

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

July 10, 2019, RPBCWD Board of Managers Budget Workshop and Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

Dick Ward, President

David Ziegler, Secretary

Staff: Claire Bleser, RPBCWD Administrator

Michelle Jordan, Communication and Project Manager

Louis Smith, Attorney, Smith Partners

Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: Jan Callison, Hennepin Co. Commissioner* Pete Iversen, CAC*

Greg Hawks, Chanhassen Environment Lori Tritz, Chair, CAC*
Commission*

Amy Herbert, Recorder

*Indicates attendance at monthly meeting only

1. Call to Order

1 President Ward called to order the Wednesday, July 10, 2019, Board of Managers Budget Workshop Meeting at
2 5:30 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

2. Budget Workshop

3 Administrator Bleser introduced the draft 2020 District budget and levy. She pointed out that in the draft budget
4 table handed out, the yellow cells indicate areas in which the draft budget deviates from what is in the District's
5 10-year plan. She explained that the numbers in bold font in the table indicate the proposed increases.

6 Administrator Bleser said the only change to the structure of the budget document this year from last year is that
7 she has broken the chloride component in to two initiatives: Hennepin County Chloride Initiative and Lower
8 Minnesota River Grant Program. She provided more details about the grant program. She announced that the
9 proposed 2020 levy is \$3,703,000, which is a 2.8% increase over the 2019 levy. She went through the draft
10 budget line by line. She received comments from the managers and noted corrections and edits to be made to the
11 draft budget and the PowerPoint presentation. The Board agreed it wanted to see an updated version at the
12 Board's August monthly meeting. Administrator Bleser noted that the draft budget and levy will go to the CAC
13 on Monday, and staff will add the budget and levy to the Board's August meeting agenda. She said she will send
14 the managers updated documents in the next few weeks. Manager Ziegler asked her to calculate, for the August
15 meeting, what the proposed 2.8% increase in the levy means for the average taxpayer. Manager Pedersen

16 requested staff to put together a one-page document explaining about multi-year projects and fund holdovers to
17 accompany the budget and levy documents so taxpayers can understand about the fund carry-overs.

18 Manager Ziegler moved to adjourn the workshop. Manager Crafton seconded the motion. Upon a vote, the motion
19 carried 5-0.

20 President Ward announced that Manager Ziegler has been re-appointed to this Board by Hennepin County and
21 will serve a three-year appointment term, effective yesterday.

3. Call to Order

22 President Ward called to order the Wednesday, July 10, 2019, Board of Managers Monthly Meeting at 7:00 p.m.
23 at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

4. Approval of the Agenda

24 President Ward noted that Manager Koch has requested to remove from the Consent Agenda items 8a – Accept
25 Staff Report; 8b- Accept June Engineer’s Report (with attached Inspection Report); 8c – Award Lower Riley
26 Streambank Stabilization Project as presented in Engineer’s Recommendation Memo; 8f – Permit 2019-022
27 Woodcrest Place-Approve permit as presented in the proposed Board action of the permit report; and 8h –
28 Approve to Amend and Extend Website and Technical Agreement with HDR.

29 Manager Ziegler moved to accept the agenda as amended. Manager Crafton seconded the motion. Upon a vote,
30 the motion carried 5-0.

5. Hennepin County Update

31 Hennepin County Commissioner Jan Callison updated the Board on issues including news about the water
32 contamination around Big Island in Lake Minnetonka last week and the revised location plans for the Medical
33 Examiner office. She reported that the office is now planned to be situated on the southwest corner of the property
34 in Minnetonka because it will provide better access and less environmental impact. Commissioner Callison said
35 the plans will be presented to the City of Minnetonka soon. She announced that the Hennepin County Board of
36 Commissioners will likely vote at the end of this month on the issue of raising the double wheelage tax from \$10
37 to \$20. Commissioner Callison said the Board delayed taking action on this issue previously in order to gather
38 more information about the impacts of increase. She noted that the increased fee is estimated to raise
39 approximately \$10 million dollars, of which half would be used for road costs and half would be used for property
40 tax relief.

6. Matters of General Public Interest

41 There were no matters of general public interest raised.

7. Approval of Minutes

a. June 5, 2019, RPBCWD Board of Managers Regular Monthly Meeting

42 Manager Pedersen noted a correction on page 5, under section 8b, to change the word “proposes” to
43 “proposed,” so the sentence reads, “...to work through the proposed changes...” Manager Crafton moved
44

45 to accept the minutes as revised. Manager Pedersen seconded the motion. Upon a vote, the motion carried
46 5-0.

