MEETING MINUTES  
Riley-Purgatory-Bluff Creek Watershed District  
December 5, 2018, Board of Managers Duck Lake Road 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  
Zach Dickhausen, RPBCWD Water Resources Technician  
Terry Jeffery, Project and Permit Manager  
Michelle Jordan, RPBCWD Community Outreach Coordinator  
Josh Maxwell, RPBCWD Water Resources Coordinator  
Scott Sobiech, Engineer (Barr Engineering Company)  
Maya Swope, RPBCWD Outreach and Office Assistant  
Michael Welch, Smith Partners  
Other attendees: Bob Adomaitis, LRIA*  
Paul Bulger, CAC*  
John Bushey, LRIA*  
Curt Fretham, Lake West Dev.*  
Laurie Hable, LRIA*  
Barry Hofer, Eden Prairie Resident*  
*Indicates attendance at Monthly Meeting only  
** Indicated attendance at Workshop only

1. Duck Lake Road Workshop  

President Ward called to order the Wednesday, December 5, 2018, Board of Managers Duck Lake Road Workshop at 5:30 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

Mr. Jeffery described the project proposed for Duck Lake Road in Eden Prairie. He said the project includes extending a 10-foot trail along the west side of the road, adding a five-foot sidewalk along the east side of the road, and inserting a box culvert to connect the two lake areas in order to equilibrate the lake levels between the two sides. He reported that the project triggers a number of the District’s rules, and he said he would summarize the ones for which the project is having difficulties meeting the requirements. Mr. Jeffery said that the trail will add fill to the flood plain, and the District’s rules require mitigation by volume at plus/minus one foot of elevation. He noted that the current project plan will not achieve this mitigation. He explained that the waterbody crossing itself would require a variance because waterbody crossings require meeting the floodplain rule. Mr.
Jeffery said the project doesn’t meet the District’s requirements for Rule J. He noted that the project has done a nice job demonstrating why infiltration on this site is not practical. He also noted that the District’s rules are concrete about requiring 90% total suspended solids and 60% total phosphorous reduction from impervious surface on the site, which is really just the road reconstruction part of the project in this case. Mr. Jefferey said the project proposes to treat a portion of the road to reach the TSS and TP reductions and also treat a portion of the elementary school’s parking lot, which currently discharges untreated runoff into the lake. He pointed out that while this measure will provide water quality benefits, it won’t treat the road runoff.

Ms. Sarah Lloyd of Bolton & Menk used PowerPoint slides and showed on a map the location of the project. She noted the project’s proximity to the high school. Ms. Lloyd stated that the project was initiated in spring 2017 and in that time there have been five meetings with the District as well as other regulatory agencies.

Ms. Lloyd described the existing conditions and challenges of Duck Lake Road in the project area. She noted that the utility lines currently in place cannot be relocated and must remain in place on the west side of the corridor. She went through the project goals including providing a safe corridor that meets the needs of vehicles and pedestrians, meeting state aid standards, adding pedestrian facilities to improve safety and to be in line with the City of Eden Prairie’s pedestrian and bicycle plan, and meeting or exceeding regulatory requirements. Ms. Lloyd shared the project’s goal statement: “Balancing pedestrian and transportation needs and safety, constructability, and project cost while minimizing temporary and permanent environmental impacts.”

Ms. Lloyd talked about how the project team evaluated the corridor design and layout options to find the best reasonable approach to meet the project goals. She described the options evaluated including: Modified City Standard, Utilizing Permanent or Temporary Sheeting, Boardwalk Construction, Gabion Walls, and Eliminate Pedestrian Facility on One Side.

Mr. Tim Olson of Bolton & Menk summarized the water resources and permitting parts of the Duck Lake Road project. He walked through the permitting requirements and went into detail about the Districts rules B, C, D, F, G, and J. Mr. Olson described project challenges and overcoming those challenges as well as the variances the project is requesting.

Mr. Olson responded to manager questions. Managers provided comments including design suggestions, concerns about fill in the floodplain, and in what ways the District could help. There was a lengthy discussion about the project. Mr. Jeffery said that he and Mr. Sobiech have asked for and still would like to receive a breakdown of costs to build a traditional trail boulevard and the costs to build a boardwalk and the difference in those costs. Ms. Lloyd said a rough estimate is that the cost to build the sidewalk trail is approximately $60,000 and the cost to build the boardwalk trail is approximately $600,000-$630,000. She noted that these costs do not include maintenance or life cycle costs. Mr. Jeffery said that there are further details to go into about those costs, but it can be done outside of this workshop.

