



Approved February 1, 2018

1425 Paul Kirkwold Drive
 Highway 96 & Hamline Avenue
 Arden Hills, MN 55112
 Telephone 651-266-7270
 Fax 651-266-7276
 www.ramseycounty.us

Minutes of the **Board of Supervisors Regular Board Meeting** held October 5, 2017.

1. Meeting called to order by Chair Humphrey at 6:30 pm.

Roll of Attendance

Supervisors present:

Others present:

| | |
|------------------|-------------------------------------|
| Mara Humphrey | Mary Peterson, BWSR |
| Gwen Willems | Ann WhiteEagle, RCD Staff |
| Lena Buggs | Joe Lochner, RCD Staff |
| Margaret Behrens | Justin Townsend, RCD Staff |
| Paul Gardner | Dale Kystosek, BWSR |
| | Kevin Bigalke, BWSR |
| | John Ristad, Ramsey County Attorney |
| | |

- A. Approval of Agenda: Supervisor Buggs requested to have items A, D, E, G of the consent agenda removed for discussion. Supervisor Behrens requested adding her “data practices request” to the agenda. Chair Humphrey added these items after Business Item G. **Motion by Supervisor Willems and Supervisor Gardner seconded to approve the revised agenda.** Motion carried unanimously.
- B. Announcements: Ann WhiteEagle distributed the MASWCD annual meeting registration and agenda. **Supervisor Willems and Supervisor Gardner seconded** to approve the MASWCD Annual Meeting, as a special meeting. Motion carried unanimously.
- C. Public Comment: Chair Humphrey recognized Diana Longrie, Maplewood resident, who was videoing the board meeting for a possible future news program that she produces. She spoke regarding the letter of resignation from Supervisor Gardner that she obtained, as part of a data practices request submitted to the RCD. She inquired why he was present and voting at the July 6th meeting. Chair Humphrey responded they had consulted with legal counsel on this matter. Supervisor Gardner had asked to resign, and the Board asked him to reconsider. The entire Board did not accept his resignation, and therefore he is a current board member.

2. Consent Agenda
 - A. ~~Approval of Minutes from July 6, 2017~~
 - B. Staff Reports
 - C. Treasury Report/Disbursement Journal

~~D. Authorize staff to submit MASWCD Composite Ballot~~

~~E. FY18-19 Budget Packet Approval~~

~~F. BWSR Academy Registration for Staff~~

~~G. RCD By Law Revision~~

Motion by Supervisor Buggs and seconded by Supervisor Behrens to approve the amended Consent Agenda.

Supervisor Buggs requested a copy of Supervisor Gardner's letter of resignation. Chair Humphrey explained a data practices request is the proper channel for receiving that.

Voting in favor: Gardner, Willems, and Humphrey- Voting against: Behrens and Buggs. Motion carried.

3. BWSR – Performance Review and Assistance Program Review with Dale Krystosek, Kevin Bigalke, and Mary Peterson. Mr. Dale Krystosek explained this is a level 2 review for Ramsey County and Ramsey Conservation District (RCD), which is typically done every ten years. Each year they are required to provide a report to the legislature that discusses progress on implementing local water plans and local government performance. With this review, they looked at the 2012-2016 RCD Comprehensive Plan. They requested the RCD staff provide a progress report on what has and has not been implemented. He reported 36 of the 41 action items listed in the RCD Comprehensive Plan have either been started or completed. They have also developed a performance standards checklist and determined they RCD is compliant with 18 out of 18 basic standards and has achieved nine of 14 high performance standards and commended the RCD for this. Mr. Krystosek referred to page 5 of the report, and commented on the results of the survey they had requested RCD Board members and RCD staff to take. The summary included responses on which programs and projects that were successful, reasons they were successful, and ways to improve the effectiveness of the district. They also conducted a survey of 27 partners of the RCD and referred to the results provided in a table on page 8. He noted in all the categories, the RCD was rated very high. Several of the partners did also indicate dysfunction among the Board. Mr. Krystosek highlighted the general conclusions and commendations that are included on page 9 of the PRAP report. The general conclusions include:

- The RCD provides important services to the citizens of Ramsey County and this performance assessment confirms the Conservation District's effective administration of local conservation programs and projects.
- The RCD partners believe the RCD is doing good work.
- Recent Board conflict has created a necessity to reassess the Conservation District's mission, conduct at Board meetings, and procedures for oversight and management of district operations.
- The strong working relationships of the Conservation District staff with partners provides a strong base to build upon for future local resource management in Ramsey County.
- The partners who responded to the PRAP survey provided strong to good marks in their judgement of the performance of the Conservation District.
- Based on comments from Ramsey Conservation District Board, staff, and external partners, there appears to be serious dysfunction on the current Board.

