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*
Greg Hawks, Chanhassen Environment Commission*
Amy Herbert, Recorder
*Indicates attendance at monthly meeting only

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

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

Administrator Bleser said the only change to the structure of the budget document this year from last year is that she has broken the chloride component in to two initiatives: Hennepin County Chloride Initiative and Lower Minnesota River Grant Program. She provided more details about the grant program. She announced that the proposed 2020 levy is $3,703,000, which is a 2.8% increase over the 2019 levy. She went through the draft budget line by line. She received comments from the managers and noted corrections and edits to be made to the draft budget and the PowerPoint presentation. The Board agreed it wanted to see an updated version at the Board’s August monthly meeting. Administrator Bleser noted that the draft budget and levy will go to the CAC on Monday, and staff will add the budget and levy to the Board’s August meeting agenda. She said she will send the managers updated documents in the next few weeks. Manager Ziegler asked her to calculate, for the August meeting, what the proposed 2.8% increase in the levy means for the average taxpayer. Manager Pedersen
requested staff to put together a one-page document explaining about multi-year projects and fund holdovers to accompany the budget and levy documents so taxpayers can understand about the fund carry-overs.

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

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

### 3. Call to Order

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

### 4. Approval of the Agenda

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

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

### 5. Hennepin County Update

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

### 6. Matters of General Public Interest

There were no matters of general public interest raised.

### 7. Approval of Minutes

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

Manager Pedersen noted a correction on page 5, under section 8b, to change the word “proposes” to “proposed,” so the sentence reads, “…to work through the proposed changes…” Manager Crafton moved
to accept the minutes as revised. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

8. Citizen Advisory Committee (CAC)

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

9. Consent Agenda

Manager Pedersen moved to accept the Consent Agenda as previously amended. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0. The items on the Consent Agenda included: 8d – Release St. Hubert Plan Amendment; 8e – Approve Pay App #5 – Scenic Heights School of Forest Restoration; and 8g – Permit 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

Manager Koch asked if Administrator Bleser received information from an accounting firm for which he provided her contact information. She responded no and that she received information from other firms. He asked about data collection and specifically the zebra mussel monitoring results, future plans for shoreline maintenance workshops, and lake surveys. Administrator Bleser provided details about the zebra mussel data collection and noted that staff is waiting for lab results. She provided details about plans for a fall workshop on healthy lakeshores and explained how the Lotus Lake survey is part of the District’s data collection, not the University of Minnesota program, and about herbicide treatment considerations. Manager Koch moved to accept the staff 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)

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

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

Engineer Sobiech noted that the managers have in front of them staff’s recommendation to award the contract for the project to Rachel Contracting Inc. Engineer Sobiech talked about the bid process, the bid alternate, which was in conjunction of the City of Eden Prairie for installing a pedestrian bridge, the bids received, the recommendation for awarding the bid, and next steps.
Engineer Sobiech and Attorney Smith responded to questions, including questions about retainage. Manager Koch moved and Manager Ziegler seconded the motion to approve awarding the contract to Rachel Contracting Inc., as set forth in the Engineer’s Memo, to:

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

Upon a vote, the motion carried 5-0.

iv. Permit 2019-022 Woodcrest Place – Approve permit as presented in the proposed Board action of the permit report
Manager Koch recommended adopting the resolution set forth in the permit review report included in the meeting packet, with the one caveat that the permit fee be documented as comprising an application fee and a field inspection fee as provided under Minnesota statutes and is documented as being referred to by the District as “the permit fee.” Attorney Smith said it is a semantic issue and it is the Board’s discretion to use the language it wants.

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

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

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

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

Variance 1: Compensatory storage within same floodplain;

Variance 2: Landlocked basin low-floor elevation;

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

Variance 6: Wetland protection – inundation duration and runoff.

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

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

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

1.1 How substantial the variation is from the rule provision;

1.2 The effect of the variance on government services;

1.3 Whether the variance will substantially change the character of or cause material adverse effect to water resources, flood levels, drainage or the general welfare in the District, or be a substantial detriment to neighboring properties;

1.4 Whether the practical difficulty can be alleviated by a technically and economically feasible method other than a variance;

1.5 Economic hardship alone may not serve as grounds for issuing a variance if any reasonable use of the property exists under the terms of the District rules.

1.6 How the practical difficulty occurred, including whether the landowner, the landowner’s agent or representative, or a contractor, created the need for the variance; and,

1.7 In light of all of the above factors, whether allowing the variance will serve the interest of justice;

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

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

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

Engineer Sobiech noted he presented his permit review and the Engineer’s recommendations during the discussion of the previous agenda item regarding the variance requests, and he displayed a PowerPoint map of the project location and summarized the project. He provided a rule compliance summary and focused this report on the six variance requests.
slide listing the recommendations. He explained that this is a two-year permit term because the developer anticipates Park South won’t be fully built out until December of 2021. Engineer Sobiech again summarized the Engineer’s recommendations, including that the amount of the financial assurance is $476,613.

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

g. Select District Auditor for 2019

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

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

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

11. Discussion Items

a. Manager Report on MAWD Summer Tour

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

b. Report from Personnel Committee

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

c. Lake Service Provider Survey

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

Administrator Bleser highlighted that in the survey collected, several people added comments about the water level in Duck Lake in terms of being in favor of higher water levels on the lake. Manager Pedersen said per information on the Department of Natural Resources website, only two lake service providers have gone to the decontamination certification, and in communications with the providers, the District
could remind the providers about the certification workshops. Manager Koch shared about a conversation he had with the two heads of Minnesota’s Natural Resources Committee regarding how currently under the law there are no means by which to punish lake service provider companies as opposed to the employees. He said those two asked the District to pull together the information for possible legislative action and noted that this topic is something the Board might want to consider for a MAWD resolution.

d. Anniversary Event August 28
Administrator Bleser reminded the Board of the District’s anniversary celebration and celebration of community event coming up on August 28 at the Riley Jacques Barn in Eden Prairie.

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

f. MAWD 2019 Resolution Request
President Ward announced that the deadline for districts to submit resolution requests is September 1. He asked managers to send to Administrator Bleser any resolution suggestions so they can be included and discussed at the Board’s August monthly meeting.

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

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

12. Upcoming Board Topics

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

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

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

14. Adjourn

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

Respectfully submitted,

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David Ziegler, Secretary