President Ward commented that the Board wants to see this project work and see project options continue to be explored and costs identified. He asked what the ideal time line is for this project. Ms. Lloyd responded the project timeline ideally has the permit getting submitted in January 2019 and with project approval early in 2019 so the project can be bid in April 2019, with surcharging and filling in the lake and road area occurring in summer and fall 2019 and the full corridor reconstruction in 2020.

President Ward adjourned the workshop at 7:09 p.m.
Manager Ward called to order the Wednesday, December 5, 2018, Board of Managers Monthly Meeting at 7:21 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

3. Approval of the Agenda

Mr. Jeffery stated that the applicant for the Saville West item is at the meeting. Mr. Jeffery recommended moving the Saville West Agenda item [7g – Permit #2015-036 Saville West – Approve after the fact permit modification with staff recommendations] to an action items. President Ward moved it to 9a and noted that the rest of the action items move would move down one spot on the agenda.

Manager Ziegler moved to approve the agenda as amended. Manager Pedersen seconded the motion. Manager Koch moved to remove all remaining Consent Agenda items off the Consent Agenda and onto the agenda under Action Items. Managers Ziegler and Pedersen agreed to that friendly amendment. Upon a vote, the motion carried 4-1 [Manager Crafton voted against the motion].

4. Budget Informational Meeting

Administrator Bleser pointed out changes made to the final copy of the budget documents compared to the versions in the meeting packet. She described the changes including: $26,000 in investment income received, adjustments to the Chloride Initiative and Wetlands reflecting adjustments reflective of the grant agreements, and a $50,000 increase in revenues due to permit income and investment income.

Administrator Bleser noted that this is a public informational meeting about the District’s 2019 budget and the meeting at which the Board will decide whether to keep the 2019 levy set at the amount the Board previously set or to lower it. She provided a brief overview of the District’s 2019 budget and levy. Administrator Bleser summarized that the District has proposed to levy $3,602,500. She went through the 2019 budget in detail. She responded to manager questions.

Manager Crafton moved to approve the revised 2019 RPBCWD budget as presented and handed out. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

President Ward opened the floor to public comment.

Ms. Laurie Susla of 7008 Dakota Avenue, Chanhassen, commented about the $6,000,000 the District has in the bank as reserves. She said she has asked for this information previously and still wants to know how much of that $6,000,000 is committed. She explained that with such a large reserve fund the District might not need to increase the 2019 levy compared to the 2018 levy.

Mr. Paul Bulger of 15807 Southlawn Road, Eden Prairie, commented about fiscal management. He noted that in the news there have been stories about embezzlement and noted that when funds are being shifted, it can be hard to follow the path of the funds. Mr. Bulger encouraged the Board and managers to do its due diligence, whether through using Redpath or a second organization.

5. Matters of General Public Interest

Ms. Laurie Susla, of 7008 Dakota Avenue, Chanhassen, presented an idea about the CAC. She said that over the past four years the CAC for this District has moved from serving in an advisory role to more of a volunteer/community outreach role. Ms. Susla said that the statutorily mandated role has fallen to the side. She said her idea for the Board to consider is that the District have two committees: one that would function in the
volunteer/education/community outreach space and one that would function in the traditional role to perform the statutory mandated responsibilities.

Mr. Paul Bulger of 15807 Southlawn Road, Eden Prairie, commented that the Board has in front of it tonight a permit application from the Eden Prairie library. He urged the Board to consider this project as an opportunity project and to stretch and go beyond the minimum project requirements. Mr. Bulger also commented that in regard to the staff increases to be discussed by the Board tonight, he feels the District has very high-quality staff, and he, as a taxpayer in the District, supports the salary increases.

6. Reading and Approval of Minutes

   a. November 7, 2018, RPBCWD Board of Managers Monthly Meeting

   Managers Ziegler, Crafton, and Pedersen and Attorney Welch noted edits to be made to the November 7, 2018, meeting minutes.

   Manager Koch moved to accept the minutes as amended. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

7. Consent Agenda

President Ward noted that the Consent Agenda items had been moved to action items.

