



**REGULAR MEETING OF THE RCWD BOARD OF MANAGERS**  
Wednesday, October 23, 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, 1<sup>st</sup> Vice-Pres. John Waller, 2<sup>nd</sup> Vice-Pres. Steve Wagamon, Secretary Jess Robertson, and Treasurer Marcie Weinandt

Absent: None

Staff Present: Regulatory Manager Patrick Hughes, Drainage and Facilities Manager Tom Schmidt, Project Manager David Petry (video-conference), Office Manager Theresa Stasica, Program Support Technician Emmet Hurley (video-conference)

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

Visitors: Luke Appert, Chris Stowe, Catherine Decker

**SETTING OF THE AGENDA**

District Administrator Tomczik noted that there were materials handed out to augment packet materials, including a revised proposed Notice of Decision for WCA application 24-040 under the Consent Agenda.

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

**READING OF THE MINUTES AND THEIR APPROVAL**

**Minutes of the October 7, 2024 Workshop and October 9, 2024, Board of Managers Regular Meeting.**  
***Motion by Manager Robertson, seconded by Manager Wagamon, to approve the minutes, as presented.***  
***Motion carried 5-0.***

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**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  |
|--------|--------------------------|--------------|---|-----------------|
| 24-072 | Clearscape Holdings, LLC | New Brighton | Final Site Drainage Plan<br>Public/Private Drainage System<br>Floodplain Alteration | CAPROC 12 items |

*It was moved by Manager Weinandt and seconded by Manager Bradley, to approve the consent agenda as outlined in the above Table of Contents in accordance with RCWD District Engineer’s Findings and Recommendations, dated October 15, 2024. Motion carried 5-0.*

**WCA APPLICATION REQUIRING BOARD ACTION**

| No.    | Applicant   | Location | Plan Type          | Recommendation |
|--------|---|----------|--------------------|----------------|
| 24-040 | Contour Land, LLC<br>Menomonie Land 11, LLC<br>Rechner, LLC<br>JSN Properties, LLC<br>BlaineSpec IRA, LLC | Blaine   | Wetland Alteration | Approval       |

Regulatory Manager Hughes stated that on page 32 of the packet there was a memo explaining the situation at the time of packet development. He stated that the sequencing application had originally been on the October 9, 2024 agenda and had been removed at the request of the applicant and the 15.99 decision deadline extended until today. He explained that staff had initially recommended denial but had received updated materials from the applicant and were now recommending approval of the sequencing application, with conditions. He stated that those materials were what he had distributed to the Board this morning.

President Bradley asked for a brief explanation of what changes the applicant had made.

Regulatory Manager Hughes stated that his understanding of it is that the applicants went back to their anticipated tenants and talked with them about their needs as far as building size and layout. He stated that they had also met with the City of Blaine to discuss setback requirements and site access. He explained that the updated plans show two site accesses which allowed some of the parking to be realigned and the overall development shifted more to the northwest, which has reduced the wetland impact.

Manager Robertson stated that this frustrated her because when they got the first item from the last meeting, she got a call from a member of the applicants group asking why the City of Blaine was trying to deny this project. She stated that she told them she did not know what they were talking about because she didn’t know anything about this project. She explained that she had gone to the District packet and found an item related to this project and when she read the information she got upset because what she was interpreting from what they normally see is very specific wetland related things, but what she read was more land use authority language rather than watershed language. She stated that she had actually called

76 Manager Waller as she was going through the packet to share her interpretation in order to find out if he  
77 thought she was interpreting it wrong. She explained that she has a lot of frustration with how this process  
78 went and noted that there were a lot of things in there that she did not know why the watershed would  
79 have an opinion on, such as where a retail site should be located on the property or how many garage stalls  
80 they can have because that should be the City of Blaine or a land use scenario. She wondered how many of  
81 these happen that the Board doesn't know about. She stated that the only reason she ended up paying  
82 extra attention to the packet is because she got a call from someone that was related to the project.

83  
84 Manager Wagamon stated that he agreed with everything that Manager Robertson had shared. He stated  
85 that he felt this item should come back to a workshop so they can take a closer look at it. He noted that he  
86 thought someone had recently asked a question about how many of these they see and believes they were  
87 told that there are about 10-12/year, which he feels is a lot. He stated that he felt that the District definitely  
88 needed to look at the process or look upstream to see what is causing these to trigger. He stated that he  
89 also felt the language was way off base for a watershed to be involved in.

90  
91 President Bradley stated that he was also very upset and explained that his primary dispute was when they  
92 said, 'well couldn't you do it on a different piece of property'. He stated that under that standard, if that  
93 were actually the standard and was allowed to stand, that would mean that they would never give wetland  
94 credits because you could always say 'go build it somewhere else on dry land'. He stated that he didn't think  
95 that the Board actually wanted to take this application back to a workshop because they want it to proceed.  
96 He noted that in his 10 years serving on the Board he believed that this was the very first time he had seen  
97 a recommendation of denial.

98  
99 District Attorney Holtman noted that at a staff level it is a problematic aspect of the analysis and explained  
100 that it originates within the rules adopted by BWSR that lay out the framework that every unit of  
101 government has to apply when it is implementing the Wetland Conservation Act. He stated that the explicit  
102 rules for the avoidance analysis, which is a mandatory part of the analysis, enumerates very carefully what  
103 the District staff are required to look at. He read excerpts of the requirements that put the implementing  
104 authority in the position of evaluating the location and design of the proposal, and whether the project  
105 goals may be met by means of an alternative location or design.

