



REGULAR MEETING OF THE RCWD BOARD OF MANAGERS
Wednesday, July 24, 2024

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

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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, and 2nd Vice-Pres. Steve Wagamon

Absent: Treasurer Marcie Weinandt and Secretary Jess Robertson (with prior notice)

Staff Present: District Administrator Nick Tomczik, Regulatory Manager Patrick Hughes, Program Support Technician Emmet Hurley (video-conference), Drainage & Facilities Manager Tom Schmidt, Outreach and Grant Technician Molly Nelson, Office Manager Theresa Stasica

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

Visitors via video conference: Marcie Weinandt

SECRETARY PRO TEM

Motion by Manager Waller, seconded by Manager Wagamon, to appoint Manager Waller to serve as Secretary Pro-Tem and Manager Wagamon to serve as Treasurer Pro-Tem for this meeting.
Motion carried 3-0.

SETTING OF THE AGENDA

District Administrator Tomczik stated that he would like to add two new items under Items Requiring Board Action: Miron Water Quality Grant – Contractor Payment; and Clean Water Council Letter.

Motion by Manager Bradley, seconded by Manager Waller, to approve the agenda, as amended.
Motion carried 3-0.

BOARD OF MANAGERS	Jess Robertson Anoka County	Steven P. Wagamon Anoka County	Michael J. Bradley Ramsey County	Marcie Weinandt Ramsey County	John J. Waller Washington County
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READING OF THE MINUTES AND THEIR APPROVAL

Minutes of the July 8, 2024, Workshop and July 10, 2024, Board of Managers Regular Meeting. Motion by Manager Waller, seconded by Manager Bradley, to approve the minutes as presented. Motion carried 3-0.

OPEN MIC/PUBLIC COMMENT

None

ITEMS REQUIRING BOARD ACTION

1. Anoka County Ditch 53-62 Stabilization Work Order

Drainage and Facilities Manager Schmidt gave an overview of the work order for stabilization of ACD 53-62 in the area of the repair that was just completed. He explained that following spring rains, inspection identified sloughing of the ditch bank where the work had been done, so they took action to try to stabilize it in order to prevent further damage. He noted that the work was done under the auspices of minor maintenance, but needed Board approval, because of the amount.

Motion by Manager Waller, seconded by Manager Bradley, to approve US Site Work’s Erosion Repair Proposal work order dated June 28, 2024, not to exceed \$35,546.45 and delegate to the administrator, on the advice of counsel, the authority to execute the described individual work order. Motion carried 3-0.

2. 2024 Rule Revision – Distribution for Public Review

Regulatory Manager Hughes explained that staff were looking to distribute the draft revisions to the rule for public review and comment. He noted that staff had presented a draft of the proposed rule language at their June Workshop meeting and stated that staff had only made minor changes since that meeting. He explained that they were proposing that the review period begin today through September 20, 2024, and that the public hearing be held on September 11, 2024.

President Bradley stated that he had a few questions for staff.

Manager Waller suggested that they make the motion and then have discussion.

Motion by Manager Waller, seconded by Manager Wagamon, to open discussion on Resolution 2024-05 Directing Distribution Of Proposed Rule Revisions And Notice Of Public Hearing. Motion carried 3-0.

President Bradley explained that he felt the questions to staff could also have been asked prior to making that motion because either method was acceptable for discussion. He referenced page 25 of the rules, item f. regarding soil testing, and stated that he questioned the use of the word ‘encourage’ within this statement. He asked if it was required, why they would just ‘encourage’ something.

Regulatory Manager Hughes stated that they do not require it, but it would certainly be encouraged because it will give them more data.

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District Engineer Otterness noted that soil permeability testing adds a cost to the applicant, but there will also be some sites where it is inappropriate or doesn't fit. He explained that they would not want to identify this testing as being 'required' if it wasn't feasible to do, would not provide logical data, and would put a burden on the applicant for something that would not provide value.

