

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

March 19, 2014, Public Hearing and Special Meeting

PRESENT:

Managers: Mary Bisek, Vice President

Jill Crafton, Treasurer

Perry Forster, President

Leslie Yetka

Administrator: Claire Bleser

Staff: Scott Sobiech, Engineer (Barr Engineering Company)

Michael Welch, Attorney (Smith Partners)

Recorder: Amy Herbert

Other attendees: Kelly Agosto, Hennepin County

Sharon McCotter, CAC

Brad Aho, Eden Prairie City Council

Nick Peterson, Hennepin County

Lindsey Albright, RPBCWD

Rod Rue, City of Eden Prairie

Jim Boettcher, CAC

Dennis Seeger, CAC

Jim Bracke, Resident

Jason Staebell, Hennepin County

John Colford, Lotus Lake Conservation
Alliance (LLCA)

Liz Stout, City of Minnetonka

Robert Ellis, City of Eden Prairie

Laurie Susla, LLCA, CAC

Patrick Gunnell, Sunrise Hills Civic Assoc.

Katy Thompson, Eden Prairie Resident

Terry Jeffery, City of Chanhassen

Nancy Tyra-Lukens, Mayor, City of Eden
Prairie

Larry Koch, Chanhassen Resident

Sherry Butcher Wickstone, Eden Prairie City
Council

1. Call to Order

President Forster called the RPBCWD Board of Managers Wednesday, March 19, 2014, Board of Managers Public Hearing and Special Meeting to order at 6:35 p.m. in the Council Chambers at Eden Prairie City Center, 8080 Mitchell Road, Eden Prairie, MN 55344.

2. Approval of the Agenda

Manager Bisek requested that the Board add to the agenda a discussion about the status of the Plant Management Plan and an update on the status of RPBCWD office space. Manager Bisek moved to approve the agenda as

amended. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencil absent from vote].

3. Rules Public Hearing

President Forster read a statement that opened the public hearing, welcomed the public to the RPBCWD's public hearing on the proposed revised rules, introduced himself and the rest of the Board managers, summarized the purpose and legal obligations of the Watershed District per the Watershed Act, described the process the RPBWD has undergone to draft the proposed rules and receive input on them throughout the process, communicated where the draft proposed rules have been distributed and also made available for public review, and described the process of tonight's public hearing.

He pointed out that the meeting is being recorded, that the comment period will remain open for the RPBCWD to receive written comments through April 7, 2014, and that the Board of Managers will consider all of the comments received at tonight's public hearing and received in written form and will direct staff to make revisions to the rules in response to the comments prior to the Board's adoption of the final rules.

1. Liz Stout, Water Resources Engineer with the City of Minnetonka, thanked the Board for implementing the rules process and commented that there was a very comprehensive Technical Advisory Committee process carried out as part of it. Ms. Stout provided specific comments on the following rules:

- Rule B: Floodplain Management and Drainage: Section 3.4
- Rule D Wetland, Lake, and Creek Buffers: Section 3.2
- Rule D Wetland, Lake, and Creek Buffers: Section 3.2d
- Rule J: Stormwater Management: Section 2.3
- Rule J: Stormwater Management: Section 3.1c
- Rule J: Stormwater Management: Section 2.4

Ms. Stout also communicated that the City of Minnetonka would like the RPBCWD rules to reflect that private projects that have already received plat approval are exempt from the rules and also that public projects that have already received final layout approval are exempt from the rules. Ms. Stout said that she will submit these comments in writing and in their entirety to the RPBCWD.

2. Robert Ellis, City of Eden Prairie Public Works Director, thanked the Board for the opportunity to comment and stated that with these rules the City will have a lot of areas that will be protected to a greater extent than currently through just the Nine Mile Creek Watershed District rules. He said that the City does have some concerns with the draft proposed rules and explained that he would highlight the larger concerns in which the City would like to have more input and of which the City would like more consideration undertaken by the RPBCWD. Mr. Ellis provided comments on:

- The definition of linear projects
- The definition of rehabilitation
- The need for clarification about what role city staffs will be expected to undertake once the rules are adopted

- Buffers ó concern over not knowing what percentage of available land area in Eden Prairie would be affected by the proposed draft rules on buffers
- The need for clarification about what types of plants would be permitted in buffers, would turf be allowed, are there maintenance requirements, and will variances be involved
- The concern about the stormwater management rules, and the City's interest in the RPBCWD implementing rules similar to the Nine Mile Creek Watershed District in terms of planning for 1.0-inch rain events compared to 1.1-inch rain events.
- The desire for stormwater banking and the interest in the opportunity to do such banking

Mr. Ellis noted that the City of Eden Prairie is familiar with the Nine Mile Creek Watershed District's rules and they have been tried, tested, proven and the City knows how it is interpreted and what is expected. He said that the City hopes that the RPBCWD would consider the Nine Mile Creek WD rules as good starting point for RPBCWD in terms of a regulatory framework. Mr. Ellis said that after that first step, the RPBCWD could work with stakeholders to investigate where to go from there.