106  
107 President Bradley explained that his grievance was that they answered each of those questions with a  
108 negative and then the District proceeded to say that they didn't believe them or agree. He stated that he  
109 didn't know what the basis was, which is where he believes they went off the rails.

110  
111 District Attorney Holtman stated that it is a challenge for staff to determine to what extent the District  
112 simply accepts an applicant's submittal, and to what extent the District performs its own investigation.

113  
114 President Bradley stated that he was pleased that level heads were able to sit down and realign the building  
115 to the northwest, had added an access, changed the distance requirements from the road, and have been  
116 able to reach a solution that was acceptable to the parties and he felt that they should just move on, at this  
117 point.

118  
119 Manager Waller stated that during a recent workshop all three managers that were in attendance had  
120 similar feelings. He stated that he agreed with everything that he has heard expressed by the other

121 managers today. He stated that he realized that the subjective judgement of the administrative staff at  
122 BWSR writing rules for the legislation was passed by the legislature and can often be confusing. He noted  
123 that in the packet it stated that he had to make a decision that this was feasible and prudent. He reviewed  
124 the definitions of feasible and prudent and noted that the District was the local unit of government, in this  
125 instance, because the city has not taken over the Wetland Conservation Act yet. He stated that he thinks  
126 this was way overboard and explained that he was not opposed to having an inventory of the natural  
127 resources provided to the local unit of government that is in land planning, which would be the city. He  
128 stated that he appreciated the information shared by District Attorney Holtman but one of the words he  
129 used was 'reasonable' and he did not find that this was reasonable until possibly today. He stated that he  
130 went out and visited the site and got a look at the oak trees and was really questioning the delineation out  
131 there and would like to see what the soils were. He stated that he understands that what a wetland is can  
132 sometimes be subjective, but he would agree with the sentiment that has been shared about wanting to  
133 look at this process more closely.

134  
135 Manager Robertson asked if the applicant was present at the meeting. She noted that they just got the  
136 information this morning and asked if the applicant found it acceptable and if they felt this would  
137 accomplish their goals and met the needs of their project. She explained that she wanted them to be able  
138 to have long-term success for their project in the City of Blaine.

139  
140 Luke Appert, applicant, stated that it may not be as ideal as their original plans, but after going back with  
141 the tenants and the city, they worked hard at reconfiguring their plans, in order to pull some additional  
142 building area out of the wetlands. He clarified that they are comfortable, at this point, with what is  
143 proposed.

144  
145 ***It was moved by Manager Robertson, seconded by Manager Wagamon, to approve WCA sequencing***  
146 ***application 24-040 as outlined in the above Table of Contents in accordance with RCWD Regulatory***  
147 ***Manager's Findings and Recommendations and on the basis that the sequencing application does meet***  
148 ***the impact avoidance requirements of sequencing 8420.0520, dated October 23, 2024. Motion carried 5-***  
149 ***0.***

## 150 **OPEN MIC/PUBLIC COMMENT**

151 Chris Stowe, 426 Pine Street, stated that he was here to share what he felt were important concerns that  
152 would affect the integrity of the District and the water management system in the area. He explained that  
153 he felt the District had illegally lowered the pipe that crosses Pine Street which has improved the flooding  
154 conditions in the City of Columbus, but has increased the flooding for the City of Lino Lakes. He noted that  
155 he felt it was unsafe and unnatural because it increased the water flowing in the opposite direction of the  
156 elevation of the road. He stated that he felt that there was also a dereliction of duties with regard to the  
157 culverts at Andall Street, 4<sup>th</sup> Avenue, and the Robinson sod farm. He suggested that the District go further  
158 downstream and take a closer look at this topic and noted that he felt bringing in pumper truck when it was  
159 already at flood stage, was too late. He stated that he felt that proactive management of the drainage  
160 system and its components play a crucial role in the overall flow of the system and noted that he felt that  
161 there were multiple culverts downstream of his property that had problems. He shared examples of the  
162 problems that he felt were present with the Andall culvert and the Pine Street culvert and explained that  
163 he felt the District should revisit these issues with fresh eyes and take into account the current reality. He

