

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

June 4, 2014, Board of Managers Monthly Meeting and Public Hearing

PRESENT:

Managers: Mary Bisek, Vice President
Jill Crafton, Treasurer
Perry Forster, President
Ken Wencl, Secretary
Leslie Yetka

Administrator: Claire Bleser

Staff: Scott Sobiech, Engineer (Barr Engineering Company)
Louis Smith, Attorney (Smith Partners)

Recorder: Amy Herbert

Other attendees: Jennifer Koehler, Barr Engineering Company
Sharon McCotter
Dennis Seeger, CAC
Bob Shurson, CAC, Mitchell Lake
Laurie Susla

1. Call to Order

President Forster called the RPBCWD Board of Manager's Wednesday, June 4, 2014, Board of Managers Monthly Meeting and Public Hearing to order at 7:04 p.m. in the Heritage Room at Eden Prairie City Center, 8080 Mitchell Road, Eden Prairie, MN 55344.

2. Approval of the Agenda

Administrator Bleser requested the removal from the agenda item 5- Bluff Creek Ravine #2- and the addition of the Purgatory Creek Model Amendment as item I under Board Action. Manager Wencl moved to approve the agenda as amended. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

3. Reading and Approval of the Minutes

Managers Bisek and Forster each requested a spelling edit to the May 7, 2014, meeting minutes. Manager Crafton moved to approve the minutes as amended. Manager Wencl seconded the motion. Upon a vote, the motion carried 5-0.

4. Public Hearing – Spent Lime Treatment on Lake Lucy

Administrator Bleser introduced Jennifer Koehler, a water resources engineer with Barr Engineering Company. Ms. Koehler noted that she had been involved in the 2013 Lake Ann and Lake Lucy Use Attainability Analysis (UAA) update and explained that this proposed task order is building off of the recommendations for this site as identified in the UAA update.

Ms. Koehler summarized the information being presented including the current conditions of Lake Lucy, recommendations and conclusions presented in the UAA update, the proposed spent lime treatment system, and the recommended conceptual design of the system.

Manager Yetka asked about the typical cost of removal per pound of phosphorous. Ms. Koehler described the factors affecting the cost and described the broad range of that cost. She said that a typical range is a cost of \$2,000 to \$4,000 per pound of phosphorous removed.

Ms. Koehler explained that from the state's perspective, Lake Lucy is considered a shallow lake and meets the state's water quality standards for a shallow lake. She said the state does not have the lake listed as impaired, but from the District's standpoint, the lake is not meeting the District's goals, which are more in line with the state's deep lake standards.

Ms. Koehler referred to a map of the Lake Lucy and Lake Ann watershed and commented that most of the water shown on the map drains into Lake Lucy. She reported that 45% of the phosphorous loading into the lake is coming from the watershed. Ms. Koehler said that due to the number of wetlands and ponds in the watershed, most of the water entering Lake Lucy has already had some form of treatment that allows for particulate settling. She explained that two areas within the watershed have been identified as contributing almost 50% of the phosphorous loading to the lake. She pointed out on the map the blue and pink watershed sites on the northwest side of the lake as one of the contributors and the green watershed sites on the east side of the lake as the other. Ms. Koehler stated that the green sites are being targeted with the proposed spent lime treatment system.

She talked about how for the west side of the lake staff has been looking into iron-enhanced sand filtration systems and modifications to existing ponds. Ms. Koehler also said that staff recommends implementation of rules that align with MIDS (Minimal Impact Design Standards).

Ms. Koehler described the spent lime treatment system and how it works. She talked about how the system would work during high flows versus low flows and went into detail about the system's concept design. Ms. Koehler reported that based on the proposed design, 72% of the annual volume of water would be treated. She explained that the estimated total phosphorous removal is 11 pounds per year, or in the range of 10 to 19 pounds per year, with the life of the project estimated at 25 to 30 years. She said that the estimated cost of the project is \$160,000 to \$270,000 per year. Ms. Koehler stated that the District Engineer's recommendation is that the District move forward with that final design.

Administrator Bleser added that the City of Chanhassen is receptive to the proposed design.

President Forster reminded the group that Lake Lucy is the headwater of the entire Riley chain and by working on the water quality of Lake Lucy it will protect Lake Ann and will have a beneficial effect on Lake Susan and Lake Riley and the entire downstream chain.

Attorney Smith asked if this project is completely in the right-of-way so that there would be no need for property rights or easements. Administrator Bleser said yes.