President Bradley referenced page 34 of the rules, item e., he stated that this referenced 'Notice of Intent', but there was not a definition for 'Notice of Intent' included. He suggested that instead of capitalizing this reference that they simply refer to it as 'notice of intent' because there was not a definition.

Regulatory Manager Hughes explained that the District has a form that they call 'Notice of Intent', but they can make that change if the Board would like.

President Bradley asked if he would rather put in a definition that says something like, 'see our form'.

Regulatory Manager Hughes stated that he would take the suggestion of President Bradley and just change the language to be in lower case, because it would provide the opportunity to more easily change the form in the future.

President Bradley referenced page 37 of the rules, item 3a., and noted that he thought that they would have to say 'greater than' and asked for more details on the intent behind using the term 'non-coincident'.

District Engineer Otterness explained that 'non-coincident' refers to the timing of peak water elevations in a stormwater pond versus the timing of peak flood elevations in the adjacent floodplain. It is important to make sure that the applicant does not get credit for floodplain storage within their pond, if the storage will be unavailable at the time of a peak flood.

Regulatory Manager Hughes noted that this was something that the District currently does in their review process and explained that they ask the applicants to demonstrate it, but this would make it clear within the rule.

President Bradley referenced page 37 of the Rules (Rule E3(i).), and noted that it says 'not intended for human habitation' and stated that they had previously added, 'and not attached to a habitable structure'.

Regulatory Manager Hughes recalled the discussion on attached versus non-attached.

President Bradley suggested that they also use the same language that was used earlier.

District Engineer Otterness referenced Rule C.9., which says 'not attached to a habitable structure' and suggested that they go back and make the language in Rule E3(i) exactly the same.

118 Manager Waller asked when the District does soil borings if it goes to a lab for analysis.

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120 District Engineer Otterness answered that it would depend on what the purpose of the borings were.
121 He noted that if they were doing the borings for the purpose of determining the water table and the
122 ability of the soil to drain, then it would not necessarily go to a soils lab. He stated that there are
123 plenty of other reasons where borings may be taken that will go to a lab, but for the purposes of the
124 infiltration, that would typically not require going to a soils lab because they can do on-site
125 identification of the soils types and see the features in the soil that indicate where the soils table is.

126
127 Manager Waller noted if they did go to a soils lab, that would be something that the District was
128 familiar with and could send samples to get analysis done.

129
130 District Engineer Otterness stated that one thing that the District will do oftentimes for their own
131 projects, especially when they are doing dredging, is get a soils analysis to determine if they have to
132 transport the material to meet MPCA requirements.

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134 Manager Waller stated that this has been a common practice and was not something that they
135 would not know how to do.

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137 District Administrator Tomczik stated that it was his understanding at the beginning of this action
138 item there was a motion and a vote and asked for clarification on the action.

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140 Manager Waller explained that he had simply made a motion to discuss this issue and now they
141 would need to make a motion to approve it.

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143 ***Motion by Manager Waller, seconded by Manager Bradley, to adopt Resolution 2024-05***
144 ***Directing Distribution Of Proposed Rule Revisions And Notice Of Public Hearing.***

145
146 **THEREFORE BE IT RESOLVED** that pursuant to Minnesota Statutes §103D.341, the District
147 administrator is to distribute the proposed rule documents as presented in the July 24, 2024 Board
148 meeting packet, with any further non-substantive revisions, and otherwise make the documents
149 available for public review and comment for a period of at least 45 days; and

150
151 **BE IT FURTHER RESOLVED** that in accordance with all legal requirements, the District
152 administrator shall give notice of a public hearing on the proposed rule revisions to be held in
153 conjunction with the regular meeting of the Board on September 11, 2024.

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155 **ROLL CALL:**
156 ***President Bradley – Aye***
157 ***Manager Robertson – Absent***
158 ***Manager Wagamon – Aye***
159 ***Manager Waller – Aye***
160 ***Manager Weinandt – Absent***
161 ***Motion carried 3-0.***

162

163 President Bradley asked Manager Weinandt if she would like to comment since she was following
164 the meeting via electronic means.