164 noted that he did not feel the culvert issue was new, because he had been voicing concerns for years and  
165 the situation is worse now due to the lowering of the culverts upstream, which was frustrating for him  
166 because his concerns have essentially fallen on deaf ears. He clarified that the new lowering of the pipe  
167 refers to West Pine Street, not Pine Street and asked that the District get those references correct. He noted  
168 that recently he found out the District was having a meeting where one of the topics was to be ACD 10-22-  
169 32, however the minutes reflect that it was on the agenda because he had brought it up which was not  
170 true. He stated that he felt the minutes gave a false impression of his role in this matter and explained that  
171 this issue had already been on the District's radar for decades, so it was not just coming from him. He stated  
172 that he thought there was discussion about having the engineers look at the entire system, but it appears  
173 that any system-wide issues were being ignored and an outside engineering firm had been hired to  
174 investigate only his concerns. He stated that the engineering report only talks about 4 issues, but he had  
175 brought up more than those 4 issues. He explained that he did not feel all of his concerns were being  
176 addressed and noted that the engineering report includes references to 'historic berm piles' for something  
177 that is actually poorly handled soil and sediment. He stated that he felt it was clear that the Andall pipe  
178 needs significant attention but improvements to the system require cost recovery, but noted that he had  
179 not asked for any improvements, and what the District had done was just made his flooding problems  
180 significantly worse. He asked who had paid for the improvement upstream and noted that management of  
181 the downstream effects should not have to be a burden for himself or his neighbors. He stated that felt that  
182 the way the District has managed the water flow in the ACD 10-22-32, specifically Branch 4, has completely  
183 deviated from the original flowage, so he felt that they were not following the laws of the DNR or the  
184 Wetlands Act and had caused a significant loss in elevation. He explained that he knew about this because  
185 he is a licensed plumber in the State and also has a background in engineering along with a degree in  
186 computer animated designed (CAD). He stated that he felt that the District needed to take immediate action  
187 in order to restore the integrity of the water management system, which, in his opinion, meant going  
188 downstream to address the pipe at the sod farms, revisiting the Andall pipe with an updated engineering  
189 analysis, and enforcing the laws that should have already been guiding this process. He gave a brief  
190 summary of some of the discussion from the meeting he had attended regarding ACD 10-22-32. He stated  
191 that he did not like that the District seemed to be telling him that he needed an improvement and that he  
192 would have to pay for it when it was the result of something that the District did. He stated that he did not  
193 think that Alternate 4 was a good solution until they take the time to look at the whole system. He expressed  
194 concern about potential future development on the sod farm which is in a flood plain as well as a new  
195 development in the area called Nature's Refuge which is all being done on wetlands. He stated that he felt  
196 that Coon Creek was also messed up because Blaine had been doing a lot of development and reiterated  
197 that because this is all messed up he felt that they should have an engineer come in and look at the whole  
198 thing. He stated that he felt like he has been sharing the same information about pipes being screwed up  
199 for years and nobody has listened.

200 President Bradley asked if there was any update on the city's efforts regarding the collapsed culvert.

201 District Engineer Otterness stated that he did not have an update but explained that they were planning to  
202 meet with the city next week to talk about a variety of things related to the system and the collaboration  
203 between them and the District.

204 Drainage and Facilities Manager Schmidt stated that he believed the Public Works Director for the city was  
205 still out of town so he has not heard an update on removal of the sediment, but noted that the catch basin  
206 has been repaired.

207 District Administrator Tomczik stated that the District has had long discussions about ACD 10-22-32 and the  
208 language of the Statute 103E can be challenging with its use of terminology. He stated that the District  
209 Engineer has looked at the system in its entirety and has identified items at Pine Street and north that they  
210 are looking at with Alternative 4. He noted that the District always retains the ability to undertake interim  
211 measures, such as the pumping truck. He explained that in that situation, there was some debris stuck in  
212 the culvert and noted that there was not a need to immediately replace the culvert. He stated that another  
213 situation where the District needs to move as quickly as possible to address the issue was when there were  
214 beaver dams. He stated that the language in the packet related to 'Pine Street' references the public  
215 drainage system, so today they are talking about the main trunk which is the western culvert and the other  
216 culvert to the east is on a different branch of the system and that is how they reference the system. He  
217 stated that upstream work was not an improvement but rather was work to bring it into alignment with the  
218 ACSIC. He noted that Lino Lakes has a moratorium on development in the area, are undertaking an  
219 alternative urban area review, and have been in contact with District staff about working with their  
220 consultant on that matter. He stated that they are looking forward to the upcoming meeting and their  
221 continued work to address the system.

222 Manager Waller asked Mr. Stowe to e-mail a copy of the statement he made to Office Manager Stasica, so  
223 he could have it as a future checklist.

224 Manager Wagamon stated that he agreed that the system did need to be looked at from top to bottom. He  
225 noted that something that he believes everyone may have forgotten is that upstream of everything Mr.  
226 Stowe was talking about, they still have a road that covers a complete cattail swamp with one outlet. He  
227 stated that they know that the city is going to fix it and has had water running through it forever, so  
228 downstream has to be able to manage it.

229 Manager Weinandt asked to see a map of ACD 10-22-32.

230 Regulatory Manager Hughes displayed a map of ACD 10-22-32 that he planned to use for the next agenda  
231 item and pointed out the location of West Pine Street and Mr. Stowe's property.

## 232 **ITEMS REQUIRING BOARD ACTION**

### 233 **1. Anoka County Ditch 10-22-32 Main Trunk – Pine Street Culvert**

234 District Administrator Tomczik stated that the Board has had discussions about Pine Street which is  
235 the first element of Alternative 4. He noted that they were subject to the Wetland Conservation Act  
236 and the required wetland impact replacement from the proposed culvert lowering.

237  
238 Regulatory Manager Hughes noted that there were two cover memos included in the packet one  
239 from the drainage authority side and the other is at it relates to the District as drainage authority  
240 submitting a WCA application to itself as the local government unit administering WCA. He reviewed  
241 the items that had been included in the packet. He explained that this would be to lower the  
242 culvert to 897 on the upstream end and 896.9 on the downstream end which would result in 5.253  
243 acres of wetland impact but noted that the majority of the impact was exempt, so there would be  
244 1.018 acres of impact to Type 3 wetland which required replacement. He explained that this item  
245 was asking for approval of the replacement plan and noted that the impacts would be replaced at a

246 2:1 ratio and would utilize credits out of Brown's Preserve, which is the District's wetland bank. He  
247 stated that the DNR commented about the potential of threatened and endangered plant species  
248 in the project area, but the District, with the assistance of Houston Engineering, and following its  
249 adopted guidance for implementing 8420.0515, found that the work would not have an impact on  
250 such species.

