

# Capitol Region Watershed District

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Meeting Minutes of the Capitol Region Watershed District (CRWD) Board of Managers, for **Wednesday, September 17, 2008, 6:00 p.m.** at the office of the CRWD, 1410 Energy Park Drive, Suite 4, St. Paul, MN 55108.

## Regular Meeting Minutes

### I. Call to Order at 6:01 p.m. (President, Robert Piram)

#### A) Attendance

Robert Piram  
Joe Collins  
Seitu Jones  
Mike Thienes  
Marylyn Deneen

#### Others Present

Mark Doneux, CRWD  
Bob Fossum, CRWD  
Dawn Nelson, CRWD  
Anna Eleria, CRWD  
Forrest Kelley, CRWD  
Elizabeth Storey, CRWD  
Jim Herbert, Barr  
Steve Klein, Barr  
Pat Conrad, EOR, Inc.

Joe Fox, RCD/CAC  
Tom Petersen, RCD  
Jerome Wagner, CAC  
Jonathan Kusa, HR Green  
Mark Derringer, HR Green  
Todd Shoemaker, Wenck  
David MacMillan,  
Ramsey County Attorney  
Karen Kushner,  
Ramsey County Attorney

### B) Review, Amendments and Approval of the Agenda

Manager Piram asked for additions or changes to the agenda. Manager Piram requested removing Action Item: E) Falcon Heights Local Water Management Plan. The following items were added to the agenda under general information: C) RWMWD River Boat Tour and D) Metro MAWD update.

*The Board adopted the Agenda as amended by consensus.*

### II. Public Comment – For items not on the Agenda.

Jerry Wagner said he commends the Board and thanks them for their hard work. Joe Fox, CAC and RCD representative said he attends a lot of meetings and agrees with Mr. Wagner and commends the CRWD Board and staff and is impressed with the progress CRWD has made. Mr. Fox said he has chosen not to run for reelection for the Ramsey Conservation District Board.

### III. Permit Applications

#### A) Permit # 08-024 Regions Behavioral Health Building (Kelley)

Forrest Kelley reviewed CRWD Permit #08-024, Regions Behavioral Health Building. Mr. Kelley stated that the Applicant is Regions Hospital and the Engineer is Olson Associates. The project is construction of a new Behavioral Health Building and drive entrance. The project is located on Jackson Street near University Avenue. The applicable rules are Stormwater Management (Rule C), Erosion Control (Rule F) and Floodplain Management (Rule D). Mr. Kelley said this project has 1.36 acres of disturbed area, 0.97 acres of total impervious surface and the proposed stormwater management is three infiltration raingardens. Mr. Kelley said the permit was tabled but the applicant resubmitted showing enough freeboard for their plug in requirements. Manager Piram asked what was changed. Mr. Shoemaker said the engineer may or may not have changed the plans but the elevations do meet the requirements.

Mr. Kelley said the staff recommendation is to approve with three conditions.

**Motion 08-09-08:** *Approve permit # 08-024 Regions Behavioral Health Building subject to the following three conditions:*

1. Receipt of \$4,850 surety and maintenance agreement.
2. Remove the geotextile filter fabric from the raingarden detail.
3. Provide note on plans indicating 8 inch perforated pipe to be used for raingarden A only.

Deneen/Collins

Unanimously approved

## **B) Permit Program/Rules Update (Kelley)**

### **Rules Update**

Mr. Kelley said that he and Tina Carstens from Ramsey Washington Metro Watershed District scheduled a 2008 Joint Technical Advisory Committee meeting on Rules for 9:00 am on Tuesday October 7, 2008 at the CRWD office. The notification requests that TAC members submit to the Districts topics of discussion for the meeting no later than September 26, 2008. Mr. Kelley said staff will compile the comments and distribute for review before the meeting on October 7, 2008. Staff does not foresee any significant issues with the rules, if it becomes apparent that a revision to the Rules is necessary they would be adopted sometime in early January of 2009. Mr. Kelley asked the Board to provide comments and issues they would like to see discussed at the TAC meeting. Manager Piram said he would like to see staff research changing the 1-acre to 15,000 square feet, which is just under a third of an acre. Manager Piram said staff should do an analysis prior to the TAC meeting on October 7<sup>th</sup>. Manager Collins suggested waiting until the Lake Pepin TMDL is complete before reviewing the 1 acre Rule. Manager Piram said Thirty Lakes Watershed District permits all construction and it is larger then the CRWD. Administrator Doneux noted that one of the comments to the City in the Water Chapter of their Comprehensive Plan was for them to consider adopting CRWD's standards for all of their sites. If they chose to adopt those standards then sites less then 1 acre would have to meet our standards through City ordinance. Administrator Doneux said staff will speak to city staff and research how many projects go through site planning that are under an acre and see how many more permits that would mean for the District Manager Piram said this would not affect the average resident replacing their driveway but it would affect developers who will newly develop a third of a block.

