

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

November 1, 2017, Board of Managers Plan Workshop and Monthly Meeting

PRESENT:

Managers: Richard Chadwick, Secretary

Jill Crafton, Treasurer

Dorothy Pedersen, Vice President

Dick Ward

Leslie Yetka, President*

Staff: Claire Bleser, District Administrator

Zach Dickhausen, Water Resources Technician

Terry Jeffery, Project and Permit Coordinator

Michelle Jordan, Community Outreach Coordinator

Josh Maxwell, Water Resources Coordinator

Louis Smith, Attorney (Smith Partners)

Scott Sobiech, Engineer (Barr Engineering Company)

Other attendees: Adam Besse, LHB, Inc. *

Sharon McCotter, CAC*

Paul Bulger, CAC, Eden Prairie Resident

Dave Modrow, City of Eden Prairie*

Peter G. Inversen, Eden Prairie Resident

Laurie Susla, LLCA President*

Larry Koch, Chanhassen Resident

David Ziegler, CAC

*Indicates attendance at the monthly board meeting but not the plan workshop

1. Workshop

President Yetka called to order the Wednesday, November 1, 2017, Board of Managers Plan Workshop at 5:39 p.m. in the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

a. 10-Year Plan

Administrator Bleser reported that the District is in the final steps of its 10-year plan drafting process. She said that the complete draft is in the binder she handed out to managers. She talked further about the draft plan's Executive Summary, content, and format.

Administrator Bleser updated the Board about the meeting that District staff held the previous day with the Minnesota Pollution Control Agency about MS4s' wasteload allocations for watershed district projects. She reminded the Board that the TAC requested the District to look into how MS4s can get credit for watershed projects. She summarized the MPCA's message that the credit goes to the city in which the project is located. Administrator Bleser said that the District could pursue the conversation further by going to the MPCA's Stormwater group.

Administrator Bleser highlighted a new section in the draft plan: section 9.16, which addresses coordination with the MPCA. Administrator Bleser used PowerPoint slides to display the new section as

well as the PRAP Level II review form and the RPBCWD project report card template.

Engineer Sobiech noted that the appendices were provided to the Citizens Advisory Committee (CAC) and that the CAC provided feedback to staff. Administrator Bleser noted that at tonight's monthly meeting, the Board will have opportunity to provide comments on the final draft plan and staff will be seeking authorization to release the plan for review. She said that an informational meeting will be scheduled to update residents and stakeholders about the final draft plan and the process undertaken and next steps. Administrator Bleser announced that a hard copy of the plan is available in the District's office and will be posted on the District's website. She noted that people will be able to provide feedback online about the plan.

b. Rules Update

Terry Jeffery stated that he has been working with Attorney Michael Welch on the proposed rules updates. He said that the intention of this work is to clear up language and address issues with the rules. Mr. Jeffery went through the proposed changes rule by rule, including changes to the following rules:

- Rule B; Floodplain Management and Drainage Alterations
- Rule C: Erosion Prevention: Sediment Control
- Rule D: Wetland and Creek Buffers
- Rule F: Shoreline and Streambank Stabilization
- Rule J: Stormwater Management

There was a lengthy discussion about chloride use and management and property owners' concerns about accident liability. Attorney Smith talked about legislation being introduced that proposes to address that liability for snow removal contractors if they are certified and follow best management practices. He suggested the Board, staff, and TAC think about the issue of requiring salt application training and the issue of enforcement.

Mr. Jeffery noted that the proposed rules updates will be presented to the TAC on November 15, the CAC on November 27, and then will come in front of the Board at its December 6th monthly meeting. He said he anticipates that on December 15th the SONAR will be updated for internal review, on January 3, 2018, the Board will be asked to authorize distribution of the proposed rules updates, on February 7th the Board will hold a public hearing on the proposed updates, and on March 7 the Board will take action on the rules and if adopted, the rules could take effect on April 1, 2018.