8. Citizen Advisory Committee (CAC)

Mr. Paul Bulger, CAC President, reported that the Committee spent the majority of its most recent meeting reviewing the District’s application for the cost-share program. He said the Committee will work on it again at the next CAC meeting and plans to have a draft finished to provide to the Board in January. Manager Koch thanked the CAC for its efforts and asked the CAC to consider how the Cost-Share Program information and application should be presented on the District’s website.

President Ward commended Mr. Bulger for his leadership to the CAC in his role as CAC president and for his contributions during his time volunteering as a CAC member. President Ward noted that Mr. Bulger will not be continuing on with the CAC after the end of this month due to an upcoming relocation out of the District.

9. Action Items

   a. Permit #2015-036 Saville West – Approve After-the-Fact Permit Modification with Staff Recommendations

   Mr. Perry Ryan of Lake West Development summarized the history of the Saville West development. He talked about the evolution of the project and the modification of the lot line, which triggered the District rules for lots 4 and 5 in of the development. Mr. Ryan summarized his meeting with Engineer Sobiech and Mr. Jeffery to discuss the project, District requirements, how to work through the project and requirements in a cost-effective way. Mr. Ryan noted that now, four months after starting to look at meeting these requirements, the project design is what is currently submitted to the District. He said he is hoping for a common sense look at this project tonight. He reiterated that the project does not do anything on lots 4 and 5 and it does not make sense to him to spend such a large amount of money on lots 4 and 5.
particularly in light of the fact that something completely different will be done on that west side next year. Mr. Ryan said the $205,000 is cost prohibitive to gain two lots.

Engineer Sobiech explained that this permit started in 2015 and the District approved it in 2017 and at that time BMPs were discussed. He described the redesign and noted that the project complies with the permit requirements except for several conditions, which are detailed in the staff report in the Board packet. Engineer Sobiech stated that the financial assurance was developed based off of the financial assurance schedule the District’s Board adopted by resolution. He explained that the financial assurance for this project uses the permit holder’s engineer’s estimate of probable cost for those elements that aren’t specifically called out in the District’s financial assurance, primarily the rock underground trenches.

Attorney Welch explained what a financial assurance is, what forms it can take, and how it functions, including that the funds are returned to the applicant at time of project close and that partial returns are possible as pieces of the project are built and as compliance with the permit requirements and District rules are shown to the District.

Mr. Curt Fretham went into detail about the project and summarized that the permit holder is looking to the District for some kind of latitude for a reasonable escrow and to set aside lots 4 and 5 for when they are developed.

Manager Pedersen asked about the installation of the stormwater reuse system on lot 1. Engineer Sobiech responded that the homeowner did install the stormwater reuse system, but at this point the District doesn’t know if the system functions correctly, which is why the system is still included in the project financial assurance.

Engineer Sobiech went into further detail about how the project evolved into needing stormwater treatment on lots 4 and 5.

The Board discussed possible actions it could take. Mr. Koch asked Attorney Welch if the Board has variance authority or exception authority if the Board is convinced there would be no additional detriment than if the permit holder had started right off with the original three lots. Attorney Welch responded that the District has a variance, an exceptions rule, and a framework specifically laid out in the rules. He said he would move the conversation away from the exception because that is for projects that do not strictly comply with the rule but great exceed the overall holistic environmental performance. Attorney Smith said that the variance accounts for hardships. He went into detail about the variance considerations. Attorney Smith pointed out that this applicant could withdraw its application in front of the Board and submit for a variance, but right now there is not a variance request in front the Board for this project.

Attorney Welch explained that the Board can only act on the application that is in front of it at the meeting tonight, though the Board can condition its approval. He added that the statutory timeframe for permit decisions requires that the Board take some action on the application at tonight’s meeting.

Manager Koch moved to approve the application with the conditions recommended by staff as set forth on page 10 of the staff report with the following one change: make paragraphs 1 and 2 at the bottom of page 10 conditions so that the applicant agrees to do those things as listed. Manager Ziegler seconded the motion. Attorney Welch clarified that those items are stipulations not conditions on the permit because they cannot be met before the applicant has to do work and the applicant cannot proceed with work until all of the conditions are met and the permit is issued. He continued by saying the stipulations are part of the agreement that is the permit but are complied with as conditions subsequent not conditions precedent.
Manager Koch stated that his condition is that the permit holder agrees to those stipulations in advance.