Mr. Krystosek reported the following recommendations are offered by BWSR, and he encouraged the RCD to consider them:

- Recommendation 1: Improve communication and interaction among Board members by working with a conflict management or mediation specialist and conduct a strategic assessment of the district to determine whether the existing mission, goals, by-laws and Board

member responsibilities are understood and remain relevant.

- Recommendation 2: Organize Annual Work Plan to address high priority items with specific, measurable action items and monitor staff and Board delivery of programs and projects.
- Recommendation 3: Develop a fiscal management agreement between the RCD and Ramsey County.
- Recommendation 4: Develop orientation and continued education plan for the Board and staff to provide for operational effectiveness of the district and Board members through education, succession of positions and outreach to partners.
- Recommendation 5: Continue to build on the use of major or minor watershed scale in the comprehensive plan by the use of Prioritized, Targeted, and Measurable criteria in implementation of action items of the plan.

Mr. Krystosek highlighted the documents included at the end of the report and requested the Board provide a comment letter that will be included in the final report.

Ms. Mary Peterson, BWSR Board Conservationist, thanked the Board for actively working on PRAP and level 2 review. She commended the RCD for the new programs and initiatives it has developed over the last five years and for the numerous accomplishments, including successful grant applications and increasing the fund balance for five consecutive years. She stated she has enjoyed working with RCD and offered help with follow up on any recommendations.

Chair Humphrey thanked BWSR for the time and work they put into the report. She also thanked staff for their efforts while working with limited resources.

Chair Humphrey opened the floor for questions. Supervisor Buggs inquired if partnering with the County is the first step in trying to dissolve the district. Mr. Kevin Bigalke stated this is the opposite of dissolution. The recommendations are to identify opportunities for improvement and ways to work better together, and BWSR would like to provide assistance in doing so. The report does not include ways to dissolve the RCD. The PRAP assessment identifies areas that are strengths as well as opportunities for improvement. Supervisor Buggs stated she is interested, through a third party, to further explore conflict resolution and mediation. It would be a conflict of interest if BWSR or the County provided these services. Mr. Bigalke stated they would use an independent mediation consultant that would come in and help create improved Board relations and BWSR could provide financial assistance for this. Mr. Krystosek stated a comment letter is needed from the Board stating any feedback on the recommendations and interest in funding within 3-4 weeks. Chair Humphrey expressed her appreciation for the PRAP and suggested staff could also provide comments.

Supervisor Behrens stated she missed the Consent Agenda and wished to return to it. **A motion was made to reconsider the Consent Agenda by Supervisor Behrens and seconded by Supervisor Buggs.** Voting in favor: Behrens and Buggs - Voting against: Gardner, Willems, and Humphrey. Motion failed.

There was discussion regarding Supervisor Gardner's resignation status. Supervisors Buggs and Behrens felt Supervisor Gardner is no longer a Supervisor because he was never reinstated. Supervisor Buggs stated that she believes Chair Humphrey acted improperly and illegally because the full Board did not get to see his resignation letter. Chair Humphrey stated Supervisor Gardner never offered it to the Board and that she did consult with the County Attorney on the matter. Supervisor Buggs stated it does not have to be offered to the full Board and it was deliberately concealed from the full Board.

Further discussion ensued regarding Supervisor Gardner's status on the Board. Supervisor Behrens stated Chapter 3 of State Statute states, "When effective, except for provided in Subd. 3 where there is a contingency or other expressed provision of the law or charter to the contrary, a resignation is effective when it is received by the officer, the body, or Board authorized to receive it." She stated the resignation was received by Ann WhiteEagle, who is the officer, and by Chair Humphrey. They asked Chair Humphrey to get Supervisor Gardner's resignation because Chair Humphrey stated she did not have it. However, per Supervisor Buggs, that was untrue and stated Chair Humphrey should resign.

Supervisor Buggs stated everyone on the Board has the opportunity to express their opinion. She commented Chair Humphrey knew the July 6 meeting was illegal. They did not have quorum and purposely waited until she was out on vacation to have the meeting when Chair Humphrey was previously given the directive to get Supervisor Gardner's resignation in writing. At the time of that meeting, Supervisor Gardner had not been to a meeting for the past four months and he voted illegally. Both BWSR and legal counsel were present at that meeting as well, and they knew of Supervisor Gardner's resignation. She stated Chair Humphrey should resign. She does not have confidence in her leadership ability or in the District Manager.

Supervisor Gardner requested legal counsel provide direction on this topic and stated he would like to be off the Board.

Ms. WhiteEagle pointed out the Chair Humphrey did not accept the resignation, and that is why the letter was not released.