Manager Collins suggested reviewing the language for extensions for Wetland permits. Administrator Doneux said that would be a question for David MacMillan.

### **Permit Update**

Mr. Kelley said the City of St. Paul staff has submitted preliminary logs for soil borings completed for the 2009 RSVP projects. Some of the borings indicate bedrock within three feet of the ground surface. Mr. Kelley said the City of St. Paul has submitted a letter requesting they be allowed to increase the negative balance due to the site conditions on some of their 2009 street projects. Mr. Kelley said District staff will work with the City to exhaust all options on projects with poor soils, but ultimately, onsite treatment may not be feasible. St. Paul Public Works staff intend to continue exploring new options and alternative designs in order to make up for the negative balance and create additional volume credits. Discussion occurred.

## **IV. Special Reports –**

### **A) Trout Brook Interceptor – Maryland Avenue Repair – (Eleria & Herbert)**

Ms. Eleria said Barr Engineering is here to discuss the construction plans/drawings and the contract documents for contractor bidding of the project, which is scheduled to begin on October 6, 2008. Ms. Eleria said concurrent with the plans and contract document work, CRWD staff has submitted all of the formal requests or applications for the necessary temporary construction easements, other occupancy/use permits and wetland permits. The Saint Paul Right-of-Way permit is being sought by Barr Engineering. Jim

Herbert, Barr Engineering discussed the plans, liquidated damages for delays in work completion and the proposed language for contract incentives with the Board.

Mr. Herbert explained that Barr Engineering's legal advisors discourage the use of set monetary amounts for liquidated damages. Mr. Herbert noted that the Ramsey County Attorney commented that 'liquidated damages are a set amount because they cannot be specifically determined. Based on the Ramsey County attorney's comment, set monetary amounts for liquidated damages will be established in the contract documents.

Karen Kushner, Ramsey County Attorney explained that liquidated damages are used when it is difficult to determine what the daily damages are. Ms. Kushner said the court will interpret it as penalty when there is no foundation for the amount determined. Ms. Kushner said she is not comfortable in the language used to determine the amount. Manager Thienes said he agrees with a set liquidated damage amount in the contract because the contractor knows the cost up front. Manager Collins said he is concerned about the project being delayed due to weather. Manager Piram said rather than discussing this at the meeting any further he suggested the staff and legal counsel calculate the daily expense if there is a delay. Mr. Klein recommended including a dollar amount with language that serves as the minimum amount. Administrator Doneux explained that staff could fairly accurately estimate the administrative costs but staff cannot estimate private property damage if that were to occur.

## **V. Action Items**

### **Consent Agenda**

Manager Piram asked for a motion to approve the September 17, 2008, Consent Agenda.

#### **A) Approve Minutes of the September 3, 2008 Regular Meeting (Nelson)**

#### **B) Approve Accounts Payables for \$134,521.67 and the Accounts Receivable for \$35,281.92 for the month of August 2008. (Nelson)**

##### **Motion 08-09-09:**

*A) Approve Minutes of the September 3, 2008 Regular Meeting as presented.*

*B) Approve August 2008 Accounts Payable/Receivable and August Budget Report and direct Board President and Treasurer to endorse and disperse these checks for these payments.*

Jones/Thienes

Unanimously approved

### **For Discussion**

#### **C) Approve Construction Plans and Authorize Bidding for the Trout Brook Interceptor – Maryland Avenue Repair (Eleria)**

Ms. Eleria said staff has received verbal authorization to conduct work in the Mn/DOT right-of-way and access TBI and stage construction materials and equipment at the Mn/DOT truck station off of Maryland Avenue. CRWD is still awaiting responses on the requested private property easements, other access permits, and wetland permits. The City of Saint Paul's Bridges Division has granted tentative approval of the preliminary bridge shoring design, which is critical for obtaining the city's right-of-way permit. Ms. Eleria said Barr Engineering will submit a formal right-of-way permit to Saint Paul by the end of the month.

