Regular Meeting of the RCWD Board of Managers

Wednesday, February 22, 2023

**Shoreview City Hall Council Chambers
4600 North Victoria Street, Shoreview, Minnesota
and
Meeting also conducted by alternative means
(teleconference or video-teleconference) from remote locations**

**Minutes**

**CALL TO ORDER**

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

**ROLL CALL**

Present: President Michael Bradley, 1st Vice-Pres. John Waller, 2nd Vice-Pres. Steve Wagamon, Treasurer Marcie Weinandt

Absent: Secretary Jess Robertson, with prior notice

Staff Present: District Administrator Nick Tomczik, Permit Coordinator/Wetland Specialist Patrick Hughes (video-conference), Lake and Stream Program Manager Matt Kocian, Public Drainage Inspectors Ashlee Ricci (video-conference) and Tom Schmidt (video-conference), Lake Monitoring Technician Catherine Nester (video-conference), and Office Manager Theresa Stasica

Consultants: District Engineers Chris Otterness and Adam Nies (video-conference) from Houston Engineering, Inc. (HEI); District Attorney Louis Smith from Smith Partners (video-conference)

Visitors: None

**SETTING OF THE AGENDA**

District Administrator Tomczik suggested that the Board include appointment of a Secretary Pro-Tem on the agenda for today’s meeting in the absence of Manager Robertson.

***Motion by Manager Weinandt, seconded by Manager Wagamon, to approve the agenda as revised. Motion carried 4-0.***

**SECRETARY PRO TEM**

***Motion by Manager Bradley, seconded by Manager Waller, to appoint Manager Wagamon to serve as Secretary Pro-Tem. Motion carried 4-0.***

**READING OF THE MINUTES AND THEIR APPROVAL**

**Minutes of the February 6, 2023 Workshop. *Motion by Manager Weinandt, seconded by Manager Waller, to approve the minutes as presented. Motion carried 3-0-1 (Manager Wagamon abstained).***

**Minutes of the February 8, 2023 Board of Managers Regular Meeting. *Motion by Manager Weinandt, seconded by Manager Waller, to approve the minutes as presented. Motion carried 3-0-1 (Manager Wagamon abstained).***

**Consent Agenda**

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

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

**No. Applicant Location Plan Type Recommendation**

22-114 Connexus Energy Lino Lakes Final Site Drainage Plan CAPROC 7 items
 Wetland Alteration

23-002 Renovation Church Blaine Final Site Drainage Plan CAPROC 7 items

Manager Wagamon asked about Permit No. 23-003 and while not directly related to the permit, noted that he has heard rumors that they were having issues with the gas station on the corner related to pollution.

Permit Coordinator/Wetland Specialist Hughes stated that he has not specifically heard anything related to that but would note that this site is in close proximity to the City of Blaine’s water treatment plant. He explained that the City is more attentive to infiltration in the area and what may be allowed, but reiterated that he had not heard anything specific related to the gas station.

***It was moved by Manager Wagamon and seconded by Manage******r Weinandt, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations, dated February 14, 2023. Motion carried 4-0.***

**Open Mic/Public Comment**

None.

**ITEMS REQUIRING BOARD ACTION**

1. **2023 Stormwater Management Grant Program Applications**

Water Monitoring Technician Nester gave an overview of the 2023 Stormwater Management Grant Program applications, past meeting discussions and the public hearing held on February 8, 2023. She noted that in addition to staff, the Citizens Advisory Committee and Houston Engineering have reviewed and scored the applications.

***Motion by Manager Weinandt, seconded by Manager Waller, to adopt Resolution 2023-03 Ordering 2023 Stormwater Management Grant Projects Pursuant to Minnesota Statutes §103b.251***

THEREFORE, BE IT RESOLVED that pursuant to Minnesota Statutes §103B.251 and the WMP, each of the Projects is ordered; and,

BE IT FURTHER RESOLVED that the Board of Managers hereby authorizes the Administrator to execute each of the respective cost-share agreements between the Rice Creek Watershed District and the City of New Brighton and City of Birchwood Village, with any final non-material changes and on advice of counsel; and,

BE IT FINALLY RESOLVED that the limit of the District’s contribution to each Project is as follows:

City of New Brighton – Stormwater Grant 2023 $8,283

City of Birchwood Village – Birchwood Village Wildwood Lift Station Replacement $100,000

***ROLL CALL:***

***Manager Waller – Aye***

***Manager Weinandt – Aye***

***Manager Bradley – Aye***

***Manager Wagamon – Aye***

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

1. **Ramsey County Lake Monitoring Services 2023**

Lake & Stream Program Manager Kocian gave an overview of the proposed agreement with Ramsey County for Lake Monitoring Services for 2023. Staff recommends approval of the agreement and noted that the data collected by the County is very valuable.