Upon a vote, the motion failed 2-3 [Managers Koch and Ziegler voted in favor and Managers Ward, Pedersen, Crafton voted against the motion].

Manager Ziegler moved to approve Permit 2015-036 with the recommendations of staff as listed on page 10 [he read aloud the conditions 1-7]. Manager Pedersen seconded the motion. Upon a vote, the motion carried 4-1 [Manager Koch voted against the motion].

b. Pay App #2 Chanhassen High School, Pay App #3 Lake Susan Park Pond, Pay App #4 Scenic Heights Restoration

Manager Crafton moved to approve Pay App #2 Chanhassen High School, Pay App #3 Lake Susan Park Pond, and Pay App #4 Scenic Heights Restoration. Manager Pedersen seconded the motion. Manager Koch asked questions, and Engineer Sobiech responded.

Upon a vote, the motion carried 5-0.

c. Accept October Treasurer’s Report

Treasurer Crafton communicated that she and the Administrator have reviewed the report in accordance with the District’s internal controls and procedures. Manager Ziegler moved to accept the Treasurer’s Report. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

d. Approve Paying of Bills

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

e. Approve Auditor Engagement

Manager Crafton moved to accept the engagement letter. Manager Ziegler seconded the motion. Attorney Welch recommended the Board authorize the Administrator to enter into agreement with the auditor based on the proposal, which will serve as the scope of work and the District will use standard templates that comply with state law and requirements applying to the watershed that were not included in the engagement letter. Managers Crafton and Ziegler agreed to the friendly amendment.

Manager Pedersen brought up the potential for conflict because the auditor is auditing its own work and said that for next year the District needs to find an independent auditor. Manager Koch agreed and said the District needs to find someone else to audit the books. Administrator Bleser stated that the watershed will send out Requests for Proposals for professional services next year as required and auditor services will be one of those RFPs.

Upon a vote, the motion carried 4-1. [Manager Koch voted against the motion].

f. City of Minnetonka Local Surface Water Management Plan (LSWMP)

Administrator Bleser reported that she, Engineer Sobiech, Attorney Welch, and Mr. Jeffery conducted a thorough review of the City of Minnetonka’s Local Surface Water Management Plan (LSWMP). She said staff is looking for some clarification in parts of the plan, and the intent of the draft memo in the meeting packet is to provide the Board the background of the review and note staff’s concern. She said that staff recommends the Board make a conditional approval and having staff’s concerns addressed.

Manager Crafton said she thought the language in the staff’s memo was harsh. She offered further comments on how the District could frame its comments to the City. Manager Koch offered suggestions on how the District could communicate it concerns to the City. Manager Pedersen asked if the Board
needed a motion on this item. Attorney Welch said yes and detailed the responsibility of the District regarding LSWMP reviews.

Manager Pedersen moved to conditionally approve the City of Minnetonka’s LSWMP with the changes as specified by staff. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

g. **Hiring of HR Consultant**

Manager Koch moved to adopt the plan set forth in his November 27, 2018, memo, which includes allocating $2,500 for the review and total of $5,000 under the project to include the cost of training by an HR consultant recommended to him. He said he believes it is important that the consultant review the District’s processes. Manager Ziegler seconded the motion.

There was a lengthy discussion about the need for a salary survey/compensation review since one took place this past summer, the timeline for a future review of compensation, the need for developing an HR manual, and the need for reviewing the District’s HR processes.

Upon a vote, the motion failed 2-3 [Managers Koch and Ziegler voted in favor of the motion. Managers Ward, Pedersen, and Crafton voted against the motion.]

h. **Personnel Committee: Salary Adjustments**

Manager Pedersen reported that the District hired Noah & Associates to take a look at not only the District’s staff positions but also where they stand within other watersheds and the local market including 11 other entities. She talked about the results of the survey and the recommendations by Sarah Noah of Noah & Associates. Manager Pedersen went into detail about the salary adjustments and explained that they aren’t based on performance but are addressing the positions and at what salary the positions should have based on comparable employers in the local market and what it would take to staff these positions in the current market. She said she would like the District to retain the good people it has on staff and that the adjustments should become effective on December 1, 2018. President Ward said he believes the District will need to do this again next year in order to get close to where the salaries for these positions need to be in order to be competitive in this marketplace. There was discussion. Manager Koch asked if these funds have been included in the budget. Administrator Bleser said the District has reserve funds available to cover it.