##### **Motion 08-09-10:** *Approve the construction plans for the Trout Brook Interceptor Repair Project.*

Thienes/Collins

Unanimously approved

##### **Motion 08-09-11:** *Authorize bidding for the Trout Brook Interceptor Repair Project subject to the approval of the contract documents by the Ramsey County attorney.*

Thienes/Collins

Unanimously approved

**D) Authorize Distribution of Draft Como Subwatershed 3 Plan (Fossum)**

Mr. Fossum said after the Manager’s review, staff intend to distribute the draft plan with any suggested changes to interested stakeholders for review and comment. Mr. Fossum explained that based on the comments from the stakeholders the Managers will then consider adopting the Como Subwatershed 3 Plan later this fall. Mr. Jonathan Kusa, H.R. Green discussed the draft Como Subwatershed 3 Plan Analysis with the Board. Mr. Kusa said existing information was gathered from various sources and a stormwater runoff model was created using XP Stormwater Management Model (XPSWMM). This model set a baseline for stormwater volume and phosphorus loading that was later used to identify and evaluate selected high priority BMP locations. A calculated phosphorus loading reduction of 124.5-lbs/yr was estimated for the eight high priority sites. The established yearly reduction goal of 107-lbs/yr is expected to be surpassed by these sites. Mr. Derringer discussed the BMP projects and their priorities.

**Motion 08-09-12:** *Authorize distribution of the draft Como Subwatershed 3 Study, with suggested changes to all interested parties for review.*

Jones/Collins

Unanimously approved

**E) Approve Falcon Heights Local Water Management Plan (Kelley)**

Removed from Agenda.

**F) Approve Selection of Education Plan Consultant (Storey)**

Ms. Storey said interviews were held on Monday, September 15 by a three-member review committee made up of Managers Piram, Jones, and Deneen; and included staff members Mark Doneux and Elizabeth Storey. Ms. Storey distributed a summary of the interviews and discussions. Manager Deneen said both firms had great ideas. The consensus of the committee was that Westwood will provide a better prospective and approach to writing the Education Plan.

**Motion 08-09-13:** *Authorize the Board President to execute an agreement with Westwood to complete the CRWD Education Plan consistent with their proposal.*

Jones/Piram

Unanimously approved

**G) Approve Resolution for Lafayette Campus LCCMR Grant – (Doneux)**

Administrator Doneux said MPCA and CRWD staff have drafted a Project Summary and application form. The application form at this stage of the process is limited to two pages and is due on October 1<sup>st</sup>. Administrator Doneux said based on Board feedback at the September 3<sup>rd</sup> meeting; staff has begun working with MPCA staff to draft the grant request. A resolution of support for the grant request must come from the sponsoring organization. Administrator Doneux noted that one issue the Board should be aware of is the LCCMR grant program is a reimbursement grant similar to other grant programs. This means the CRWD would pay for project costs up front and be reimbursed after project expenditures have been made. Administrator Doneux said staff time put towards the project would be eligible for reimbursement in this program and is estimated to be \$94,000 over the two year period of the grant. Manager Deneen asked what responsibility the owner has. Administrator Doneux said the owner will have to agree to long term BMP maintenance. There may be other minor site modifications to accommodate Stormwater BMPs.

**Motion 08-09-14:** *To adopt Resolution # 08-09-14 in support of LCCMR Grant for Lafayette Campus Stormwater Project.*

**WHEREAS,** *the Capitol Region Watershed District (CRWD) has a State approved and Board adopted Watershed Management Plan (WMP), and*

**WHEREAS,** *Goal #1 of the plan is to pursue partnerships to provide effective, efficient and consistent water management activities throughout the Watershed, and*

*WHEREAS, WMP Action Policy WM1g states where mutually beneficial, assist other governmental agencies and organizations achieve their goals and objectives for water management within the watershed, and*

*WHEREAS, WMP Action Policy WM3b states that the CRWD should actively pursue non-tax levy funding sources in order to reduce the tax levy financing burden on the residents of the District and where appropriate seek partnerships and cooperative agreements to finance projects, and*

*WHEREAS, WMP Action Policy WQUAL3a recommends that the CRWD facilitate retrofitting opportunities with any public improvement projects, and*

*WHEREAS, the Strategic projects goal from the 2008 CRWD Strategic Plan identified that CRWD projects will be strategically selected, designed and implemented to effectively improve water quality and efficiently use resources.*

*WHEREAS, the 2009 Phase 2 Funding Priority for the LCCMR includes Priority B-Water Quality, 2-Reduce Peak Water Flows intended to reduce peak water flows on a watershed basis, help control peak flows to improve surface water quality, reduce flooding, and facilitate infiltration of water to groundwater systems by developing and implementing methods to keep water on the land longer for both working lands and habitat.*

***THEREFORE BE IT RESOLVED, that the CRWD Board of Managers support a grant request to the Legislative and Citizen's Commission on Minnesota Resources for the Lafayette Campus Stormwater Project and act as the sponsoring organization.***

Thienes/Collins

Unanimously approved

## **VI. Unfinished Business**

### **A) 2010 Watershed Management Plan – Work Plan Update (Fossum)**

Mr. Fossum said the work planned for Quarter 1 (June – August 2008) on the 2010 WMP has been substantially complete. Mr. Fossum reviewed the 1<sup>st</sup> Quarter Workplan and Budget Report with the Managers. Mr. Fossum discussed the 2<sup>nd</sup> Quarter (Sept-Nov) Workplan with the Managers. Mr. Fossum said the 2010 WMP project is slightly behind schedule in work area 2 but it will not delay other areas of the Plan.