Supervisor Buggs stated Ms. WhiteEagle colluded with the Chair Humphrey repeatedly and should be terminated. There are also other Board members that have worked with them as well.

Supervisors Behrens and Buggs requested their vote on the July 6, 2017 Board meeting minutes be abstained because they were not at the meeting. Chair Humphrey clarified the minutes were moved to Business Items and they are not a part of the Consent Agenda. Supervisor Buggs clarified that she did not intend to pull items from the Consent Agenda.

Chair Humphrey inquired if the Board would like to move ahead on the agenda to Business Items. Supervisors Willems and Gardner said yes, and Supervisor Buggs and Behrens said no and stated they opposed Supervisor Gardner's vote since he is not on the Board.

Attorney Ristad stated that Minnesota State Statute 351.01 Sub. 2 talks about when a resignation is effective and discusses when it is received by the officer or Board authorized to receive it. The Ramsey Conservation District by-laws state, "When a Supervisor wishes to resign from RCD service, the Supervisor shall submit a resignation in writing to the RCD Board." It is his legal opinion that a resignation is effective when it is received in writing by the entire Board, not the Chair. In this case, that has not happened and the resignation is not effective. Supervisors Behrens protested stating according to the State Statute that governs the RCD office, the resignation is effective. The RCD by-laws do not supersede the State law.

Supervisor Gardner stated it would be appropriate to lodge a protest in the minutes.

4. Business Items

- A. PRAP Next Steps: Supervisor Gardner requested making a motion. **Resolution 17-10-01. Motion by Supervisor Gardner and seconded by Supervisor Willems.** Resolved, the Board directed the District Manager to work with the County Manager to organize a working group to develop a formal agreement between the Ramsey Conservation District and Ramsey County as recommended by the BWSR PRAP report using the services agreement between the County of Olmsted and the Olmsted Soil and Water Conservation District as a possible model and bring back a resolution by the January RCD Board Meeting.

Voting in favor: Gardner, Willems, and Humphrey- Voting against: Behrens and Buggs. Motion carried.

Chair Humphrey suggested they adjourn the meeting and set a meeting date in January to allow them to speak with counsel to make sure they can proceed.

Motion by Supervisor Buggs and seconded by Supervisor Willems to adjourn the meeting until further notice to allow the Board to consult with independent counsel outside of Ramsey County. Buggs stated Ramsey County is a partner and it is a conflict of interest given that Chair Humphrey, Ms. WhiteEagle and other Board members have been working in collusion of the full Board by consulting Ramsey County Attorney.

Voting in favor: Behrens and Buggs - Voting against: Gardner, Willems, and Humphrey. Motion failed.

- B. FY17 CWF Well Sealing Application/Encumbrance Approval: **Resolution 17-10-02.** Motion made by Supervisor Gardner and seconded by Supervisor Willems. Resolved, the Board approved the following well sealing applications:

| Encumbrance / Application Approval - Grant C17-1480, \$20,000 total | | | |
|---|--------------------------|--|-----------------------|
| Contract Number | Owner | Address | Maximum Reimbursement |
| WS1480-26 | Debra Burkhardt | 5405 Portland Ave, White Bear Township, MN 55110 | \$ 750.00 |
| WS1480-27 | Adrienne Casselman | 3739 St Regis Dr, White Bear Lake, MN 55110 | \$ 750.00 |
| WS1480-28 | Judith Markoe,POA for Je | 474 Koehler Rd, Saint Paul, MN 55127 | \$ 750.00 |
| WS1480-29 | Merlin & Mary Nelson | 5005 Turtle Lane E, Shoreview, MN 55126 | \$ 750.00 |
| WS1480-30 | LaVerne Rhode | 4997 Turtle Lane E, Shoreview, MN 55126 | \$ 750.00 |
| Proposed Total | | | \$ 3,750.00 |

| Encumbrance / Application Approval - Grant C17-5165, \$108,000 total | | | |
|--|-------------------|--|-----------------------|
| Contract Number | Owner | Address | Maximum Reimbursement |
| WS5165-19 | Debra Burkhardt | 5405 Portland Ave, White Bear Township, MN 55110 | \$ 750.00 |
| WS5165-20 | Dexter Butler | 1947 White Bear Ave N, Maplewood, MN 55109 | \$ 750.00 |
| WS5165-21 | David Dudyacha | 10 Poplar Lane, North Oaks, MN 55127 | \$ 750.00 |
| WS5165-22 | Charles Kavaloski | 2917 Troseth Rd, Roseville, MN 55113 | \$ 750.00 |
| WS5165-23 | Lloyd Law | 1605 Demont Ave E, Maplewood MN 55109 | \$ 750.00 |
| WS5165-24 | Carol Manning | 2321 County Rd F, White Bear Lake, MN 55110 | \$ 750.00 |
| Proposed Total | | | \$ 4,500.00 |

Voting in favor: Gardner, Willems, and Humphrey- Voting against: Behrens and Buggs. Motion carried.