3. Nick Peterson, Hennepin County Transportation Department, said he was here to represent a project that has been in development since 2011, the reconstruction of Highway 101 from Highway 62 to Hutchins Drive in the City of Minnetonka. He reported that in August 2013 the preliminary layout was approved by the City of Minnetonka City Council, and he explained that the process has set expectations with the public about the project and its design. Mr. Peterson provided details on the estimated additional project costs in the case that the project would need to comply with the RPBCWD's proposed rules. He explained his concerns about the impact of the rules on this project that is already moving through its process and asked if the proposed rules could include a grandfather clause so that this project would be exempt.
4. Brad Aho, Eden Prairie City Council, commented that he hopes the RPBCWD continues to work with the cities because it is nice have consistent rules across a city that is in multiple watersheds. He added that having different rules within the city makes it difficult to manage projects. Mr. Aho said that he hopes the RPBCWD will work with the cities and the other watershed districts to come up with one unified plan for everyone.
5. Patrick Gunnell, Sunrise Hills Civic Association, commented on Rule F: section 3.8 regarding sand blankets. He described the Sunrise Hills Civic Association as a neighborhood association that owns a beach lot on Lotus Lake and talked about how the RPBCWD's proposed rule will limit the association's use of the beach lot due to the rules about sand application. He asked for the Board to consider the Association's beach lot a public beach, and he said that he will submit his comments to the District in writing. Attorney Welch asked if the public is allowed to use that beach lot. Mr. Gunnell replied, technically no, just the neighborhood association.
6. Larry Koch, resident of Chanhassen and Lotus Lake lakeshore property owner, thanked the Board, staff, and other parties for their work putting together the draft rules. He raised his concerns about potential impact of the stormwater runoff and buffer rules on existing properties. He said that it seems to him that it wouldn't take much work on the property to trigger the proposed RPBCWD rules, and his bigger concern is that the consequences have no meaningful relationship to the impact on the watershed.

Mr. Koch requested that the rules clearly state that any existing structures on properties prior to the adoption of these rules are clearly grandfathered. He also requested that the rules clearly state that any remedial action must be commensurate with the additional impact on the watershed.

Mr. Koch asked that the rules take into account the historical and existing nature of the property. He asked that the rules clarify what would be required regarding putting in a buffer, what the cost would be, and how putting in a buffer would impact future use of the property. He noted that he thinks that the rules have disparate impact on the people living along the lakes or the creeks, while it is his understanding that more than 90% of the water in the watershed comes from outside of those areas. He also voiced his concern with the District imposing rules when he feels that the District has not yet analyzed core samplings of Lotus Lake and does not know yet what its true goals are. Mr. Koch said that he will provide written comments to the Board for its consideration.

President Forster called for additional comments. Upon hearing none, he called for additional comments a final time, and upon hearing none he closed the public comment period of tonight's hearing. He reiterated that the comment period will remain open for the District to receive written comments on the proposed rules until April 7, 2014, and he explained where the comments could be emailed, mailed, and delivered. President Forster stated that the Board will review all comments and will discuss responsive changes. He said that the rules will not be adopted until the Board is confident that the rules will effectively implement the policies the District has established in its Watershed Plan and without unduly burdening property owners. President Forster commented that each board member also is a property owner in the District, and he thanked everyone for attending the hearing.

Engineer Sobiech clarified a few points based on tonight's comments. Attorney Welch noted that staff is getting input regarding turf grasses and is considering how to best finalize that component of the rules.

4. Carver County Soil and Water Conservation District Contract

Administrator Bleser provided a summary of the contract with the Carver County Soil and Water Conservation District (CCSWCD), which is a two-year contract not to exceed \$30,000 at \$15,000 per year. She reminded the Board that the District had a one-year contract with the Carver County Soil and Water Conservation District (CCSWCD) last year for it to provide to the District technical assistance, primarily with the District's Cost-Share Grant Program. Administrator Bleser stated that the hourly fee would remain the same as last year, but a component has been added so that the CCSWCD technician could do site permit inspections.

Manager Yetka moved to approve the contract with the CCSWCD. Manager Crafton seconded the motion. Manager Yetka asked for confirmation that the District isn't paying for technical assistance twice, once through the CCSWCD services and again to the homeowner through the cost share grant. Administrator Bleser said that the technical assistance is only through the CCSWCD and the cost share grant is for implementation. Sharon McCotter offered a comment about the application process.