Mr. Fossum discussed the Watershed Management Plan Kickoff invitation. The TAC meeting is September 25<sup>th</sup> at 2:30 – 4:00 pm at the District office. The evening event is 6:00 – 8:30 pm at the Como Lake Pavilion.

### **B) Lake McCarrons Shoreline Restoration Project Update (Tom Petersen, Ramsey Conservation District)**

Mr. Petersen said as of today there are no contracts signed and no projects in the ground. Mr. Petersen said they under estimated the time it would take to arrange and coordinate site meetings, develop plans, and the interest on the part of landowners to follow-through with bidding. Mr. Petersen reviewed the history of the Lake McCarrons Shoreline Restoration Project with the Board. In January 2008, the RCD entered into an agreement with the BWSR for the acquisition of \$55,000.00 in “Special Project” cost-share funding. The term of the agreement is February 1, 2008 thru June 30, 2010. Of this amount, at least \$40,000.00 would be available for High and Medium Priority sites on Lake McCarrons. Mr. Petersen said there was a kick-off meeting on May 15<sup>th</sup> with 12 property owners asking for a site visit.

Mr. Petersen said RCD staff attempted to schedule site meetings in groups, i.e., meet with at least two landowners in succession, to be as efficient as possible with limited staff resources. Staff reported in some cases, it was difficult to make contact and coordinate site visits that were acceptable to all parties concerned.

Mr. Petersen said as of today nine projects have completed designs, one project canceled on September 10<sup>th</sup> because the landowner did not want to be obligated to the 15 year maintenance requirement. One landowner was dissatisfied with their plan and the RCD is re-drafting a plan. Two projects will require substantial costs that are outside of RCD cost-share funding. Mr. Petersen said depending on the resolve of landowners, it is possible that at least some of the 12 will have signed contracts by October 15<sup>th</sup> with construction starting yet this fall. Mr. Petersen said the RCD must finish the final two plans and follow-up on completed plans and establish a deadline for them to either accept or reject the cost-share contract. The RCD may consider a December 1<sup>st</sup>, 2008 deadline for sign-up. Mr. Petersen said RCD would like to add Shawn Tracy and Greg Thompson to the project to meet with residents. Administrator Doneux said he and Mr. Petersen will discuss staffing needs. Manager Thienes suggested having a second meeting and inviting more residents.

**C) Local Planning Update (Staff)**

No Update

**VII. General Information**

**A) CAC Update (Thienes)**

Manager Thienes said the 2007 monitoring report was presented to the CAC.

**B) Administrator's Report (Doneux)**

Administrator Doneux said the District has been made aware of two projects requesting funds from the 2009 capital projects - special projects and grants fund. The City of Falcon Heights wants to install a pervious asphalt parking lot at City Hall. The City of St. Paul is constructing a new fire station on west 7<sup>th</sup> Street and is considering installing a green roof on the parking garage. Manager Collins asked about the funds from 2008. Administrator Doneux said that was allocated to the Watershed Management Plan. Mr. Fossum added that there are two projects that are each in the \$12,000 – \$15,000 range also coming from the 2008 Special Projects and Grants fund.

**C) Ramsey Washington Metro Watershed District River Boat Tour (Deneen)**

Manager Deneen said the tour was wonderful but not as many people attended as expected. Manager Deneen enjoyed it being a small group of 30 guests and the RWMWD Staff. The tour was up to the high bridge and back down past Pigs Eye Lake.

**D) Metro MAWD (Thienes)**

Manager Thienes said there were three items of discussion. Manager Thienes said Cliff Aichinger from Ramsey Washington Metro WD said the administrative funding was cut for Watershed Partners and would need \$25,000 - \$30,000 a year to operate. Manager Collins said RWMWD has a separate line item in the budget for donations on a first come first serve basis. Manager Thienes said there were presentations about the Wilder Research and the Clean Water Legacy Act.

**VIII. Wednesday, October 1, 2008 Regular Meeting Agenda Review**

**IX. Adjournment** – The meeting was adjourned at 8:47 p.m. by consensus.

Respectfully submitted,

Dawn M. Nelson