165
166 District Attorney Smith cautioned that he did not believe Manager Weinandt’s location had been
167 officially noticed.

168
169 Manager Weinandt stated that while she could not officially vote from her remote location, she
170 would like it on the record that she was also in support of this resolution.

171
172 **3. Miron Water Quality Grant – Contractor Payment**
173 Outreach and Grant Technician Nelson reviewed the request for contractor payment for the Miron
174 Water Quality Grant. She noted that the project was not yet completed, but the engineer has
175 inspected and approved the release of funds. She explained that they had asked the engineer to be
176 present in case the Board had any questions, however they were not able to attend. She stated that
177 if the Board ended up having questions she would get them in contact with the engineer.

178
179 ***Motion by Manager Waller, seconded by Manager Wagamon, to approve W20-02 Cost-Share***
180 ***Voucher Payment to Ashwill Companies as submitted and certified by the Outreach and Grant***
181 ***Technician Nelson and direct staff to issue a payment in the Amount of \$30,000.***

182
183 Manager Waller thanked Outreach and Grant Technician Nelson for her work on this and noted
184 that he thought the photographs were wonderful.

185
186 ***Motion carried 3-0.***

187
188 Manager Weinandt stated that she agreed that the pictures were great and she also supported
189 this payment.

190
191 **4. Biennial Solicitation for Professional Services 2025-26**
192 District Administrator Tomczik stated that staff is seeking authorization to post a notice that the
193 District is soliciting for professional services, which is something that they undertake every 2 years.
194 He reviewed the notice’s guidance for submittals. He explained that the notice provides about 1
195 month for submittals and will bring those back for Board consideration at their October 7, 2024
196 Workshop meeting and the Board may determine if it wished to interview candidates. He noted
197 that there was a request for a change in the notice language adding Human Resources consultant
198 as well as Information Technologies to the initial list of the District needs.

199
200 ***Motion by Manager Bradley, seconded by Manager Wagamon, to Authorize the Administrator to***
201 ***publish in the District’s official newspaper, post on District website, and distribute to its current***
202 ***consultants the Solicitation of Interest Notice for Professional Services. Motion carried 3-0.***

203
204 **5. Clean Water Council Letter**
205 District Administrator Tomczik stated that Minnesota Watersheds sent out a call of action
206 solicitation. He explained that Minnesota Watersheds know the Clean Water Council was
207 considering their fiscal year 2026-2027 recommendations and potential changes in allocations to

208 the Clean Water Fund grants; funding that the District often uses. He stated that many watershed
209 districts benefit from the continued funding at the current levels. He explained that the proposed
210 letter identifies select District important or significant projects and puts forth that this is a valuable
211 asset for the District in completing their work.

212
213 President Bradley stated that he wanted to acknowledge the fine work that the Clean Water Fund
214 grants have done to benefit the District and have allowed them to do such important projects such
215 as those listed within the letter. He thanked Manager Weinandt for her service on the Clean Water
216 Council in assisting watershed districts to obtain these grants.

217
218 Manager Weinandt stated that it is good to have the full Council actually understand what those
219 watershed based implementation funds are all about. She stated that they have been getting good
220 responses from the watersheds and felt that it was educational for all the members.

221
222 ***There was Board consensus to approve sending the Clean Water Council letter, as presented.***

- 223
224 **6. Check Register Dated July 24, 2024, in the Amount of \$239,963.25 and July Interim Financial**
225 **Statements Prepared by Redpath and Company**
226 ***Motion by Manager Wagamon, seconded by Manager Bradley, to approve check register dated***
227 ***July 24, 2024, in the Amount of \$239,963.25 and July Interim Financial Statements, as prepared by***
228 ***Redpath and Company. Motion carried 3-0.***

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230 **ITEMS FOR DISCUSSION AND INFORMATION**

231 **1. Staff Reports**

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233 **2. August Calendar**

234 District Administrator Tomczik noted that he would be out of town on August 28, 2024, so
235 Regulatory Manager Hughes would be handling the Board meeting that day.

