Regular Meeting of the RCWD Board of Managers

Wednesday, June 14, 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, Technician/Water Resource Specialist Molly Nelson, Lake & Stream Program Manager Matt Kocian, Public Drainage Inspector Tom Schmidt, and Office Manager Theresa Stasica

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

Visitors: Ken Brumbaugh, Brian Schak, Bob S., City of Columbus Council Member Ron Hanegraaf, City of Columbus Mayor Jesse Preiner, Perry Wagamon, Kim Ganzel, Darlene Wagner, Bert Semmelink, Gloria Semmelink, Ken Borle, City of Columbus Council Member Janet Hegland (video-conference)

**SETTING OF THE AGENDA**

District Administrator Tomczik noted that there were a few proposed changes to the agenda and explained that he had handed out a proposed revised agenda. He identified in the revised agenda a new Item #1 relating to Juneteenth Holiday and noted that he had moved items on the published agenda, #3, U.S. Geological Survey and #6, Copier/Scanner to become items #7 and #8. He stated that if the Board was under a time constraint later in the meeting, those items could be tabled, if necessary.

***Motion by Manager Bradley, seconded by Manager Robertson, to approve the agenda, as revised.***

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

**READING OF THE MINUTES AND THEIR APPROVAL**

**Minutes of the May 24, 2023 Board of Managers Regular Meeting.**

**Minutes of the June 5, 2023 Special Workshop.**

**Motion by *Manager Robertson, seconded by Manager Wagamon, 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**

23-031 Aerofab Properties, LLC Blaine Final Site Drainage Plan CAPROC 7 items

***It was moved by Manager Wagamon, seconded by Manager Waller, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations, dated June 6, 2023. Motion carried 5-0.***

**Water Quality Grant Program Cost Share Application**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Applicant** | **Location** | **Project Type** | **Eligible Cost** | **Pollutant** **Reductions** | **Funding Recommendation** |
| R23-05 | Eleni Skevas | Roseville | Curb-Cut Raingarden | $11,264.04 | Volume: 26%TSS: 26%TP: 26% | 75% cost share of $7,500 not to exceed 75%; or $7,500 whichever cost is lower |
| A23-01 | City of Fridley | Fridley | Pet WasteManagementStations  | $540.00 | Average 13 lbspet waste/week 6.8 lbs Phosphorus | 75% cost-share of $405.00 not to exceed 75% or $7,500, whichever cost is lower |

***It was moved by Manager Weinandt, seconded by Manager Bradley, to approve the Water Quality Grant consent agenda as outlined in the above table, in accordance with RCWD Staff’s Recommendation based on established program guidelines, dated June 8, 2023.***

Manager Weinandt noted that she had attended the Citizens Advisory Commission meeting last week and thanked Technician/Water Resource Specialist Nelson, District staff, and the members of the CAC for their efforts, because they take the discussion on each of these applications very seriously.

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

**Open Mic/Public Comment**

None.

**ITEMS REQUIRING BOARD ACTION**

1. **Juneteenth Holiday**

District Administrator Tomczik stated the Board needs to consider recognizing the Juneteenth holiday and read aloud from the staff memo regarding the Juneteenth Holiday on June 19, 2023, that recognizes the abolishment of slavery in the United States.

District Attorney Smith explained that there had been some confusion about whether this holiday would be effective starting in 2023 or 2024. He noted that it was originally approved as of August 1, 2023, which would make the first Juneteenth holiday in 2024, however the legislature passed another bill during this session that made it effective in 2023.

***Motion by Manager Bradley, seconded by Manager Weinandt, to establish and observe Juneteenth as a Rice Creek Watershed District holiday and accordingly amend section 7.1 Holidays of the RCWD handbook, Board calendar, and as otherwise necessary in District materials. Motion carried 5-0.***

1. **Centerville Lake Water Management District**

Lake & Stream Program Manager Kocian stated that this item was a continuation of the discussion from a Board workshop regarding Centerville Lake and a potential Water Management District. He stated that there are a number of residents of Centerville Lake that were in attendance at the meeting who may wish to comment. He stated that there are water quality problems on Centerville Lake that include frequent, and sometimes severe, algae blooms. He explained that they monitor water quality on the lake and track TP and Chl-a which have been increasing year after year. He reviewed the Internal Loading Study information and noted that a common treatment for this occurrence is an alum treatment and reviewed the budget range for this type of treatment which is roughly around $1 million. He explained that the District had received a letter from the Centerville Lake Association in September of 2022 requesting the Board take action and specifically create a special tax district/Water Management District. He noted that HEI had developed alternatives that the Board reviewed at their June 12, 2023 Workshop meeting where they came to a consensus regarding Concept 2B. He explained that the concept provides a framework for assessing the Water Management District fee and is not a specific dollar mount because the actual fee would be based on the final budget and applicable grants.

