

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

June 27, 2016, Board of Managers Monthly Meeting and Public Hearing

#### PRESENT:

Managers: Mary Bisek, Secretary  
Richard Chadwick  
Jill Crafton, Treasurer  
Perry Forster, President  
Leslie Yetka, Vice President

Staff: Claire Bleser, District Administrator  
Michelle Jordan, District Technician and Compliance Officer  
Louis Smith, Attorney (Smith Partners)  
Scott Sobiech, Engineer (Barr Engineering Company)

Other attendees: Laurie Susla, CAC  
Larry Koch, CAC

#### 1. Call to Order

President Forster called the Monday, June 27, 2016, Board of Managers Monthly Meeting and Public Hearing to order at 7:00 p.m. at the RPBCWD District Office at 14500 Martin Drive, Suite 1500, Eden Prairie, MN 55344. He announced that the Board's July monthly meeting was rescheduled for tonight due to the July 4<sup>th</sup> holiday and Board member travel schedules.

#### 2. Approval of the Agenda

Manager Bisek requested the removal of Consent Agenda item 6a ó Engineer's Report and asked that the item be added as Action Item 9b. Mr. Larry Koch requested the removal of Consent Agenda item 6b ó Accept Staff Report. Mr. Koch also noted that the CAC has an action item for the Board tonight as indicated in the CAC minutes. President Forster consulted Attorney Smith on whether the Board should act on Mr. Koch's agenda change request. Attorney Smith responded that the Board has received a request to amend the agenda and it is at the Board's discretion whether or not to consider and entertain the request and the ultimate decision on the agenda rests with the Board. President Forster asked the Board what it would like to do with Mr. Koch's agenda change request. Manager Chadwick responded that he would accept the request to remove the item from the Consent Agenda and to place it on the agenda. The other Board members indicated consent with Manager Chadwick's comment. President Foster moved item 6b ó Accept Staff Report off of the Consent Agenda and added it to the agenda as item 9c.

Manager Crafton moved to approve the agenda as amended. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

#### 3. Public Hearing: Minor Plan Amendment

President Forster introduced himself, the other four managers, the Administrator, District Engineer, and Legal Counsel. He welcomed everyone to the public hearing.

President Forster stated that the purpose of the public hearing is to receive comments from the public on the District's proposed minor amendment to its watershed management plan. He explained that the minor plan amendment concerns regulatory control and performance standards. President Forster noted that state water planning rules were recently amended to clarify the schedule for updating city local water management plans and District plans.

President Forster said that this scheduling change may result in city and District rules becoming misaligned during implementation of city and District plans. He explained that the District's proposed minor plan amendment requires watershed rules and city ordinances to be in conformance to avoid the problem of misalignment of city and District plans. President Forster stated that watershed districts in Minnesota must update their plans every ten years, and cities within the districts must adopt local water management plans to conform to district plans.

President Forster explained that the recent amendments to state water planning rules require metro-area cities to update their local water management plans in 2017-2018. He said that cities are not required to update or amend their plans again until 2028, even if watershed districts amend their watershed management plans before that time. He stated that the response of the Riley Purgatory Bluff Creek Watershed District to the recent changes in state water planning rules is that the District has prepared a plan amendment to provide a structure for each watershed city to adopt updates to its ordinances to maintain conformity to District rules or to defer regulatory authority to the District.

President Forster said that the District hopes to avoid delays later in the city plan update process when time would be of the essence when reviewing local water management plans. He said that copies of the proposed minor plan amendment are on the table by the District office entryway.

President Forster noted that the District invited public review of the proposed amendment by cities, counties, state agencies, and the public beginning on March 24, 2016. He said that the public comment period ended on May 24, 2016. He reminded the audience that this public hearing is one part of the process that the District's legal counsel, Attorney Smith, will explain in further detail. President Forster reported that watershed cities and others had 60 days to review and comment on the proposed minor amendment and to engage with the District. He said that the District received comments from the City of Chanhassen, the City of Eden Prairie, the Metropolitan Council, and Hennepin County. President Forster noted that the Minnesota Department of Agriculture and the Minnesota Department of Natural Resources had no comments.

President Forster reported that the District carefully reviewed all comments received. He said that the next step in the public hearing is to hear from Attorney Smith for brief comments and an explanation of the proposed plan amendment and the review and adoption process, and then following his comments, the District will invite any interested person to comment on the proposed minor plan amendment. President Forster explained that after hearing all comments, the Board will deliberate and consider whether to adopt this minor plan amendment. He said that a draft resolution has been prepared, which Attorney Smith will review with the Board and attendees. President Forster noted that the public hearing is being recorded.

