

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

November 5, 2014, Board of Managers Monthly Meeting and Public Hearing

PRESENT:

Managers: Mary Bisek, Vice President

Jill Crafton, Treasurer

Perry Forster, President

Ken Wencil, Secretary

Leslie Yetka

Administrator: Claire Bleser

Staff: Josh Maxwell, District Technician and Compliance Officer, RPBCWD

Louis Smith, Attorney (Smith Partners)

Scott Sobiech, Engineer (Barr Engineering Company)

Michael Welch, Attorney (Smith Partners)

Recorder: Amy Herbert

Other attendees: Bob Adomaitis, Eden Prairie; SWMLC

Sharon McCotter, CAC

Seth Bossert, Carver County Soil and Water Conservation District

Matthew McMullen, St. Paul Resident

John Bushey, Eden Prairie Resident

Tim McCotter, Chanhassen Resident

Bill Coppage, CAC

Tom Rabiola, Eden Prairie Resident

Anne Florenzano, Eden Prairie Resident

Don Sarles, Eden Prairie Resident

David Florenzano, Eden Prairie Resident

Kathleen ðSpikeö Sarles, Eden Prairie Resident

Greg Halvorson, Eden Prairie Resident

Dennis Seeger, CAC

Terry Jeffery, City of Chanhassen

Bob Shurson, CAC

Tom Juhnke, Eden Prairie Resident

Liz Stout, City of Minnetonka

Larry A. Koch, Chanhassen

Laurie Susla, CAC

Jim Leonard, Family of Christ Lutheran Church

1. Call to Order

President Forster called the RPBCWD Board of Managers Wednesday, November 5, 2014, Board of Managers Monthly Meeting and Public Hearing to order at 6:18 p.m. in the Conference Room at Eden Prairie City Center 8080 Mitchell Road, Eden Prairie, MN 55344.

2. Approval of the Agenda

President Forster announced that the Board needs to select delegates and alternates for the MAWD (Minnesota Association of Watershed Districts) conference and requested this item be added to the agenda. Manager Bisek

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

3. Personnel Review

At 6:20 p.m. President Forster closed the meeting for a personnel review.

4. Correspondence

At 7:16 p.m. President Forster re-opened the meeting in the Council Chambers at Eden Prairie City Center, 8080 Mitchell Road, Eden Prairie, MN 55344. He announced that the RPBCWD received a thank you letter from the Wisconsin Department of Natural Resources (DNR) regarding the Junior Inspectors program developed by the District last year. Mr. Forster said that the Wisconsin DNR has picked up the program and the letter thanks the District for developing the program and letting the DNR expand it into Wisconsin.

5. Public Hearing – Cost Share Program

a. City of Chanhassen

Administrator Bleser introduced Terry Jeffery of the City of Chanhassen and explained that the City of Chanhassen requested \$20,000 of Cost-Share program funds for improvements made by the City in an area just west of Lake Riley and that drains into Lake Riley.

Mr. Jeffery explained that the City of Chanhassen undertakes road reconstruction projects on even years. He said that with road reconstruction projects the City looks at addressing stormwater and drainage issues. Mr. Jeffery described the improvement project and said it comprised two areas. In one area the City installed a series of iron filings filtration pools and in the other area, along Kiowa Trail, the City installed a series of treatment facilities.

Mr. Jeffery provided specific details on the improvements in both areas. Administrator Bleser stated that the District received the application for this cost-share grant prior to the project being initiated. Manager Yetka asked if maintenance agreements were in place. Mr. Jeffery said that the City will maintain everything that is on City property and will maintain the vegetative swale located on the private property for three to five years, but there is not yet a maintenance agreement in place for it.

Mr. Koch of 471 Bighorn Drive in Chanhassen asked if there is a process in place to measure the effectiveness of these improvements, in particular the pervious pavement. He said that it would be useful to have a method of evaluating the effectiveness of improvements and asked if that type of evaluation should be a requirement. Mr. Koch said that as a CAC member he would find it helpful to have such a process as part of the cost-sharing program so that the Committee could do a better job in evaluating proposed cost-share projects going forward. He said it would also be useful for the TAC to have a checklist of the District's requirements for cost-share grants so the TAC can efficiently evaluate the applications.

Manager Bisek said that this would be a good opportunity for education and outreach through signage at the project sites. Administrator Bleser agreed and said that the District does have funds for education and outreach and said she is sure that the District can work it out with the City of Chanhassen.

