

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

June 3, 2020, RPBCWD Board of Managers Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

Dick Ward, President

David Ziegler, Secretary

Staff: Amy Bakkum, MN Green Corps Member, RPBCWD

Claire Bleser, RPBCWD Administrator

Zach Dickhausen, Water Resources Technician II

Terry Jeffery, Watershed Planning Manager

B Lauer, Education and Outreach Assistant

Louis Smith, Attorney, Smith Partners

Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: Elizabeth Henley, Smith Partners

Lori Tritz, CAC

Steve Sabraski

Christa Vascallo

Stephan Schuh

1. Call to Order

- 1 President Ward called to order the Wednesday, June 3, 2020, Board of Managers Regular
- 2 Monthly Meeting at 7:00 p.m. The meeting was held remotely via meeting platform Zoom.

2. Approval of Agenda

- 3 Manager Ziegler moved to approve the agenda. Manager Pedersen seconded the motion. Manager
- 4 Koch asked to remove Consent Agenda items 6a – Accept May Staff Report, 6b – Accept May
- 5 Engineer’s Report (with attached inspection report), and 6c – Approve Modification to Permit
- 6 2018-011 Westwind Plaza as presented in the proposed action of the permit report. President
- 7 Ward moved the three items to 7a – Pulled Consent Items. President Ward also added to the
- 8 agenda the meeting minutes from the District’s May 6, 2020, special meeting for the audit
- 9 presentation. Attorney Smith noted the Board is also adding an update on the Duck Lake Road
- 10 Project. President Ward added the update on the Duck Lake Road project as agenda item 3A.
- 11 Manager Ziegler and Manager Pedersen agreed to the friendly amendment to the motion to
- 12 modify the meeting agenda as described.

13 Upon a roll call vote, the motion carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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3. Matters of General Public Interest

16 Ms. Christa Vascallo, Ms. Nicole Johnson, and Mr. Pete Johnson of Horseshoe Curve,
 17 Chanhassen, talked about the severe shoreline erosion occurring on their adjacent properties.
 18 They summarized steps taken, including talking with Mr. Terry Jeffery, District Engineer Scott
 19 Sobiech and civil engineering firm Civil Methods and applying to the District for a permit for
 20 their residential shoreline stabilization project using rip rap. Mr. Johnson requested the Board
 21 provide the property owners with a conditional permit so the project can be constructed
 22 immediately. President Ward said Administrator Bleser or Engineer Sobiech will contact the
 23 property owners very quickly. Managers provided comments about rip rap and incorporating
 24 deep-rooting plants into the design for soil stability.

3A. Duck Lake Road Project Update

25 President Ward reported the Board held a special meeting on Monday evening, June 1, and Mr.
 26 Rod Rue of the City of Eden Prairie presented project concepts. President Ward said the Board
 27 directed him and Administrator Bleser to communicate with the City of Eden Prairie and discuss
 28 financial alternatives.

29 President Ward reported he and Administrator Bleser held a Zoom meeting on June 2 with two
 30 staff members of the City of Eden Prairie. He said this project offers a once-in-a-lifetime
 31 opportunity to remediate Duck Lake. President Ward said the water resource benefits the District
 32 anticipates from the Duck Lake Road project include:

- 33 •To reconstruct the historical connection of the lake
- 34 •Allows 7,050 feet of lake bed to be restored
- 35 •Allows minimization of wetland fill to improve public transportation and safety

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- 37 •Reduced bounce on the western bay will allow for improved shoreline vegetation
38 establishment
- 39 •Improved aquatic habitat by allowing aquatic organisms to move freely between the lake
40 sections
- 41 •Allows plant communities to establish themselves in the corridor
- 42 •Provides habitat for fish and amphibians
- 43 •Provides floodplain impacts and improvements, including increased lake storage volume by
44 approximately 107,000 gallons
- 45 •On the western portion of the lake, the 100-year flood level will be reduced by
46 approximately 0.4 feet, and the eastern portion of the lake will experience a slight
47 reduction in the 100-year flood level as well.
- 48 •The project connects the surrounding community to Duck Lake, with over 300 residents in
49 the subwatershed and others interacting with it through nearby schools.

