OFFICIAL MINUTES
Clearwater River Watershed District
Board of Managers Meeting
June 1, 2016 - 6:00PM
City Hall, Annandale, MN

Chair Schiefelbein called the regular meeting to order at 6:04pm. Managers Paul DeGree, Kathy Jonsrud, Robert Rocheleau, and Robert Schiefelbein were present. Manager Chris Uecker entered at 6:19pm. Also in attendance were: Attorney Chuck Holtman, Professional Soil Scientist Peter Miller (left at 8:17pm), Engineer Rebecca Kluckhohn, Advisor Merle Anderson, Assistant Administrator Dennis Loewen and Administrator Cole Loewen.

The following were in attendance for the Clearwater Harbor/ Hidden River presentation item: Pam & Jerry Risberg, Sheryl Martino, Jerry Finch, Josh Trutwin, Joe Ekert, Tim Haag, Bob & Jean Broich, Mary Jenniges, Jesse Provo, Jason Buboltz, Jeff & Lori Westrum, Jena Theis, Theresa & Jeff Hagg, Toni & John Davis, Betsy Pearson, Thomas Hilson, John Truenow, Scott Wroblewski and Jeff Gendreau. All left after the completion of this item around 8:17pm.

Motion #SM16-6-1: DeGree/Jonsrud, moved to adopt the agenda. **All Managers voted aye.**

Clearwater Harbor/ Hidden River Nitrogen Mitigation & Analysis Plan Implementation
Peter Miller of Wenck Associates Inc. provided:

- An overview on the background and current implementation status of the Minnesota Pollution Control Agency (MPCA)-mandated Nitrogen Mitigation and Analysis Plan for the Clearwater Harbor and Hidden River Sanitary Sewer System.
- An update on the state legislative process to increase Point Source Implementation Grant (PSIG) funding from 50% to 80% share of total project cost
- A review of four communal sewer systems in Minnesota which have implemented nitrogen removal systems similar to the systems current being considered under the plan. The largest of the four systems has a design flow of 32,000 gallons per day (gpd). The combined Clearwater Harbor/Hidden River system is designed for 45,000 gpd and flows at about 18,000 gpd.
- As requested by residents, a preliminary feasibility review of a potential alternative for Hidden River Communal Sewer System to be decommissioned and for serviced properties to convert to individual septic treatment systems (ISTSs). Mr. Miller also noted a review of an alternative that would allow selective Hidden River homeowners to convert to ISTSs while others remained on the communal system. He advised that it would be technically challenging to maintain proper operability of the system and that improvement and O&M costs would not be reduced accordingly, with the result that the system likely would become substantially more expensive for those who remained on it. For these reasons, he recommends that if a conversion alternative is considered, it is one in which all Hidden River homeowners convert and the Hidden River system is decommissioned.
- As for the conversion alternative, he advised that on the basis of a desktop review and driving inspection, it seems a good likelihood that all Hidden River lots on the system would be able to site an ISTS. He noted that there would be a cost to removing the Hidden River communal infrastructure or abandoning it in place and that homeowners would need to support O&M on the system until all homeowners had disconnected. A homeowner questioned whether riparian lots would be suitable, stating that her lot is about half wetland. Mr. Miller replied that if there are constraints on a particular lot, there are options including a more expensive system, a mound system or a drainfield easement on the neighbor's property. He said that the homeowners would need to retain their own services to evaluate and confirm site suitability.

- An updated cost estimate for the alternatives currently under review as part of the plan, including a rough estimate for the conversion alternative including system abandonment, new ISTS and ongoing ISTS O&M costs. He offered a preliminary estimate that the improvement cost for the nitrogen removal system would remain about the same for Clearwater Harbor homeowners, due to system scaling, and that annual O&M might increase very slightly.
- A new alternative, which calls for changing the current plan timeline to allow time to conduct additional hydro-geologic investigations to better determine nitrogen movement in the local groundwater and to provide more data to inform decisions regarding plan implementation. Mr. Miller estimated the cost of such an investigation at about $30-40,000. He said that if the nitrogen removal system is needed, much of the data obtained would be of use in system design and the cost should be credited as a part of local match for the PSIG grant.