Attorney Smith passed out a summary of the comments that the District received and the District's proposed responses to comments as well as draft resolution 16-06 to adopt the minor plan amendment. He noted that the draft resolution has been revised slightly from the version included in the meeting packet.

Attorney Smith described the minor plan amendment process and the comments that the District received on its proposed minor plan amendment. He went into detail about the comments from the City of Chanhassen and its

concern that the District's proposed minor plan amendment would circumvent recent state water planning rules regarding when the City needs to update its plan. Attorney Smith responded that the District's proposed minor plan amendment does not require a city to update its plan more than once every ten years. He explained that the proposed amendment requires that if a city wishes to assume regulatory authority and regulate water resources, it first does so based on standards that are consistent with the District's rules and city commits to amend the city's ordinances, not its plan, to be consistent with the District's rules if those are ever amended.

Attorney Smith said that the most important point of this minor plan amendment is that the District wants to make sure that all of the municipalities and the District are on the same page about how this process will work.

Attorney Smith went through the draft resolution 16-06 that he handed out. He pointed out that the change to this draft compared to the version included in the meeting packet is in response to the comment the District received from the City of Chanhassen on June 22. He read aloud the language added to the first paragraph on page 2 of the draft resolution:

“A comment received from the City of Chanhassen after the close of the comment period expressed a concern that the proposed plan amendment would appear to require local plan amendments more frequent than required under the recent amendment to Rule 8410; the proposed plan amendment does not require a city to update its local water plan more than once in ten years, but rather simply requires that if a city chooses to exercise sole regulatory authority, the city will update its ordinances to assure they remain consistent with the District's rules.”

Managers Chadwick and Yetka asked a few questions for clarification. Attorney Smith responded.

Mr. Larry Koch of 471 Bighorn Drive, Chanhassen, asked if in the case that a city takes over the regulatory authority and it adopts ordinances, would the city be required to amend its local water plan. Attorney Smith responded that the short answer is that the minor plan amendment would not require the city to update its local plan. He explained that by the time a city submits its local plan to the District, it should be clear whether the city wants to assume a regulatory role or not. He said that if the city does want to assume a regulatory role, the plan will spell out the city's policies of managing water resources within the watershed, and the watershed would review the proposed local ordinances and approve them before they take effect.

Ms. Laurie Susla of 7008 Dakota Avenue, Chanhassen, pointed out that the comments that the District received from the Minnesota Board of Water and Soil Resources (BWSR) were not included in the meeting packet or in the summary sheet and she asked what the comments were. Attorney Smith said that there was a verbal exchange with BWSR. He said that District staff needs to look to see if there was a written exchange. He said that the nature of the discussion between the District and BWSR was to clarify the difference between amending a plan and updating ordinances to be consistent with the rules. Ms. Susla asked if BWSR is considering further change to its 8410 rules. Attorney Smith said that based on his experience he would not think further changes will be forthcoming.

Attorney Smith said that the District did receive a written communication from BWSR in the form of an email between BWSR, the City of Eden Prairie, and the District regarding the City's local water management plan. Administrator Bleser read aloud the email comments from BWSR.

Attorney Smith described for the record resolution 16-06 Resolution to Adopt Plan Amendment to Watershed Management Plan for Regulatory Control and Performance Standards.

Manager Crafton moved to adopt Resolution 16-06 as described by Attorney Smith. Manager Yetka seconded the motion.

Manager Yetka noted that the resolution states that the District received a comment from BWSR and she asked if the Resolution needs to be changed regarding that point. Attorney Smith said that since the comment has been discussed and is part of the record, no change is needed to the resolution.

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

Manager	Aye	Nay	Abstain	Absent
Bisek	X			
Chadwick	X			
Crafton	X			
Yetka	X			
Forster	X			

#### 4. Matters of General Public Interest

No matters were raised.

#### 5. Reading and Approval of Minutes

##### a. June 1, 2016, RPBCWD Board of Managers Monthly Meeting and Public Hearing

President Forster requested that the minutes reflect that he thanked the students from St. Hubert School for attending the June 1 meeting and making their pond study presentation to the Board. He also requested an edit on page 4 to capitalize "Purgatory Chain of Lakes." Manager Chadwick noted that on page 7, item 12g. should be corrected to consistently reference June 27<sup>th</sup> at the Board's next public hearing and meeting.