Manager Yetka asked about the opportunity to monitor in-flow versus out-flow. Administrator Bleser said that the District could monitor in-flow and out-flow. She said that for this year the District would likely rent the monitoring equipment, but the District could look into purchasing equipment and keeping it in-house. She said that it would be useful data.

There was a short discussion on how debris would be kept out of the system.

President Forster called for comments from the public. Ms. Susla asked about the project’s criteria in relation to the rules that the District is considering implementing. She wondered if the Board is concerned because the rules call for 75% removal and this project is proposing 67% removal. Engineer Sobiech responded that from a removal perspective and with the systems that have been put in place so far, the lab can only monitor down to a certain level. He said that in all likelihood, the system is removing more than 67% soluble phosphorous and in addition, there is the upstream ponding basin that is removing phosphorous. Engineer Sobiech said that if the system as a whole was looked at in terms of phosphorous removal, there likely would be a higher number. He said that the focus of tonight’s presentation was about how this one Best Management Practice (BMP) would perform.

Manager Crafton moved to approve Resolution 14-4 “Resolution to Order Lake Lucy Water Quality Improvement Project.” Manager Wencil seconded the motion. By call of roll the motion carried 5-0.

| <i>Manager</i> | <i>Ay</i> | <i>Nay</i> |
|----------------|-----------|------------|
| Bisek | X | |
| Crafton | X | |
| Forster | X | |
| Wencil | X | |
| Yetka | X | |

President Forster said that in front of Board is Task Order 5b and the task would trigger the final design work with the cost not to exceed \$64,300. He summarized that the timeline shows that the design will be completed by the end of August and the contract is to be awarded in September. Engineer Sobiech agreed with President Forster’s summary and said that the Task Order is for the detailed design, bidding of the project, and construction observation. Administrator Bleser said that the goal is to install the project this winter.

Manager Crafton moved to approve Task Order 5b at a cost not to exceed \$64,300 without written authorization of changes. Manager Wencil seconded the motion.

Manager Yetka questioned the detail in the written Task Order where one reference to the length of construction states three months and another reference states four months. Engineer Sobiech said that he will correct it before the Task Order gets signed. Manager Yetka asked when the Board would see the plans. Engineer Sobiech said that the Board can see the plans whenever it wants to, and the District Engineer will discuss the plans with staff and the city at 60% completion and will bring the plans in front of the Board at 90% completion. He said that ordering construction will happen at the 100% documents.

Attorney Smith asked if the construction costs are estimated to be approximately \$100,000. Engineer Sobiech responded yes. Upon a vote, the motion carried 5-0.

5. Hearing and Discussion of Matters of General Public Interest

Ms. Sharon McCotter said that she didn't know if the Board received her email. President Forster said that the Board members received it, but the Board members are regulated in how they handle such communications due to the regulations of the Open Meeting Law. Ms. McCotter stated that the Citizen Advisory Committee (CAC) submits communications to Administrator Bleser, who forwards it to the Board, but the CAC doesn't always hear back. Ms. McCotter said that it might be helpful to have in the minutes the rules around how the CAC should act. She said that the CAC wants to know how much the Board needs and wants from the CAC, what the Board does with the information from the CAC, and if the communications from the CAC count as much as communications from anybody else. Ms. McCotter asked if the CAC is meeting the Board's expectations or if the CAC should be doing something else. She said that one of the CAC's ideas is to go to another watershed and see how its citizen committee works.

Manager Yetka responded that she recognizes that the CAC puts a lot of time and effort into making recommendations to the Board, and she really appreciates it. She said that she feels that the decision on how much time and effort that the CAC expends is a CAC decision. She said that she sees and reads what the CAC and the individuals in the CAC send to her, and she views the communications as recommendations. Manager Yetka said that it feels like the CAC has an expectation of formal responses from the Board, but she does not feel that formal responses are necessary. Manager Yetka described how the Minnehaha Watershed District's citizen advisory committee operated. Ms. McCotter said that she liked the idea of having a representative of the Board attend the CAC meetings to help the groups stay connected. Administrator Bleser pointed out that for the past year, there has always been a CAC member speaking on behalf of the CAC to the Board at its meetings and that Administrator Bleser has not spoken to the Board on behalf of the CAC.

Manager Crafton stated that the CAC members are the eyes and ears of the District, and the Board appreciates the feedback.

Ms. Laurie Susla asked what happens with the CAC's recommendations, for example the CAC's recommendations for the Aquatic Invasive Species (AIS) plan. President Forster responded that the District has acted on it for this year by funding AIS efforts by the cities of Eden Prairie and Chanhassen, and the District also has received some funding from the Department of Natural Resources (DNR) for AIS efforts. He explained that there is no interest from either the City of Eden Prairie or the City of Chanhassen for a decontamination station.

