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REGULAR MEETING OF THE RCWD BOARD OF MANAGERS

Wednesday, July 28, 2021

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

3

Minutes

4

CALL TO ORDER

5

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

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7

ROLL CALL

8

Present: President Patricia Preiner, 1st Vice-Pres. Michael Bradley, 2nd Vice-Pres. John Waller, Treasurer Steven Wagamon

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Absent: Secretary Marcie Weinandt (with prior notice)

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13

Staff Present: District Administrator Nick Tomczik, Permit Coordinator/Wetland Specialist Patrick Hughes, Project Manager Kyle Axtell, and Office Manager Theresa Stasica

14

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Consultants: District Engineer Chris Otterness from Houston Engineering, Inc. (HEI); District Attorney Chuck Holtman from Smith Partners

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18

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Visitors: None

20

21

SETTING OF THE AGENDA

22

Administrator Tomczik requested a new action item #3 Medical Leave Update and an update by Permit Coordinator Patrick Hughes following the consent agenda regarding the Seletskiy situation.

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Motion by Manager Bradley, seconded by Manager Waller, to approve the agenda as amended.

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Motion carried 4-0.

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30

READING OF THE MINUTES AND THEIR APPROVAL

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Minutes of the July 12, 2021 Board Workshop.

32

Motion by Manager Wagamon, seconded by Manager Waller, to approve the minutes as presented.

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Motion carried 4-0

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36

Minutes of the July 14, 2021 Board of Managers Regular Meeting.

37 **Motion by Manager Wagamon, seconded by Manager Bradley, to approve the minutes as**
38 **presented.**
39 **Motion carried 4-0.**

40

41 **CONSENT AGENDA**

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

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

46 No.	Applicant	Location	Plan Type	Recommendation
47 21-058	TUV SUD America Inc.	New Brighton	Final Site Drainage Plan	CAPROC 6 items

48

49 Permit Coordinator Patrick Hughes explained that he would like to propose removal of item #5
50 on page 24, and noted that on page 25, under Findings, the formatting for #3 is incorrect. He
51 noted that the correct formatting would have #3 begin with 'Wetlands'.

52

53 ***It was moved by Manager Wagamon, seconded by Manager Bradley, to approve the consent***
54 ***agenda as outlined in the above Table of Contents for permit 21-058 with the corrections as***
55 ***outlined by staff in accordance with RCWD District Engineer's Findings and***
56 ***Recommendations, dated July 21, 2021.***

57 **Motion carried 4-0.**

58

59 Permit Coordinator Patrick Hughes gave a brief update regarding the Seletskiy property in
60 Blaine and noted that some progress has been made. He stated that the District received
61 application materials, so it is moving forward towards getting the site in compliance.

62

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

69 No one appeared to address the Board.

70

71 **ITEMS REQUIRING BOARD ACTION**

72 **1. Joint Powers Agreement with MnDNR for Washington Judicial Ditch 2 at Rice Lake**

73 Administrator Tomczik gave an overview of the Joint Powers Agreement between the
74 District and the DNR for Washington JD 2 at Rice Lake and monitoring of the channel for
75 the system. The District granted the DNR petition to impound JD 2 at Rice Lake in 2014
76 conditional on maintaining the open water channel to the weir establishing it as the sole
77 hydraulic control. He stated the DNR presented to the board in October of 2020 and the

78 entities by letter exchanged their positions, the letters in the packet. He stated that the
79 DNR and the District under the past JPA exchange information and engage in joint site
80 visits to examine the channel first hand. Staff is proposing another JPA because the
81 existing agreement has expired.

82
83 ***Motion by Manager Bradley, seconded by Manager Wagamon, to approve the Joint***
84 ***Powers Agreement for monitoring and maintenance of the Rice Lake outlet channel and***
85 ***authorize the board president to execute the document.***

86
87 Manager Waller expressed his reluctance to support this JPA because this is a
88 continuation of a very bad situation in which the DNR has, in his opinion, used its authority
89 to take people's property along this lake. By changing the outlet structure on the lake
90 from the cattail bog, that existed for decades, to a steel structure that goes across the
91 entire organic soil layers at the north end of the lake, the DNR has been able to take many
92 acres of property. He believes the outlet for JD2, Branch 1 will be continuously under
93 water with the structure because the upstream outlet for JD2, Branch 1 is about 918
94 which is well below 920. He stated that he does not think the Board of Managers should
95 be supporting devaluing people's property by flooding it.

96
97 Manager Bradley stated that while he understands Manager Waller's concern, his
98 understanding is that the JPA is maintaining the District's ability to maintain the channel
99 to the outlet, and failing to do that will not improve drainage, but will instead decrease it.
100 He stated that this JPA has nothing to do with whether the weir should be there at all or
101 its height, but with keeping the channel clear.

102
103 Manager Waller stated that the outlet for Rice Lake was a cattail mat which held the water
104 in at 918 for decades and the bottom of the ditch was 916. He opined that the DNR
105 intentionally destroyed that functional outlet which caused the lake to go down. He
106 stated that the purpose of the agreement to keep the channel open is really not the way
107 it was designed or that it functioned before. He stated that he is of the opinion that the
108 DNR is in the entertainment business and noted that the DNR management regime
109 creates a wonderful habitat for narrow leaf cattails, which are an invasive species. He
110 stated that he will vote against this in order to create an official record about this
111 situation.

112
113 President Preiner noted that her letter to the DNR about this issue and the response to
114 her letter are included in the packet. She stated that the District did say that there are
115 concerns from the land owners, but it is clear from the DNR response that the DNR will
116 not address it any further at this time.