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

#### 6. Consent Agenda

President Forster read aloud the Consent Agenda items:

- c. Approve permits with staff recommendations to: i. 2016-020 Prairie View Enclave; ii. 2016-005 Staring Lake Permit Modification of reduced impervious area and associated BMP; iii. 2016-013 EP ASC Parking Expansion of Review Extension Request; iv. 2016-04 Round Lake Park; d. Approve Funding for Residential Cost-share Grants: i. Baker of 8485 Red Oak Drive, Eden Prairie; ii. Haeg of 17045 Chiltern Hills Road, Minnetonka; iii. McNab of

16742 South Shore Lane, Eden Prairie; e. Approve Master Water Steward Project; f. Approve change order: Spent Lime Treatment; g. Approve Lake Susan Water Quality Spent Lime Treatment Project: Payment Application 2.

Manager Yetka moved to accept the Consent Agenda as read aloud by President Forster. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

## 7. Citizen Advisory Committee (CAC)

Mr. Koch pointed out the reference in the CAC meeting minutes that the CAC passed a motion to request the District's Board of Managers to provide a draft copy of the updated budget format to the CAC for review for its July 18<sup>th</sup> meeting in order for the CAC to provide timely comments to the Board for its August monthly meeting. Mr. Koch noted that the CAC also passed the cost-share grant project as acted on by the Board in the Consent Agenda.

President Forster asked what the CAC would like to receive. Ms. Susla said a blank budget spreadsheet. Mr. Koch said that the CAC would like to see the proposed budget format. Administrator Bleser said that the District has the budget format that it used last September. She asked if the Board is directing her to change the format of the budget because right now the format is the same format that the District used last September. Ms. Susla said that the CAC has provided its recommended format to the District twice and she noted that the CAC's proposed format includes two prior years' budget and actuals.

There was discussion about staff time availability to work on a new format for the budget, the current budget format, where the District's prior-year budget information is available, the District's Governance Manual statements about the District's financial practices and how the manual states that the District intends to use best practices to operate the District.

Mr. Koch commented that he would like to know what the District considers to be more important than deciding how it will spend its money and ensuring that the public has an adequate understanding of how its budget of three million dollars is being spent. He said that continually hearing that staff doesn't have time to reformat the budget tells him where the Board ranks these issues. He encouraged the Board to rethink its prioritization of reformatting the budget and utilizing best financial practices similar to the practices used by the cities of Eden Prairie and Chanhassen. Mr. Koch said that the CAC has provided the Board with a sample revised budget format.

Manager Chadwick remarked that he would find it helpful to have the prior years' budget numbers included on the proposed budget format and included in the final budget format and it would be important to include that best practice as requested by the CAC.

Manager Chadwick moved to approve adding two prior years' numbers to the final budget format for the District for the upcoming year because it is an important best practice to follow through with the suggestion of the Citizen Advisory Committee to add at least two prior years of numbers for comparison.

The motion did not receive a second.

Manager Bisek asked if it would be appropriate to have a small group meet with the District Administrator and take a look at the format and come up with something that will best serve the District's needs for 2017. Manager Chadwick said that he thinks that such a group should include someone from the Citizen Advisory Committee and certainly individuals from the Board that might have different views of the nature of the reporting and the budget. Manager Crafton commented that would rather have a Board discussion first and then have a discussion with the CAC after that regarding the proposed format. President Forster said that there can only be two members of the Board participating.

Manager Bisek moved to approve creating a budget format advisory committee to meet with the Administrator to come up with a format that would best serve the needs for the 2017 budget. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0.

President Forster called for volunteers for the Budget Format Advisory Committee from the Board. Managers Chadwick and Crafton volunteered and the Board agreed to appoint them to the Committee. President Forster directed Managers Chadwick and Crafton to work with Administrator Bleser to set up a meeting.

## 8. Treasurer's Report

Administrator Bleser announced that the check to the League of Minnesota Cities should be removed from the list of bills to be paid because the District has a point of clarification to discuss with the League of Minnesota Cities.

Manager Crafton moved to approve paying the bills excluding the payment of the bill from the League of Minnesota Cities. Manager Yetka seconded the motion.

Mr. Koch said he would like the District to provide going forward a summary of the District Engineer's monthly bill, when the bill is so large, so that the public could be informed of the projects on which the Engineer has worked. President Forster asked what Mr. Koch considers as the threshold invoice amount to require this type of detail be provided. Mr. Koch said \$10,000 and above.

Engineer Sobiech explained that the Engineer's invoice corresponds with Engineer's Report, so the Engineer's Report details the work that the engineers have done over the month.