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252 Manager Waller stated that Anoka County used to be 1:1 and asked if they were now at 2:1.

253  
254 Regulatory Manager Hughes stated that the 2:1 ratio would be consistent with the Wetland  
255 Conservation Act, but the project is also within the Columbus and Lino Lakes CWPMPs. Assessing  
256 the quality of the wetland and using Table F.1 within the rule, the replacement ratio is 2:1.

257  
258 Manager Waller stated that meant that it was the District's rule that made it 2:1.

259  
260 Regulatory Manager Hughes stated that the 2:1 ratio would be consistent with the Wetland  
261 Conservation Act.

262  
263 President Bradley stated that the Board had discussed this item at great length and he was in favor  
264 of the Board taking this action because it is something that they know will be of significant benefit.

265  
266 ***Motion by Manager Bradley, seconded by Manager Weinandt, to Adopt Resolution 2024-08***  
267 ***Replacement, Exemption and No-Loss Determination for ACD 10-22-32 Culvert Replacement***  
268 ***(Pine Street).***

269  
270 **THEREFORE BE IT RESOLVED** that the Board approves the Notice of Decision as presented by  
271 District staff, and authorizes the District administrator to issue the Notice of Decision, with any  
272 final non-material changes, and distribute it, all in accordance with WCA and its implementing  
273 rules.

274  
275 Manager Wagamon stated that this one was giving him heartburn. He stated that he had voted for  
276 Alternative 4, but at the time, he said that he didn't agree with the elevation. He stated that this will  
277 help people, but he understands people downstream having problems with it also.

278 President Bradley stated that, in his opinion, that was a separate issue. He clarified that he did not  
279 disagree with the notion of the District making sure that they don't actually do more harm than  
280 good.

281 Manager Wagamon stated that was his exact concern and reiterated that he felt the District needed  
282 to look at the system.

283 President Bradley reminded Manager Wagamon that they had talked about how they were  
284 proposing to do that.

285 District Engineer Otterness stated that the lowering of the culvert will have no significant effect for  
286 anybody downstream. He explained that it would not change the volume of water getting  
287 downstream, but would just have the effect of lowering water levels for the folks that were

288 upstream during rainfall events. He reiterated that it will not have a significant effect on any of the  
289 area downstream.

290 Manager Waller stated that this is about 2 acres of replacement credits necessary. He noted that  
291 they had gotten an inventory of the acreage and expected usage forecast from the engineers. He  
292 stated that he was not against this action, but wanted to be very guarded because he was surprised  
293 to read that the expectation for use over in Blaine on 53-62 had a much lower estimated  
294 replacement. He stated that he wanted to once again verify this with the engineer that they would  
295 be safe here with the use of their credits.

296 District Administrator Tomczik stated that the table to which Manager Waller was referring shows  
297 the anticipated use of wetland credit based on the best information they have available. He noted  
298 that some of the projects have not been developed sufficiently so they can accurately estimate  
299 definitive credit amounts.

300 District Engineer Otterness stated that he concurred with District Administrator Tomczik. He stated  
301 that the figures they had given projecting into the future, outside of this specific example, were  
302 based on their best information and could vary significantly in likely accuracy. He noted that he  
303 would not put a lot of stock into any of the individual numbers in the tables for future projections  
304 because they are all subject to change.

305 Manager Wagamon asked if the Board could get an update on the credit projections at a workshop.

306 President Bradley stated that they had done that and suggested that it may have been a meeting  
307 that Manager Wagamon had missed.

308 Manager Wagamon clarified that he was not talking about the credits but more about where they  
309 were in the discussions with them on the Metro Gun Club.

310 Manager Robertson stated that it was her understanding that new wetland delineations were being  
311 done and should be completed sometime this week because the Metro Gun Club property in its  
312 totality would be listed on the commercial market.

313 District Administrator Tomczik stated that the table and the wetland credit usage was projected into  
314 the future based on the best information they had available, but it also applied to the changes that  
315 the legislature made to the Wetland Conservation Act in which this application was under the wire  
316 to be done on the existing rule. He noted that in the future, drainage may be applicable to all  
317 wetland types. He stated that one more important item for this action being considered is on page  
318 149 of the packet, within the resolution, where there is a reference to the threatened and  
319 endangered species matter referenced earlier by Regulatory Manager Hughes. He stated that the  
320 District had reviewed the DNR Natural Heritage Database, through its engineer who is licensed to  
321 do so.

322 District Engineer Otterness stated that Houston Engineering had reviewed the likely effects of  
323 lowering the culvert and found that there was no potential for the work to affect upstream plant  
324 species that could potentially be found in this area and therefore there was no rational reason to  
325 take the additional expense for the public of doing a survey where it was not warranted.

326 Manager Waller stated that he would like an update on some of the legislative actions that will affect  
327 the District.



328 District Administrator Tomczik stated that BWSR has projected a future meeting where they will  
329 disclose how the rules are intended to be revised , but the District has not yet seen it.

330 **ROLL CALL:**

331 ***Manager Bradley – Aye***

332 ***Manager Robertson – Nay***

333 ***Manager Wagamon – Nay***

334 ***Manager Waller – Nay***

335 ***Manager Weinandt – Aye***

336 ***Motion failed 2-3.***

337  
338 President Bradley stated this would just continue to flood their land.