8. Citizen Advisory Committee (CAC)

47 Ms. Lori Tritz, CAC Chair, updated the Board about the CAC's previous meeting, explaining the main discussion
48 topic was the proposed rule changes. She reported the CAC supports the District's move to make the rules less
49 onerous. Ms. Tritz said the CAC had specific suggestions and provided those suggestions to Terry Jeffery and
50 documented them in the CAC's meeting minutes.

9. Consent Agenda

51 Manager Pedersen moved to accept the Consent Agenda as previously amended. Manager Ziegler seconded the
52 motion. Upon a vote, the motion carried 5-0. The items on the Consent Agenda included: 8d – Release St. Hubert
53 Plan Amendment; 8e – Approve Pay App #5 – Scenic Heights School of Forest Restoration; and 8g – Permit
54 2019-023 Minnetonka Library – Approve Permit as Presented in the Proposed Board Action of the Permit Report.

10. Action Items

a. Pulled Consent Agenda items

i. **Accept Staff Report**

56 Manager Koch asked if Administrator Bleser received information from an accounting firm for
57 which he provided her contact information. She responded no and that she received information
58 from other firms. He asked about data collection and specifically the zebra mussel monitoring
59 results, future plans for shoreline maintenance workshops, and lake surveys. Administrator Bleser
60 provided details about the zebra mussel data collection and noted that staff is waiting for lab
61 results. She provided details about plans for a fall workshop on healthy lakeshores and explained
62 how the Lotus Lake survey is part of the District's data collection, not the University of Minnesota
63 program, and about herbicide treatment considerations. Manager Koch moved to accept the staff
64 report as presented. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

ii. **Accept June Engineer's Report (with attached inspection report)**

66 Manager Koch asked if the Lake Susan spent lime treatment project is operational. Engineer
67 Sobiech replied it is not and will not be until materials can be replaced, which would need to
68 happen when the ground is frozen to access the site. Manager Koch also commented that he would
69 like the District to track permit issues and to figure out a way the District can charge the permit
70 holders for their violations regarding District costs and time spent on such issues. Manager Ziegler
71 moved to accept the June Engineer's Report as submitted. Manager Crafton seconded the motion.
72 Upon a vote, the motion carried 5-0.

iii. **Award Lower Riley Streambank Stabilization Project as Presented in Engineer's Recommendation Memo**

74 Engineer Sobiech noted that the managers have in front of them staff's recommendation to award
75 the contract for the project to Rachel Contracting Inc. Engineer Sobiech talked about the bid
76 process, the bid alternate, which was in conjunction of the City of Eden Prairie for installing a
77 pedestrian bridge, the bids received, the recommendation for awarding the bid, and next steps.
78
79

80 Engineer Sobiech and Attorney Smith responded to questions, including questions about
81 retainage. Manager Koch moved and Manager Ziegler seconded the motion to approve awarding
82 the contract to Rachel Contracting Inc., as set forth in the Engineer’s Memo, to:

- 83 • Award the project to Rachel Contracting, Inc. at the bid price of \$1,651,247.04, which
84 includes the base bid price of \$1,520,497.04 and the alternative bid item price of
85 \$120,750.00.
- 86 • Authorize the Administrator to sign the notice of award, as well as the form of agreement
87 and notice to proceed on satisfaction of all conditions precedent for each.
- 88 • Authorize the administrator to execute change orders increasing the contract price up to an
89 aggregate total of 10% of the contract amount as necessary to implement the project as
90 ordered.

91 Upon a vote, the motion carried 5-0.

92 iv. **Permit 2019-022 Woodcrest Place – Approve permit as presented in the proposed**
93 **Board action of the permit report**

94 Manager Koch recommended adopting the resolution set forth in the permit review report
95 included in the meeting packet, with the one caveat that the permit fee be documented as
96 comprising an application fee and a field inspection fee as provided under Minnesota statutes and
97 is documented as being referred to by the District as “the permit fee.” Attorney Smith said it is a
98 semantic issue and it is the Board’s discretion to use the language it wants.

99 Manager Ziegler moved to approve permit 2019-022 as recommended by staff and including the
100 recommendations by Manager Koch. Manager Koch seconded the motion. Upon a vote, the
101 motion carried 5-0.