Manager Wencil moved to approve the \$20,000 cost-share grant for the City of Chanhassen. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

b. Family of Christ Lutheran Church

Administrator Bleser explained that this project would be a Community Partners cost-share project. She reminded the District that in 2013 the District received \$150,000 in Clean Water Legacy Funds to develop the District's Community Partners cost-share program. Administrator Bleser reported that this project would be the District's second cost-share in this program, noting that the first project was the Edenvale Senior Living project in Eden Prairie at a cost of \$20,000. She pointed out that \$130,000 is left in the District's Community Partners grant program and those funds will expire on December 31, 2015.

Administrator Bleser introduced Seth Bossert of the Carver County Soil and Water Conservation District and reminded the District of its partnership with the CCSWD to provide technical assistance to the homeowners and community partners.

Mr. Bossert noted that he had reached out to Family of Christ Lutheran Church among other organizations with parcels in the watershed that have untreated runoff that drains directly into adjacent water bodies. He said that he received a response to his inquiry from Family of Christ. He went on to show a map of the property, and he described the biofiltration project. Mr. Bossert said that the project would capture 100% of the runoff from the church's parking lot from a 1.1-inch rain event, which is about 90% of the storm events in this area.

Mr. Bossert explained that the proposed project would capture slightly less than one pound of phosphorous annually and would capture 406 pounds of sediment. He described the rain garden, which would include 2,500 native plants and 23 types of native species. Mr. Bossert stated that long-term maintenance would be undertaken by Family of Christ Lutheran Church, and the project could include educational signage.

Jim Leonard of Family of Christ Lutheran Church described the church's interest in and commitment to the project.

Administrator Bleser stated that the total cost of the project is estimated at \$42,500. She said that Family of Christ has dedicated \$5,000 toward the project and will match in-kind by doing the plantings of the 2,500 plants. She said that the City of Chanhassen also would partner in this project at an amount of \$7,500. Administrator Bleser noted that the District's Community Partners cost-share grant program originally had a maximum grant amount of \$20,000 per project grant, which was revised to allow funding of up to \$25,000 per project with a variance. She reiterated that the three sources of funding for the project include the District's Community Partners cost-share grant in the amount of \$25,000, Family of Christ's contribution of \$5,000, and the City of Chanhassen's contribution of \$7,500, leaving the project's funding short \$5,000.

Administrator Bleser pointed out that Bluff Creek is impaired for turbidity and explained that the proposed project would remove the 406 pounds of sediment per year from entering Bluff Creek. Administrator Bleser said that the District could take action to approve a variance for this Community Partners grant to allow the project to be granted \$25,000, and the District could take action to cost-share in the project in the amount of \$5,000. She added that she checked with the CCSWCD and found out that it does not have funds available for this project.

Manager Yetka asked if the District Engineer had seen the project designs. Engineer Sobiech said he did see the original designs and did provide input on the initial designs. Manager Yetka voiced her concerns about maintenance of the project and said that the complexity of the plantings have her concerned about the congregation's ability to maintain the plants.

Mr. Jeffery commented that he would hate to miss the opportunity with this project especially because it captures 100% of the church's parking lot runoff. He described the possibility of the Chanhassen Public Works involvement in hauling materials provided all the trips could be done in one day, and he said that there is a possibility that the District would receive some of its \$5,000 contribution back.

Administrator Bleser reiterated that the District would need to approve the Community Partners grant with a variance to allow \$25,000, and the District could use funds in the amount of \$5,000 from its cost-share grant program.

Manager Bisek recommended that if the District approve a variance for this Community Partners grant to allow a \$25,000 maximum grant that the District leave the maximum at \$25,000 going forward so that other applicants can request a up to \$25,000. The Board agreed.

Manager Bisek moved to amend the District's Community Partners grant cost-share program to allow funding of up to \$25,000 per project. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

Manager Bisek moved to grant Family of Christ Lutheran Church \$25,000 from the District's Community Partners cost-share grant program. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

Manager Bisek asked Administrator Bleser for justification of why the District should approve the \$5,000 funding for this project. Administrator Bleser responded that this project would be a great showcase project because it can easily be seen from the road and offers a great education opportunity, it will handle the runoff from the parking lot that drains directly to Bluff Creek and the District has a TMDL for Bluff Creek, and the project will capture 406 pounds of sediment from entering Bluff Creek.

Manager Bisek moved to approve the District funding this project in an amount up to \$5,000 from the District's cost-share program with the understanding that if that amount is able to be reduced at all, it will be. Manager Crafton seconded the motion. Manager Yetka reiterated that the benefits of the project is clear but also wants to make sure that the landowner is aware and committed to the on-going maintenance of the project. Administrator Bleser said that staff will go back to Family of Christ and go over the planting plans and make sure the church is comfortable with the maintenance requirements.