Manager Ward moved to adjourn the workshop. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0. The workshop adjourned at 6:34 p.m.

2. Monthly Board Meeting Call to Order

President Yetka called to order the Wednesday, November 1, 2017, Board of Managers Monthly Meeting at 7:02 p.m. in the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

3. Approval of the Agenda

Attorney Smith requested the addition of his report on his review of the letter of auditing services agreement from Redpath and Co. President Yetka added it as item 9i. She also added an update of the CAC appointment process

as item 9j. Manager Pedersen moved to approve the agenda as submitted. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

4. Public Comment to Board on RPBCWD's 2018 Levy and Budget

Mr. Larry Koch of Bighorn Drive, Chanhassen, said he would like to repeat the concerns he raised at last month's Board meeting. He said he was concerned about the District's budget for Education and Outreach. Mr. Koch stated that the budget description for the Education and Outreach line item lacked the description to justify the budget amount set. He said that the District should only authorize budgeting funds that are identified for specific items. Mr. Koch stated that the 6% increase in the 2018 budget over last year's budget is excessive. He said it is difficult to make budget decisions without information on what the District will spend in the remainder of 2017 and that such information could be used to reflect on the appropriateness of the 2018 budget. He raised the issue of designating funds as restricted or non-restricted and pointed out that the District's Governance Manual requires the District to have a fund balance report.

Ms. Laurie Susla of Dakota Avenue, Chanhassen, commented that the insurance and bonds line item, line 3, has \$12,000 budgeted for 2018 but there is \$6,400 remaining of its 2017 budget. Ms. Susla remarked that budget line item 9, permit reviews and inspections, may need another look given the 2017 expenditures. She wondered if the 2018 Education and Outreach budget of \$115,000 is appropriate since in 2017 \$114,000 was budgeted and only \$55,000 has been spent. She asked for more information about line 51, the Riley Creek Restoration Reaches E and D3, and how the numbers on the project work. Ms. Susla stated that she thinks that since the District has \$4 million in the bank it could get by without increasing the 2018 levy over 2017. She agreed with Mr. Koch that it is important to have all the information in order to make budget decisions and is necessary to have the information about projected year-end expenditures.

Mr. Paul Bulger of Southlawn Road in Eden Prairie said he shares Mr. Koch's concerns about justifying the amounts budgeted for the coming year based on the prior year's expenditures. He said he is in favor of the District's Education and Outreach efforts and would like to see them increase. Mr. Bulger remarked that he is in favor of the new budget line items for ground water and wetland protection. He said it is important to have the details to back up the numbers. Mr. Bulger said that the Education and Outreach annual plan could be added to the budget as an appendix.

Administrator Bleser responded to comments, noting that the Riley Creek Restoration Project is a multi-year project with an estimated cost of \$1.5 million. She pointed out that the total amount in the District's reserves is not available for projects. She went into detail about how the funds in the District's reserves are earmarked including \$1.65 million for multi-year projects and \$1.3 million for current year projects plus half of the next year's budget. She responded to questions.

Attorney Smith reminded the Board that it doesn't need to take any action because in September the Board acted to adopt its 2018 budget and certify its levies. He said the Board could take into consideration comments received tonight and any other comments and in December take action to reduce the budget and levy or take no action.

5. Matters of General Public Interest

President Yetka read aloud the procedures for this portion of the meeting and opened the floor for matters of general public interest.

Ms. Laurie Susla, Chanhassen resident, thanked District staff for identifying the Brittle naiad in Lotus Lake and quickly responding with an herbicide to treat it. She stated that the Lotus Lake Conservation Association (LLCA) is hoping to get homeowner buy-in about micro-projects that could take place around Lotus Lake. Ms. Susla said that there are a lot of areas around the lake where untreated storm water enters the lake and the group is holding a meeting in February to talk further about possible projects.