Supervisors Buggs and Behrens objected to this vote because they claimed that Supervisor Gardner is not a member of the Board.

C. FY14 Flood Relief Grant (DRAP): **Resolution 17-10-03.** Motion made by Supervisor Willems seconded by Supervisor Humphrey. Resolved, the Board approved the City of St. Paul contract not to exceed \$917,811.00 or 100% of the total eligible cost, for the stabilization of the North Knob at Lilydale Regional Park. The total grant is \$925,811.00. The Board appropriated \$8,000.00 for technical and administrative services by RCD staff. The Board further approved the execution of the FY14 Flood Relief Grant extension delegation request.

| Cooperator | Conservation Practice | Contract # | Grant | Action | End Date | Technical Representative | Amount |
|------------------|------------------------|------------|--|-------------|----------|--------------------------|--------------|
| City of St. Paul | 148M (Erosion Control) | FR143B-01 | FY14 Flood Recovery (2014 DRAP Phase 3b) | Encumbrance | 11/1/18 | James Landini | \$925,811.00 |

Voting in favor: Gardner, Willems, and Humphrey- Voting against: Behrens and Buggs. Motion carried.

Supervisors Buggs and Behrens objected to this vote because they claimed that Supervisor Gardner is not a member of the Board.

D. FY15 Community Partners Project Encumbrance: **Resolution 17-10-04.** Motion made by Supervisor Gardner seconded by Supervisor Willems. Resolved, the Board authorized the execution of the contract not to exceed \$24,920 or 75% of the total eligible cost, with JGM Properties for the installation of three parking lot raingardens.

| Cooperator | Conservation Practice | Contract # | Grant | Action | End Date | Technical Representative | Amount |
|----------------|---------------------------|------------|---------------------------|-------------|-----------|--------------------------|-------------|
| JGM Properties | Infiltration Basins (570) | CP15-08 | FY2015 Community Partners | Encumbrance | 11/1/2018 | Joe Lochner | \$24,920.00 |

Voting in favor: Gardner, Willems, and Humphrey- Voting against: Behrens and Buggs. Motion carried.

Supervisors Buggs and Behrens objected to this vote because they claimed that Supervisor Gardner is not a member of the Board.

E. FY17 Community Partners Project Encumbrance: **Resolution 17-10-05.** Motion made by Supervisor Gardner seconded by Supervisor Willems. Resolved, the Board authorized the execution of the following contract with the Common Bond Communities not to exceed \$17,763 or 75% of the total eligible cost:

| Cooperator | Conservation Practice | Contract # | Grant | Action | End Date | Technical Representative | Amount |
|------------------------|---------------------------|------------|---------------------------|-------------|-----------|--------------------------|-------------|
| CommonBond Communities | Infiltration Basins (570) | CP17-01 | FY2017 Community Partners | Encumbrance | 11/1/2018 | Joe Lochner | \$17,763.00 |

Voting in favor: Gardner, Willems, and Humphrey- Voting against: Behrens and Buggs. Motion carried.

Supervisors Buggs and Behrens objected to this vote because they claimed that Supervisor Gardner is not a member of the Board.

F. Expense Report Reimbursement - Chair Humphrey recommended they skip this item.

Mr. Bigalke clarified BWSR is not recommending the RCD enter an agreement like the Olmstead

County agreement. PRAP Recommendation No. 3 is for developing a fiscal management agreement between RCD and Ramsey County and would be an agreement for services that Ramsey County has provided. There is no record that shows they are providing that service to the RCD on its behalf. Ramsey County has similar delegation agreements with other LGUs. It clearly shows what services they are providing, why they are providing them, and when they are providing them.

- G. Lower St. Croix Watershed - One Watershed One Plan: **Resolution 17-10-06**. Motion made by Supervisor Willems seconded by Supervisor Gardner. Resolved, the Board accepted the staff recommendation to decline participation in the Lower St. Croix Watershed One Watershed One Plan.

Voting in favor: Gardner, Willems, and Humphrey- Voting against: Behrens and Buggs. Motion carried.

Supervisors Buggs and Behrens objected to this vote because they claimed that Supervisor Gardner is not a member of the Board.

5. Next Regular Board Meeting – TBD

6. Adjournment: **Motion by Supervisor Gardner** to adjourn at 7:19 pm.

Voting in favor: Gardner, Willems, and Humphrey- Voting against: Behrens and Buggs. Motion carried.