

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

April 3, 2013, Board of Managers Regular Meeting

PRESENT:

Managers: Mary Bisek
Mike Casanova, Vice President
Jill Crafton, Treasurer
Perry Forster, President
Ken Wencil, Secretary

Administrator: Claire Bleser

Staff: Jason Carroll, Engineer (CH2M HILL)
Dave Patterson (CH2M HILL)
Louis Smith, Attorney (Smith Partners)

Other attendees: Jim Bracke, CAC
Bill Lambert, Lake Lucy resident
Jody Lambert, Lake Lucy resident
Kris Langlie, CAC
Sharon McCotter, CAC

Bill Satterness, CAC
Dennis Seeger, CAC
Bob Shurson, Mitchell Lake Association
Shawn Tracy, HDR, Inc.

1. Call to Order

President Forster called the meeting to order at 7:00 p.m. on Wednesday, April 3, 2013, at Eden Prairie City Center, 8080 Mitchell Road, Eden Prairie, MN 55344.

2. Review and Approval of the Agenda

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

3. Reading and Approval of Minutes

Minutes of the February 13, 2013, Meeting: Manager Crafton moved to accept the meeting minutes as submitted. Manager Wencil seconded the motion. Upon a vote, the motion carried 5-0.

Minutes of the March 6, 2013, Meeting: Manager Bisek requested two changes. Manager Crafton moved to accept the meeting minutes as amended. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

4. Correspondence

Administrator Bleser announced that the District received its final audit, which has been distributed to the Board and was included in the annual report.

5. Citizen Advisory Committee

Administrator Bleser reported that the CAC met and elected CAC Advisor Bill Satterness as its chair and CAC Advisor Jim Bracke as its recorder, with other members filling in as needed. She said that the CAC has moved its meeting date to Mondays and the next meeting will be on May 15th. Administrator Bleser provided a summary of the other items discussed at the last CAC meeting.

6. Hearing and Discussion of Matters of General Public Interest

President Forster opened the meeting to matters of general public interest and relayed the procedure for this part of the meeting. No items were raised.

7. Treasurer's Report

Manager Casanova raised the question of where the report reflects payment of the Administrator's invoice. Manager Crafton responded that it is not reflected in the accounts payable section because when the report ran, the Administrator's invoice had already been paid meaning that it was no longer an outstanding bill. Manager Crafton said it is the reason for the discrepancy in the report. She noted that she has already made a suggestion to Dan Cavanaugh on a way the financial report could account for this more accurately. Manager Crafton moved to accept the Treasurer's Report. Manager Bisek seconded the motion. Upon a vote, the motion carried 4-1 [Managers Bisek, Crafton, Forster, and Wencil voted in favor. Manager Casanova voted against]. Manager Casanova said that he voted against the motion because the report has an error in it and so he won't accept the report.

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

8. Engineer's Report

Engineer Carroll said that the Engineer's Report is in the meeting packet. He said that the 2012 district engineer annual report has been distributed, and he listed the reports that were included within the report. He described the Lake and Streams report and said that all of the reports will be posted online.

Engineer Carroll described the most recent monitoring and said that it would be the last monitoring on the ice for the season. He summarized the monitoring protocols and responded to Board questions about the monitoring. Engineer Carroll provided an update on the aeration on Lake Lucy and noted that good mixing was evident. He responded to questions about oxygen levels and the zone of influence.

Engineer Carroll reported on the Lotus Lake shoreline project. He said that the grant reimbursement request has been submitted. He said that a little work still needs to be done on the project, so a volunteer event along the shore is scheduled for April 27th. Engineer Carroll said that other upcoming tasks on this project include seeding and

plug planting.

Manager Wencil asked about the \$2,000 charge for a repair. Engineer Carroll explained that the charge was to replace the turbidity sensor.

