

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

#### July 28, 2014, Board of Managers Budget Workshop

**PRESENT:**

Managers: Mary Bisek, Vice President

Jill Crafton, Treasurer

Perry Forster, President

Leslie Yetka

Administrator: Claire Bleser

Staff: Joshua Maxwell, RPBCWD

Michelle Jordon, RPBCWD

Scott Sobiech, Engineer (Barr Engineering Company)

Louis Smith, Attorney (Smith Partners)

Recorder: Amy Herbert (Amy Herbert LLC)

Other attendees: Bob Adomaitis, Highview Drive                      Bob Kruempelstaedter, Lake Riley Blvd.

Eldon Berkland, Chanhassen

Matt Lindon, Belvedere Drive

John Bushey, Eden Prairie

Shelly Manning, Eden Prairie

Laurie Hable, Highview Drive

Lisa Reilly, Chanhassen

Beth Halvorson, Lakeland Terrace

Bill Satterness, Eden Prairie Resident

Greg Halvorson, Lakeland Terrace

Lisa Slezak-Moser

Larry Koch, Chanhassen

#### 1. Call to Order

President Forster called the RPBCWD Board of Managers Monday, July 28, 2014, Budget Workshop to order at 5:15 p.m. at Eden Prairie City Center, 8080 Mitchell Road, Eden Prairie, MN 55344.

#### Budget Workshop

Administrator Bleser described the four handouts and said that she developed the budget under the idea that the District would be operating out of one fund. She explained that with the proposed budget for 2015, the District would levy \$2,431,500, which is a 7% increase over 2014. Administrator Bleser said that the increase is a result of the two new District staff positions and said that \$30,000 of the levy will go toward the District's new office space. She reported that the District moves into its new space on August 13.

President Forster pointed out that the District will be saving money elsewhere due to the new staff members because the District will be able to bring work in-house that it previously contracted out. Administrator Bleser described the work that will move in-house such as data collection, and she noted that by doing this work in-

house the District is able to monitor more frequently and at more sites. She said that staff also will be able to bring zooplankton analysis in-house.

Administrator Bleser talked about the small increase in the proposed 2015 budget over the 2014 budget for accounting and insurance to account to inflation and the District's audit. She reported that manager compensation would remain the same as the current year and that there is a slight decrease in legal fees due to the anticipation of less work by counsel on the rules in 2015.

Administrator Bleser displayed the proposed budget on PowerPoint and went through each project, including projects currently in progress and projects new in 2015 and the correlated budgets. There was discussion about the District moving to one fund, and Administrator Bleser proposed that the District take the basic water management fund to \$0 and take \$112,000 out of the General Management Fund. President Forster wanted to be sure that the District forewarns Carver County about the change in the District's procedure with its funds. Attorney Smith said that the District certainly will forewarn the County but added that the District's change will not change the County's process.

Administrator Bleser reviewed the proposed 2015 Education and Outreach budget, which will have the same total budget as it had in 2014, although the allocations are slightly different. She explained that the 2015 Displays budget is allocated \$2,000 more than the 2014 Displays budget, the 2015 NEMO budget and website budget are lower than in 2014 and the 2015 public education workshop/education budget is greater than in 2014.

President Forster suggested that in 2015 the District look at pooling funds with Nine Mile and Minnehaha Creek Watershed Districts to run ads in local mass media to disseminate messages such as the importance of keeping grass clippings out of storm sewers. Manager Yetka suggested that the Board consider for its 2016 budget funding a Master Water Stewards program.

Administrator Bleser raised the idea of levying for the alum treatment for Lake Riley over two years, \$100,000 in 2015 and \$100,000 2016, and doing the treatment in 2016. She said this option would take the place of levying the full \$200,000 in 2015 for the treatment. There was discussion of the idea, the timing and procedure of the alum treatment of Curlyleaf Pondweed, and the procedure for treating Eurasian Milfoil. Administrator Bleser stated that if the District breaks the levying of the alum treatment into two years then the proposed 2015 budget would be \$2,331,500, which is close to the District's 2014 budget.

Manager Crafton commented that breaking the levying of the alum project into two years makes sense. Manager Yetka agreed and said that she wouldn't want the District to move forward with the alum treatment unless the invasive plants are in check.

Attorney Smith commented that the District needs to publish a notice of the District's proposed budget and levies for a public hearing that the District will hold prior to September 15, meaning probably at the District's September meeting. He said that it would be good for the Board to give direction by motion on the budget figures and totals that the District will publish so that the public has notice.

Manager Crafton moved to direct staff to notice the Board's September meeting and hearing and to approve the proposed budget and levies as presented less the \$100,000 for the alum treatment project with the direction that it will be included in the 2016 levy. Manager Yetka seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencil absent from vote].

Manager Crafton moved to adjourn the Budget Workshop. Manager Bisek seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencil absent from vote]. The workshop adjourned at 5:55 p.m.

