Regular Meeting of the RCWD Board of Managers

Wednesday, March 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, Secretary Jess Robertson

Absent: None

Staff Present: District Administrator Nick Tomczik, Permit Coordinator/Wetland Specialist Patrick Hughes, Lake and Stream Program Manager Matt Kocian, Public Drainage Inspectors Ashlee Ricci and Tom Schmidt, and Office Manager Theresa Stasica

Consultants: District Engineer Chris Otterness from Houston Engineering, Inc. (HEI); District Attorney Louis Smith (video-conference) from Smith Partners; Attorney John Kolb from Rinke Noonan (video conference)

Visitors: Council Member Janet Hegland-City of Columbus, Mayor Jesse Preiner-City of Columbus

**SETTING OF THE AGENDA**

***Motion by Manager Weinandt, seconded by Manager Robertson, to approve the agenda as presented. Motion carried 5-0.***

**READING OF THE MINUTES AND THEIR APPROVAL**

**Minutes of the March 6, 2023 Board Workshop. Motion by *Manager Wagamon, seconded by Manager Weinandt, to approve the minutes as presented.* *Motion carried 5-0.***

**Minutes of the March 8, 2023 Board of Managers Regular Meeting. Motion by *Manager Wagamon, seconded by Manager Weinandt, to approve the minutes as presented.* *Motion carried 5-0.***

**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**

22-109 Mike Straus Blaine Final Site Drainage Plan CAPROC 17 items
 Public/Private Drainage System
 Wetland Alteration
 Floodplain Alteration

***It was moved by Manager Wagamon and seconded by Manager*** ***Robertson, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations, dated March 14, 2023. Motion carried 5-0.***

**Open Mic/Public Comment**

None.

**ITEMS REQUIRING BOARD ACTION**

1. **Anoka County Ditch 10-22-32 Petition**

District Administrator Tomczik asked Public Drainage Inspector Schmidt to give an overview of the petition related to Anoka County Ditch 10-22-32.

Public Drainage Inspector Schmidt gave an overview of the petition that has been received to outlet to the ACD 10-22-32. He noted that this is very similar to the petition that was received a few months ago for ACD 55 that was located in Lino Lakes where they are asking to add area that is currently not within the drainage area to accommodate development. Staff is recommending approval of the resolution that was included in the packet to accept the petition.

President Bradley noted that this is a petition to add additional drainage to Branch #3 of ACD 10-22-32 and is unrelated to the other item that is later on the agenda.

Manager Weinandt asked if this was outside of the District.

Public Drainage Inspector Schmidt explained that it is within the District, but the area is outside of the current drainage area.

District Engineer Otterness clarified that a large portion of this project already drains into ACD 10-22-32 and explained that they are proposing to add area on a portion of their property that is currently going to drainage system ACD 53-62. He stated that for the purposes of their project, they need to reroute the water into the ACD 10-22-32 system.

Manager Waller stated that this is about 4.3 acres.

District Engineer Otterness stated that was correct and this was just a portion of their overall project which is much larger.

President Bradley stated that he wanted to make it clear to the public that the Board was not approving this action, but was just approving that it be studied.

District Engineer Otterness clarified that the Board was accepting the petition for filing and then appointing an engineer.

Manager Robertson stated that she can recall when this project originally came before the City of Blaine. She stated that it came with an EAW and asked if any changes to the drainage within the project impact any of the study results or if this type of request would be allowed within what has already been established.

District Engineer Otterness stated that he does not know what the content of the EAW was, and that it will be important for the petitioner to ensure that what they are petitioning for is consistent with what has been proposed in the past. He stated that be believes that what they are proposing is consistent with a permit application that has already been CAPROC’d by the District.

President Bradley noted that right now this is just directing the review of the petition but noted that if any conditions needed to be included, such as having to build holding ponds, then that may have to be reviewed further.

***Motion by Manager Wagamon, seconded by Manager Waller, to adopt Resolution 2023-05, Findings and Order Accepting Petition and Appointing Engineer.***

THEREFORE the RCWD Board of Managers makes the following:

**ORDER**

1. The Board of Managers accepts the petition and appoints Houston Engineering, Inc., Chris Otterness, P.E., to investigate the effect of the proposed action under the standards found in section 103E.401 and file a report of findings.
2. The Engineer is directed to include in its investigation an assessment of the capacity of Branch 3 of ACD 10-22-32 to accommodate drainage discharges from the additional acres and to evaluate the overall impact of the development and proposed stormwater management controls on the portions of public drainage conveyance downstream of the development.
3. The Engineer is further directed to provide an opinion on outlet charge in light of prior WMD charges within the ACD 10-22-32 WMD.
4. Upon receipt and review of engineer’s report of findings, the Board authorizes its staff to set and notice a public hearing on the petitioned action. The hearing may be held in conjunction with a regular meeting of the Board.
5. This order is not an approval of the proposed action, nor does it modify the drainage area or any portion thereof. Subsequent proceedings on the petition will occur consistent with the requirements of Statutes Section 103E.401.