102
103 v. **Approve to Amend and Extend Website and Technical Agreement with HDR**

104 Manager Koch asked if the agreement has been reviewed by Legal Counsel. Administrator Bleser
105 said the agreement that is in existence will be updated to the new language being adopted with the
106 rest of the District’s professional services agreements, which are currently undergoing those
107 updates. Manager Koch remarked he is not happy with the District’s website because it is too
108 difficult to find information on it and does not represent the District well. He said he wants legal
109 counsel to make sure the District owns all the intellectual property rights for the website and its
110 contents. There was a lengthy discussion about the website, the CAC’s involvement in the recent
111 website update, how HDR had been selected to design and continue to do the District’s website
112 work, and that it is helpful for managers to share their comments with staff and the CAC regarding
113 what is not working on the website.

114 Manager Koch moved to amend the contract and extend it month-to-month during the time that
115 staff solicits comments on the website. The motion failed due to lack of a second. Manager
116 Pedersen moved to approve accepting the agreement with HDR to amend and extend the website
117 and technical agreement with HDR to July 15, 2020 as proposed. Manager Crafton seconded the
118 motion. Manager Koch moved to amend the motion to revise the proposed agreement with the
119 District’s new template for its contracts. Manager Ziegler seconded the motion. President Ward
120 asked if any staff knows if the contract is valid at this moment. Staff indicated they did not know.
121 Upon a vote, the motion to amend the motion carried 5-0. President Ward called the question on

the amended motion. Upon a vote, the motion carried 5-0.

b. Accept May Treasurer’s Report

Treasurer Crafton communicated that the report has been reviewed in accordance with the District’s internal controls and procedures. She moved to accept the Treasurer’s Report as presented. Manager Ziegler seconded the motion. Manager Koch asked a series of questions about the report, including asking for more details about the adjustments listed on the bottom of page 1. Manger Crafton provided an explanation. Manager Koch also asked about a large expense categorized under Miscellaneous. Administrator Bleser explained it was the property purchase for the flood mitigation project, but the District does not have an accounting code for property purchases. The Board directed staff to set up an accounting code for real estate property purchases. Upon a vote, the motion carried 4-1 [Manager Koch voted against the motion].

c. Approve Paying of Bills

Manager Crafton moved to pay the bills. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

d. Adoption of Per Diem Resolution

President Ward explained that Minnesota Governor Tim Waltz signed into law a provision that increased the compensation for watershed district managers for meetings and for performance of other necessary duties from \$75 to \$125 per day, effective July 1, 2019. Manager Koch moved to approve Resolution 2019-018 Adopting 2019 Per Diem Rate. Manager Ziegler seconded the motion.

By call of roll, the motion carried 5-0.

<i>Manager</i>	<i>Aye</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Crafton	X			
Koch	X			
Pedersen	X			
Ward	X			
Ziegler	X			

Administrator Bleser asked the Board to clarify its position on per diems in terms of managers attending city council meetings. The Board discussed per diems and agreed it needs to have the guidelines in place. Attorney Smith stated that the Board will want such activities approved by the Board ahead of time and suggested that legal counsel and staff draft language to bring to the Board. Administrator Bleser noted that the District’s Bylaws state that pre-approval is needed. The Board agreed that legal counsel and staff should draft additional guidelines on per diems and bring the issue back to the Board.

e. Consider Variance Requests Associated with Permit Application 2019-001 The Park South

President Ward noted that this item and the next item on the agenda relate to The Park South development, which is a 156-acre site and the proposal is to build 138 homes. Engineer Sobiech displayed

151 a PowerPoint map of the project location and summarized the project. He provided a rule compliance
152 summary and focused this report on the six variance requests.

153 Engineer Sobiech went through in detail each of the six variance requests:

154 Variance 1: Compensatory storage within same floodplain;

155 Variance 2: Landlocked basin low-floor elevation;

156
157 Variances 3, 4, 5: Required dead storage volume, no existing structure on infrastructure is at risk and
158 proposed outlet is no part of a comprehensive plan;

159 Variance 6: Wetland protection – inundation duration and runoff.

160 Engineer Sobiech described his review for each of the variance requests and the technical basis on which
161 the managers can rely on regarding granting the requested variances.

162 Manager Koch moved adoption of the six variances based on the technical basis presented by Engineer
163 Sobiech and pursuant to Rule K, in order for the district to grant a variance from strict compliance with
164 the requirement of a District Rule, the Board of Managers must find that, based on demonstration by the
165 applicant, that because of unique conditions inherent to the subject property, which do not apply generally
166 to other land or structures in the Riley-Purgatory Bluff Creek watershed, strict application of rule
167 provision will impose a practical difficulty on the applicant, not a mere inconvenience.