339  
340 Manager Robertson stated that when this came before the Board earlier this year, in looking at the  
341 options, she did not vote in favor of those options. She stated that she also did not have dialogue  
342 with the other managers and was just trying to be consistent because she didn't feel that Alternative  
343 4 was a broad fix for a myriad of issues, which was why she voted 'no'. She explained that she was  
344 unaware that the other two Managers would also be voting 'no'.

345  
346 Manager Wagamon stated that he thought this was going to pass and felt it should. He explained  
347 that he was willing to change his vote to 'yes'. He stated that if the District was making the promise  
348 that they will look at the downstream and not forget it, then he felt it was okay, as long as they don't  
349 drop the ball.

350  
351 District Administrator Tomczik stated that this was part of the District's systematic review of all the  
352 public drainage systems and had defined an ACSIC and from that, the direction of the Board has  
353 been to bring the systems to that functioning level. He stated that Alternative 4 is the first step to  
354 bring it to that functioning level and would restore to the landowners what was originally envisioned  
355 and adopted by the counties in order to create this system.

356  
357 President Bradley stated that to address the concerns raised by Manager Robertson, there are limits  
358 to what the District can do because they have a specific mandate to clean their ditches to the ACSIC.  
359 He noted that they have the ability to work with the cities of Lino Lakes and Columbus to try to come  
360 up with a systematic solution, if there is one. He stated that the Board had directed staff to pull  
361 together a meeting that will eventually include the District and those two cities to brainstorm  
362 opportunities in order to get their arms around too much water, which is the problem.

363  
364 Manager Robertson stated that she understood that President Bradley did not appreciate her 'no'  
365 vote, just like it wasn't appreciated when she voted 'no' the first time. She noted at that time there  
366 was some dialogue that there was some political undertone, but stated that was not true. She stated  
367 that did not feel like a permanent solution. She stated that what she has experienced is that every  
368 time they talk about ACSIC, there is some resident that comes in to tell them that the District's  
369 interpretation of it was incorrect. She explained that Alternative 4 never felt like a long-term,  
370 realistic fix to what has been years and years of flooding. She stated that her 'no' vote was not  
371 personal.

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Manager Weinandt asked if the motion had failed.

Manager Wagamon stated that it had failed unless he changed his vote.

President Bradley asked Manager Wagamon if he was asking the Board to reconsider the vote.

Manager Wagamon stated that the more he thinks about this, the more angry he gets. He stated that doing this piecemeal in his opinion, would be getting to the point where they cannot do the whole thing right. He stated that he did not understand why they were doing this one little chunk at a time.

Manager Waller stated that this was a difficult situation because the Board thought they were going down one path and have now made a strategic change in how they are going to solve this problem.

President Bradley stated that he would disagree that the Board had made a change, because he felt that they had stopped a change.

Manager Waller reiterated that, in his opinion, the Board had made a strategic change to include and work with the cities for a larger, more comprehensive solution to this. He stated that he did not think today's delay would make too much of a difference until they sit down with those cities to see how they can increase the amount of drainage for a comprehensive solution.

President Bradley stated that he felt that may take 20 years.

Manager Waller stated that he did not feel it would take 20 years.

President Bradley stated that he did not feel that there was any way that any solution they come up with that is global, that provides for storage, would not also include the need to fix this Pine Street.

Manager Robertson called a point of order because the Board had already voted on this issue.

Manager Wagamon stated that he had made a statement earlier that he was willing to change his vote, but clarified that he was no longer willing to change his vote.

President Bradley acknowledged the point of order called by Manager Robertson and asking District Administrator Tomczik to move onto the next agenda item.

Regulatory Manager Hughes asked if they had to do a formal denial.

District Attorney Holtman stated that the vote was not about whether to proceed with the culvert replacement work, but was simply a vote on the WCA application that was a precondition for doing the work. He stated that under WCA, if the Board votes to deny, it does need to state on the record the reasons for the denial but he felt the rationale could be drawn from their discussion.

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**2. District Records Retention Schedule**

District Administrator Tomczik explained that the District was obligated to preserve records of their official activities. He gave a brief overview of how the District had fulfilled this obligation through the applicable sections of the General Records Retention Schedule for Minnesota Cities.

***Motion by Manager Weinandt, seconded by Manager Waller, to adopt Resolution 2024-09 Adopting Revised Minnesota City General Records Retention Schedule.***

**THEREFORE BE IT RESOLVED** that the Board of Managers hereby adopts the March 2021 Minnesota City Schedule; and

**BE IT FURTHER RESOLVED** that the District administrator is to amend the Policy Manual, and the staff policies and procedures by which the District manages its records, to reflect this action.

**ROLL CALL:**

***Manager Bradley – Aye***

***Manager Robertson – Aye***

***Manager Wagamon – Aye***

***Manager Waller – Aye***

***Manager Weinandt – Aye***

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

**3. Washington Conservation District 2025 Inspection Services Contract**

Regulatory Manager Hughes noted that since September of 2022, the District had been in an agreement with the Washington Conservation District for inspection services. He stated that the agreement would expire on December 31, 2024, and in order to extend it through 2025, it required an amendment to the agreement. He noted that the District had seen great value from this partnership in helping to manage all the open permits. He explained that staff was proposing to increase the total hours of service from 750 to 1,100 and also increase the ‘not to exceed’ amount to \$66,000.

Manager Waller asked if they always use the top figure of \$66,000 or if it would sometimes come in at the lower level. He asked if this action was based on demand, so if there was not demand, then the District would not use their inspection services.