Mr. Paul Bulger, Eden Prairie resident and CAC member, commented that two permit applications in tonight's meeting packet have reuse components, which he supports. He said he encourages the District to promote more of those types of components in projects. Mr. Bulger noted that the permit review report's language about the annual reporting on the reuse system seemed passive and reactive. He encouraged the District to develop a best practice or template to guide applicants through the reporting process. Mr. Bulger also voiced his concern about the disclaimer included in language about the system reusing water for flush toilets. He encouraged the District to have prior arrangements with the cities so all parties could support such projects.

Mr. Larry Koch, Chanhassen resident, thanked staff for responding to the Brittle Naiad issue.

6. Reading and Approval of Minutes

a. October 4, 2017, RPBCWD Board of Managers Monthly Meeting

Manager Crafton requested a change on page 3, changing the number from 15 to 5. She also noted that the correct the ending date of the MAWD meeting is December 2, not December 1 as listed on page 6.

Manager Pedersen requested the removal of the word "is" on page 2 under item C. She requested the rewording of the sentence on page 1, item a, to more clearly state that the Board discussed that the rocks are not needed to prevent erosion.

Manager Ward moved to approve the September 6, 2017, meeting minutes as amended. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

7. Consent Agenda

Manager Chadwick requested the removal of Consent Agenda item a - Accept Staff Report. President Yetka added the item as Action items 9k. She removed Consent Agenda item c "Approve Permit 2017-069: Scheels with Staff Recommendation and added it as Action item 9l. President Yetka read aloud the Consent Agenda: item b. Accept Engineer's Report (with attached inspection Report).

Manager Ward moved to approve the Consent Agenda as amended. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

8. Citizen Advisory Committee (CAC)

Mr. Ziegler, CAC President, reported that the committee discussed CAC-member term lengths. He said that the CAC feels that a one-year term length is appropriate and doesn't cause any problems. Mr. Ziegler said that the CAC thinks it is a problem for members who want to continue serving beyond the year to have to reapply. He said the CAC would like its members who want to continue for the following year to be able to email staff member Michelle Jordan to indicate interest and for that email to serve as the reapplication. Mr. Ziegler noted that the CAC application states that CAC members need to attend 50% of the meetings but the bylaws state attendance is required at 2/3s of the meetings. He asked that the application be changed to reflect the bylaws. He reported that the CAC reviewed the amendments to the draft 10-year plan and is in favor of the direction of the

plan draft. Mr. Ziegler requested that the CAC receive a copy of the Plan's Executive Summary so the CAC can discuss it at its next meeting.

9. Action Items

a. Accept Treasurer's Report

Manager Crafton stated that as per the District's internal controls and procedures, the Administrator and Treasurer reviewed the report. She went through the points of explanation from the accountant. Manager Chadwick reported that there were four fraudulent charges on the District's KleinBank credit card and that KleinBank is reversing the charges and issuing the District a new card. She moved to accept the Treasurer's Report as presented. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

b. Approve Paying of Bills

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

c. Chanhassen Comprehensive Plan

Administrator Bleser explained that the City of Chanhassen's Comprehensive Plan refers to its Local Surface Water Management Plan (LSWMP), which won't be available until 2018. She said that the District staff can't review the City's Comprehensive Plan until it's complete by including the LSWMP. Administrator Bleser requested Board authorization to send a letter tomorrow communicating this information to City of Chanhassen. She noted that the draft letter is in the Board packet.

Manager Ward moved to direct Administrator Bleser to send the letter to the City of Chanhassen. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

d. Permit 2017-039: Mission Hills Senior Living with Staff Recommendation

Engineer Sobiech noted that some of the managers were on the Board when this permit application was approved originally in 2015. He said that the applicant did not move forward with fulfilling any of the conditions of the permit and let the conditional approval expire. The applicant has submitted a new permit application and has made modifications to the site plan including changing the size of the building, adding features, and moving features around. Engineer Sobiech went through the Engineer's review of the plan. He noted that it took additional staff time to review components due to the review extension requests from the applicant. Engineer Sobiech explained that for this reason, the District's excess cost and recovery provision is activated for this review. He stated that he recommends approval of the permit with the conditions, as listed in the review memo, of financial assurance, excess cost recovery, identify who is responsible for erosion control, add soil boring information for basins 2, 3, and 4, and finalization of the maintenance declaration and recorded it on the property. There was discussion about the abstraction needs for the site and the plan for monitoring and reporting on the project's reuse system for irrigation.