50 President Ward reminded the Board of the project concepts Mr. Rue presented to the Board
51 Monday night and the total cost of each option as well as the City's recommended participation
52 by the District. He provided details about the discussion he and Administrator Bleser had with the
53 City of Eden Prairie. President Ward said the City has consented to the District's suggestion that
54 it contributes by funding 25% of the project, for the longer-span bridge concept, over multiple
55 years, specifically \$235,000 over five years for a total District contribution of \$1,175,000. He
56 said there are so many resource benefits to the watershed and he and Administrator Bleser
57 recommend the Board approve the participating in the project with the longer bridge span concept
58 and providing \$1,175,000 in funding, payable over five years at \$235,000 per year. Manager
59 Pedersen seconded the motion.

60 Manager Koch commented he thinks voting on this item is premature at this time without seeing
61 any write up on the information just presented. He said the District needs to make sure its
62 participation is limited to the project's impact on the Watershed District's goals. Manager Koch
63 said he would like to see something in writing from the City of Eden Prairie regarding what it is
64 willing to do and would like to make sure there is a contingency included stating the District's
65 contribution would be reduced by any grants or state aid awarded to the project. He said he would
66 like to know and see which grant applications have been submitted for the project, and he wants
67 to make sure the City of Eden Prairie is on board and will negotiate terms.

68 Manager Koch asked what years the District would be providing funds for the project. President
69 Ward said the District and City need to prepare and enter into a Cooperative Agreement to work
70 out all the details, but he believes 2021 would be the first year of the District's contribution.
71 Manager Koch said he is not ready to approve the motion on the table at this level of detail, and
72 he recommended the District amend the motion and communicate to the City that the District is in
73 support of this type of project and would consider contributions along the lines just discussed.

74 Manager Koch asked if this project would require a plan amendment. Attorney Smith replied the
75 District has a Duck Lake project in its 10-Year Plan, so this project would likely require a minor
76 plan amendment. Attorney Smith said he understood President Ward has was presenting an

77 update on the most recent discussion he and Administrator Bleser had with the City of Eden
 78 Prairie about the conceptual proposal of the Duck Lake Road project and that there are legal
 79 requirements that need to be met and reviewed by the City Council and the RPBCWD Board of
 80 Managers at a future time.

81 Manager Koch moved to amend the motion on the table to change it to be an expression of
 82 interest in the project at those levels, and he is not saying he will vote in favor of the project. The
 83 motion to amend failed due to lack of a second.

84 Attorney Smith reiterated the motion on the table to clarify that the District tonight isn't
 85 committing legally to those expenditures, and the motion is that the Board of Managers desires to
 86 express its interest and support for the project at a level of contribution of \$1,175,000 to be paid
 87 over five years subject to legal requirements such as a cooperative agreement and getting a minor
 88 plan amendment and ordering the improvement.

89 Manager Koch moved to amend the motion on the table to be the motion as just clarified by
 90 Attorney Smith. Manager Pedersen seconded the motion. Upon a roll call vote, the motion to
 91 amend carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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94 Upon a roll call vote, the amended motion carried 4-1 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Nay
Pedersen	Aye
Ward	Aye
Ziegler	Aye

4. Reading and Approval of Minutes

95 a. May 6, 2020, RPBCWD Board of Managers Regular Monthly Meeting and Public
96 Hearing

97 Manager Crafton moved to accept the minutes as presented. Manager Ziegler seconded
 98 the motion. Manager Crafton noted a correction on line 166 to replace the word “for” with
 99 “of.” Manager Ziegler noted the name Rob Fisher should be updated to Rod Fisher.

100 Manager Ziegler added language to line 62 on page 3 to include, “The Board directed staff
 101 to coordinate with the City of Eden Prairie to set up a virtual meeting with citizens to get
 102 input on options presented today and requested lower cost options.” He also noted an edit
 103 on line 208 to delete the words, “...to amend...” Manager Pedersen said on line 71, the
 104 phrase “pollutants loadings” should be changed to “pollutant loading,” and on lines 84 and
 105 85 to add “Manager Pedersen” so the line reads, “Manager Ziegler and Manager Pedersen
 106 commented on their support of the project and awarding the grant.”