***ROLL CALL:***

***Manager Bradley – Aye***

***Manager Robertson – Aye***

***Manager Waller – Aye***

***Manager Weinandt – Aye***

***Manager Wagamon – Aye***

 ***Motion carried 5-0.***

1. **Anoka Washington Judicial Ditch 3 Branch 1, 2 ,4 Bid Package**

Public Drainage Inspector Ricci gave an overview of the proposed repair to Anoka Washington JD3, Branches 1, 2, and 4 and noted that the Board was being asked to make a decision regarding the bid package for these repairs. She explained that the DNR has provided comments and the District will need to coordinate with them as well as U.S. Fish and Wildlife to do some additional surveys for threatened and endangered species. She stated that staff is hoping to present the bids to the Board in early April.

President Bradley asked if they had found something living in the ditch.

Public Drainage Inspector Ricci stated that they have not found anything living in the ditch yet. She explained that as part of the repair report that the District completed in 2018 they have a license to view the DNRs natural heritage database which lists known occurrences of threatened and endangered species. She stated that they did note that a few had been identified in the region of the project. She stated that for some reason Phase 2 was kicked up to a different department at the DNR so they came back with several additional plant species and birds, so they will need to do surveys to identify those.

District Engineer Otterness clarified that the DNR did indicate that the work the District is doing is not going to require a permit or further permission from the DNR. He stated that the DNR has been evolving their process in dealing with the State threatened and endangered species, so they clarified to the District the current process to follow. He stated that it is unlikely the District will have to do additional field investigation of those species but will need to coordinate with the DNR regarding timing of when the work will occur.

Manager Weinandt asked if, in addition to endangered species, there were any underground pipelines in the area.

District Engineer Otterness stated that there are and they have been indicated in the project plans. He noted that he did not believe that the pipeline would negatively affect their ability to continue with the repair.

Manager Waller asked about the long eared bat that was mentioned earlier. He noted that he was not familiar with that being located in the drainage system and asked if it has just been found to be in the area.

District Engineer Otterness stated that there is a new ruling by the Federal Government changing that bat from a designation of threatened to endangered, and with that there will be additional criteria and due diligence that will be required of anybody working in an area that may potentially affect the roosting habitat of the long eared bat. He noted that right now they have identified a significant portion of the upper Midwest in this area.

Manager Waller stated that he understands that these areas will need to be respected, he would caution that when they begin to proceed with this process that the investigation be kept to the drainage right-of-way and not focus beyond the area that the District will be working in.

***Motion by Manager Weinandt, seconded by Manager Waller,*** ***to acknowledge receipt of the Anoka-Washington Judicial Ditch 3 Phase 2 repair plans and specifications dated February 2023, and authorize District staff and Houston Engineering, Inc. to advertise a solicitation of bids for this project. Motion carried 5-0.***

1. **Anoka County Ditch 10-22-32 Consideration of Next Steps**

District Administrator Tomczik stated that the Board had discussed ACD 10-22-32 system at recent workshops. He stated that based on those workshop discussions, he understands the Board is in a position to consider scheduling a meeting and further explained that he envisions Houston Engineering presenting and sharing their evaluation of maintenance alternatives and also to hear any comment, from any party, that had an interest in this ACD 10-22-32 system. He stated that this would be a public meeting with notice and suggested that it be scheduled for April 26, 2023 in order to provide adequate time for notice. He stated that the City of Columbus does have representatives at today’s meeting.

President Bradley explained that the Board had received comments regarding the maintenance alternatives report. He stated that the District received a letter from Sunde Engineering on behalf of Perry Wagamon who has potentially proposed a different ACSIC level and different capacities for pipes under the roadway. He stated that the idea is that the Board wants to hear this information explained and be allowed to ask questions and respond. He stated that regardless of how this question is resolved, it seems the Board would be in the position to decide how they want to proceed.

Columbus Council Member Janet Hegland explained that she was the Council appointed Board liaison to watershed districts. She thanked the Board for their comments and assured them that they are very interested in being part of the conversation surrounding this issue. She explained that the City has received numerous complaints about flooding over the years in the area. She stated that she thinks it is great that they can all try to come together and try to find the best solution to this issue. She stated that April 26, 2023 will work for Columbus regarding the public discussion.

Manager Waller asked if the City of Columbus would provide a presentation and information at the meeting on April 26, 2023. He explained that he feels the purpose of this meeting is to gather as much information as possible.

Ms. Hegland stated that if the Board desires, they can provide the information that they have. She stated that she believes that all the different parties have accumulated different data and she thinks being able to have a forum where everyone can put their information out on the table is a good idea. She stated that she did not want the Board to assume that the City of Columbus would be coming to the table with any kind of agenda because they are not.

