

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

July 11, 2018, Board of Managers Monthly Meeting and Public Hearing

PRESENT:

Managers: Richard Chadwick, Secretary

Jill Crafton, Treasurer

Dorothy Pedersen, Vice President

Dick Ward

Staff: Claire Bleser, District Administrator

Terry Jeffery, Project and Permit Manager

Emma Nyquist, RPBCWD Intern

Louis Smith, Attorney (Smith Partners)

Scott Sobiech, Engineer (Barr Engineering Company)

Maya Swape, RPBCWD Staff

Other attendees: Greg Hawks, Chanhassen Environmental Commission

Bryan Maloney, LRIA

David Knaeble, Civil Sine Group

Sharon McCotter, CAC

Larry Koch, Chanhassen Resident

David Ziegler, CAC; Eden Prairie Resident

1. Call to Order

Vice President Pedersen called to order the Wednesday, July 11, 2018, Board of Managers Meeting at 7:03 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

2. Approval of the Agenda

Manager Crafton announced that two escrow release checks need to be added to and approved under the Treasurer's report. Vice President Pedersen announced that agenda item 7d – approval of the 60-day review period extension for Culvers - has been removed and item 9j – Approve Permit 2018-026 Culvers with Staff Recommendations – is added. Manager Ward moved to approve the agenda as amended. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0.

3. Public Hearing: RPBCWD Draft Rules Revisions

Vice President Pedersen opened the public hearing on the RPBCWD draft rules revisions.

Mr. Terry Jeffery provided background on the 45-day comment period, which closed June 25. He noted that the City of Chaska emailed comments to the District on July 6. He reported that seven entities submitted comments, including the City of Chaska.

Mr. Jeffery talked about the comments received. He provided staff feedback about the comments. He noted that the new MS4 permit could have a significant impact on the District. Mr. Jeffery said the permit has language in it prohibiting infiltration in “D” soils and high-risk emergency response areas. He explained that staff did respond to the Minnesota Pollution Control Agency (MPCA) about the language and the significant impact it would have on the District. Mr. Jeffery said that 27% of the watershed has “D” soils and up to 40% of the watershed would be impacted by the language in the permit. He said that staff would continue working through this issue.

Mr. Jeffery said staff is looking to come back to the Board in August with draft responses to the comments received on the draft rules revisions and to ask the Board to take action to approve the responses to comments, approve revisions to the memorandum, set a date on which the rules will take effect, and adopt a resolution to adopt amendments to the District’s rules.

Vice President Pedersen called for public comments on the District’s draft rules revisions.

Attorney Smith said that the Board will have more opportunity to discuss in this item in more detail at the next meeting. He said that the Board could offer additional comments now or if there are none, then staff will assume that the staff recommendation about the direction on each of these issues is something the Board is generally comfortable with and staff will proceed to develop more information to bring back to the Board at the next meeting.

The Board indicated that it is comfortable with the direction recommended by staff.

Upon hearing no additional comments, Vice President Pedersen closed the public hearing.

4. 4M Membership

Administrator Bleser stated that this presentation is a follow-up to the discussion last month about the 4M Fund and fund membership. She introduced Corey Boyer, Municipal Advisor with PMA Financial, which manages the fund for the League of Minnesota Cities.

Mr. Boyer explained that the 4M Fund is designed specifically for public entities and is a cash/investment management program. He said that the fund focuses on short-term investment needs for municipal entities and is very liquid. Mr. Boyer provided more specific details about the fund and talked about its history. He responded to questions.

5. Matters of General Public Interest

Mr. Larry Koch, Chanhassen resident, asked if the Scenic Heights school forest project had been inspected and completed in accordance to the agreement. He commented that he thinks it is important for the District to identify its short-term and long-term needs and its restricted funds versus unrestricted funds. Mr. Koch noted that an investment is an investment and he suggested that the Board Treasurer or a committee look at the District’s fund requirements and consider the risk versus reward of investments. Mr. Koch said that the minutes from last month’s meeting indicate that regarding the 4M Fund, District Counsel was planning to review the trust agreement and comment that it is compliant. Mr. Koch had questions about two of the cost-share grant applications and asked the Board and staff to ensure they are following the District’s rules for its cost-share grants.

Staff responded to Mr. Koch’s questions and comments.

6. Reading and Approval of Minutes

a. June 6, 2018, RPBCWD Board of Managers Monthly Meeting

Attorney Smith pointed out that he was not in attendance at the June 6th meeting and instead Legal Counsel Michael Welch attended it. Vice President Pedersen noted two spelling corrections. Manager Chadwick moved to accept the minutes as amended. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0.

7. Consent Agenda

Manager Chadwick asked to pull from the Consent Agenda item 7a – Accept June Staff Report; Vice President Pedersen moved it to Action item 9k. She read aloud the Consent Agenda: 7b – Accept June Engineer’s Report (with Attached Inspection Report); 7c – Approve Payment Application #2 for Scenic Heights Elementary School Forest Restoration Project; 7d – Approve 60-Day Review Period Extension for Permit 2018-026 Culver’s of Eden Prairie 7e – Approve staff/CAC Recommendations for Residential Cost-Share Applications.