107 Manager Ziegler moved to amend the motion to include the edits to the minutes as
 108 presented. Manager Pedersen seconded the motion. Upon a roll call vote, the motion to
 109 amend carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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111 Upon a roll call vote, the amended motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

112 **b. May 6, 2020, RPBCWD Board of Managers Special Meeting for Audit Presentation**
 113 Manager Ziegler moved to accept the minutes as presented. Manager Pedersen seconded
 114 the motion. Manager Koch moved to amend the motion and requested amending the
 115 minutes to add to lines 25 and 26 the language “Manager Koch stated he had questions
 116 concerning the audit report, and Mr. Nilson stated that he wasn’t prepared to answer
 117 questions concerning the audit report during this presentation.” Manager Crafton
 118 seconded the motion to amend. Upon a roll call vote, the motion to amend carried 5-0 as
 119 follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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121 Upon a roll call vote, the amended motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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5. CAC

123 Ms. Lori Tritz reported on the CAC’s most recent meeting, stating the Committee passed one
 124 motion and had two consensus items. She said the motion was to make the Speakers Bureau
 125 presentations available on the District’s YouTube channel. Ms. Tritz stated the CAC’s consensus
 126 items included the Committee supports the District collecting more data, obtaining resident input,
 127 and financially supporting the Duck Lake Road project. She said another CAC consensus item
 128 was creating a “see-click-fix” app for people to use to report problems they see around the

129 watershed district. Ms. Tritz noted that the City of Eden Prairie has developed and is utilizing
130 such an app. Ms. Tritz mentioned the learning presentation on groundwater provided by Ms. B.
131 Lauer at the CAC's meeting, and she summarized the CAC Committees' updates. Manager
132 Crafton noted she attended the CAC meeting, and she provided additional comments about the
133 meeting.

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6. Consent Agenda

135 There were no items on the Consent Agenda.

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7. Action Items

137 a. Pulled Consent Agenda items

138 i. Accept May Staff Report

139 Manager Koch asked for more details about the carp barrier not being put in place
140 between Staring Lake and the Rec Area, and Administrator Bleser provided
141 information. Manager Koch asked for more details about the Silver Lake Water
142 Quality Improvement Project being undertaken by the MN Green Corps member
143 assisting the District, and Administrator Bleser responded, noting the changes in
144 the project vision due to COVID-19 considerations.

145 Manager Koch asked if the transfer of the wetland from the City is complete and
146 were the restrictions or reservations on that property removed or in place. Mr.
147 Jeffery reported on Attorney Welch's actions regarding the transfer and provided
148 a status report, saying the transfer will be completed after the City brings it back
149 to the City Council's next meeting for action on a resolution. Manager Koch
150 raised his concerns about the potential to lose the properties and said he would
151 like to see a copy of the documents that Attorney Welch reviewed.

152 Manager Koch asked Attorney Smith if he had any comments, and Attorney
153 Smith said that today Attorney Welch received correspondence from the attorney
154 for the City of Chanhassen, which Smith Partners will now review and will make
155 sure the issues Manager Koch raises will be addressed.

156 Manager Koch asked for an update from Administrator Bleser about opening the
157 District office, in relation to COVID-19, and she provided an update.

158 Manager Koch asked for a status update regarding the unpermitted rip rap on
159 Lotus Lake. Mr. Jefferey provided an update.

160 Manager Koch moved to accept the staff report as presented. Manager Ziegler
161 seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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- ii. **Accept May Engineer’s Report (with Attached Inspection Report)**
 Manager Koch asked about the open CA’s and asked for any updates on them. Mr. Jeffery and Engineer Sobiech provided updates and responded to additional manager questions. Manager Koch moved to accept the Engineer’s Report. Manager Ziegler seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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- iii. **Approve Modification to Permit 2018-011 Westwind Plaza as presented in the proposed board action of the permit report**
 Manager Koch asked if this permit will be operating under the District’s updated rules and fees. Engineer Sobiech said the language has been drafted that the applicant needs to provide the permit fee deposit under the new permit fee structure. Manager Koch moved to approve the modification to Permit 2018-011 with the resolution set forth in the staff report. Manager Ziegler seconded the motion.
Upon a roll call vote, the motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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b. Accept April Treasurer’s Report

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Treasurer Crafton moved to accept the Treasurer’s Report as submitted. Manager Pedersen seconded the motion.