Regulatory Manager Hughes confirmed that it is demand based and explained that the agreement sets the cumulative maximum expenditure under the contract so the \$66,000 is a ‘not to exceed’ amount. He clarified that the \$66,000 would be a total from September of 2022 to the end of 2025.

Manager Waller asked what was happening that they required such a large increase.

Regulatory Manager Hughes stated that there were no changes in the inspection area and explained that the increase was estimated based on actual inspection work that the District receives. He stated that the District receives monthly invoices from the Washington Conservation District that show exactly what permits had been inspected so they can keep track of the total hours and the total cost.

461 He reiterated that he felt that the increases were pretty consistent but noted that the service rates  
462 had increased.

463  
464 District Administrator Tomczik reiterated that this was for the extension of the term and noted that  
465 the \$66,000 is applied across the entire term and stated that the District would spend this, as  
466 needed, and have budgeted accordingly.

467  
468 Manager Wagamon stated that he felt that staff was saying that this is what they were budgeting  
469 from but were not necessarily saying that this is what it will be.

470  
471 District Administrator Tomczik stated that the District would be entering into a contract with that  
472 entity to do inspections based on the work the team would distribute to them as development  
473 comes in.

474  
475 ***Motion by Manager Waller, seconded by Manager Weinandt, to authorize the Administrator to***  
476 ***amend the Washington Conservation District Inspection Services Agreement for a term extension***  
477 ***through December 31, 2025, with an aggregate spending authority not-to-exceed \$66,000.***

478  
479 Manager Waller stated that he felt the increase to \$66,000 was a tremendous increase for this  
480 budget item.

481  
482 ***Motion carried 5-0.***

483  
484 **4. Professional Services Proposals**

485 District Administrator Tomczik reminded the Board that this item had been on the October 7, 2024  
486 workshop agenda and the consensus was to bring it to today's meeting for full Board consideration.

487  
488 President Bradley stated that there was significant discussion at the workshop meeting and noted  
489 that one of their discussion conclusions was that replacing Houston Engineering as the District's  
490 engineer would be a major cost for the District.

491  
492 Manager Wagamon explained that he had planned to abstain from the engineering selection  
493 because of the personal nature of the issue.

494  
495 President Bradley stated that in the discussion at the workshop regarding legal the thought was that  
496 the District was blessed to have the two best law firms in the State and the thought was also to  
497 continue with those firms as well. He stated that there was not a choice to make for the Accountant  
498 duties. He noted that the District has been pleased with the Information Technology services that  
499 have been provided by RYMARK. He explained that for Human Resource services, Pitch HR, LLC was  
500 out of Georgia and explained that the Board's thought was that they would not hire anyone at this  
501 time, but would reserve the right, on a case-by-case basis, to hire help as needed.

502  
503 Manager Robertson stated that this was something that the District does every 2 years and asked if  
504 the terms for the current selections ended at the end of 2024. She asked that when the District goes  
505 through an RFP process where the information is published and announced.

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District Administrator Tomczik stated that the RFP is posted in the District’s paper of record, the League of Minnesota Cities, and is provided to the entities that currently hold relationships with the District. He stated that it may be helpful to know that there were different additional inquiries, but they were about the District’s pool. He gave the example of an engineering firm contacting the District with the message that they do not want to be their day-to-day engineer, but if a project comes up, they would like to be considered.

Manager Robertson asked why the District had two law firms.

President Bradley explained that Rinke Noonan is the recognized expert on drainage but were located in St. Cloud, which is a 2-hour drive from the District. He stated that it has been more convenient to have Smith Partners who is based in Minneapolis, and are the recognized general expert on general regulations and believes that they have been hired by many of the watershed districts in the State. He stated that he saw it as having the opportunity to have the District represented by the best firms in their respective areas.

District Administrator Tomczik stated that he joined the District in 2008 and the administrator at that time, Doug Thomas, was challenged with the task of what they would do about public drainage. He explained that they ended up looking for a solution in how the District, being a metro watershed with public drainage systems, would navigate 103E along with its other authorities, 103B and 103D, which is one reason Rinke Noonan, John Kolb, came on board.

Manager Robertson asked if she was interpreting the answers correctly that one law firm cannot do both things.

President Bradley stated that one law firm could do both things. He explained that when he was in the practice, he had been a regulatory attorney, but noted that people would not have wanted to hire him as a business attorney. He stated that Smith Partners and Rinke Noonan were both highly qualified firms in their lanes and he felt that the District benefited by having them both.

Manager Weinandt stated that she was not at the workshop discussion but wanted to indicate that she agreed with the consensus that had been laid out.

Manager Waller stated that he wanted to point out the price increase with the Houston Engineering application was smaller than the others. He noted that over the years he has never voted for Smith Partners and would not today because he has a philosophical disagreement with them. He stated that he was a proponent of hiring Rinke Noonan because they have a long history in Minnesota of water and drainage law and are a broad-based firm that have plenty of business lawyers. He stated that the issue with them being 2 hours away, since Covid, has given them the ability to do more things over the internet with video conference, so he would prefer to see the District go with just one attorney and select Rinke Noonan. He stated that Rinke Noonan was involved in the development of the District’s recent plan and has also been involved in the development of the drainage system. He stated that he felt that Rinke Noonan would be just as competent, have a wide range, and have far more legal expertise.

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President Bradley suggested that the Board take a separate vote for the legal services.

Manager Weinandt noted that this item just needed consensus of the Board and not a vote.