Kimberly Ganzel, 1339 Mound Trail, Centerville, expressed the Centerville Lake Associations appreciation of all of the work that Lake and Stream Program Manager Kocian and the District staff has put in as well as the support from the Board on this issue. She stated that they are also in support of the Concept 2B that the Board discussed at their workshop.

***Motion by Manager Bradley, seconded by Manager Robertson, to direct District Staff and Engineer to draft language for a Watershed Management Plan amendment, incorporating a new Water Management District for Centerville Lake, and language supporting an internal nutrient loading management project.***

Manager Waller thanked the Centerville residents for attending today’s meeting. He suggested that the Centerville Lake Association be aware that the St. Paul Water Authority had easements around Centerville and Peltier Lakes. He suggested that they take a look at removing those easements or land issues and transfer them to Anoka County. He stated that the dam on Peltier Lake is also owned by the St. Paul Water Authority, and he would suggest that also be transferred to Anoka County.

President Bradley commended members of the Centerville Lake Association for their grassroots efforts in addressing this issue for the public good.

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

***Motion by Manager Bradley, seconded by Manager Weinandt, to direct District staff to develop and submit a BWSR Clean Water Fund grant application to support an internal nutrient load reduction project on Centerville Lake.***

Manager Waller noted that he wanted to remind everyone present that this is a ‘framework’ and the dollar amounts are just for discussion purposes and are not ‘real’ at this point.

Manager Weinandt stated that she wanted to remind everyone that the Clean Water Fund is part of the Minnesota Legacy Amendment.

Manager Wagamon asked if the nearby Anoka County park could be involved in the funding.

District Administrator Tomczik explained that it is intended that the District will approach Anoka County and the City of Centerville to discuss what level of participation they may have in the project.

Manager Robertson asked if the District can estimate the timeline on applying for a grant and what this whole process will look like so the residents have a reasonable expectation for action.

Lake and Stream Program Manager Kocian stated that the Clean Water Fund grant cycle is set to open later this month and should close in August. He explained that typically notices of awards are received in early January, and then workplans and development agreements are put together after that. He stated that all of this puts them on a tight timeline of potentially doing alum treatments in 2024. He cautioned that he did not want to present this as a certain timeline.

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

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

Lake & Stream Program Manager Kocian explained that this item was related to the final pay request for the Lake Johanna carp barrier. He reviewed photos that were taken at the site as part of the Long Lake/Lino Chain of Lakes Carp Management Program. He noted that Houston Engineering had surveyed the completed structure, compared it to the drawings they had produced, and found elevations and dimensions to be within acceptable tolerances. He noted that the District had received Watershed Based Implementation Funding Grant which meant that 90% of this cost of this project was paid for by that program.

***Motion by Manager Weinandt, seconded by Manager Waller, to approve final payment, including release of retainage, to Peterson Companies for the Johanna Creek Fish Barrier project, in the amount of $5,487.50. Motion carried 5-0.***

1. **Anoka County Ditch 10-22-32 Evaluation of Maintenance Alternatives Board Direction**

Public Drainage Inspector Schmidt stated that the Board had held a special workshop on June 5, 2023 to discuss the comments and submitted information in consideration of maintenance alternatives. He stated that the Board arrived at a general consensus for Alternative #4 and the next step in the process would be for the Board to direct staff toward final development of that alternative. He noted that included in the packet was a proposed motion, but noted that, based on advice from Drainage Attorney Kolb, that motion had been slightly modified and that language had been handed out to the Board prior to the meeting.

District Administrator Tomczik noted that the differences in the motion language is largely a distinction between investigating and developing the alternative verses direct implementation.

***Motion by Manager Weinandt, seconded by Manager Bradley, to direct staff to develop maintenance Alternative #4 (ACSIC Option) for ACD 10 22 32 north of Pine Street by:***

***1. Identifying and quantifying regulatory requirements;***

***2. Assessing the feasibility of the proposed alternative in light of the regulatory requirements; and***

***3. Engaging with municipal partners, DNR, and other regulatory, land use, and road authorities as necessary to evaluate the feasibility of maintenance Alternative #4.***

President Bradley noted that Alternative #4 includes lowering the level of Jodrell Road and 137th Street culverts to the previously established ACSIC that was approved by the Board.