Ms. McCotter said that the CAC needs more closing of the loops. Ms. McCotter summarized that if the CAC wants a response from the Board and doesn't hear back directly from the Board or at a Board meeting, then if the CAC wanted to follow up, then the CAC should ask about it. She asked if the CAC should follow up with Administrator Bleser. The Board responded yes.

Administrator Bleser provided further comments on the AIS plan. She said that the District moved ahead with what was do-able for the year within its budget for AIS of \$50,000. She noted that as President Forster mentioned, the cities were not interested in the centralized decontamination station. Administrator Bleser commented that the District has not been passive about AIS, and she went into detail about the AIS work and the education and outreach tasks tied to AIS that have been done this year. Manager Yetka said that if the District went through the process of producing a draft AIS plan then there is the expectation that the Board would adopt a formal plan. She

said that the Board is adopting management strategies, but she feels that there wasn't closure on the plan since there was no formal adoption.

6. CAC

CAC Chair Dennis Seeger reported that the CAC will get the final minutes of the most recent CAC meeting to the Board soon. He said that in the CAC duties and operating procedures document, one of the items identified is labeled Board-Staff liaison, which stated that one of the Board managers will attend each CAC meeting. Mr. Seeger noted that since this has not been the practice, the CAC crafted and approved revised wording to state that each Board and staff member is invited and encouraged to attend at least one CAC meeting per year. He explained that the CAC could even adjust a particular meeting time to accommodate Board members if there would be a particular topic or topics that the Board members want to hear about. Manager Yetka said that she would be willing to attend some meetings and commented that it would be helpful to receive the CAC meeting agenda prior to the meetings.

He reported that the other item that the CAC discussed at its meeting was the proposed rules affecting single-family homes. Mr. Seeger summarized the motion passed by the CAC regarding its concern with the proposed rules and its impact on existing single-family homes when the rules are triggered. He said that the CAC understands that the variance process exists for when the rules cannot be met. Mr. Seeger said that the CAC would like to see the variance language to be broader to avoid undue burden on these homeowners. He said that the CAC believes that the single-family homeowners should be able to use alternate means to achieve the same result.

The Board directed Administrator Bleser to write up a draft schedule for individual managers to attend CAC meetings on a rotating basis. Mr. Seeger noted that from the CAC's perspective, the Committee would prefer the meetings to be interactive with the attending Board manager.

7. Treasurer's Report

Administrator Bleser described an adjustment due to the fact that the Lock Up storage facility had been sending its invoices to the District via the old email address and so the District did not receive the bills showing an increase in the monthly storage fee for the boat storage. Manager Crafton provided a brief summary of the Treasurer's Report.

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

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

8. Engineer's Report

President Forster mentioned that day's article in the Star Tribune about the Hennepin County Highway Department soliciting comments about the project along Flying Cloud Drive. He said he knows that the project skirts through this watershed and asked if the District has commented on that project. Engineer Sobiech said that District did meet with the County and SEH a couple of times last year, and the District provided initial feedback on their comments. He said that yesterday he received an email from the project's water resources engineer asking a few more questions.

Manager Yetka asked about the creek restoration work listed in the report. Engineer Sobiech and Administrator Bleser provided information about it.

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

9. Administrator’s Report

Administrator Bleser reported that the District’s new staff members have been actively monitoring the District’s waters. She said that this week they monitored lakes and next week they will monitor creeks. She said that she and Manager Bisek are working on the employee handbook. Administrator Bleser also noted that the District has been participating in a lot of education and outreach events recently.

Manager Yetka said that it would be nice to get reports from the other District staff members regarding what they are working on.

Manager Wencil asked for an update on the fish barrier. Administrator Bleser gave an update on the status of the operations and maintenance plan and said that it needs to be finalized before the barrier can go in. She said that the City of Eden Prairie contracted with Barr Engineering to design the barrier. Engineer Sobiech said that the design is complete, and the City of Eden Prairie has accepted a bid from a contractor for the construction work. Administrator Bleser commented that she anticipates that the District will be receiving a formal request from the City of Eden Prairie to cost share in the cost of the barrier and the cost of finishing the operations and maintenance plan.