Upon a vote, the motion carried 5-0.

6. Reading and Approval of Minutes

October 1, 2014, RPBCWD Board of Managers Meeting

President Forster requested an edit to remove Administrator Bleser's name from the list of attendees since she was not at the October 1 meeting. Manager Crafton moved to approve the minutes as amended. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0.

7. Hearing and Discussion of Matters of General Public Interest

President Forster called for comments on matters not on the meeting agenda. Laurie Susla of 7008 Dakota Avenue in Chanhassen commented on the Board's meeting format in which the Hearing and Discussion of Matters of General Public Interest are only for comments on items not on the agenda. Ms. Susla said that if the Board is changing to a format where at this point in the meeting the public can only bring forward items not on the agenda, she thinks it would be appropriate that as the Board handles each agenda item the Board ask if the

public has comments on that item. Ms. Susla explained that the public doesn't want to interrupt the Board during its discussion but the result could be that the Board votes on an item and the public hasn't had a chance to speak. She recommended that the Board ask for comments from the public at the beginning of each agenda item. President Forster thanked her for her comments but noted that the Board has had the current meeting format for three years.

8. Citizen Advisory Committee

CAC Chair Dennis Seeger reported that the CAC's meeting minutes from the CAC's most recent meeting are in the Board packet. He had one correction to the October 20th CAC meeting minutes: To add into the minutes that Motion No. 8 was referencing the draft storm water management rule and the vote on that was 4 in favor, 1 against, and 1 abstained.

President Forster thanked the CAC for their comments and work and said the Board will be thinking about ways to get the CAC more involved.

9. Treasurer's Report

Manager Crafton moved to accept the Treasurer's Report as presented in the Board packet. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0.

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

10. Engineer's Report

President Forster had a question about the project to be done on Meadowlark Lane on Lake Riley. He said that he wants the project to be done in a way that makes sure that the rocks will stay in place. President Forster read a sentence of the Engineer's Report regarding how no computations have been provided to confirm global slope stability once the slope is restored for this project. He said that he doesn't like that the computations have not been provided, and he wanted to know if the project will go forward if those computations are not provided to the City.

Terry Jeffery of the City of Chanhasen responded that the City does rely on the information that the engineers provide to him. He said that he had the City, the District, and the Department of Natural Resources all sit down and talk about this project and the issue of what the City would and would not allow. Mr. Jeffery provided some updates from that meeting.

President Forster asked if there is a monitoring plan in place so as the project moves along, it is being monitored. Engineer Sobiech said that the District made it clear that continued monitoring and inspection during construction will be critical.

Manager Yetka said that for the Purgatory Creek Hydraulic and Hydrologic model the Engineer's Report talks about calibrating the model using data from two rainfall events. She asked if the proposed method will be adequate. Engineer Sobiech responded yes and went into more detail on the calibration method and described how the data from this past June's rain event would be used in the calibration.

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

11. Administrator's Report

a. **CRAS (Creek Restoration Action Study)**

Administrator Bleser updated the Board on the Creek Restoration Action Study. She reminded the Board that it directed staff to evaluate the cost and possibility of doing an assessment of the three creeks in the watershed and a prioritization of issues. She said that staff is still discussing CRAS and hopes to come to the Board in December with information and numbers.

b. **Evening with the Watershed**

Administrator Bleser announced that the Evening with the Watershed will be Tuesday, December 2 starting at 7 p.m. at the Chanhassen American Legion. She reported that all three speakers for the event are confirmed. She said the three topics are the Pollinator Initiative presented by Dan Shaw of BWSR, Purgatory Creek Management, and Zebra Mussels management in Christmas Lake presented by staff of the Minnehaha Creek Watershed.

President Forster had a few questions about the schematics included in her report, and Administrator Bleser responded that they are regarding the Duck Lake Trail Improvement. She reminded the Board that some of the District's cost-share funds are going toward assessing where BMPs can be located in the Duck Lake Watershed. Administrator Bleser explained that the next phase will be to get those BMPs (Best Management Practices) into the ground.

Administrator Bleser reported that the rain event this past summer led to an opportunity to put in a biofiltration system in a location in City right-away on private property. She said that the City of Eden Prairie has already graded and prepared the soils for the project, which is a cost-share grant.

Administrator Bleser said that the homeowner has only asked for funds for the plants and the homeowner will be planting those plants. Administrator Bleser said that the CAC will be reviewing the application since it is a single-family home residential project.