Manager Waller stated that just because the Board has chosen this framework, it does not mean that this is the last profile that could be adopted by the Board. He explained that he sees this as a beginning in order for things to move forward and see what the DNR, Army Corps of Engineers, and the City of Columbus may have to say. He stated that in his opinion, this action does not eliminate possible adjustments to the ACSIC in the future.

Manager Robertson stated that she has had additional dialogue with staff throughout the last week and explained that what she shared with them was her frustration that does not seem to be a finality to the issues that the residents have if the District hangs their hat on Alternative #4. She asked what type of cost is incurred with Alternative #4 and if moving forward with this alternative limits the District to the things identified within the motion. She asked if it was open to interpretation or to be modified. She stated that she understands that this is a long standing issue that has a lot of emotion surrounding it, but noted that she felt that everybody wants to come in and find the right solution. She explained that she did not want there to be bad feelings amongst the parties engaged in this and noted that she also did not want to move forward with a ‘band-aid’ type solution because she wants finality. She questioned what ‘engage with municipal partners’ meant and if merely sending an e-mail would fulfill that obligation rather than sitting down and really get into the ‘weeds’ of the issue. She reiterated that this action feels very vague to her and does not feel like an actual solution.

District Administrator Tomczik stated that the District is acting as the Public Drainage Authority in this instance and are contemplating and addressing the obligations of the District specific to that authority. He stated that it may or may not result in an outcome that satisfies landowners or the municipalities. He explained that it is the District’s belief, through the engineer’s modeling, that alternative 4 will improve drainage. He stated that in the past, the District generally took regulatory positions at ‘face value’, that these matters were not surmountable by the District. He stated that this motion would direct staff to take those actions, to ask the questions because until the regulatory questions are asked, they do not know what the extent of the DNR’s response and further the associated potential cost of what is being asked of the District to demonstrate. He stated that it is possible that they will just issue the District a permit, but it could also be a long, entrenched discussion where staff would return to the Board and ask for further guidance.

President Bradley noted that he had previously asked the question about cost as well and the answer he received was that the upfront costs are those of the lawyers and engineers. He stated that responding to the DNRs questions start at approximately $50,000 and go up which would become the cost of repair. He noted that there could be things like mitigation that they do not know the costs for and could be substantially more. He stated that until the questions are asked, they cannot dig down and get the answers to the specific questions about cost.

Manager Robertson asked if the District would assume the cost of repair or if landowners would be assessed for those costs.

President Bradley stated that the current position is that repairs are a maintenance ad valorem expense.

Manager Wagamon explained that he would abstain from discussion on this item but would like to ask a question. He stated that Columbus has a CWPMP and if he understood what he was reading correctly, that would override the other statute. He stated that stated that they do not have the mitigate for wetlands and asked if that was germane to this discussion.

Drainage Attorney Kolb stated that if there is a CWPMP that has been adopted by the LGU, the terms of it, by rule, would replace some of the specific requirements of the WCA. He noted that would only apply to consideration of mitigation required under the WCA and would not displace mitigation requirements that might be required under the Public Waters law.

Manager Wagamon stated that he thinks the District should take a look at their CWPMP to ensure what is in it.

District Administrator Tomczik stated that is part of the outcome of what is proposed in the motions. He stated that he would say this has been considered to some extent already. He stated that north of Pine Street will be a WCA consideration and is modified by a Board adopted and BWSR approved CWPMP. He stated that as Drainage Attorney Kolb stated, it does not apply to public waters and does not replace Federal wetland law.

Manager Waller stated that the emphasis today is primarily on drainage law under Chapter E, but the complaint heard throughout this entire proceeding has been about flooding, so there are other pieces that are important. He stated that he hopes the existing language is broad enough to allow these things to be considered as well. He reiterated that he did not see this action as a final step but as a step forward that will then be adjusted.

District Administrator Tomczik explained that the intent of engaging with the partners is broadly to see if there is any additional information or local authority that may assist in having the DNR, as the public waters authority, to come into alignment with the District’s analysis. He stated that the District, through HEI, has studied Jodrell and noted that information is available to Columbus to collaborate with the District as it advances their storm water management.

Manager Waller stated that he specifically was thinking about the drainage that comes off of Jodrell from the north.

President Bradley stated that if this is passed, at a minimum, the city will be looking at lowering the culvert on Jodrell and will have the opportunity to consider the size and the comments from the public about 100-year rainfalls.