Mr. Patterson gave an update on the model. He said that the preliminary conversion is done and now numbers are being checked. Mr. Patterson explained that flow meters are being installed in Purgatory Creek and said that the project is on schedule. Administrator Bleser asked if CH2M HILL is having the University of Minnesota students helping out with the water level readers. Engineer Carroll said yes, and said that the District currently has 12 readers and with the purchase of two more readers per the task order being presented later in the meeting, all of the District's lakes except Highland will be covered. He said that two outlets will also be covered.

Manager Casanova asked about the use of a rain sensor. Engineer Carroll said that the District is using primarily MCES (Metropolitan Council of Environmental Services) rain gauges because they are calibrated more often. He said that there are rain gauges at the three WOMP stations but because the District removed the data loggers, those gauges are no longer recording data.

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

9. Attorney's Report

Attorney Smith provided a brief update on the attorney's activities on behalf of the District.

10. Administrator's Report

Administrator Bleser reported that she is still working on finalizing the cost share grant. She said that she is working with the Carver County Soil and Water Conservation District (SWCD), who will be providing technical help with site assessment. Administrator Bleser explained the cost share grant program, how the District will process the cost share grants, and answered Board questions about the process. CAC Advisor Sharon McCotter asked that the information about the cost-share grant get posted on the District's website. Administrator Bleser said that it will be presented at the District's Evening with the Watershed in May and she will send the information to the cities in the District, have it posted online, and communicated in utility staffers. She said that the District might also publish information about it in the District's official publications. Manager Casanova remarked that landscapers should be made aware of it as well.

Administrator Bleser provided information about the upcoming Evening with the Watershed on May 2nd. Board members provided suggestions about the event.

Administrator Bleser said that she, Manager Bisek, and Manager Crafton have been working on drafting bylaws and are close to having a draft to present to the Board. She said that she and managers Bisek and Crafton are still working on the policies and procedures.

Administrator Bleser mentioned that a few days ago she was approached by the Carver County Watershed Management Organization (WMO) because it is looking for partners to fund the showing of an Aquatic Invasive Species (AIS) three-minute video, educating people on how they can protect the lakes, at the Chanhassen and Waconia movie theaters prior to each movie throughout the summer. She said this effort would be a partnership between the District, Carver County WMO, and the Minnehaha Creek Watershed District and the cost to the District would be \$500. Manager Casanova moved to approve partnering with the two groups to fund the video at

a cost of \$500. Manager Crafton seconded. Upon a vote, the motion carried 5-0. She said that she has spoken with the Environmental Coordinator for the City of Eden Prairie and will continue to look into the option of the AMC Theater.

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

11. Board Action

a. Rulemaking Plan

Administrator Bleser said that legal counsel and staff met and discussed a rulemaking process timeline, which is included in the meeting packet. She said that the timeline outlines the planning process and shows it extending to February 2014. She said that she has met with the cities and has been in contact with the CAC, Metropolitan Council, Hennepin County, and Mn/DOT to see if they would be interested in being on the District's Technical Advisory Committee (TAC) for rulemaking. Administrator Bleser said that the meeting packet includes this list of proposed members of the TAC for rulemaking. She noted that there have been a couple of requests to shorten the timeline. Administrator Bleser provided some highlights of the discussion that has taken place regarding issues to be addressed in the rules, such as infiltration.

Attorney Smith encouraged the District to structure the approach to the rulemaking process as a team approach, and he stressed the importance of the involvement of the cities. He said that there are four different ways that the District could approach the rulemaking process. Attorney Smith noted that the District has rules that it adopted in 2000. He explained that with its adoption of the 2011 Plan, the District took the stance that it has adopted rules but would defer to the cities in terms of regulating development. Attorney Smith said that the first approach would be to reinstate the adopted rules, but he noted that those rules are circa 1977. He explained that a disadvantage of simply reinstating those rules is that they are not reflective of best management practices in terms of how people regulate activity and protect watersheds now. He said that those rules also lack clear criteria, which are important so that applicants can know if they are meeting the rules and so the District can objectively apply those rules. Attorney Smith said that the District's current Plan doesn't really include regulatory standards by which it could review permits.