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

10. Board Action

a. Major Plan Amendment

Manager Yetka moved to approve Resolution 14-5 “Resolution to Adopt Major Plan Amendment to Watershed Management Plan for Capital Improvement Projects.” Manager Crafton seconded the motion. By call of roll the motion carried 5-0.

| <i>Manager</i> | <i>Ay</i> | <i>Nay</i> |
|----------------|-----------|------------|
| Bisek | X | |
| Crafton | X | |
| Forster | X | |
| Wencil | X | |
| Yetka | X | |

b. Cost-share Program

Administrator Bleser said that the City of Eden Prairie’s cost-share grant application was coming back in front of the Commission today from the last Board meeting and was for slope stabilization of Bur Ridge. She showed photos of and described the slope failure that occurred there earlier in the week. There was discussion about the slope failure, and Administrator Bleser answered questions. She reported that at the Board’s July 2 meeting staff will bring in front of the Board the City of Eden Prairie’s updated cost-share program request in the amount of \$20,000 for the Bur Ridge project. Administrator Bleser said that it will be part of a public hearing since the amount is greater than \$10,000.

There was further discussion about the slope failure, and Manager Bisek asked if the City will be prepared in July to show that the \$20,000 won’t wash down the stream. There was discussion. Administrator Bleser revised the direction on this item and stated that this cost-share application will be considered pending until the District knows that the failed stormwater infrastructure is stabilized and seems likely to operate effectively.

Administrator Bleser presented the second cost-share application, which was from the City of Chanhassen. She explained that it is for a project on the west side of Lake Riley in the Kiowa Trail area. Administrator Bleser said that the City is adding pervious pavers, SAFL BAFLs, and iron-enhanced sand filings. She reported that the total project cost is \$90,000 and the City requested \$20,000. She said that staff’s recommendation is to move forward with the \$20,000. Administrator Bleser said a public hearing is required so this application will come back in front of the Board next month.

Administrator Bleser presented the third cost-share application, which is from Marilyn Torkinson for a project on a property that’s just upstream of a wetland-pond complex. She said that previously the Board had questions on the validity of the project because it seemed that the project had already been in progress at the time of the application to the cost-share program. Administrator provided a detailed explanation of the project and its timeline. Managers raised questions and voiced their concerns.

Manager Wencil moved to approve the cost-share project in the amount of \$981.50. Manager Forster seconded the motion. By call of roll the motion failed 2-2. Manager Bisek abstained from the vote.

| <i>Manager</i> | <i>Ay</i> | <i>Nay</i> | <i>Abstain</i> |
|----------------|-----------|------------|----------------|
| Bisek | | | X |
| Crafton | | X | |
| Forster | X | | |
| Wencil | X | | |
| Yetka | | X | |

c. Governance and Employee Handbook

Administrator Bleser updated the Board on the revisions to the handbook. Manager Yetka moved that the Board table this item until July and that the Board receive a copy of the revised handbook to review prior to the July meeting. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

d. Office Set-Up

Administrator Bleser requested approval from the Board of \$10,000 for office set up. Manager Yetka moved to approve expenditure by the Administrator of \$10,000 for office furniture. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

e. Bioreactor Task Order

Manager Crafton moved to approve Task Order 8a in the amount of \$19,900 for the bioreactor project for Lake Susan. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0.

f. Clean Water Summit

Administrator Bleser said that this year the annual Clean Water Summit at the Minnesota Landscape Arboretum will be held on September 11th and the topic is green infrastructure for clean water. She said that the District has not provided funds for the Summit in the past, but the District does have available funds in its Education and Outreach budget that could be dedicated to the Summit. She recommended that the District provide \$1,000 to the Clean Water Summit. Manager Bisek moved to approve \$1,000 from the Education and Outreach budget for the Clean Water Summit. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0. Manager Yetka abstained from the vote due to conflict of interest.

g. Children's Water Festival

Manager Bisek moved to approve \$500 from the Education and Outreach budget for the Children's Water Festival. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

h. Website Contract Amendment

President Forster summarized the amendment and proposed cost of \$15,535. Administrator Bleser noted that even with the amendment, the website work remains within the District's budget and said that the amendment will be for a two-year term of services. Manager Yetka moved to approve the website contract amendment. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

i. Purgatory Creek Model and Amendment to Contract for Bluff Creek Model Update

Engineer Sobiech explained that for the past several months Barr Engineering has been working to update the hydrologic and hydraulic model. He said that through that process numerous shortcomings in the existing model have been discovered and certain items that he would classify as errors. Engineer Sobiech provided several examples of the findings. Engineer Sobiech stated that the amendment describes how the errors and shortcomings will be corrected and the work that will be undertaken to verify data. President Forster asked about the cost to do this work. Engineer Sobiech said that staff recommends transferring the \$48,200 slated to be used this year on updating the Bluff Creek model and instead using those funds for making the additional corrections to the Purgatory Creek model, postponing the Bluff Creek model update to next year.