Manager Pedersen moved to accept the salary adjustments as identified in the November 26, 2018, memo included the meeting packet materials. Manager Ziegler seconded the motion. Upon a vote, the motion carried 4-1. [Manager Koch voted against the motion].

i. **Comprehensive Legal Review**

President Ward noted the meeting packet includes a memorandum from Manager Koch regarding a comprehensive legal review.

Manager Koch moved to adopt the resolution set forth in his memo from November 27, 2018, to engage Smith Partners to do a legal review so that the District knows it is in compliance. He noted that Louis Smith estimated the cost of such a review would not exceed $2,500. Manager Ziegler seconded the motion. Attorney Smith noted that in Mr. Koch’s memo item 4c should replace the word “believes” to “finds” so the sentence is “…finds operations not consistent.” Attorney Smith emphasized that this would be a technical review. There was discussion.

Manager Pedersen questioned the value of having its own legal counsel perform a comprehensive legal review. Managers offered comments.
Upon a vote, the motion carried 3-2. [Managers Koch, Ward, and Ziegler voted in favor of the motion. Managers Crafton and Pedersen voted against the motion].

j. Accept November Staff Report
Manager Koch moved to accept the staff report. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

k. Accept November Engineer’s Report (with Attached Inspection Report)
Manager Ziegler moved to accept the November Engineer’s Report. Manager Pedersen seconded the motion. Managers Koch and Ziegler asked questions about the report. Engineer Sobiech responded. Upon a vote, the motion carried 5-0.

l. Permit #2018-067 Hennepin County Library – Eden Prairie Refurbishment – Approve with Staff Recommendations
Mr. Jeffery described the proposed project, which includes removing part of the existing parking lot, adding an outdoor seating area and trails, removing the surface in front of the building and replacing it with concrete, and adding electrical vehicle charging stations. He added that there is an extensive landscaping plan for the project and the plan includes natives and cultivars.

Manager Ziegler moved to approve Permit 2018-067 Hennepin County Library Eden Prairie Branch Refurbishment with staff recommendations. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

10. Discussion Items

a. Bylaws Modification and Additions
Administrator Bleser said she will be sending the Bylaw changes out again to the managers and will bring them in front of the Board at the January monthly Board meeting.

b. Upcoming Meetings
Administrator Bleser announced that a special meeting has been requested by a permit applicant. Mr. Jefferey provided details and noted that the applicant is hoping to break ground before the end of the year. The Board agreed to a special meeting on Tuesday, December 18 at 9:00 a.m.

Administrator Bleser announced that the District’s visioning workshop is planned for January. The Board changed the date of its January monthly Board meeting to January 9 and added the visioning workshop at 5:30 p.m. prior to the January 9th meeting. The Board agreed to hold its cost-share workshop in February.

President Ward and Administrator Bleser announced upcoming events as listed on the agenda.

c. Stormwater Model Update
Administrator Bleser stated that the Task Order for the stormwater model update will be coming to the Board at its January monthly Board meeting.

11. Upcoming Events

- Meeting about Zebra Mussels, December 12, 10 a.m., District Office, 18681 Lake Drive East, Chanhassen
Final Board-Approved Minutes of 12/5/18 RPBCWD Board of Managers Workshop and Monthly Meeting

- Staring Lake Outdoor Center Volunteer Event, December 13
- Citizen Advisory Committee Monthly Meeting, December 17, 6:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- RPBCWD Offices Closed, December 24-25, 2018
- RPBCWD Board Workshop and Regular Board Meeting, January 2, 2018, 7:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- Meet and Greet the Board, February 6, 2018, 6:00 p.m., 18681 Lake Drive East, Chanhassen
- RPBCWD Regular Board Meeting, February 6, 2018, 7:00 p.m., District Office, 18681 Lake Drive East, Chanhassen

12. Adjourn

Manager Ziegler moved to adjourn the meeting. Manager Pedersen seconded the motion. **Upon a vote, the motion carried 5-0.** The meeting adjourned at 10:06 p.m.

Respectfully submitted,

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David Ziegler, Secretary