COON CREEK WATERSHED DISTRICT
Request for Board Action

MEETING DATE: January 8, 2018
AGENDA NUMBER: 16
ITEM: City of Blaine Request for Assistance with EPA

AGENDA: Policy

ACTION REQUESTED

BACKGROUND
In 2014 the City of Blaine constructed a Ball Field at Aquatore Park. The construction of the ballfield involved wetland fill. The wetland impacts were reviewed and approved by the Board of Managers and were mitigated through the purchase of wetland credits. The work also required a Federal 404 permit. At that time the workload and timeliness of a written permit was highly uncertain and was contributing to construction delays.

After checking with the COE and receiving a verbal approval, the city proceeded with construction in what was left of the fall, 2014 construction season. The EPA (who actually administers section 404 of the Clean Water Act) then found the City of Blaine in violation and exacted a financial penalty in addition to the mitigation. After extensive discussions with EPA the City has agreed to place the remaining wetland in a conservation easement. EPA is requiring that the easement be held by a third party. The City of Blaine is requesting that the Coon Creek Watershed District be that third party.
OPTIONS
The City of Blaine has considered two options for the role of third party:
1. Coon Creek Watershed District
2. Minnesota Board of Water and Soil Resources

Coon Creek Watershed District: The District has the ability to craft and agree to an easement that can accommodate maintenance of Ditch 17, which bisects the wetland in question. The District is also local and familiar with the water management needs of the City of Blaine. The District has also been endorsed by BWSR

Board of Water and Soil Resources: While BWSR is capable and authorized to own easements, the agency would be limited to the easement language used in mitigation areas and banks. Such language would most certainly complicate and create difficulties with maintaining Ditch 17.

ISSUES/CONCERNS
Authority to Own Easements: Minnesota Statute 103D.335 Subd. 11 authorizes the District to acquire property.

Cost of Easement: Has not been discussed. Staff assumes the easement in question would be donated.

Maintenance of the Easement: Maintenance should be minimal. However, it is unknown the amount of dumping and disposal that occurs on the site. The City of Blaine should have a sense of the kind, cost and effort required to maintain the open space/natural qualities of the area in question

Operation and Maintenance of Ditch 17: The easement should ensure that access to ditch 17 for maintenance is secure.

PRIOR DECISIONS
None

RECOMMENDATION
Direct staff to work with the City of Blaine to meet the needs of the District, Blaine and the EPA.
January 3, 2018

Coon Creek Watershed District
Attn: Tim Kelly, District Manager
12301 Central Ave NE
Suite 100
Blaine MN 55434

RE: Conservation Easement – Aquatore Park

Dear Mr. Kelly:

The City of Blaine would like to respectfully request that the Coon Creek Watershed District (CCWD) hold a Conservation Easement over the attached location in Aquatore Park. This Conservation Easement is required as part of an enforcement action with the U.S. Environmental Protection Agency (EPA)/U.S. Army Corps of Engineers (Corps).

**Background Information**
The City of Blaine constructed a ball field at Aquatore Park in the late summer/early fall of 2014. The construction of the ball field involved wetland impacts and the purchase of wetland credits. The City had all permits in place for the wetland impacts and construction of the ball field and a verbal statement from the Corps stating that the permit was being issued.

With this information and not wanting to lose another construction season, the City began construction on the ball field and then received notice that work was being done without a Corps permit. The notice proposed a financial penalty and request for additional information. Through extensive discussions between the City and the EPA, the City has agreed to place the area highlighted on the attached location map of Aquatore Park into a Conservation Easement. A condition of the Conservation Easement is that it must be held by a third party.

**Options**
The other option the City received from the EPA for the third party holder of the Conservation Easement is the Board of Water and Soil Resources (BWSR). The City looked into the option which is designed for a wetland bank and requires extensive information and costs. Since this is
public property and using tax dollars to complete, the City does not feel that this option is in the best interest of the citizens of Blaine.

Request
The City is requesting the CCWD be the third party holder of the Conservation Easement. This will allow CCWD to continue maintenance of County Ditch 17 which flows through the property.

Bob Therres, Public Services Manager/Assistant City Manager and myself plan to be at the January 8, 2018 CCWD Board meeting to answer any questions. Thank you.

Sincerely,

Rebecca Haug
Water Resources Manager

C: Robert Therres, Public Services Manager/Assistant City Manager
   Jean Keely, City Engineer
   Clark Arneson, City Manager
   Patrick Sweeney, City Attorney