168 For purposes of the Board of Managers' determination of whether a practical difficulty exists, the
169 following factors will be considered:

- 170 1.1 How substantial the variation is from the rule provision;
- 171 1.2 The effect of the variance on government services;
- 172 1.3 Whether the variance will substantially change the character of or cause material adverse effect to
173 water resources, flood levels, drainage or the general welfare in the District, or be a substantial
174 detriment to neighboring properties;
- 175 1.4 Whether the practical difficulty can be alleviated by a technically and economically feasible method
176 other than a variance;
- 177 1.5 Economic hardship alone may not serve as grounds for issuing a variance if any reasonable use of the
178 property exists under the terms of the District rules.
- 179 1.6 How the practical difficulty occurred, including whether the landowner, the landowner's agent or
180 representative, or a contractor, created the need for the variance; and,
- 181 1.7 In light of all of the above factors, whether allowing the variance will serve the interest of justice;
- 182

183 Now therefore, the Board, having considered the information provided by the applicant and the
184 factors to be considered in determining whether a practical difficulty, as well as the staff report
185 regarding the application for a variance, hereby grants the variances as set forth in the applications.

186 Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

187 **f. Consider Approval of Permit Application 2019-001 for the Park South Development in Chanhassen**
188 **as presented in the Proposed Board Action of the Permit Report**

189 Engineer Sobiech noted he presented his permit review and the Engineer's recommendations during the
190 discussion of the previous agenda item regarding the variance requests, and he displayed a PowerPoint

191 slide listing the recommendations. He explained that this is a two-year permit term because the developer
192 anticipates Park South won't be fully built out until December of 2021. Engineer Sobiech again
193 summarized the Engineer's recommendations, including that the amount of the financial assurance is
194 \$476,613.

195 Manager Koch moved to approve the resolution set forth in the staff report and subject to the conditions
196 and stipulations set forth in the recommendations. Manager Ziegler seconded the motion. Upon a vote, the
197 motion carried 5-0.

198 **g. Select District Auditor for 2019**

199 Administrator Bleser said that in June she solicited proposals from three auditing firms that were
200 recommended to her by other watershed districts, and two of those firms submitted proposals by July 1
201 and their proposals are included in the meeting packet. She explained that the third firm, MMKR, hasn't
202 submitted a proposal. Administrator Bleser added that Manager Koch also offered a suggestion of a firm,
203 but not until July 1, at which point she had already received the two proposals in time for the Board
204 packet.

205
206 Manager Koch moved to give the other accounting firms an opportunity to submit their proposals and to
207 authorize him to interview the partners in charge specifically about their process having to do with the
208 legal checklist required by the state auditor. The motion failed due to lack of a second.

209
210 There was a lengthy discussion about how to proceed, the Administrator's discussion with and impression
211 of the two firms that submitted proposals, and the firms' proposals. Manager Ziegler moved to postpone
212 the decision for a month or so until the District receives feedback from staff about the request for
213 proposals from the firm Manager Koch suggested and any other appropriate firms. Manager Koch
214 seconded the motion. Upon a vote, the motion carried 4-1 (Manager Crafton voted against the motion).

11. Discussion Items

215 **a. Manager Report on MAWD Summer Tour**

216 Managers Koch and Crafton reported about the tour and their experiences and learnings.

217 **b. Report from Personnel Committee**

218 President Ward noted that the Personnel Committee report is in the meeting packet.

219 **c. Lake Service Provider Survey**

220 Administrator Bleser said the survey summary is included in the meeting packet. She pointed out that the
221 results from the survey led staff to take action to try to extend AIS inspections and have inspections in
222 October, when there is a lot of lake activity taking docks out of lakes. Administrator Bleser talked about
223 the database the District has constructed to be able to send information to lake service providers,
224 reminding them of the importance of decontaminating equipment. She mentioned the next survey staff
225 will send out. She said it will target lake associations and local governmental units regarding what their
226 contributions would be in terms of rapid response to aquatic invasive species.