Manager Wagamon stated that for the legal services, he felt it wasn't a secret that he felt the District had spent way too much since he began on the Board. He noted that Smith Partners has been fabulous with him when he has called them and have provided fantastic service including District Attorney Smith actually stepping out of meetings in order to answer the phone when he has called. He stated that he felt that Smith Partners was top notch but he had received several phone calls from entities in Anoka County that have concerns because they have a completely different point of view on things and did not want the District to use Smith Partners. He explained that it was not because they thought Smith Partners was a bad firm, but just because they viewed things through a different lens than they did, which was exactly the same way he felt. He reiterated that he felt they were a fantastic firm and would recommend them to someone who looked through their same lens. He stated that the people he was representing want to see a change. He explained that he would vote in favor of Rinke Noonan. He reiterated that he would say that Smith Partners has done a fantastic job for the District, but philosophically, he completely disagreed with them.

Manager Robertson stated that her question was actually prompted by the County Board because they had asked her whether there was an openness to explore other options. She noted that it was not a targeted effort and explained that she did not have a personal opinion for one way or the other.

Manager Weinandt stated that it appears as though they have an issue on the legal side. She stated that she would recommend that they do not change anything over the next year because she didn't feel it was the right time. She stated that if it was an issue from the folks that Manager Wagamon and Manager Robertson represent, she would like to hear more about that at another time. She noted that, for now, as they move into 2025, she thinks that the District needed to continue with the current firms because changing legal representation would be a huge transition. She explained that this was the first time she was hearing some of the comments shared by Managers Wagamon and Robertson from Anoka County.

President Bradley noted that he had also not heard about any concerns.

Manager Robertson stated that she could go back to Anoka County and ask what their specific concerns were. She asked if the District could re-open the RFP process for legal services.

Manager Wagamon asked if the District would have enough time to re-open the RFP process.

District Administrator Tomczik stated that they are nearing the end of the year and felt that re-opening the RFP process would not really be necessary because they have two firms for consideration. He stated that if there were details in the approach or the work that these entities are doing, the Board can dialogue with their representatives. He stated that 'switching horses' right

595 now would require a significant amount of staff time, but that should not deter the Board from  
596 something that they felt needed to be addressed.

597  
598 President Bradley suggested that, in November, the District ask each of the two law firms to come  
599 and make a presentation to the Board. He stated it would also give him the opportunity to take a  
600 look at the potential cost differences between the two firms.

601  
602 Manager Wagamon stated that he would support that action.

603  
604 Manager Waller stated that the District's main 'business' was ditches which is why they have Rinke  
605 Noonan, but noted that he felt that they were more than competent to also handle permitting. He  
606 stated that he wanted to make it clear that his issue with Smith Partners was more than just personal  
607 because his constituents have also been unhappy with some of the stances that Smith Partners have  
608 taken. He stated that he had received requests over a period of many years for the District not to  
609 renew their legal services with Smith Partners.

610  
611 Manager Robertson asked for a ballpark figure of what the District pays annually for legal services.  
612 She explained that she felt that that it was most likely a significant dollar amount and because of  
613 that, she felt it would warrant an additional conversation. She reiterated that she would be happy  
614 to get additional context or talking points from Anoka County.

615  
616 Manager Wagamon stated that he would also be happy to reach out to people and bring that  
617 information back to the Board.

618  
619 District Attorney Holtman stated that as a professional matter, they do not approach anything they  
620 do for the District through an ideological lens. He explained that they look at the District's goals,  
621 priorities, policies, and how it wants to proceed with its business, and then give the best advice on  
622 the law and practical considerations. He stated that it would be unprofessional to approach the  
623 counsel role in any other way. He noted that he was not aware of the perception that Smith Partners  
624 brings an ideological bent, as has been suggested today, and would be interested in hearing more  
625 about that in order to see if they could work through that.

626  
627 District Administrator Tomczik stated that based on the Board discussion, he believes there was  
628 consensus of the Board for him to proceed to develop contracts with: Houston Engineering, Inc.;  
629 Redpath and Company; and RYMARK. He stated that, in November, the Board has asked that  
630 representatives of Rinke Noonan and Smith Partners speak to the Board. He explained that what  
631 the Board was actually looking for would be important for their responses. He noted that the  
632 November workshop calendar was already quite full and suggested that the Board may want to  
633 consider scheduling an additional meeting.

634  
635 Manager Waller stated that the Board typically does not hold a second meeting during the month  
636 of November because of Thanksgiving.

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638 President Bradley noted that he felt that they could also have the presentations in December if they  
639 were unable to get them scheduled for November.

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*District Administrator Tomczik reiterated that he had consensus direction from the Board to develop contracts with: Houston Engineering, Inc.; Redpath and Company; and RYMARK, and will look for a future date where the Board can speak with representatives of Rinke Noonan and Smith Partners regarding legal services.*

**5. Check Register Dated October 23, 2024, in the Amount of \$347,918.80 and October Interim Financial Statements Prepared by Redpath and Company**

Manager Weinandt stated on the advice of the former Treasurer, she often asks to pull particular invoices and often the largest ones are from Houston Engineering, Rinke Noonan, and Smith Partners, in order to see what the charges are for and where they were going. She stated that she has been tracking this information and noted that it seemed to be very consistent. She noted that she felt the record keeping on the invoices was excellent and commended Office Manager Stasica and Redpath for this work.