President Foster acknowledged the BMP (Best Management Practice) installed through the McCotter family's cost-share grant project and recognized it as an outstanding project that shows what a family can do to improve the quality of a lake.

c. **Data Collection Update**

Josh Maxwell, RPBCWD District Technician and Compliance Officer, updated the Board on activities staff carried out this month. He showed photos on the room's large screen of areas of the streams they assessed, and he described staff's findings. He said that upcoming work in November includes the installation of the AIS (Aquatic Invasive Species) mobile decontamination unit, stream assessments, and lake level sensor removal.

Manager Yetka moved to accept the Administrator's Report as presented. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

12. Board Action

a. **Principal Place of Business Move**

President Forster introduced Resolution 14-07 Proposing and Giving Notice of Hearing on Change of Principal Place of Business to 14500 Martin Drive, Suite 1500, Eden Prairie. He said that tonight's meeting will be the last meeting held here because the December meeting will be held at the Chanhassen

American Legion and starting in January the Board meetings will be in the new District office on Martin Drive.

Manager Crafton moved to adopt Resolution 14-07 and read aloud resolution's the resolving statement. Manager Wencil seconded the motion.

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

Manager	Ay	Nay
Bisek	X	
Yetka	X	
Crafton	X	
Wencil	X	
Forster	X	

b. Rules

Attorney Welch stated that the final draft rules in front of the Board contain all the changes that have been made since the initial draft rules went out for comments in February. He said that the Board packet also includes a final draft of the SONAR (Statement of Need and Reasonableness). Attorney Welch noted that staff worked closely with the City of Eden Prairie over the past month to address some specific issues in the draft rules. He said the changes that resulted are in the final draft of the rules and are documented in the final draft SONAR.

Attorney Welch explained that there is a series of resolutions in front of the Board. He recommended the Board first take on the resolution adopting the rules, approving the SONAR, and directing the statutory process for providing those documents to the cities and other regulating entities. He said that then the Board would set the fees and the financial assurances, which are based on rules within the rules document. Attorney Welch stated that the fees would be able to be adjusted over time without the Board needing to re-do the rules each time. He announced that the final resolution prepared for the Board tonight is a delegation resolution, which the Board could act on tonight or at a later time. Attorney Welch explained that there are certain permits that due to their likely timeframe in which they need approval or the relatively straightforward nature of the work, the Administrator working with the District Engineer could review the documents and exercise the authority to approve those permits.

President Forster said that he believes that the District continued receiving comments up through two weeks ago and staff have responded to all concerns raised in those comments. He said that he does not believe there needs to be another public hearing on the draft rules and said that he feels the Board should get any questions it has answered and then move on to taking action to adopt or not adopt the rules.

Manager Yetka asked for more information on how the District notifies communities about the rules adoption once the rules are adopted. Attorney Welch responded that the process is pretty specifically defined in state statute. He said that the rules are not effective until the cities have the rules in hand, so

once the rules are adopted, they are immediately distributed to the cities in the watershed. He provided further details on the process, including that the resolution proposes an effective date of January 1 and if people come in to the District with their plans prior to February 1, the District Engineer will review the project in a "best possible" compliance scenario.

Manager Bisek said that the criteria 3.7 C regarding the potential transfer for exotic invasive species only appears in Rule G. She asked if this item should also be in other rules such as Rule B, Rule E, and Rule F. There was discussion.

President Forster introduced Resolution 2014-08 Adopting Rules and Setting Effective Schedule and read aloud the resolving paragraphs of the resolution. Manager Bisek moved to adopt Resolution 2014-08 with the amendment that the language in 3.7C of Rule G is added to Rules B, D, E, and F. Manager Crafton seconded the motion.

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

Manager	Ay	Nay
Bisek	X	
Yetka	X	
Crafton	X	
Wencl	X	
Forster	X	

President Forster introduced Resolution 2014-09 Permit Fee Policy and read aloud the resolving statements. He reiterated that the District will not and by law cannot profit from the permit fees and they are in place to cover the District's costs. Manager Yetka moved to adopt Resolution 2014-09 and read the resolving statements into the record. Manager Crafton seconded the motion.

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

Manager	Ay	Nay
Bisek	X	
Yetka	X	
Crafton	X	
Wencl	X	
Forster	X	

President Forster introduced Resolution 2014-10 Financial Assurance Policy and read aloud the resolving statements. Attorney Welch pointed out that the schedule details the way the financial assurances are calculated. Manager Crafton moved to adopt Resolution 2014-10 as read into the record. Manager Yetka seconded the motion.