Manager Ward moved to approve the Consent Agenda as amended. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0.

8. Citizen Advisory Committee (CAC)

Mr. Zielger, CAC president, reported that the CAC would like to spend up to \$150 on materials for storm drain stenciling. He asked if the Board needs to approve the use of funds in the CAC budget for this expense. Administrator Bleser responded that storm drain stenciling is a District Education and Outreach budget item and can provide the funds for those costs. She noted that not all cities permit storm drain stenciling and instead use other methods to mark storm drains. Administrator Bleser said that the District will coordinate it on a city-by-city basis.

Mr. Ziegler commented that the CAC reviewed the Cost-Share grant applications. He noted that he has seen muskrats carrying off plantings from lakeshore restoration projects so he agrees that fencing around the plantings would contribute to the success of such projects.

Administrator Bleser announced that the next CAC meeting will be on Monday, July 16.

9. Action Items

a. Accept May Treasurer’s Report

Treasurer Crafton communicated that the report was reviewed in accordance with the District’s internal controls and procedures and everything was in order. She moved to accept the Treasurer’s Report. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0.

b. Approve Paying of Bills

Manager Crafton moved to pay the bill from Life Time in the amount of \$16,600 and the bill from APR Properties in the amount \$67,590, which comes out of the assurance. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0. Manager Crafton moved to pay the remaining bills. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0.

c. 4M Fund Membership

Administrator Bleser asked for direction from the Board about 4M Fund membership. There was discussion about the District’s current investments. Manager Ward said that he likes the idea of the District investing its funds but would like the Board to take time to review the information and look at the interest rates. Vice President Pedersen said she would like to review the District’s current investments and interest rates in order to have the information she needs to make a decision. Manager Ward suggested that staff bring the requested information to the Board and the Board discuss this item again in September. The Board agreed with this direction.

d. Approving the Shorewood Local Surface Water Management Plan

Administrator Bleser reported that she has met with City of Shorewood staff to discuss the City’s draft Local Surface Water Management Plan (LSWMP). She described the clarifications and revisions made to the plan.

Manager Crafton moved to approve the Shorewood Local Surface Water Management Plan with the suggestions from staff in its draft letter to the City and to authorize staff to send the letter as drafted to the City of Shorewood. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0.

e. Resolution 2018-004 to Approve the Riley Purgatory Bluff Creek Watershed District 2018 Water Resources Management Plan

Manager Ward moved to adopt Resolution 2018-004 to Approve the Riley Purgatory Bluff Creek Watershed District 2018 Water Resources Management Plan. Manager Crafton seconded the motion. Vice President Pedersen read the resolving paragraphs of Resolution 2018-004. By call of roll, the motion carried 4-0.

Manager	Aye	Nay	Absent	Abstain
Chadwick	X			
Crafton	X			
Pedersen	X			
Ward	X			

f. 2015-036 Saville West Permit Extension

Mr. Jeffery provided a brief history of this permit. He said that the permit holder still has not fulfilled the conditions of the permit approval and there are significant issues with the site at this time. Mr. Jeffery requested that instead of seeking the Board’s approval of the permit extension, staff is asking the Board to approve a request for a 60-day extension of the District’s review of the permit holder’s request for a permit extension. Mr. Jeffery explained that an extension of the District’s review would provide the permit holder time until October 2 to come into compliance with its permit as approved or to show a good faith effort to do so.

Manager Ward asked what issues are not in compliance with the permit. Mr. Jeffery responded. Attorney Smith added that the permit was approved with the condition that storm water facilities be constructed,

and they have not. Mr. Jeffery noted that the permit holder is also in arrears with their permit fee additional costs.

Manager Crafton moved to approve the District's 60-day extension of the District's review of the permit extension request. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0.

Attorney Smith responded to questions about possible courses of action for the District if the permit does not come into compliance. He explained what happens in a violation hearing and following such a hearing.

g. Approve Permit 2018-005 Hampton Inn in Eden Prairie with Staff Recommendation

Mr. Jeffery commented that staff will present to the Board all permit applications until the two new RPBCWD Board members are in place and the Board decides which permits it wants presented.

Mr. Jeffery said that this permit triggers Rules C, D, and J. He explained that the buffers are not compliant with the District's rules and the applicant is requesting a variance. He pointed out the information on this permit and variance in the meeting packet. Mr. Jeffery provided detailed information about the buffers, the site, and the applicant's proposals.

Mr. Jeffery said that staff recommends approval of the variance and the permit.

Manager Chadwick moved to approve the variance request for permit 2018-005 based on the findings set forth in the staff report. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0.

Manager Chadwick moved to approve permit 2018-005 based on the findings and recommendations set forth by staff. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0.

h. Approve Permit 2018-038 Eden Prairie Senior Living -Variance Request and Permit with Staff Recommendations

Engineer Sobiech described the location of the property. He said the property owner is looking to combine three individual lots into a single lot to construct an apartment building with underground parking and an underground storm water management system.

