COON CREEK WATERSHED DISTRICT
Request for Board Action

MEETING DATE: May 13, 2013
AGENDA NUMBER: 18
ITEM: Discussion with Ham Lake Parks on District Easements

POLICY IMPACT: Discussion
FISCAL IMPACT: n/a

REQUEST
Review and potentially clarify District involvement and direction on the issue

BACKGROUND
On April 24 Managers Hoffman and Westlund met with Mel Aanerud and Prentice Beadell, both members of the Ham Lake Park and Tree Commission. The purpose of the meeting was to review the potential use of Ditch easements for city trails.

This is not the first time that Mr Aanerud has come to the District on this issue. On October 25, 2004 Mr. Aanerud appeared before the Board of Managers to review and discuss the city’s desire to construct trails along Coon Creek while development is occurring. At that time the City was planning to submit a Local Trail Connection Grant request for the 2005 funding cycle. At the meeting Aanerud indicated that the city planned to hold a public hearing on their Trail Plan. The goal of the hearing was to inform the public as well as clarify easement issues.

From the Minutes of the October 25, 2004 meeting:
MacNally asked Aanerud how the District could help during this meeting. Aanerud stated that he was requesting the District support the plan by giving the plan a favorable review. MacNally asked if Aanerud wanted the District to express a willingness to work with the City of Ham Lake. Aanerud stated that he did. Hoffman stated that this was possible. Hoffman stated that he hoped that the District will establish with the City of Ham Lake that easement fill issues exist, and that maintenance issues can arise where the District will have to bring heavy equipment in to remove spoil piles, which could damage a trail, which the City would be responsible for repairing.

MacNally moved that the Board generally support the Ham Lake Trails Plan, and continue to work with the City of Ham Lake on implementation of the plan, including compliance with District rules. Marvin seconded the motion.

On October 27, 2004 the District sent a letter to then Mayor Kirkeide, supporting Trail Planning along Coon Creek provided implementation of the plan was done in a manner consistent with the District rules.
ISSUES/CONCERNS

**District Easement:** In 2004 and 2013 the nature of the District’s easement over the public ditches appears to be at the center of a goal and a belief.

There appears to be a goal of utilizing the District’s ditch easements to hold public trails. Discussions have carried with them the argument that the efficiency of piggy backing uses could potentially save the City the expense of buying land or potentially condemning land for trail purposes.

It appears that there is a belief that the ditch easements are either owned out right (fee title) by the District or involve any, all or most rights of access, egress and use of the property. This is not accurate.

The nature of the District’s easement is statutory, and exists because the ditch exists. In addition, maintenance of the ditch exists and therefore the property rights associated with the ditch easement are strictly associated with access for inspection and maintenance/repair of the ditch.

**Exception to “Ditch Easements”:** The exception to the above situation would be properties subdivided after 1987 where a “Drainage Easement” was platted adjacent to the ditch to include similar property rights. These platter easements vary as follows:

1. A 200 foot easement (100’ either side of centerline) will be required on Coon Creek from the Mississippi River to Lexington Ave. (C.S.A.H. #17)
2. A 200 foot easement (100’ either side of centerline) on Sand Creek from Coon Creek to Central Ave. (T.H. #65)
3. A 100 foot easement (50’ either side of centerline) on designated county ditches within the watershed, including Coon Creek and Sand Creek upstream of the sections identified in 1 & 2 of this section.

In all cases, the rights retained by the government are those associated with water and maintenance of the ditch, not PUBLIC access.

**Current Interest and Request:** Manager Westlund will clarify this at the Board meeting.

**RECOMMENDATION**
Discuss