Manager Chadwick said that the Board doesn't receive the detailed invoices and that he is concerned about the lack of information provided in the meeting packets or otherwise to the Board regarding the spending it is asked to approve each month. He recommended that the monthly Treasurer's Report include a cover sheet that communicates to the effect that the Administrator and Treasurer have reviewed the bills and find them to be appropriate and in sufficient detail and fit for the Board's approval to pay.

There was lengthy discussion on what information the Board receives, the District's current process of reviewing bills, legal considerations of private versus public information and data privacy, and how the invoices could be available for review in the future. The Board agreed that the invoices won't be published on its website and discussed the idea of Treasurer Crafton being available at the District Office 30 minutes prior to each monthly meeting in order to provide an opportunity for people to review the monthly invoices.

Upon a vote, the motion to pay the bills carried 5-0.

Manager Crafton moved the Treasurer's Report as submitted. Manager Chadwick requested an amendment to the motion that the Board accepts the Treasurer's Report. The Manager Crafton and the Board accepted the amendment to the motion. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0.

## 9. Action Items

### a. MPCA Grant

Administrator Bleser reminded the Board that the District applied for a grant from the Minnesota Pollution Control Agency (MPCA) basically for adapting to severe climate change in the region and partnering with the Nine Mile Creek Watershed District. She reported that the District received the grant but in the amount of \$27,000 instead of the requested \$30,000 due to budget cuts of 10% across the board at the MPCA.

Administrator Bleser said that there still would be a grant match from Nine Mile and the District at \$9,500 each. She noted that the District has funds in its Education and Outreach budget to meet the required match, but she wanted to point out that this match is larger than anticipated due to the MPCA's 10% budget cut.

Manager Bisek moved to accept the grant from the MPCA in the amount of \$27,000 with a match of \$9,500 from District funds. Manager Crafton seconded the motion. Manager Yetka reminded the Board that it had previously approved matching funds up to \$10,000. Upon a vote, the motion carried 5-0.

**b. Accept Engineer's Report**

Manager Bisek said that she had asked to remove the Engineer's Report from the Consent Agenda because the report indicates that \$23,000 was approved for expenditure for the Scenic Heights Forest Project but the meeting minutes indicate that the Board approved \$24,000.

Manager Bisek stated that she had asked Engineer Sobiech for details on the air gap mentioned in the report item on the Chanhassen High School project, and she asked Engineer Sobiech to describe to the Board the air gap and its purpose. Engineer Sobiech provided details about the design of the water reuse system at Chanhassen High School.

Manager Bisek asked for more details about the shifting of the header pipe in the Lake Susan Spent Lime Treatment project. Engineer Sobiech described how staff noticed that the spent lime had shifted and additionally how some water seemed to be short-circuiting the spent lime system. He discussed how these issues were investigated and handled.

Mr. Koch asked questions about Task Orders 13A, 14, 15, and 16. Engineer Sobiech and Administrator Bleser responded to his questions.

Manager Crafton moved to accept the Engineer's Report. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

**c. Accept Staff Report**

Mr. Koch said that he had asked that the staff report be removed from the Consent Agenda because he wanted to discuss the comments about the patch of Curly leaf pondweed in Lotus Lake that staff noticed during its inspection of the fish kill. He wondered if the District could apply its rapid response system to address the Curly leaf pondweed.

Administrator Bleser talked about how the plant had been identified in Lotus Lake plant surveys in previous years and how the plant can be present at levels that still permit native plants to grow. She said that staff has noted the presence of the plant and staff will have a better idea in August about the extent of it in Lotus Lake. Ms. Susla shared a photo of the plant off of her dock in Lotus Lake.

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

**10. Discussion Items**

**a. Bluff Creek Update**

Administrator Bleser reported that there is no update.

**b. 10-Year Plan Update**

Administrator Bleser stated that staff is reviewing comments and categorizing them. She said that the

District's next step is that the District staff will report back electronically to each of the workshop participants as part of the feedback loop to ensure that the District has captured the participants' comments accurately. Administrator Bleser said that staff will be reporting on the electronic survey results and will be looping back electronically with the Board and CAC members who attended the workshop to make sure their feedback was captured accurately.

Administrator Bleser reported that there will need to be a 10-year plan workshop scheduled for August.

**c. TMDL Update**

Administrator Bleser reported that staff had a discussion with the MPCA about Silver Lake and its classification. She said that the MPCA staff who reviewed the information about Silver Lake has communicated that Silver Lake would be classified as a wetland instead of its current classification as a shallow lake. Administrator Bleser stated that the MPCA has asked the District to respond about whether or not it agrees with the classification.

