issue it to the landowner so they would be
548 made aware of the record, but noted that this action would be his second choice.

549
550 ***There was consensus of the Board to give this a bit of time to see if the Seletskiy's come***
551 ***forward with an application on their own and if not revisit Manager Bradley's idea.***
552

553 **3. Staff Reports**

554 No questions at this time.
555

556 **4. July Calendar**

557 District Administrator Tomczik pointed out to the Board that all July regular meetings and
558 the ACD 53-62 public information meeting will be held in person at the Shoreview Council
559 Chambers.
560

561 **5. Administrator Updates**

562 District Administrator Tomczik stated that staff suggest Wednesday, September 22, 2021
563 1:00 p.m. would be for the City/County Partner Meeting. He noted that they have
564 advertised for the Technical Field Assistant position and there is a candidate, however will
565 advise them that it is on a temporary hold based on the Board discussion on the job
566 description earlier in the meeting until they see how this situation plays out. He explained
567 that additional communication for the employee on medical leave was received and
568 forwarded to Smith Partners.
569

570 District Administrator Tomczik reported that Manager Weinandt left the meeting at 11:30
571 a.m.
572

573 **6. Managers Update**

574 Manager Waller gave an update on MN legislature budget debate and discussion
575 surrounding the watersheds.
576

577 President Preiner asked District Attorney Smith to provide an update from the Court of
578 Appeals.
579

580 District Attorney Smith stated that on Monday, the Minnesota Court of Appeals issued a
581 decision affirming the District Court in the case of Circle Pines vs. Anoka County. This
582 affirmed that President Preiner was lawfully appointed by Anoka County and held that
583 Circle Pines submitting a list of three names did not constrain the County's choice to
584 appoint someone from a different City who did not submit a list of three names. The
585 Court's analysis also paid close attention to the distribution of the Manager positions to
586 the various hydrologic areas that are designated which was also the position of the
587 Minnesota Association of Watershed Districts who intervened, as a friend of the court, to
588 support.
589

590 **ADJOURNMENT**

591 ***Motion by Manager Wagamon, seconded by Manager Bradley, to adjourn the meeting at 11:56***

592 ***a.m.***

593 ***Roll call vote – All Ayes. Motion carried 4-0.***

594

595