Attorney Smith said that the second approach would be to start with the District's rules crafted in 1999, but he said that those rules lack criteria. Attorney Smith said that the third approach, starting from scratch, would be a long and costly process. He said that the fourth approach is to start with the Nine Mile Creek Watershed District's rules and build from there to address the specific concerns of this District. He provided information on the process that Nine Mile went through to develop its rules. Attorney Smith said that the fourth option would fit with the aggressive time table requested by some of the cities, would be the most cost effective, and out of the four options, it makes the most sense.

Attorney Smith spoke of the process and schedule that the District could undertake to move through the rulemaking process under the fourth approach. He said that he cautions the District to undertake this process with the goal that the District develops clear rules, is prepared to enforce them, and understands that if the community, county, agencies, cities, and all of the players involved have a relative level of comfort and feel that the rules are fair, reasonable, and well-justified, then the process will go more smoothly.

There was discussion about approaches and about infiltration and abstraction. Manager Casanova asked how many organizations are involved in rules in the watershed and how many regulate water resources activities. Attorney Smith said the City does, and he then described different types of projects and types of required

project permits from the Minnesota Pollution Control Agency, Hennepin County, the Department of Natural Resources, and the Department of Health. He asked about the District adopting all of those rules that are already in place. There was a discussion about the challenges and an explanation of the concept of gaps. There was a discussion about enforcement of rules.

Manager Bisek moved that the District authorize the Administrator and Legal Counsel to move forward with the rulemaking process based on the proposed schedule with the caveat that if the technical advisors are able and interested in moving faster, then do so. Manager Wencil seconded the motion. Manager Crafton amended it to include that the rules be based on the rules of the Nine Mile Creek Watershed District. Managers Bisek and Wencil agreed to the friendly amendment. CAC Advisor Kris Langlie requested that the rules also include redevelopment. Upon a vote, the motion carried 4-1 [Managers Bisek, Crafton, Forster, and Wencil voted in favor. Manager Casanova voted against]. Manager Crafton asked about doing a plan amendment. Attorney Smith said that a plan amendment is part of the proposed rulemaking process.

b. Biennial Solicitation

Administrator Bleser said that this year is the District's biennial solicitation year. She explained that the District usually does the solicitation in July and recommended that the District do it earlier in the year. She also recommended moving ahead with a proposed change that the District discussed in December, which is to have a district engineer and also to have a pool of engineers. She went through the list of service areas of the engineer services, as listed in the meeting packet. Administrator Bleser said that the solicitation will be for legal services, accounting services, and consulting engineer services. Manager Crafton moved to accept the Administrator's recommendations. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

c. Data Collection / Stormwater Ponds

Administrator Bleser provided a short presentation. She said that by utilizing interns, the data collection can be collected two times per month instead of just once a month and two lake data collection sites could be added: Eden Lake and Neil Lake. Administrator Bleser listed monitoring partnerships and monitoring occurring in the District by other agencies and said that there will not be duplication of efforts. She said that currently there are 10 creek monitoring sites and the City of Chanhassen has requested that one more site be added. Administrator Bleser stated that the cost of the additional creek monitoring site on Bluff Creek would be \$400.

Administrator Bleser described the stormwater pond monitoring task. She said that the cities of Minnetonka, Bloomington, and Eden Prairie are agreeable to providing the labor for monitoring the ponds that were monitored last year, about 40 ponds. She said that the two interns that she is proposing the District bring on board could cover the ponds in Chanhassen and Shorewood, about 20 ponds. Administrator Bleser displayed a PowerPoint map of the ponds sampled last year. She said that she is proposing the District take a more in-depth look at some of its systems, for example looking to see if a major loader of phosphorous to Mitchell Lake can be identified. Administrator Bleser said she is proposing that in addition to looking at the 61 ponds, the District also look at the Lake Lucy and Lake Ann watershed and look closer at the data from the past P8 model and identify where there are problematic ponds, so that they can be tested to see if they are contributing phosphorous to the system.