Administrator Bleser noted that if Silver Lake is classified as a wetland compared to a shallow lake, then projects identified by the District such as projects to reduce the amount of phosphorous in Silver Lake likely would not qualify for Clean Water Fund grants. She explained that if Silver Lake remains classified as a shallow lake it would be listed as impaired because it does not meet the shallow lake standards.

Manager Chadwick asked if in the case that the District does not agree with the change in the classification the MPCA would maintain Silver Lake's classification as a shallow lake. Administrator Bleser said she has not asked this question to the MPCA.

Administrator Bleser said that the paleo study for Silver Lake has been completed and it will be presented to the Board at its August meeting. She recommended that the Board consider the classification issue and prepare questions for the presenter in August. There was discussion.

**d. Office Space Update**

Attorney Smith reported that he and Administrator Bleser met with the landlord and had a very productive meeting. He said that the District conveyed that additional sound mitigation will not resolve the issue and instead the issue will be resolved by one of the two tenants moving. Attorney Smith said that the landlord is contacting legal counsel to evaluate options. He stated that he views the Board's August 3<sup>rd</sup> meeting as a date by which the Board will consider whether it is in a position to move. He said that the landlord is aware of this timeline. Attorney Smith said that he will send a letter to the landlord to remind him of this upcoming deadline. He said that the Administrator is looking into other office space.

**e. Governance Manual**

Manager Bisek announced that the Governance Manual Committee met and is waiting for a response from the District's auditor regarding any changes that are needed to meet the new GASB requirements. She described other changes and recommended changes to the manual. She said that the Committee will report back in August or September.

Mr. Koch said that he spent a lot of time going through the manual and he recommends that the Board have the auditors read through it.

**f. Metropolitan Council Grants Update**

Administrator Bleser announced that the District was awarded by the Metropolitan Council both of the grants, in the full requested amounts, for which the District applied. She said that one grant is for the

Chanhassen High School storm water capture and reuse project that has an estimated cost of \$384,000. She noted that the Metropolitan Council awarded the District a grant in the amount of \$200,000 for that project. Administrator Bleser said that the second grant is for Fire Station No. 2 in Eden Prairie. She reminded the Board that this project originally was a cost-share application from the City of Eden Prairie. She said that this project is also a capture and reuse system.

Administrator Bleser said that now the work plans need to be done for the projects. She asked the Board to approve her working with the District Engineer on the work plan for the Chanhassen High School project. She asked the Board to approve the District Engineer's time for the work plan. Administrator Bleser requested the Board approve using contingency funds for this work. She noted that the District will need to do a plan amendment for the Chanhassen High School project and asked the Board to approve staff preparing the minor plan amendment for the Board's review at its August meeting.

She said that she will work with the City of Eden Prairie on the work plan for the Fire Station No. 2 project, which will require a plan amendment as well. She noted that staff is looking into whether this project could be handled under the District's cost-share program.

Administrator Bleser said that staff will need to coordinate with the City of Chanhassen and the Eastern Carver County School District for the work plan for the Chanhassen High School Project. She requested that the Board approve a budget for the work plan for the Chanhassen High School project at a cost not to exceed \$5,000. Administrator Bleser reported that she assumes that the City of Eden Prairie will cover the cost for the work plan for the Fire Station No. 2 project.

Manager Yetka moved to authorize the Administrator to work with the District Engineer at a cost not to exceed \$5,000 and to come from the District's contingency funds in order to develop the work plan for the Chanhassen High School capture and reuse project and for staff to prepare the plan amendments. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

**g. Upcoming Meetings**

Administrator Bleser announced that the District will need an additional meeting in August. Administrator Bleser recommended August 17<sup>th</sup>. The Board agreed with that date. President Forster noted the July 18<sup>th</sup> CAC meeting, the July 25<sup>th</sup> watershed tour at the Eden Prairie Water Treatment Plant, the August 3<sup>rd</sup> workshop at 5 p.m. and Board meeting at 7 p.m., and the August 31<sup>st</sup> Minnesota River Tour starting at CHS in Savage.

**11. Upcoming Events**

- CAC Meeting, Monday, July 18, 6:30 p.m., District Office
- RPBCWD Watershed Tour, Monday, July 25, 4:00 p.m., Eden Prairie Water Treatment Plant
- Board Workshop at 5:00 p.m. and Regular Board Meeting at 7:00 p.m., Wednesday, August 3, District Office
- Minnesota River Tour (NEMO), August 31, 3:30 p.m., CHS in Savage

**12. Adjourn**

Manager Yetka moved to adjourn the meeting. Manager Crafton seconded the motion. The meeting adjourned at 9:34 p.m.

Respectfully submitted,

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Mary Bisek, Secretary