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

Manager	Ay	Nay
Bisek	X	
Yetka	X	
Crafton	X	
Wencl	X	
Forster	X	

President Forster introduced Resolution 2014-11 Resolution Delegating Certain Permit Approval Authority to the Administrator, and he read aloud the resolving statements. Manager Crafton moved to approve Resolution 2014-11 as read into the record. Manager Wencl seconded the motion. By call of roll, the motion carried 5-0.

Manager	Ay	Nay
Bisek	X	
Yetka	X	
Crafton	X	
Wencl	X	
Forster	X	

c. BWSR 8410 Draft

Attorney Smith said that the Minnesota Board of Water and Soil Resources (BWSR) has been working for the past 12 years to revise the 8410 rules. He reported that the proposed rules were released for public comment and comments are due November 10th. Attorney Smith said that he and Attorney Welch have reviewed the proposed rules and have identified a number of items of concern. He described the areas of concern.

Attorney Smith said that in general he and Attorney Welch think that the idea of the updates is good but the updates need to be significantly improved. Attorney Welch said that the Board managers received a

memo identifying areas of interest to the watershed. He explained that what he and Attorney Smith are aiming for tonight is a determination by the Board as to whether the Board wishes to comment and if it does, for the Board to establish some direction for District staff to work with legal staff to finalize a letter that would go to BWSR by the deadline. There was discussion and consensus that the Board needs to take advantage of the opportunity to comment.

Manager Yetka moved to authorize the Administrator and legal staff to work with the Board President to draft and submit comments. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

d. Worker’s Compensation and Insurance

President Forster explained that the League of Minnesota Cities Insurance Trust wants the District to take this action once a year. He read the resolving statement in Resolution 2014-12. Administrator Bleser described the change in the cost compared to last year and said that the increase in cost was due to the change in municipal liability. Attorney Smith recommended that the Board revise the resolution to read “approves the purchase of liability insurance and worker’s compensation coverage for the Board from the League of Minnesota Cities Insurance Trust pursuant to the attached proposal.”

Manager Crafton moved to adopt Resolution 2014-12 Adopting a Worker’s Compensation Policy as amended. Manager Wencil seconded the motion. By call of roll, the motion carried 5-0.

Manager	Ay	Nay
Bisek	X	
Yetka	X	
Crafton	X	
Wencil	X	
Forster	X	

e. Annual Communication

Administrator Bleser said she distributed late last week a draft of the District’s annual communication. She requested that comments be sent to her by the end of this week and that staff is trying to finalize it before the District’s Evening with the Watershed and the MAWD conference.

Manager Crafton moved to approve the communication with any recommended changes that are received by the Administrator. Manager Bisek seconded the motion. Laurie Susla remarked that the District has money remaining in its Education and Outreach budget and suggested that the District use some of those funds to print the annual communication and send it to residents.

President Foster said that another idea is to print it and include it in a circulation of the local newspapers. He said that the District could look into how to cost effectively do this. Upon a vote, the motion carried 5-0.

f. MAWD Annual Meeting Delegates

President Forster moved to nominate Managers Crafton and Wencil as delegates at the annual MAWD

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

President Forster moved to nominate Managers Bisek and Yetka as the alternates at the annual MAWD meeting. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

13. Manager's Discussion

a. RPBCWD Open House

Administrator Bleser announced that she will be sending to the managers a Doodle poll about possible open house dates in January.

b. Plant Management Plans – Update

Administrator Bleser said that the fourth stakeholder meeting was just held regarding all three lakes of Mitchell Lake, Red Rock Lake, and Lake Lucy and the draft plan was distributed. She reported that comments were received at those workshops. She said that staff will finalize those plant management plans, will distribute them at the Board's December meeting, and will present them to the Board at its January meeting.

14. Upcoming Events

- **Climate Change in Minnesota Forests, Prairie Edge Wild Ones Chapter Meeting**, November 12, 7:00 p.m. to 8:00 p.m., Glen Lake Activity Center, Minnetonka
- **Citizen Advisory Committee Meeting**, Monday, November 17, 6:30 p.m., RPBCWD Office
- **District Office Closed November 27-28**
- **Board Meeting and Evening with the Watershed**, Tuesday, December 2, 2014, Chanhassen American Legion
- **District Office Closed December 4-5**
- **Winter Parking Lot and Sidewalk Workshop**, December 11, 9:00 a.m. to 2:30 p.m., RPBCWD District Office

15. Adjournment

Manager Yetka moved to adjourn the meeting. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0. The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Ken Wencil, Secretary