***Motion by Manager Waller, seconded by Manager Weinandt, to authorize the Administrator to enter into an agreement with Ramsey County for lake monitoring services in 2023 for an amount not to exceed $24,461.35.***

Manager Waller asked if the District staff handles 8-10 lakes in Ramsey County.

Lake and Stream Program Manager Kocian clarified that the District staff handles 8-10 lakes around the entire District.

Manager Waller noted that he likes the idea of long-term monitoring but noted that the lakes were not named within the contract and asked for details.

Lake and Stream Program Manager Kocian noted that the details and list of lakes could be found in Exhibit A. He stated that District staff mainly covers the handful of lakes that do not have large boat access and Ramsey County typically covers those that are accessible by larger boat.

Manager Waller asked how many lakes between citizens, staff, and the County, are covered within Ramsey County.

Lake and Stream Program Manager Kocian stated that he would estimate the number to be between 7-10, but noted that that he could get a more precise number following the meeting.

District Administrator Tomczik stated that it may be good to explain why some of the lakes are listed twice on Exhibit A.

Lake and Stream Program Manager Kocian explained that some of the lakes are mentioned more than once because of some of the larger lakes, there are multiple monitoring locations around the lake.

Manager Waller asked about streams and ditches in Ramsey County.

Lake and Stream Program Manager Kocian confirmed that there are multiple lakes and streams around the County where they collect water quality data and flow data as well.

President Bradley suggested that Lake and Stream Program Manager Kocian come to a future workshop and provide an overview of the District’s monitoring program for the Board.

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

1. **Houston Engineering Inc. (HEI) Task Order Annual MS4 Front Subscription**

District Administrator Tomczik reviewed the annual subscription for the MS4 Front software and noted that this had been included in the approved 2023 budget.

President Bradley explained that procedurally, moving forward, he would prefer that the Board ask questions of the presenter on items prior to a motion being made.

***Motion by Manager Weinandt, seconded by Manager Wagamon, to approve and authorize District Administrator to sign HEI Task Order 2023-02 MS4Front Annual Subscription and Implementation Services. Motion carried 4-0.***

1. **HEI Task Order GIS & Ditch Records Maintenance Drainage Database Subscription**

District Administrator Tomczik explained that this item is annual renew for ‘Drainage DB’ database software and maintenance and management of GIS records. He noted that this was also included in the 2023 budget.

***Motion by Manager Weinandt, seconded by Manager Wagamon, to approve and authorize Administrator to sign HEI Task Order 2023-01 GIS and Ditch Records Maintenance; Drainage Database Annual Subscription. Motion carried 4-0.***

1. **Annual Contracted Services Agreements**

Public Drainage Inspector Ricci stated the proposed contracted service agreements are for both public drainage and District facilities. She noted that the agreement is updated every year and can be modified on the advice of legal counsel. She explained that with the rescission of Resolution 2009-04 at the February 8, 2023 meeting, the authority of the District Administrator to sign these work orders is removed, so staff is asking for the Board’s concurrence on these agreements and also to delegate the authority to issue additional work orders to the District Administrator up to $10,000.

Manager Waller asked if there was a cap on how many of these can be approved at $10,000 per time.

Public Drainage Inspector Ricci explained that there is a basic number that they typically plan on doing, but there is not a specific, set number and noted that the contemplated work will be discussed as part of the drainage maintenance update at the March workshop meeting as well. She noted that there are other unknown maintenance and issues that can pop up, such as beaver dams or obstructions from trees falling. She stated that under the current contracted services agreement, there is not a limit on the number of work orders.