Manager Chadwick moved to approve the permit based on the Engineer's findings, recommendations, and conditions as described. Managers Pedersen and Yetka asked questions and Engineer Sobiech responded. Manager Ward seconded the motion. Upon a vote, the motion carried 5-0. The Board directed staff to bring back in front of the Board in one year the topic of reporting for reuse systems.

e. Approve 10-Year Plan for release

Manager Crafton moved to release the 10-year plan for comment. Manager Pedersen seconded the

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

f. Scenic Heights School Forest Restoration

Administrator Bleser stated that this item is an informational update. She said that bids have come in and are lower than estimated. She reported that District staff is working with the school district on fine tuning the Cooperative Agreement. Administrator Bleser said the Agreement will go in front of the school board tomorrow and pending the school board's approval, the Agreement should come in front of this Board at its December monthly meeting. She reported that the school district is in favor of contributing the \$45,000 to the three-year project but is concerned about what to do in the case that maintenance needs arise that beyond what the school district could cover through its in-kind effort. The school district is asking the RPBCWD to consider a 50%-50% match of cash services for such maintenance. Administrator Bleser stated that staff suggests the RPBCWD set a cap of \$5,000 annual match, which would be funding up to \$50,000 over the next 10 years. She explained that staff doesn't foresee that much maintenance for this project.

Manager Ward raised the issue of setting a precedent for funding long-term maintenance of projects. Attorney Smith recommended that the Board make clear, as a policy matter, in what kind of cases it is appropriate to fund project maintenance. Manager Ward asked what would happen if the RPBCWD agreed to move forward with the project but not agree to contribute to the long-term maintenance. Administrator Bleser said it might kill the project. There was discussion. Attorney Smith summarized the discussion and the issues in front of the Board.

Manager Ward moved that for the Scenic Heights Elementary School Forest Restoration Project the District commit to a 50-50 cost sharing basis at a cap of \$5,000 per annum for a 10-year commitment for a total maximum exposure of \$50,000. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

g. Approve Release of 2017 Annual Communication

Administrator Bleser noted that the draft annual communication is in the meeting packet and every two years the communication is a calendar. She noted some changes that will be made to it, and she asked for managers' comments to be provided to her or Michelle Jordan by the next week and asked for authorization to print and distribution the final version of the communication. Manager Ward moved to approve the release of the final version of the annual communication. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

h. MAWD Delegates and Resolutions

Manager Crafton moved to appoint Manager Crafton and Manager Pedersen as delegates and Manager Chadwick as alternate delegate for the upcoming MAWD meeting. Manager Chadwick seconded the motion. Upon a vote, the motion carried 5-0.

Administrator Bleser introduced the resolutions and explained that these are the resolutions that delegates will be taking action on at the MAWD annual meeting. She noted that she anticipates another resolution coming from Nine Mile Creek about chloride. She and Attorney Smith provided more information about the anticipated resolution and the motivation behind it.