## Riley-Purgatory-Bluff Creek Watershed District

### July 28, 2014, Board of Managers Public Hearing and Monthly Meeting

PRESENT:

Managers: Mary Bisek, Vice President

Jill Crafton, Treasurer

Perry Forster, President

Leslie Yetka

Administrator: Claire Bleser

Staff: Joshua Maxwell, RPBCWD

Michelle Jordon, RPBCWD

Scott Sobiech, Engineer (Barr Engineering Company)

Louis Smith, Attorney (Smith Partners)

Jeff Weiss, Engineer (Barr Engineering Company)

Michael Welch, Attorney (Smith Partners)

Recorder: Amy Herbert (Amy Herbert LLC)

Bob Adomaitis, *Highview Drive*, Josh Anderson, *Chanhassen*, Kevin Atkinson, *Chanhassen*, Lisa Atkinson, *Chanhassen*, Bob Ayotte, *Chanhassen*, Carrie Barclay, *Chanhassen*, Carrie Beaton, *Eden Prairie*, Jay Beaton, *Eden Prairie*, Gene Berghoff, *Shorewood*, Jana Berghoff, *Shorewood*, Eldon Berkland, *Chanhassen*, Bob Biesterfeld, *Chanhassen*, Dan Boeckermann, *Chanhassen*, Jim Boettcher, *Chanhassen*, Jeff Borns, *Chanhassen*, Mary Borns, *Chanhassen*, Doug Brown, *Chanhassen*, John Bushey, *Eden Prairie*, Dale E. Carlson, *Utica Ln.*, Gloria Carlson, *Utica Ln.*, Mike Casanova, *Eden Prairie*, Richard Chadwick, *Chanhassen*, Katrina Clemens, *Chanhassen*, Sara Davis, *Eden Prairie*, Pam Devine, *Chanhassen*, Tom Devine, *Chanhassen*, Mike Domke, *Chanhassen*, Dave Eckstein, *Eden Prairie*, Todd Elftmann, *Chanhassen*, Mark Engassen, *Chanhassen*, Scott Erickson, *Chanhassen*, Sue Erickson, *Chanhassen*, Carl B. Fitsimmons, *Chanhassen Rd.*, Pat Fitsimmons, *Chanhassen Rd.*, Greg Fletcher, *Chanhassen*, Scott Flom, *Eden Prairie*, Robert Guidarini, *Eden Prairie*, Patrick Gunnell, *Chanhassen*, Laurie Hable, *Highview Drive*, Ryan Haller, *Eden Prairie*, Beth Halvorson, *Lakeland Terrace*, Greg Halvorson, *Lakeland Terrace*, Dietrich Harr, *Horseshoe Curve*, Barb Hedlund, *Lake Pt.*, Greg Hedlund, *Lake Pt.*, Susan Huberty, *Chanhassen*, Tom Huberty, *Chanhassen*, Jacie Hurd, *Chanhassen*, Marty Immerman, *Bighorn Dr.*, Peter G. Iversen, *Eden Prairie*, Ed Jannlesch, *Chanhassen Realty House*, Kevin Joyce, *Chanhassen*, Joan Joyce, *Chanhassen*, Tom Juhnke, *Eden Prairie*, Bill Kirkvold, *Chanhassen*, Ron Kleve, *Chanhassen*, Mary Kneedtes, *Utica Terrace*, Ron Kneedtes, *Utica Terrace*, Jo King, *Chanhassen*, Julie Koch, *Chanhassen*, Larry Koch, *Chanhassen*, Dennis Kopfman, *Chanhassen*, Kreszin Krause, *Chanhassen*, Mike Krause, *Chanhassen*, Bob Kruempelstaedter, *Lake Riley Blvd.*, Bruce Kruman, *Chanhassen*, Bill Lambrecht, *Utica Ln.*, Joanne Lambrecht, *Utica Ln.*, Bill Lebrun, *S. Shore Dr.*, David Legan, *Eden Prairie*, Judy Lewis, *Chanhassen*, Dale Lien, *Eden Prairie*, Debra Lind, *Eden Prairie*, Harry Lindelof, *Eden Prairie*, Matt Lindon, *Belvedere Drive*, David Ludvip, *Eden Prairie*, Xiaogang Luo, *Eden Prairie*, Joan Ludwig, *Chanhassen*, Shelly Manning, *Eden Prairie*, Dari Mauer, *Frontier Trail*, Jennifer Max, *Eden Prairie*, Mike Max, *Eden Prairie*, Larry Moos, *Eden Prairie*, Matthew McMullen, *Attorney for Guy and Barb Schoenecker*, Steve Mestitz, *Chanhassen*, Patrick Minton, *Eden Prairie*, Peggy Naas, *Chanhassen*, Brook Nystrom, *Chanhassen*, Lisa Olsen, *Chanhassen*,