Engineer Sobiech went through the Engineer's review of the permit application and proposed project. He said that the applicant is requesting a variance for rate control. Engineer Sobiech noted that for the abstraction the Engineer has a condition to the permit approval that the applicant collect an additional soil boring. He reported that the applicant has already undertaken the additional soil boring and it shows that there is sand material on the site.

Engineer Sobiech talked further about the variance request. He explained that the water runoff from the roof and streets will be routed to be collected in an underground chamber and then flow off site through an underground storm sewer to connect with an offsite storm sewer. Engineer Sobiech said that the reason the variance is needed in this case is because the applicant is changing where the storm water leaves the site.

There was discussion about the removal of trees for the project.

Manager Chadwick moved to approve the variance request for Permit 2018-038 based on the findings and recommendations of the District Engineer and staff. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0.

Manager Ward moved to approve Permit 2018-038 with the conditions recommended by staff. Manager

Crafton seconded the motion. Upon a vote, the motion carried 4-0.

Water Conservation Cost Share

Administrator Bleser described the cost share grant application the District has received from an Homeowner's Association. She said staff is asking guidance from the Board because this project is different from other applications received due to the project being for a smart-irrigation system. She wanted the Board to provide direction on whether this type of project falls under the District's cost-share grant program. Administrator Bleser noted that the program is open for applications for water conservation projects. Mr. Jeffery provided further details about the smart irrigation system and how it works.

There was lengthy discussion .

Administrator Bleser added that a public hearing is required for this cost share because it is a homeowners association cost share, so tonight staff is seeking guidance on whether the Board will entertain this type of cost-share application for water conservation via a smart irrigation system.

Administrator Bleser suggested that the Board ask the CAC to discuss this issue and provide feedback to the Board. The Board agreed and indicated that it feels like it would consider partially funding such a cost-share. The Board also requested that the District request the applicant provide information about other water conservation steps it would be willing to take.

Administrator Bleser said that she will present this cost-share application to the CAC for feedback at its meeting next week and at the same time she will contact the lead on the cost-share application to share the Board's feedback from tonight's discussion. Administrator Bleser stated that she will add to the District's August monthly meeting a public hearing for this cost-share grant application.

i. Permit 2018-026 Culver's with Staff Recommendations

Engineer Sobiech noted that staff handed out tonight information about this agenda item. He stated that the existing Culver's building located on Technology Drive is being torn down for the Southwest Light Rail Transit. Engineer Sobiech reported that the applicant is looking to construct a new Culver's building in the southwest corner of the Byerly's parking lot, adjacent to Prairie Center Drive.

Engineer Sobiech went through the Engineer's review of the permit application. He reported that based on the soil borings from the site there is evidence of petroleum contaminants on the site and for this reason the District Engineer recommends that the applicant does not infiltrate on the site. Engineer Sobiech talked about the permit fee for this application. He said that the applicant submitted the permit fee; however, there have been seven rounds of reviews for this application and the work has cost more than the \$1,500 permit fee already collected. Engineer Sobiech said that the District includes in its permit fee schedule an allowance for recovery of excess costs of reviews. He reported that collecting for these extra review costs in the amount of \$2,900 for this permit is one of the Engineer's conditions for approval.

Manager Chadwick moved to approve Permit 2018-026 Culver's with the conditions recommended by staff. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0.

j. Staff Report

Manager Chadwick had questions for staff about the Aveinda development and the District's letter to raise the point about the tension between the Wetland Conservation Act and the purpose of the watershed districts. Mr. Jeffery and Administrator Bleser responded.

Manager Crafton moved to accept the staff report. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0.

10. Discussion Items

a. Workshop on 2019 Budget

Administrator Bleser said that the workshop could be held immediately prior to the August monthly Board meeting or on a separate date. The Board agreed to holding the workshop the week of August 27 and Administrator Bleser will do an email poll of the managers to select the exact date.

b. August Board Meeting

Administrator Bleser noted that on August 1 there would not be enough managers in attendance for a quorum, so the August monthly board meeting will be changed to August 8 at 7 p.m.

c. Amending the Agenda

Manager Crafton moved to add to the meeting agenda election of officers to the RPBCWD Board of Managers. Manager Chadwick seconded the motion. Upon a vote, the motion carried 4-0.

d. Election of Officers to RPBCWD Board

Manager Crafton nominated Manager Ward as President of the Board of the RPBCWD. Manager Pedersen seconded the nomination. Upon a vote, the motion carried 3-0 [Manager Ward abstained from the vote.]

11. Upcoming Events

- Citizen Advisory Committee Meeting, Monday, July 16, 6, 6:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- RPBCWD Board of Managers Public Hearing and Regular Monthly Meeting, Wednesday, August 8, 7:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- Master Water Stewards Informational Session, Tuesday, August 7, 5:30 p.m.-6:30 p.m., Smith Coffee and Café, Eden Prairie

12. Adjourn

Manager Ward moved to adjourn the meeting. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0. The meeting adjourned at 9:23 p.m.

Respectfully submitted,

Richard Chadwick, Secretary