The Board took action on each resolution as follows:

- Manager Crafton moved to not support the resolution aligning commercial carp fishing regulations with Clean Water goals and promoting markets for invasive carp. Manager Pedersen

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

- Manager Crafton moved to support the resolution to limit the terms of service of Board members to three consecutive terms. Manager Ward seconded the motion. Upon a vote, the motion carried 5-0.
- Manager Crafton moved to not support as this time the resolution that the MAWD Board composition includes Administrators. Manager Chadwick seconded the motion. Upon a vote, the motion carried 5-0.
- Manager Crafton moved to not support the resolution about MAWD Board representation based on dues. Manager Chadwick seconded the motion. Upon a vote, the motion carried 5-0.
- Manager Crafton moved to support the resolution about the MAWD dues structure. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

i. Letter of Auditing Services Agreement from Redpath

Attorney Smith handed out a memo and a draft services agreement with Redpath. He explained that the letter of engagement the District received from Redpath was missing a few key terms but what it did provide was fine. Attorney Smith recommended that the District create an agreement with Redpath and attach the letter from Redpath as the scope as an exhibit. He went through the draft agreement. Attorney Smith recommended that the Board authorize the execution of the agreement and authorize the Administrator and Legal Counsel to approve any minor or non-substantive changes to the agreement requested by Redpath and bring any substantive changes back to the Board.

Manager Pedersen moved to approve the agreement as written and to authorize the District's Legal Counsel to review and approve any non-substantive changes from Redpath and to bring in front of the Board any substantive changes. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

j. Update on CAC Appointment Process

President Yetka noted that the Board members were handed out a revised CAC application along with a cover letter. She talked about the changes included in this version such as maintaining the one-year term for CAC members and that CAC members could indicate that they want to reapply and that information will come to the Board in January along with the new applications. President Yetka said that in January the Board will decide how many CAC members to appoint and who to appoint. Administrator Bleser updated the group on how the District has publicized the request for CAC applications.

k. Accept Staff Report

Manager Chadwick pointed out one correction to be made to the report to change a reference to Executive Committee to Executive Summary. He asked for more information on the District's action on Brittle naiad in Lotus Lake and what the District plans to do regarding Aquatic Invasive Species (AIS) in 2018. Administrator Bleser responded. Manager Chadwick asked if the staff report could include more information about the data requests that the District receives including who is requesting what information. Attorney Smith responded that he will review the issue but his recollection is that the identity of the requester is not public information. He said that he will work with the Administrator to clarify what is the appropriate and public data to include in the report. Manager Chadwick asked for more information about the permits that were administratively approved, about staff's site inspections, and

Master Water Stewards capstone projects. Mr. Jeffery and Administrator Bleser responded.

Manager Ward moved to accept the staff report. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

I. Permit 2017-069: Scheels (with Staff Recommendation)

President Yetka said that she pulled this permit application off of the Consent Agenda to highlight that this is a reuse system and the first one of its type in this watershed district. She said that this project proposes to use gray water for toilet flushing. She asked Engineer Sobiech for more information on the soil contamination on the site. Engineer Sobiech responded and clarified that the soil contamination is the jurisdiction of the Minnesota Pollution Control Agency.

Manager Crafton moved to approve permit 2017-069: Scheels based on the findings and recommendations of the District Engineer. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

10. Discussion Items

a. Upcoming Meetings

President Yetka noted the upcoming meetings including the CAC meeting on November 20, the MAWD Annual Meeting November 29-December 2 in Alexandria, the Board's monthly meeting on December 6 with no workshop prior to the meeting, the Community Celebration on December 14, and the TAC meeting on November 15.

11. Upcoming Events

- Citizen Advisory Committee Monthly Meeting, Monday, November 20, 6:30 p.m., District Office, 18681 Lake Drive East, Chanhassen
- Minnesota Association of Watershed Districts (MAWD) Annual Meeting, Wednesday, November 29- Friday, December 2, Arrowwood Resort, Alexandria, MN
- Board of Managers Regular Monthly Meeting, Wednesday, December 6, 7:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- Community Celebration of Volunteers and Friends, December 14, 6:30 p.m., Bent Creek Golf Course

12. Adjourn

Manager Crafton moved to adjourn the meeting of the Board of Managers. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0. The meeting adjourned at 9:29 p.m.

Respectfully submitted,

Richard Chadwick, Secretary