Manager Waller asked about expediency and stated that he believed that most of the items were not things that needed to be done immediately and could be brought to the Board for authorization.

Public Drainage Inspector Ricci stated that, in general, there are a number of maintenance projects that are not time sensitive, however, there are some that are time sensitive. She stated that staff is asking to be able to have efficient access in order to address those issues.

Manager Waller asked how many of those instances there are in a year.

Public Drainage Inspector Ricci stated that she does not have the exact numbers in front of her but would say typically there have been several.

Manager Waller asked if ‘several’ meant 3 or 4.

Public Drainage Inspector Ricci clarified that she would say that there are typically more than just 3 or 4.

Manager Waller asked if the primary issue was that sometimes there is too much time between Board meetings to address these types of issues.

Public Drainage Inspector Ricci confirmed that this was correct.

District Attorney Smith stated that to follow up on the question regarding the limit of spending under these task orders. He explained that the number of task orders is not known, but there is a budget line item for these activities, so if this was delegated to the District Administrator, it would not be able to exceed the approved budget without further Board action.

Manager Waller explained that he felt that these types of things coming before the Board were important because then they know what is going on and, in the past, the Board would not have seen something like this because it was being managed in another fashion. He suggested that the Board may want to consider changing their meeting schedule to meet on the 2nd, 3rd, and 4th week of the month in order to allow staff to present these items to the Board more frequently.

Manager Wagamon asked if all of the recent agenda items could have been covered under Resolution 2009-04 that was rescinded at the last meeting.

District Administrator Tomczik stated that was correct and reminded the Board that Resolution 2009-04 covered items that were $10,000 for his approval and $30,000 for Board President approval.

***Motion by Manager Bradley, seconded by Manager Weinandt, to concur in the attached contracted services agreement form for public drainage system and District facilities maintenance, subject to modification on advice of counsel, and to authorize the District administrator to execute individual work orders under these agreements in an amount not to exceed $10,000 per work order and subject to the maintenance program budgets.***

Manager Waller explained that he would vote against this motion and noted that he feels that rescinding Resolution 2009-04 prevents the transformation of the budget to move from a planning document to an authority to spend document. He stated that this motion does not have a cap on how many times it can be done, so there isn’t necessarily ‘good control’ as to what goes on. He reiterated that when these things come before the Board it is easier to see what is happening within the District. He stated that it appears as though the Board’s schedule does not provide staff with the flexibility they need and suggested that perhaps the workshop meeting become a regular Board meeting in order to conduct business.

Manager Wagamon stated that he feels Resolution 2009-04 that was rescinded at the previous Board meeting was something that is customary and followed in the business world. He stated that he thinks that any business would operate in that fashion and to have staff come before the Board and spend time preparing for the meetings to report on things that should be done as an ordinary and customary way of operating a business is ridiculous. He stated that he is hopeful that the Board will fix at its upcoming workshop something that he feels should not have been undone.

President Bradley stated that the Board wanted staff to be able to respond quickly and efficiently in order to maintain drainage in the District and he feels that they are hampering that opportunity by not giving staff that authority.

***Motion carried 3-1 (Manager Waller).***

1. **Construction Materials Purchase for Judicial Ditch 2**

Public Drainage Inspector Ricci gave a brief overview of the purchase of construction materials for JD2 west of Highway 61 near Branch 4. She noted that during a routine inspection it was found that the 60” pipe was in need of repair.

***Motion by Manager Weinandt seconded by Manager Waller, to approve payment of Invoice #644551 for construction materials and directs staff to issue a payment in the amount of $13,000.00. Motion carried 4-0.***

1. **Check Register Dated** **February 22, 2023, in the Amount of $218,731.04 Prepared by Redpath and Company**

District Administrator Tomczik noted that an e-mail was sent to the managers regarding the one-time credit card use detail that had been requested. He explained that the materials are available for review by the Treasurer and noted that in that process invoices and other support materials may be reviewed.

***Motion by Manager Wagamon, seconded by Manager Weinandt, to approve check register dated February 22, 2023, in the Amount of $218,731.04, as prepared by Redpath and Company.***

Manager Waller thanked District Administrator Tomczik for sending the credit card information and noted that it was much more detailed than other things the Board sees without having to ask for all the invoices. He stated that he found some of the items very interesting such as the screws for license plates and the storage for MobiTrac. He noted that he thinks the MobiTrac needs to have additional discussion by the Board at another time. He reiterated that he feels that this has provided information that the Board would not normally get from the regular routine with just the check register.