Upon a vote, the motion carried 4-0 [Manager Wencil absent from vote].

5. Lake-wide Treatment on Susan and Riley

Administrator Bleser reported that the District received two bids for the lake-wide treatment on Lake Susan and Lake Riley: one from Lake Restorations and one from PLM. She described the information received in the bids and explained that the PLM bid would require the District to be a Minnesota (MN) Cooperative Purchasing Venture member. Administrator Bleser provided more detail about the requirement and the MN Cooperative Purchasing Venture. She recommended that the District move ahead with PLM and provided reasons for doing so.

Manager Crafton moved to approve accepting the PLM bid and joining the MN Cooperative Purchasing Venture. Manager Yetka seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencl absent from vote].

6. Citizen Advisory Committee (CAC) Appointments

Administrator Bleser read the names of the six CAC reappointments: Sharon McCotter, Jim Boettcher, Laurie Susla, Dennis Seeger, Bob Shurson, and Steve Donen. She said that the District received three additional applications. Administrator Bleser recommended that the District appoint the three new CAC members for a two-year term. She recommended that she, on behalf of the District, continue to seek representation from the underrepresented region of the watershed, which includes the northern areas of the District like Deephaven, Minnetonka, and Shorewood, until the CAC is complete with 12 members. Manager Yetka moved to approve the appointments to the CAC. Manager Crafton seconded the motion. Manager Bisek asked if the CAC has a new chair. Administrator Bleser said not yet. Manager Yetka said that she feels it is important that staff participate in the CAC meetings. Upon a vote, the motion carried 4-0 [Manager Wencl absent from vote].

7. Grant Agreements

Administrator Bleser reported that the District has been awarded a number of grants, and she is asking for authorization from the Board to be able to sign off on those grants. She provided background and descriptions of the grants. She said that the first grant is the Clean Water Fund grant from the Minnesota Board of Water and Soil Resource sand that will be used for the Bluff Creek fish passage and streambank restoration. Administrator Bleser said that the grant is for \$150,000 and the required match from the District will be \$37,500.

Administrator Bleser explained that the other three grants are from the Department of Natural Resources and are for aquatic invasive species. She said that the first DNR grant is in the amount of \$3,500 and is for lake-wide treatment of Curlyleaf pondweed for Lake Riley. She reported that the second DNR grant is in the amount of \$1,600 and is for lake-wide treatment of Curlyleaf pondweed for Lake Susan. Administrator Bleser said that the third DNR grant is in the amount of \$3,880 and will fund having DNR inspectors at Lotus Lake during hours yet-to-be determined. She added that the District's proposal requested inspectors for Friday, Saturday, and Sunday, and she believes that with the grant and the District's match the inspectors could be there weekends from Memorial Day to Labor Day. Administrator Bleser said that this grant is a cost-share grant and the District's match will be \$3,880. She described where these funds would come from in the District's budget. Manager Bisek moved to authorize the Administrator to enter into contracts for all of the grants presented. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencl absent from vote].

8. Plant Management Plan

Administrator Bleser reminded the Board that previously it directed staff to seek bids from aquatic biologists. She described the bid she received from Wenck regarding all three lakes, Lucy, Red Rock, and Mitchell, with an estimated cost of \$23,260. She noted that the University of Minnesota did not submit a bid as it does not see this project as a research project. Administrator Bleser reported that the City of Eden Prairie has offered to partner with the District 50-50 on the cost of the plant management plan for the two lakes in Eden Prairie. She said that this means that Eden Prairie would pay \$7,753, leaving \$15,507 for the District to pay. Administrator pointed out that

the District's 2014 budget did not allocated money for this work, so she is working on identifying the funds from the District's budget. She added that she is not asking for Board action at this time. Terry Jeffery requested that she contact him to talk about possible participation by the City of Chanhassen for Lake Lucy. President Forster said that he thinks the District should be in communication with the key stakeholders for all three lakes to let them know that the District has the proposal and is working out the funding and that the project is scheduled to be done by October 2014.

9. RPBCWD Office Space

Administrator Bleser gave a report on her research on available office space for RPBCWD and said that she would bring additional information and bids to the Board at its April meeting.

10. Upcoming Events

- **Native Plant Landscaping**, March 26, 2014, Minnetonka Community Room, 7:00 p.m.
- **Evening With the Watershed**, Thursday, April 3, 2014, Chanhassen American Legion, 7:00 p.m.
- **Shallow Lakes Forum**, Saturday, April 12, 2014 U of M Landscape Arboretum, Chanhassen, 8:00 a.m.

11. Adjournment

Manager Crafton moved to adjourn the meeting. Manager Yetka seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencil absent from the vote]. The meeting adjourned at 7:45 p.m.

Respectfully submitted,

Ken Wencil, Secretary