236
237 **3. Administrator Updates**

238 District Administrator Tomczik noted for the record that all the materials that were handed out to
239 the Board this morning were posted on the website and were also available at the meeting. He
240 stated that the District continues to work with the DNR on ACD 10-22-32 public waters. He
241 explained that DNR provided a response and the intent is to bring that back to the September
242 workshop meeting for discussion. He stated that District Engineer Otterness had attended the
243 Drainage Workgroup meeting and asked if there were any updates that he wanted to share with the
244 Board.

245
246 District Engineer Otterness stated that some of the hot topics that they have going on include
247 noticing requirements and trying to get them consistent and changes to the statute related to the
248 Wetland Conservation Act and DNR Public Waters. He explained that he anticipated that they will
249 discuss those items at their August meeting.

250
251 Manager Waller asked if there were changes in the environmental committees bill this year to 103D
252 or 103B and asked if he had also attended any other meetings. He explained that he had gotten the

253 impression at the last meeting that District Engineer Otterness was going to attend two sets of
254 meetings.

255
256 District Engineer Otterness stated that for 103D, there were a number of modifications that were
257 administrative type items but noted that they had not yet been specifically discussed at the Drainage
258 Workgroup. He stated that there was also some discussion regarding the Environmental Quality
259 Board and the mandatory EAW/EIS categories. He stated that he did attend a meeting on that topic
260 with the Environmental Quality Board where he had raised some concerns regarding the definition
261 of 'public waters' because the statutory changes really make it challenging to distinguish public
262 waters from no-public waters since the definition change has effectively taken away public waters
263 mapping as a resource. He noted that DNR is starting a process to do re-mapping of public waters
264 and he is hopeful that will provide a better insight to people so they have an understanding of
265 whether something is or isn't a public water, but cautioned that he expected this to be a multi-year
266 process.

267
268 Manager Waller asked if there had been any change to the definition of what a 'project' is within
269 103D or 103B.

270
271 District Engineer Otterness stated that he would not know that level of detail.

272
273 District Attorney Smith stated that there was not specifically a change in the definition of a capital
274 improvement project, but were several procedural changes related to the planning process and the
275 ordering of projects.

276
277 Manager Waller stated that he would like to see them in print, if District Attorney Smith has them
278 available.

279
280 Manager Wagamon stated that he would also like to have copies of this information.

281
282 Manager Waller suggested that he go ahead and send this information to the entire Board.

283
284 District Administrator Tomczik stated that Minnesota Watersheds has a committee regarding the
285 103 notifications that he has been asked to participate in. He stated that the Minnesota
286 Watersheds resolutions process, the Board had discussed one of the sunseting resolutions, 19-01.
287 He stated that he dug into it a bit more and found that it was not a paramount District issue
288 originating from Bois de Sioux Watershed District. He noted that the resolutions that the District
289 had either initiated or had a heightened interest in remain on the books at Minnesota Watersheds.
290 He explained that the City of New Brighton received a Minnesota Pollution Control Agency Resiliency
291 Grant for studying the ditch near 10th Street NW, which is a private road near the apartment building
292 that had the flooding issues in the past and part of RCD 2, 3, and 5 project.

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294 **4. Managers Update**

295 Manager Waller expressed his appreciation to Outreach and Grant Technician Nelson for her extra
296 work for the manure facility project. He also thanked Office Manager Stasica for sending him the
297 updates from Minnesota Watersheds Association. He noted that on the back page of the updates

298 he noticed that Lake and Stream Program Manager Kocian was featured as one of the speakers,
299 which was nice to see.

300
301 Manager Weinandt stated that for the CAC meeting in August, they usually have a tour and believes
302 this year they will be going to see the Blaine wetlands. She asked staff to send information on that
303 to the Board, because in the past they have usually attended this tour.

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305 **ADJOURNMENT**

306 ***Motion by Manager Wagamon, seconded by Manager Waller, to adjourn the meeting at 9:40 a.m.***

307 ***Motion carried 3-0.***

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