District Administrator Tomczik clarified that the MobiTrac is in the garage and because of its trailer length, it was moved to a storage site in order to allow for more vehicles in the garage. He explained that this is due to the vandalism and theft that they have had in the past within the parking lot. He explained that a canoe and a boat are also stored off-site.

Manager Waller clarified that he was not complaining about the spending, but felt that the MobiTrac situation needed to be dealt with.

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

**ITEMS FOR DISCUSSION AND INFORMATION**

1. **HEI Annual Public Drainage System (PDS) Prioritization Presentation**

District Engineers Otterness gave a brief presentation regarding PDS prioritization. He reviewed the current PDS maintenance/repair flow chart; differences between minor maintenance and a major repair; typical repair process; prioritization considerations; a recap of the previous years’ prioritization list; recommendations for future repair projects; and a summary of the status of the Public Drainage Systems and branches of the system with regard to completed activities.

District Engineer Nies reviewed details from the individual PDS projects the District is working on, including ACD 53-62 MT; JD3; long term repair planning throughout the District; and the prioritized projects such as RCD 4; ACD 53-62 MT; ARJD 1; and RWJD 1.

District Administrator Tomczik noted that the inclusion of the watershed based funding for Highway 61 ponds and the stream condition downstream of JD 3 is a good thing for the District to be planning ahead for. He stated that looking at solutions in those areas in conjunction with the ditch projects is the beginning step in the Board’s budgeting cycle.

District Engineer Otterness answered Board questions about the PDS projects and prioritization.

**Following discussion, there was consensus by the Board to agree to the current proposed PDS prioritization schedule.**

1. **Staff Reports**

Manager Weinandt stated that she loves seeing the staff reports and explained that it is her way of finding out what is happening in the District.

1. **March Calendar**
2. **Administrator Updates**

District Administrator Tomczik attended the Minnesota Watersheds legislative session where the by-laws and name change were approved. He stated that there were a number of updates from the agencies and noted that he took note of the DNR and the flood hazard mitigation requests. He stated that if proposed funding is approved, the DNR has made known that they will fund 11 projects, of which 10 are already underway. He noted that the District office is looking at additional office cubicles based on the approved organization chart and noted that he had budgeted for this expense in 2022. He explained that the City-County Partner meeting is scheduled for April 12, 2023 at the New Brighton Community Center from 1:00-3:00 p.m. and noted that it is intended to be an in-person meeting.

District Administrator Tomczik stated that he wanted to reply to a few things that were brought up during the meeting and explained that the Board is able to take action at any of its meetings regardless of whether it is a workshop or not. He stated that the level of effort between a workshop and a Board meeting is different and one that should be recognized in decision making. He noted that he wanted to be transparent and let the Board know that he does have requests for actions with the District’s consultants and gave the example of addressing the Drainage Work Group or ACD 10-22-32. He stated that his understanding of the Administrator position is that he is to use discretion, good judgement, to engage the consultants and move through the District’s work. He stated that he works to inform the Board during the Administrator Updates and, as noted by Manager Weinandt, the staff reports can also be used to communicate what is happening in the District. He stated that regarding the MobiTrac there was a pause in its use, yet it may pick up again, but agreed that having a discussion about its use, maintenance and storage would be valuable to the District.

1. **Managers Update**

Manager Waller attended the Minnesota Watersheds conference and gave a brief overview of some of the reports and items that were discussed.

Manager Weinandt expressed her appreciation to District staff for the website update. She also thanked Manager Wagamon for reviewing the financials in her absence.

Manager Wagamon stated that he attended the legal ditch seminar that was held in Alexandria. He noted that he had also gone to the State Capitol last Thursday and was able to speak to a few individuals.

President Bradley stated that he will plan to work with District Administrator Tomczik on a short presentation for the senators.

**ADJOURNMENT**

***Motion by Manager Wagamon, seconded by Manager Bradley, to adjourn the meeting at 10:59 a.m. Motion carried 4-0.***