*Motion by Manager Weinandt, seconded by Manager Robertson, to approve check register dated October 23, 2024, in the Amount of \$347,918.80 and October Interim Financial Statements prepared by Redpath and Company. Motion carried 5-0.*

**ITEMS FOR DISCUSSION AND INFORMATION**

**1. Staff Reports**

Manager Weinandt stated that she thought that the Paddle Day sounded like it was fun and noted that it was amazing what can be seen when you are out on the water. She stated that it also looked like the District was now fully staffed.

District Administrator Tomczik confirmed that the District was fully staffed and noted that he would be presenting an organizational chart with updated information to the managers.

**2. November Calendar**

District Administrator Tomczik confirmed that the City-County Partner meeting has been scheduled for November 13, 2024, at Moore Lake Park Community Building from 1:00 to 3:00 p.m. He stated that he would not be in attendance to welcome everyone because he would be at floodplain manager continuing education, so Communications and Outreach Manager Sommerfeld would be speaking on his behalf. He noted that there was a Board workshop meeting scheduled for Tuesday, November 12, 2024, but there was also a Washington County Board meeting scheduled for that day that included an agenda item for their annual watershed budget review. He noted that there was not a definitive time for it on their agenda but believes it usually happens around the lunch hour. He stated that the District could notice that for a quorum of the District Board. He explained that these two meetings coinciding was because of Veteran’s Day and suggested that they could try to move the workshop meeting to the afternoon. He reminded the Board that they currently have a lot of policy matters that are intended to be covered at the workshop and the Board had also asked that the professional services discussion also take place at that meeting. He suggested moving the meeting to the afternoon and they could also consider scheduling their workshop for Monday, November 18, 2024, or move ahead with a combination of those two dates.



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Manager Weinandt asked if the Board may be able to remotely hear or present to the Washington County Board, while they were holding their workshop meeting.

District Administrator Tomczik clarified that the Washington County annual watershed budget meeting is one where the District had provided them with a project and corresponding budget information so they can see watershed work and ask questions. He stated that he believes that Washington County would like the District to ensure that a staff person would be made available to answer any questions that they may have. He stated that Manager Waller, Manager Bradley, and former Manager Preiner had attended this meeting in the past. He explained that he has been informed that a better time estimate of where this item may fall during their agenda would not be available until the Friday before the meeting.

Manager Waller explained that the annual presentation at Washington County takes place as a workshop after the County Board meeting, which is why it is difficult to estimate what time it would happen. He stated that he intended to attend the Washington County meeting.

The Board discussed possible alternative workshop meeting dates that may work in their schedules.

District Administrator Tomczik stated that based on the volume of information that the Board would need to cover, he felt the best approach would be to hold two workshop meetings. He clarified that he would suggest that they hold the November 12, 2024 meeting in the afternoon so they do not conflict with the Washington County Board meeting. He stated that he felt that the Board could have their discussions with the legal firms on November 12, 2024 and the other business items could be moved to November 18, 2024 for a half-day workshop.

The Board discussed additional options for dates and meeting times.

Manager Robertson suggested that staff send out an e-mail with meeting options that they could respond to after they look at their separate calendars.

District Administrator Tomczik stated that staff could send that out as suggested by Manager Robertson, but noted that he would like them to address the meeting that was already scheduled for November 12, 2024 which collides with possible attendance at the Washington County Board meeting. He stated that he felt that they should go ahead and move their workshop meeting to the afternoon, as he had suggested.

Manager Waller stated that he felt the best approach was to send out possible meeting dates/times through e-mail and let the Board respond with their availability.

District Administrator Tomczik stated that he would work with Office Manager Stasica to send out a poll for the Board to answer outlining their availability.

**3. Administrator Updates**

728 District Administrator Tomczik stated that he and Manager Waller met with Washington County  
729 Commissioners Miron and Karwoski about various District activities. He noted that Commissioner  
730 Miron seemed pleased with the District's .7% levy increase and percentage of administrative costs.  
731 He noted that stabilization efforts for ACD 53-62 were completed. He stated that the delisting  
732 celebration for Bald Eagle Lake went well and had good attendance. He explained that the District  
733 was reviewing and investigating their various insurance coverage options and noted that there have  
734 been cost increases, but they have landed within the budget estimates. He stated that Clear Lake  
735 has found zebra mussels in multiple locations which means a rapid response chemical treatment  
736 would not be possible and District staff would administer support per the AIS policy. He stated that  
737 there had also been a lot of beaver activity throughout the District in ditch systems and remote  
738 locations. He explained that the boundary petition was received by BWSR and they were beginning  
739 their review of the materials that were submitted.

740

741 **4. Managers Update**

742 Manager Waller stated that he also felt that the meeting with the Washington County  
743 Commissioners had gone well and gave a brief overview of some of their topics of discussion. He  
744 stated that he had also attended City Council meetings for Forest Lake, Mahtomedi, and Hugo over  
745 the last few weeks. He stated that one of the topics raised at Mahtomedi was about working with  
746 the Met Council to do something to increase the water quality for fishing for Lost Lake, and noted  
747 that he felt that the District may also be able to work with them. He stated that there were 40 non-  
748 staff members at the delisting celebration for Bald Eagle Lake which he felt was marvelous. He stated  
749 that he would agree that beaver control has been a big problem.

750

751 President Bradley stated that he attended the Bald Eagle Lake delisting celebration and noted that  
752 he felt it was a good public relations effort.

753

754 **ADJOURNMENT**

755 ***Motion by Manager Robertson, seconded by Manager Wagamon, to adjourn the meeting. Motion carried***  
756 ***5-0, and the meeting adjourned at 11:12 a.m.***