227 Administrator Bleser highlighted that in the survey collected, several people added comments about the
228 water level in Duck Lake in terms of being in favor of higher water levels on the lake. Manager Pedersen
229 said per information on the Department of Natural Resources website, only two lake service providers
230 have gone to the decontamination certification, and in communications with the providers, the District

231 could remind the providers about the certification workshops. Manager Koch shared about a conversation
232 he had with the two heads of Minnesota's Natural Resources Committee regarding how currently under
233 the law there are no means by which to punish lake service provider companies as opposed to the
234 employees. He said those two asked the District to pull together the information for possible legislative
235 action and noted that this topic is something the Board might want to consider for a MAWD resolution.

236 **d. Anniversary Event August 28**

237 Administrator Bleser reminded the Board of the District's anniversary celebration and celebration of
238 community event coming up on August 28 at the Riley Jacques Barn in Eden Prairie.

239 **e. BWSR Annual Report**

240 President Ward announced that there is a Board of Water and Soil Resources (BWSR) letter in the Board
241 packet. He said BWSR is recognizing the District in terms of performance and called out three specific
242 things. President Ward commented this recognition a great reflection upon the District's staff and the
243 overall efforts of the watershed district.

244 **f. MAWD 2019 Resolution Request**

245 President Ward announced that the deadline for districts to submit resolution requests is September 1. He
246 asked managers to send to Administrator Bleser any resolution suggestions so they can be included and
247 discussed at the Board's August monthly meeting.

248 **g. MAWD Governance Workshop September 12-13**

249 Administrator Bleser stated that MAWD is planning a two-day workshop in Bloomington on September
250 12th and 13th on the topic of governance. She said she will forward to the managers additional details
251 when she receives them.

252 **h. Lakeshore Field Survey Update**

253 Administrator Bleser reminded the Board it had directed staff to see if it was possible to conduct some
254 type of survey on how the watershed's lakeshores are doing. She said that with the staff's current
255 workload, it is an endeavor staff won't be able to undertake this field season, but it is something staff
256 could explore doing for next year's field season. The Board agreed it would like staff to explore it for next
257 year's field season.

12. Upcoming Board Topics

258 President Ward noted that upcoming Board topics are listed on the agenda and include a public hearing in
259 August on the Silver Lake Water Quality Improvement Project and the topic of rules revisions, which is
260 targeted to be on the August meeting agenda.

261 Administrator Bleser took time during this part of the meeting to commend District staff Josh Maxwell
262 and Zac Dickhausen for their recent efforts assisting a trio of youth who had capsized their kayak on
263 Staring Lake. She said Mr. Maxwell called 9-1-1, and Mr. Dickhausen took a spare life vest via a kayak
264 out on to the lake and out to the children, one of whom did not have a life vest. Administrator Bleser said
265 the youth had seen the staff's bright yellow jackets and yelled for staff's attention. The Board commended
266 the actions of Mr. Maxwell and Mr. Dickhausen and provided Administrator Bleser with suggestions of
267 other elements of recognition that the District could pursue.

13. Upcoming Events

- 269 • Walk with the Watershed, July 12th, noon-1:00 p.m., Bluff Creek Trail
- 270 • Citizen Advisory Committee Meeting, July 15, 6:00 p.m., District Office, 18681 Lake Drive East,
271 Chanhassen
- 272 • Personnel Committee Meeting, July 15, District Office, 18681 Lake Drive East, Chanhassen
- 273 • Master Water Steward Informational Session, July 23, 6:00-7:00 p.m., Smith Coffee House, Eden Prairie
- 274 • Smart Salting for Property Managers, July 24, 9:00 a.m.-1:30 p.m., District Office, 18681 Lake Drive East,
275 Chanhassen
- 276 • Wetland Walk, July 31, 6:00 p.m.-8:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- 277 • Project WET, August 6, 9:00 a.m.-3:00 p.m., Nine Mile Creek Watershed District
- 278 • RPBCWD Board of Managers Monthly Meeting, August 7, 7:00 p.m., District Office, 18681 Lake Drive
279 East, Chanhassen
- 280 • Smart Salting for Property Managers, August 21, 9:00 a.m.-1:30 p.m., District Office, 18681 Lake Drive East,
281 Chanhassen
- 282 • Celebrating the Community, August 28, Riley Jacques Barn, Eden Prairie

14. Adjourn

283 Manager Pedersen moved to adjourn the meeting. Manager Crafton seconded the motion. Upon a vote, the motion
284 carried 5-0. The meeting adjourned at 9:09 p.m.

285
286
287
288 Respectfully submitted,

289
290 _____
291 David Ziegler, Secretary