With respect to the Hidden River ISTS conversion alternative, Attorney Holtman advised that the District would have the legal capacity to abandon the communal system and once homeowners had converted to ISTSs, the CRWD would not have a further role with respect to their sanitary facilities. He noted that Township and County approval would be required but that a significant issue to the CRWD would be the willingness of the Hidden River homeowners' association to manage review of the alternative internally and its ability to obtain and demonstrate consensus so that the CRWD would not be at risk of legal challenge or entanglement by homeowners objecting to the conversion.

The chair opened the floor to questions and discussion after Mr. Miller's presentation. As members of the audience were not required to state their names before offering comments or asking questions, no record was created of which members of the audience spoke. The following is a sampling of the questions asked and comments received from the audience:

- Feedback on past year's rain events that may have affected local groundwater. Mr. Miller noted that very recent sampling showed nitrogen below 10 mg/liter. He showed prior sampling data, reminding that nitrogen levels fluctuate but that the MPCA will require sustained achievement of the standard over an annual average. An audience member observed that the very wet spring may have contributed to the low reading. Another asked if fluctuations could be explained by periodic ponding caused by sand filter issues, however this did not appear to be the case. Responding to a homeowner, Mr. Miller said that more refined data could be obtained by capping particular laterals to isolate the discharge being sampled. He noted, however, that present sampling has related to assessing system function with sand filters in bypass mode, and this evaluation should be completed before there is any other modification in the sampling regime.
- Questions on current sampling of monitoring wells and discharge to drain fields, current gallons per day flows. Mr. Miller indicated that monitoring well #4 (the well with high nitrogen levels) and discharges to drain fields are currently monitored monthly. He also indicated data is available on the gallons per day flows at both systems.
- At the previous meeting, homeowners had asked the CRWD to inquire of funding from Stearns County. Administrator Loewen indicated a letter to Stearns County to soliciting funding assistance has been completed and will be mailed in the next couple of days.
- Questions on how capital cost estimates were determined for current alternatives. Mr. Miller indicated and Engineer Kluckhohn indicated these estimates were determined using existing bids for similar projects within the last 12 months. Mr. Miller advised that the proposed system is proprietary. A homeowner suggested that delay might allow for a less-expensive "generic" system to become available.
- Multiple questions on decommissioning and converting to ISTSs for Hidden River serviced property. CRWD Board and staff provided answers as able to assist Hidden River residents with their evaluation of this alternative. An HOA board member asked what would happen if not all homeowners agree on conversion. Attorney Holtman referenced Mr. Miller's earlier statement that he would not recommend attempting a partial conversion. He said that from a

legal standpoint he would not recommend it either, as the process and administration would be complicated with sources of risk for entangling the CRWD in legal disputes. For a full conversion scenario, he would recommend that the CRWD look to the HOA and the internal process by which it makes decisions on behalf of homeowners, and obtain protection from the HOA as to the authority for its decision. Members of the Hidden River Association requested assistance from the CRWD as they continue to investigate the decommissioning and converting alternative.