117
118 Manager Waller thanked President Preiner for sending the letter and noted that the DNR
119 essentially ignored her letter. He stated that he thinks this is something that is going to

120 need to be re-examined in the future, but wants to ensure that the objections are strongly
121 heard within the record.

122
123 Manager Wagamon stated that he agrees with Manager Waller, but the District did
124 conduct an impoundment hearing on the DNR petition following the law and did pay
125 damages to people already who had issues.

126
127 Manager Waller stated that there was an impoundment hearing, but does not believe
128 that anyone was paid any damages.

129
130 ***Motion carried 3-1, Manager Waller opposed.***

131
132 **2. City of Roseville – RCD 4 Basic Water Management Project WMD Reimbursement #1**
133 Project Manager Axtell gave a brief overview of the progress of the installation of the new
134 pipe segment enclosing a portion of the former RCD 4 channel between County Road C
135 and Terrace Drive. The District has received the first half of the 2021 WMD revenues for
136 RCD 4 and according to the agreement, those funds are to be transferred to the City of
137 Roseville.

138
139 ***Motion by Manager Wagamon, seconded by Manager Waller, to direct staff to issue a***
140 ***payment to the City of Roseville in the amount of \$102,840.15, representing the balance***
141 ***of RCD 4 WMD revenues received to-date.***

142 ***Motion carried 4-0.***

143
144 **3. Medical Leave Update**
145 District Administrator Tomczik stated that on July 26, 2021 he sent an e-mail that included
146 a staff memo dated July 23, 2021, to inform the Board of the situation and had followed
147 up with more detail on July 27, 2021.

148
149 ***Motion by Manager Wagamon, seconded by Manager Bradley, to approve engagement***
150 ***of an independent medical assessment pursuant to the terms of the Administrator's***
151 ***memorandum of July 23, 2021.***

152
153 Manager Waller stated that he will not support this action because two months ago this
154 individual was authorized by his doctor to come back which, in his opinion, should have
155 happened.

156
157 Manager Bradley stated that his understanding was that the doctor simply advised the
158 District of the employee's condition and did not authorize him to do anything. He stated
159 that this action is just going to allow for more information on which to base a decision.

160
161 President Preiner stated that the District has contracted Erika Salina to work on this
162 situation and review the District's job descriptions. She stated that Ms. Salina has sat in

163 on these conversations and suggested that this one more step be taken. She stated that
164 she feels comfortable with this step because no time has been lost.

165
166 Manager Waller reiterated that he doesn't support this action. He feels this individual's
167 doctor authorized him in May to return to work, and it was suggested that they work a
168 few days a week from home.

169
170 ***Motion carried 3-1, Manager Waller opposed.***

171
172 **4. Check Register Dated July 28, 2021, in the Amount of \$442,101.91 Prepared by Redpath
173 and Company**

174 ***Motion by Manager Wagamon, seconded by Manager Bradley, to approve check
175 register dated July 28, 2021, in the Amount of \$442,101.91 prepared by Redpath and
176 Company.***

177 ***Motion carried 4-0.***

178

179 **ITEMS FOR DISCUSSION AND INFORMATION**

180 **1. Update on U.S. Army's Proposed Round Lake Remediation Plan**

181 Project Manager Axtell gave an update on the proposed Round Lake remediation by the
182 U.S. Army to address the contamination dating back to World War II. They would like to
183 remove the contaminated sediment from the lake bed for dewatering at the TCAAP
184 property and offsite disposal in a landfill. Staff will be offering comment through the
185 public comment period which ends August 13, 2021.

186

187 **2. Staff Reports**

188 No updates.

189

190 **3. August Calendar**

191 District Administrator Tomczik noted that Board is invited to join the Citizen Advisory
192 Committee and other stakeholders for their August 11, 2021 field tour.

193

194 Manager Waller asked for directions in order to find the park for the field tour.

195

196 **4. Administrator Updates**

197 Administrator Tomczik items stated that the District vehicles are back on-site and staff is
198 hopeful that there will not be another unfortunate event with the vehicles. He noted that
199 the office transition is going well and the Public Drainage Inspector/Drainage and Facilities
200 Coordinator position has been posted.

201

202 **5. Managers Update**

203 Manager Wagamon stated that his father, Perry Wagamon, put together some
204 information regarding the ACD 10-22-32 reestablishment proceeding that he felt might
205 be helpful. He stated that he would like to present it to District Administrator Tomczik

206 with the intent that it may be able to save the District time and money. He noted that his
207 father says he has more of the same type of information if it does turn out to be useful
208 and is happy to submit other information. Manager Wagamon provided the documents
209 to Administrator Tomczik to include in the proceeding.

210
211 Manager Waller attended the MAWD Summer Meeting and noted that he would like to
212 have a discussion in the future about whether the Board should be investing \$7,500/year
213 in this organization. He offered that the District's interests in many instances don't align
214 with the interests of the other metropolitan watershed districts and that the District
215 works successfully directly with its local legislators. He stated that Manager Weinandt
216 gave a very nice presentation in her role on the Clean Water Council as a watershed
217 districts representative, and it is important to note that she has been put in that role not
218 by MAWD, but by appointment by the governor.

219
220
221 **ADJOURNMENT**
222 ***Motion by Manager Bradley, seconded by Manager Waller, to adjourn the meeting at 9:48 a.m.***
223 ***Motion carried 4-0.***