Administrator Bleser said that the interns would help with sampling the ponds in Shorewood and Chanhassen and would sample additional ponds to collect data to help pinpoint where the phosphorous is coming from. She said they would also sample creeks and lakes, help with carp removal if need be, enter data into the database, and work on miscellaneous other projects that may arise, such as shoreline restoration.

Administrator Bleser said that she is also calling for three vegetation surveys to be carried out: one on Lake Lucy, one on Silver Lake and the City of Shorewood may help with funding of the Silver Lake survey, and one on Red Rock Lake. She said that she does not have a quote for the work but she estimates the cost to be around \$10,000. She said that the cost of two full-time interns would be a little less than \$33,000. She described the District's budget and said that the costs for the projects described would be \$3,000 over the budget allocated in the District's budget. Administrator Bleser answered questions. Manager Wencl asked if the budget for the hiring of two interns would be an annual request and expense. Administrator Bleser suggested moving ahead with the program for one season and then evaluating. Manager Wencl moved to authorize the Administrator to line up a data collection system with the two interns. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

d. Purgatory Recreation Area Plan

Administrator Bleser said that the task order from the engineer is for the tasks of doing the quality assurance and quality control for the data collection, inputting the data, combining the data collected into the engineer's report, supporting the interns, conducting fish sampling, and costs of the water sensors and the laboratory analysis. Manager Bisek clarified that in its last action the District approved the intern portion of the data sampling and now it needs to take action to approve the \$115,000 cost for the data sampling tasks. Administrator Bleser said that is correct. Manager Wencl moved to approve Task Order 5. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0. Administrator Bleser said that she would bring the storm water task order to the District's next meeting and it would show the removal of the \$9,000.

12. Manager's Discussion

a. Purgatory Recreation Area

Administrator Bleser said that in 1996 the City of Eden Prairie and the District applied for a permit for the Purgatory Creek Recreation Area. She said that part of the permit required the City and the District to develop a plan on how it would manipulate the water levels. She explained that in the late 1990s the boards on the control structure were removed because the water level needed to be drawn down to build Highway 212. She said that the whereabouts of the boards are unknown. Administrator Bleser said that the City and the District are in violation of the DNR permit. She said that the DNR has asked the City and the District to submit by June 1st a description of how it would do the plan and to submit the plan in October. She said that the DNR said that it would assist in the development of the plan.

Administrator Bleser stated that the City would like the District to cost share on the development of the plan. She said that by submitting the plan, the District and City would meet the permitting requirement of the 1996 permit. She said that the cost is unknown right now. She remarked that she is hoping that she will get the cost information soon. She said that she thinks this topic should be information only and should come in front of the Board again in May. Administrator Bleser answered questions and described an approach to the plan development and the parties involved.

Administrator Bleser said that the Board needs to take action to approve its annual report. Manager Crafton moved to approve the annual report with minor corrections as needed. Manager Casanova seconded the motion. Upon a vote, the motion carried 5-0.

b. Upcoming Board Agenda

No discussion.

13. Upcoming Events

- a. **Board Meeting and Evening with the Watershed** - Thursday, May 2, 2013, 6:30 p.m. board meeting; 7:00 p.m. Evening with the Watershed, Chanhassen American Legion
- b. **Raingarden and Beyond Workshop** ó Tuesday, May 7, Chanhassen Public Works, 6:00 ó 9:00 p.m.
- c. **AIS Workshop** ó Wednesday, May 8, 2013, 6:00 p.m. ó 8:30 p.m.
- d. **Raingarden and Beyond Workshop** ó Monday, June 17, Eden Prairie Outdoor Center, 6:00 p.m. ó 9:00 p.m.
- e. **Native Plant Market Fair** - Minnetonka City Hall, 3:00 ó 7:00 p.m.

14. Adjournment

There being no further business, Manager Crafton moved to adjourn the meeting. Manager Wencil seconded the motion. Upon a vote, the motion carried 5-0. The meeting adjourned at 9:18 p.m.

Respectfully submitted,

Ken Wencil, Secretary