Manager Waller encouraged Ms. Hegland to come to the meeting prepared to give the Board a full background and history of the situation.

Ms. Hegland stated that she believed that the District already had most of their information in their archives but noted that they will be prepared to come forward with what they have. She noted that she believed that the watershed of record when the development where Jodrell Street was put in was the Coon Creek Watershed and she would like to see what information could be gathered from them as well.

District Administrator Tomczik stated that in the determination of the ACSIC on the system, there were two public comment periods. He explained that the Board had previously directed staff to complete public data requests of the City of Columbus and Coon Creek Watershed District. This information was received and reviewed by District Engineer Otterness and had also produced a memo on those materials.

***Motion by President Bradley, seconded by Manager Waller, to give public notice for April 26, 2023, 9 a.m. regular board meeting to address the HEI Repair Report recommendation as well as the challenge to that by Sunde Engineer, related to Anoka County Ditch 10-22-32, including a presentation and participation by the City of Columbus and other public members, as discussed.***

***Motion carried 4-0-1 (Wagamon abstained).***

1. **Peterson Companies, Inc. Pay Request #1 Long Lake Fish Barrier**

Lake & Stream Program Manager Kocian noted that in some places of the packet this is referred to as the Long Lake Fish Barrier and in others the Johanna Creek Fish Barrier and explained that they are truly one in the same. He shared a few photos of the barrier and explained that Peterson Companies had to do the work through some pretty nasty weather. He noted that there is a 5% retainage and also some money set aside for site restoration.

Manager Wagamon asked if the screens needed to be periodically cleaned due to sediment.

Lake & Stream Program Manager Kocian stated that they do not need to be cleaned because of sediment, but historically, physical fish barriers do have issues with accumulating debris and holding back water. He stated that the new design has rounded horizontal bars which they have found to be much better as passing debris. He stated that they will have the check and clean it periodically, it will be far less frequent than in the past.

Manager Weinandt stated that it has been great to see this move from an idea to final completion. She asked if this would end up being a District facility.

District Administrator Tomczik confirmed that this will be a District facility and will become part of the District’s ongoing facilities program.

Manager Weinandt noted that she had attended a carp workshop meeting last week and commended Lake & Stream Program Manager Kocian for doing a great presentation at the workshop. She asked if this would be an area where fish would be removed from the stream at a certain point.

Lake & Stream Program Manager Kocian stated that the contract with Carp Solutions includes some time to remove accumulated carp on the downstream side of the barrier. He reminded the Board that the primary purpose of the barrier is to prevent the carp from accessing spawning wetlands just upstream of this area.

District Administrator Tomczik stated that this will be part of the City/County Partner meeting. He stated that the Communications and Outreach Coordinator Sommerfeld was also investigating other things such as signage, and project articles, this is a public location.

***Motion by Manager Weinandt, seconded by Manager Wagamon, to approve partial payment to Peterson Companies for the Johanna Creek Fish Barrier project, in the amount of $33,012.50. Motion carried 5-0.***

1. **Check Register Dated** **March 22, 2023, in the Amount of $216,418.18 Prepared by Redpath and Company**

***Motion by Manager Weinandt, seconded by Manager Robertson, to approve check register dated March 22, 2023, in the Amount of $216,418.18 as prepared by Redpath and Company. Motion carried 5-0.***

**ITEMS FOR DISCUSSION AND INFORMATION**

1. **Staff Reports**

Manager Weinandt noted that she always finds the staff reports to be fascinating and show how busy the District staff has been.

1. **April Calendar**
2. **Administrator Updates**

District Administrator Tomczik stated that additional cubicles at the office are being investigated. He explained that they are intending to have 4 new cubicles installed in the near future. He stated that he and President Bradley are working to meet with Senator John Marty and noted that they had met with his legislative assistant regarding the I-35 flood mitigation project; also known as RCD 2, 3, 5 project . He explained that hopes for funding for this within the current year may be fading, but they plan to keep up efforts. He stated that HF #2354 has been proposed regarding establishment of a drainage registry information portal and District letters of concern intended to be sent.

1. **Managers Update**

Manager Weinandt stated that one of the most interesting things she learned from the recent carp workshop presentations was related to commercial fisherman. She stated that they are assigned a region and at this time of year they are looking for 25 pound carp which somehow they gather and put in a huge tank and drive them to New York City where they are sold for Passover. She stated that the dynamics with the commercial fishermen showed her another example of the complexity of actions that occur economically, socially, politically, and environmentally on this issue.

**ADJOURNMENT**

***Motion by Manager Wagamon, seconded by Manager Robertson, to adjourn the meeting at 9:53 a.m. Motion carried 5-0.***