***Motion carried 3-1-1 (Manager Robertson opposed) (Manager Wagamon abstained).***

1. **Houston Engineering, Inc. Task Order No. 2023-003, Anoka County Ditch 53-62 Branches 5 & 6 Repair Report**

Public Drainage Inspector Schmidt stated that per the Board’s prioritization of repairs to the drainage system, the next set to be repaired are Branches 5 and 6 of ACD 53-62.

***Motion by Manager Weinandt, seconded by Manager Bradley, to authorize the Board President to execute HEI Task Order 2023-003 to complete a repair report for portions of (ACD53-62), including Branches 5 and 6 and associated laterals, for an amount of $82,200.00. Motion carried 5-0.***

1. **US Sitework, Inc. Partial Pay Request #6 Anoka County Ditch 53-62 Main Trunk Repair Project**

District Administrator Tomczik noted that Public Drainage Inspector Ricci was out in the field, so he would be handling this item. He reminded the Board that there was an incident with equipment at this site, but the work should be up and running by June 19, 2023, and explained that substantial completion is expected by July 13, 2023. He stated that this is a later time frame and will require a Change Order which is currently in process. He noted that city stormwater work will begin on July 5, 2023, and staff will engage with Circle Pines’ staff.

***Motion by Manager Waller, seconded by Manager Wagamon, to approve US Sitework, Inc.’s pay request #6 as submitted and certified by the District Engineer and directs staff to issue a payment in the amount of $4,928.13. Motion carried 5-0.***

1. **U.S. Geological Survey Joint-Funding Agreement-Streamgage on Rice Creek in Mounds View**

Lake & Stream Program Manager Kocian stated that he was seeking approval for a joint funding agreement between the District and the U.S. Geological Survey (USGS) for a streamgage that they operate on Rice Creek. He stated that the District has been partnering with the USGS since 2008 and explained that the data provided is very valuable and reviewed some of the ways that the District utilizes the data. He noted that the annual and total costs were outlined in page 58 of the packet.

President Bradley asked who actually maintains and operates the streamgage.

Lake and Stream Program Manager Kocian stated that the USGS maintains and operates the streamgage.

***Motion by Manager Weinandt, seconded by Manager Robertson, to authorize the Administrator to enter into a 4-year agreement with the U.S. Geological Survey for operation and maintenance of the streamgage located on Rice Creek for an amount not-to-exceed $56,833.00. Motion carried 5-0.***

1. **Copier/Scanner Lease**

District Administrator Tomczik reviewed the proposed lease with Metro Sales for the office copier/scanner and explained that the current lease expires in April of 2024. He noted that there is a cost savings in the lease of around $2,000 because there has been a change in the way Metro Sales administer and bill for the lease. Staff recommends approval.

***Motion by Manager Waller, seconded by Manager Bradley, to authorize the Administrator, on advice of counsel, to enter into a 5-year lease agreement for the Ricoh IMC 4510 copier. Motion carried 5-0.***

1. **Check Register Dated** **June 14, 2023, in the Amount of $111,354.57 Prepared by Redpath and Company**

***Motion by Manager Weinandt, seconded by Manager Waller, to approve check register dated June 14, 2023, in the Amount of $111,354.57*** ***as prepared by Redpath and Company. Motion carried 5-0.***

**ITEMS FOR DISCUSSION AND INFORMATION**

1. **District Engineer Update and Timeline**
2. **Administrator Updates**

District Administrator Tomczik noted that they are looking at the District provided health insurance for employees and noted that there appears to be some inflation and staff will plan accordingly in the District budget.

1. **Managers Update**

Manager Waller stated that he went down to Madison Lake to take the tour which was all about how they fix lakes. He stated that he also attended the Washington County Consortium and gave an overview of the general discussion topics. He explained that he had also attended the Forest Lake City Council meeting because they recently passed an ordinance that is a change in their ordinances and are prohibiting wetland mitigation banks within the city limits. He gave a brief history of where that ordinance decision originated based on activities in the city. He stated that he was at Birchwood last night and they remain concerned about Priebe Lake. He noted that they have a new mayor as well as some new councilmembers.

Manager Weinandt reiterated that she attended the CAC meeting and noted that they are looking for additional members from Ramsey County as well as Washington County. She stated that she is not able to attend the Minnesota Watershed meeting later this week in Albert Lea and is hopeful that there are staff members and perhaps additional Board members who will be able to attend.

Manager Waller noted that he will be attending the Minnesota Watershed meeting.

**ADJOURNMENT**

***Motion by Manager Robertson, seconded by Manager Wagamon, to adjourn the meeting at 10:21 a.m. Motion carried 5-0.***