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Manager Koch asked several questions about details provided in the report. Treasurer Crafton and Administrator Bleser responded. Manager Koch asked about the District’s investments, and he commented that there is some concern in general about about banks and their financial stability if there are defaults. He encouraged the District to more than once a month review to ensure it has adequate collateral at the institutions and to obtain signed certifications from the institutions.

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Upon a roll call vote, the motion carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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c. Approve Paying of Bills

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Manager Crafton moved to pay the bills. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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d. Approve Permit 2018-016: Avienda Variance Request as Presented in the Proposed Board Action of the Permit Review Report

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Engineer Sobiech said the Board is considering tonight a variance request for permit application 2018-016. He described the applicant has demonstrated the project will meet the District’s rules except for the floodplain fill criteria. Engineer Sobiech went through the criteria and explained the LGU (Local Governmental Unit), which is the City of Chanhassen, has allowed some of the wetlands to be completely filled and mitigated offsite, the waterbodies are no longer available on the project site to provide the compensatory storage adjacent to the same waterbody.

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Engineer Sobiech provided details about what the applicant is proposing to provide, including storm water ponds, filtration basins, and dry retention basins, which provide a larger amount of floodplain storage capacity than what is being filled. He said that with the information he just provided, there is ample evidence for the District to rely upon to grant the variance request.

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Manager Ziegler moved to approve the change and variance request for Permit 2018-016 with the staff and Engineer’s recommendations. Manager Crafton seconded the motion.

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Manager Pedersen remarked she remains opposed to this project because she doesn’t believe filling in wetlands is beneficial to the watershed’s water resources.

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Manager Koch asked for more details about what has changed from the variance the District approved previously to the current design. Engineer Sobiech responded the primary difference is the change in locations of the stormwater management facilities and there is slightly less compensatory storage volume being provided compared to under the previous approval; However, he pointed out, even with the changes, the project provides adequate compensatory storage volume in total. Manager Koch asked if the Board needs to take any action to repeal the previous approval. Engineer Sobiech stated it is his understanding that the variance in front of the Board today would supersede the Board’s previous approval. Attorney Smith agreed the record will show the Board’s action today on the variance request.

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Upon a roll call vote, the motion carried 4-1 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	No
Ward	Aye
Ziegler	Aye

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- e. **Approve Permit 2018-016: Avienda Permit Modification Request as Presented in the Proposed Board Action of the Permit Review Report**
 Manager Ziegler moved to approve Permit 2018-016 permit modification as requested with the proposed Board action set forth in the report. Manager Koch seconded the motion. Upon a roll call vote, the motion carried 4-1 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	No
Ward	Aye
Ziegler	Aye

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Manager Crafton asked if the District had any recourse regarding the action of the LGU for that project and the filling of the wetlands. Attorney Smith responded, and he noted that Wetland Conservation Act decisions by an LGU are reviewable and appealable. Managers commented about actions it could consider regarding wetlands. Manager Koch remarked he thinks legislative action would be the path to explore.

8. Discussion Items

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- a. **Manager Reports**
 Manager Koch reported on a University of Minnesota webinar about AIS that he attended and his takeaway that the District may want to investigate genetic testing of milfoil to

245 properly identify the species and treatment.

246 **b. Administrator Report**

247 Administrator Bleser provided brief highlights of the staff’s activities during the month.

248 She noted that the District currently has five interns, and she described intern roles.

9. Upcoming Board Topics

249 Manager Koch asked if staff could report next month on its findings about a previous
250 topic of discussion about interest due to contractors due to late payment of invoices.

251 President Ward noted upcoming Board topics and events are listed on the meeting
252 agenda.

10. Upcoming Events

- 253 • Citizen Advisory Committee Meeting, June 15, 2020, 6:00 p.m., Zoom Meeting
- 254 • Webinar on Ecosystem Services, June 24, 7:00 p.m., Zoom Meeting
- 255 • Board of Managers Meeting, July 8, 2020, 7:00 p.m., Zoom Meeting

11. Adjournment

257 Manager Crafton moved to adjourn the meeting. Manager Pedersen seconded the motion. Upon a
258 roll call vote, the motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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260 The meeting adjourned at 8:38 p.m.

261 Respectfully submitted,

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263 David Ziegler, Secretary