- Multiple comments were made encouraging the CRWD to slow down the implementation process to allow for additional data collection and for the opportunity to secure more grant funding, principally the potential increase in PSIG grant funding from 50% to 80% of total project cost. Mr. Miller reported that he has spoken with MPCA representatives and that they recognize that the CRWD is being proactive toward meeting the permit requirements. He said that there is room to hold off for one construction season provided the work proceeds efficiently after that. He said that he could not predict whether the 80% grant level would be approved but said that the PSIG program has been annually funded.
- A homeowner asked if the Clearwater Harbor and Hidden River systems currently have been combined into one system. Attorney Holtman advised that they are separate physical systems with separate O&M funds, but that the improvement would consist of a single nitrogen removal system to which both septic discharges would be connected, and with a separate O&M fund for those common elements.
- There were questions about whether if Hidden River decouples, might the Clearwater Harbor levels go down and, if so, is it appropriate to wait and see before proceeding with the improvement? Mr. Miller replied that levels could be lower at the monitoring well.
- A homeowner asked whether there is assistance for the cost of ISTS installation. Administrator Loewen and Mr. Miller directed inquiries to Stearns County Environmental Services. They indicated that often there is a revolving fund to provide low-interest loans. If demand is high, the County may impose an income test.
- A homeowner asked if Township approval would be needed just concerning abandonment of the communal system pipes in the ROW. Administrator Loewen replied that it concerns ISTS conversion as well and that the Township originally advised that it wanted the development to be on a communal system. Jerry Finch, Lynden Township Supervisor, was present and affirmed that ISTS approval lies exclusively with Stearns County. He related past history of a Township subdivision ordinance requiring community septic systems adopted in advance of expected development. He did not think it had been applied and that the Township doesn't necessarily continue to favor community systems.
- Bob Broich, who originally developed Hidden River, advised homeowners to consider the County ordinance that requires ISTS inspection under a number of circumstances. He noted that converting to ISTS doesn't mean there will be no further oversight.
- A homeowner asked about the CRWD's use of O&M funds and said his tank hasn't been pumped in four years. Administrator Loewen reviewed what O&M funds are used for and the present reserves. He said that per CRWD records, pumping has occurred every two years with a couple of exceptions that went to three years. He said the CRWD recently changed septic pumping companies due to issues with the previous company. He said that the CRWD will take steps to ensure the new pumper does provide that notice, which could include tags on door.

Administrator Loewen reviewed a memorandum summarizing work completed to determine the best course of actions to undertake funding and financing any alternative under the plan, as well as preliminary estimates on implementation costs, allocation of plan implementation costs, potential special assessments based on original units of benefit for the two separate sewer projects (Clearwater Harbor and Hidden River) and handling of future operation & maintenance (O&M) costs. He reviewed the benefit determinations and assessment rolls for the original construction of the Hidden River and Clearwater Harbor systems. He noted several discrepancies in the records and lot combinations that

he is working with counsel to resolve and address before the Board adopts the assessment for the improvement. At this time, his recommendation to the Board would be to finance the improvement by certification of the assessments to Stearns County under MN Statutes 103D.901 and to allocate improvement costs between the two developments in accordance with the total original assessments for each.

Attorney Holtman emphasized that the Board would not make any decisions tonight on how the improvement would be funded or financed, or on assessments. He reiterated that after the engineer's technical and cost specifications report is prepared, there would be a noticed public hearing and homeowners would have a full opportunity to review and speak to the engineer's report and the proposed assessments. At that time, the Board would make determinations as to funding, financing and assessments.

Again, the chair provided for open discussion from the floor, with the following:

- Questions on how the allocation of implementation costs was determined. Administrator Loewen and Attorney Holtman indicated said costs and the corresponding potential special assessment were based on statutory requirements, legal and administrative opinion for the process the CRWD is operating under for this plan. This requires implementation costs to be allocated based on the original assessments for the two sewer projects and apportioned pro rata based on the aggregate assessments of said project. Attorney Holtman clarified that because the improvement would be a repair to the existing systems, there would not be a new determination of benefits but rather the cost of the improvement would be assessed based on the existing benefits as originally determined. A Clearwater Harbor homeowner offered a rationale for assessing cost equally and not according to the three classifications of the original assessment. Attorney Holtman replied that the statute requires assessment in the same manner and proportions as the original assessment.
- Again, multiple comments were made encouraging the CRWD to slow down the implementation process to allow for additional data collection and for the opportunity to secure more grant funding

At the end of this item, the Board provided the following clarifications/ directions:

- The Board's progress on installing nitrogen removal for one or both communal systems rests on the assumption that the State of Minnesota will provide at least 50% grant funding through PSIG to help offset implementation costs to residents.
- The Board plans to undertake additional hydro-geologic investigations over the next few months to better determine nitrogen movement in the local groundwater and to provide further data to inform decisions regarding plan implementation; with a goal to re-evaluate in fall of 2016.
    - Wenck Associates was directed to develop a work order for consideration at the regular June Board meeting, with phases to implement additional hydrologic investigations, starting with further investigations on the sand filters at both systems, and then moving towards further stratigraphy work to better determine nitrogen movement in the local groundwater.
    - Wenck Associates will hold off on completing and submitting the technical and cost specifications report. Engineer Kluckhohn advised that the technical work is largely completed and assembled and can be finalized at such time as is appropriate.
- The Board directed staff to continue with plan to get on the PSIG list in July, with the understanding that the Board currently plans to wait on constructing any alternative for one construction season (likely construct in 2018). However, if a special legislative session is convened and PSIG funding is revised to 80% grant funding, the Board will review and may decide to move forward with one of the plan's alternatives.

- The Board will not spend any additional time investigating the option to decommission the Hidden River Communal Sewer System/ serviced properties convert to ISTSs until the Hidden River residents demonstrate consensus that this is the direction they wish to undertake. Staff is to provide the Hidden River Association a list of steps that need to be completed before the Board will consider this item further.
- The Board's present view is that improvement funding will be accomplished via a multi-year special assessment levied under Minnesota Statutes 103D.901, with the understanding the county will provide the funds upfront and will finance this by bonding or other means that it chooses. All costs associated with bonding will need to be incorporated into said special assessment.
    - The Board plans to include one year of estimated O&M costs if and when implementation of one of the plan alternatives moves forward.
    - Per state statutes, assessment would follow an allocation based on the original assessments for the two sewer projects, with any costs to implement the plan to be apportioned pro rata between the two projects based on the aggregate original assessments.
    - The Board elected to hold over discussion on the structure of future O&M for a common nitrogen treatment system to a later date.

Members of the audience thanked the Board for their careful consideration of this matter. A short recess was held from 8:17pm- 8:24pm. The entire audience along with Mr. Miller left during this time.

School Section Lake Outlet Control Project

Engineer Kluckhohn reviewed a quote from Visu-Sewer regarding services to clear the blockage in the project's inlet pipe. Visu-Sewer was not willing to provide a guarantee on their service. Engineer Kluckhohn indicated this is the only firm she was able to locate that was willing to undertake the work. Engineer Kluckhohn also advised that some trimming of branches would be required for the clearance to allow the equipment to access the pipe.

Motion #SM16-6-2: Jonsrud/No Second, moved to authorize Administrator Loewen to execute the Visu-Sewer quote. During discussion, it was noted the property owner where the inlet pipe is located, James Schwebel, has raised concerns. It was decided to cover these concerns first before making a decision regarding this quote**. Motion died for lack of second.**

Administrator Loewen reviewed a memorandum prepared to brief the Board in regards to a letter received from Mr. Schwebel objecting to work done by the CRWD pursuant to its easement on the property. Mr. Schwebel has concerns related to: 1) The ice breaker installed around the inlet pipe, in particular its appearance, and 2) How the CRWD informs easement holders when it plans to undertake work related to its projects.

After discussion, the Board directed the following: 1) Have its attorney review the easement to be clear on what the CRWD's rights and obligations are and 2) Have its administrator, in consultation with the CRWD attorney and Manager Rocheleau, draft a response letter to Mr. Schwebel. The Board would like to maintain good relations with the property owner and would like to have mutual clarity regarding with whom the CRWD should communicate regarding work on the property. However, the installed structure is important to protect the outlet structure and the available funds, derived from assessment of lake owners, presently doesn't support a more expensive option. The Board also asked that staff communicate with the owner about the maintenance work and the need for trimming.

Motion #SM16-6-3: Uecker/DeGree, moved to authorize Administrator Loewen to solicit quotes to trim trees along access road to School Section Lake Outlet Control Project's inlet pipe, and to execute

contracts for tree trimming and with Visu-Sewer (the latter not to exceed $2,850.00) to clear the blockage in said pipe. **All Managers voted aye.**

Motion #SM16-6-4: Rocheleau/Jonsrud, moved to adjourn at 9:18pm. **All Managers voted aye.**

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Chair, Bob Schiefelbein

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Secretary, Paul DeGree