Engineer Sobiech said that staff is looking for approval of the amendment to the contract for the Bluff Creek model work that would happen next year for \$48,200. He said that overall the task order is changing from what was approved previously, \$153,500, to an amended budget of \$201,700.

Manager Yetka moved to approve Task Order 2 Amendment 1 and to authorize the transfer of the funds. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

Attorney Smith said the fact that the District is paying a significant sum of money to cure the problems in the work of the previous District Engineer raises a fiscal responsibility issue for the Board to consider. He said that it sounds like there are significant errors that impact the utility of the model. Attorney Smith said that in the ordinary course, the problem would be taken back to the firm, which would have the opportunity to cure the problem. He said that the errors could be documented them and a letter about them prepared and sent to CH2M Hill. Attorney Smith stated that the letter would communicate that the District wants CH2M Hill to know that these errors have been discovered in their work, it is costing this amount of money to cure them, and as a matter of professional consideration the District asks CH2M HILL to cover some or the entire amount. Attorney Smith recommended that the Board consider this course of action.

President Forster moved to direct the Engineer to put together a summary of the errors in the Purgatory Creek model and transmit that information to the District's legal counsel to draft a letter asking for funding and to send it to CH2M Hill. Manager Yetka seconded the motion. Manager Bisek asked if the District would at the same time want to document the errors from other projects and include that information in the same letter. The Board discussed this idea.

Attorney Smith agreed that the District should assemble and document the errors together. He said that staff will bring the letter back to the Board before it is sent.

President Forster and Manager Yetka approved the friendly amendment. Upon a vote, the motion carried 5-0.

j. Amendment to the Agenda

Manager Yetka moved to add to the agenda under Board action an item about Administrator Bleser attending the stormwater conference and an item about the bank resolution. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0. Upon a vote, the motion carried 5-0.

k. Stormwater Conference

Manager Bisek moved that the Board approve the travel and costs to enable Administrator Bleser to attend the stormwater conference in Oregon. Manager Crafton seconded the motion.

l. Bank Resolution

Attorney Smith explained that this is a resolution drawn up by the bank and names each of the managers and list the powers that the Board could choose to authorize to its managers. He recommended that the Board authorize the managers to have the check endorsing authority. Attorney Smith stated that the District's Bylaws say that the four officers can endorse the District's checks. President Forster said that the Board could amend its Bylaws in the future so that all five managers have the authority. President Forster moved to authorize the Board's four officers to endorse checks and orders for the payment of money and authorize the officers to withdraw funds and transfer funds on deposit with the financial institution. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

11. Manager's Discussion

a. Rulemaking

Administrator Bleser said Engineer Sobiech has been working on updating the rules and on creating the buffer paper. She presented a timeline of the activities occurring over the next few weeks.

b. Summer Board Meetings

Administrator Bleser reported that staff recommends holding a workshop on July 2 at 5 p.m., prior to the 7 p.m. July 2 monthly Board meeting, to go through all of the elements of the rule updates and the buffer paper. She said that staff also recommends that the District hold a special meeting in mid-July and to move the August meeting to July 28. Administrator Bleser said that on July 28 there would be a budget workshop at 5 p.m. followed at 7 p.m. by the monthly Board meeting.

c. Annual Tour (Date Selection)

Administrator Bleser said that if the Board is interested in holding an annual watershed tour then she would target it for the end of September and would team it up with an open house of the District's new office. The Board agreed.

d. Administrator Review

Manager Bisek announced that the Board's annual review of the Administrator is coming up, and she provided a summary of last year's review process. Manager Bisek asked if the managers are interested in using the same format and if yes, then she will get the materials distributed to the managers in July. The managers indicated that they were interested in using the same format.

e. Workshop on the Water

Manager Yetka announced NEMO's Workshop on the Water on July 23 at 5 p.m. departing from the Bayview in Excelsior.

12. Upcoming Events

- **Mitchell Lake Workshop**, Wednesday, June 11, 2014, 6:00- 7:00 p.m.
- **Lake Lucy Workshop**, Wednesday, June 11, 2014, 7:00- 8:00 p.m.
- **Red Rock Workshop**, Wednesday, June 11, 2014, 8:00- 9:00 p.m.
- **Board Meeting**, Wednesday, July 2, 2014, 7:00 p.m.

13. Adjournment

Manager Wencil moved to adjourn the meeting. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0. The meeting adjourned at 10:11 p.m.

Respectfully submitted,

Ken Wencil, Secretary