Patricia Pauls, *Chanhassen*, Tom Rabiola, *Eden Prairie*, Jackie Rabiola, *Eden Prairie*, Lisa Reilly, *Chanhassen*, Stephen Richardson, *Eden Prairie*, Charlie Robbins, *Chanhassen*, Kari Romportl, *Chanhassen*, Abby Roth, *Horseshoe Curve*, Brandon Roth, *Horseshoe Curve*, Chris Rust, *Chanhassen*, Tracey Rust, *Chanhassen*, Beverly Ryan, *Chanhassen*, Bill Satterness, *Eden Prairie*, Joe Schneider, *Chanhassen*, David Schoenecker, *Attorney for Guy and Barb Schoenecker*, Mark Senn, *Chanhassen*, Bob Shurson, *CAC-Mitchell Lake-Eden Prairie*, Lisa Slezak-Moser, *Chanhassen*, Barb Spilane, *Chanhassen*, Bob Spilane, *Chanhassen*, Janet Stankzak, *Chanhassen*, Michael Stanzak, *Chanhassen*, David Steen, *Eden Prairie*, Laurie Susla, *LLCA-CAC-TAC*, Catherine Thimmesh, *Eden Prairie*, Dave Von Fruke, *Chanhassen*, Dave Wallace, *Red Oak Dr.*, Steve Wanek, *Chanhassen*, Fran Warner, *Eden Prairie*, Gordon Warner, *Eden Prairie*, Jennifer Weight, *Chanhassen*, Matt Weight, *Chanhassen*, Ronald Weight, *Chanhassen*, Daryl Weispfenning, *Utica Lane*, Kim Weispfenning, *Utica Lane*, Linda Wilkes, *Chanhassen*, Dale Williams, *Chanhassen*, Ann Williamson, *Chanhassen*, Dan Williamson, *Chanhassen*, Tom Workman, *Chanhassen*, Duke Zurek, *Chanhassen*

## 2. Public Hearing

President Forster announced that Manager Wencil would not be at tonight's meeting and hearing. He introduced the project Purgatory Creek Stabilization at County Roads 101 and 62. Administrator Bleser provided background on the project, explaining that City of Minnetonka petitioned the project in 2008. She said that the City requested the District restore Purgatory Creek east of County Road 101 and north of Highway 62 and during the timeframe of the county's reconstruction of Highway 101.

Administrator Bleser introduced Jeff Weiss, water resources engineer with Barr Engineering Company. Mr. Weiss presented the project. He said that the project is a section of the creek that is approximately 2,000 feet long. Mr. Weiss noted that the project was petitioned by the City of Minnetonka in 2008, and in 2009 CH2M HILL did a study to look at this reach of the creek. He said that now the project is at the 30% design phase.

Mr. Weiss reviewed the components of the project's scope of work including site assessments, a vegetation survey, a cultural and historical assessment, a Phase 1 environmental site assessment, and 30% design probable costs.

Mr. Weiss explained why erosion occurs in this reach of the creek and in the spots identified in this project. He described why to move forward with the project including for the water quality benefits. Mr. Weiss provided the estimate, based on erosion rates, that the amount of sediment entering into the creek in this area is approximately 30 to 70 tons per year. He said that some of this sediment moves downstream and enters other water bodies like Staring Lake. Mr. Weiss noted that some of sites of erosion along the creek are near homes.

Mr. Weiss provided more details about the findings of the vegetation survey and the cultural, historical, and Phase I assessments. He described the finding of some bricks during the assessment and that soil testing will be done to make sure there is no contamination before the project moves soil around in that area.

He described the different bank stabilization options:

- Monitor the site to see if it is actively causing any problems;
- Soft armoring or bioengineering techniques;
- Stream re-routing for select locations; and,
- Hard armoring such as rip rap

Mr. Weiss says that the draft report outlines two options.

Option 1:

- Stabilize all 25 sites
- Total probable cost: \$746,000
- Cost range: \$635,000 - \$896,000

Option 2: (This is the option recommended by Barr Engineering Company)

- Stabilize 14 sites (site numbers 12 ó 25)
- Monitor the other 11 sites
- Total probable cost: \$614,500
- Cost range: \$523,000 - \$738,000

President Forster asked how much sediment Option 2 is estimated to prevent from entering the creek. Mr. Weiss said that he estimated Option 2 will prevent 30 to 60 tons of sediment per year from entering the creek. He answered further questions about stabilization techniques, the ways of incorporating into the bank restoration project in-stream aquatic habitat improvements, and the timeframe of the construction work and plantings.

Manager Bisek said that City of Minnetonka water resources engineer Liz Stout couldn't be at tonight's meeting but she asked Manager Bisek to express that the City of Minnetonka supports this project and is supportive of Option 2 for funding.

President Forster said that one of the mandates the District has received is to reduce the amount of sediment going down into the Minnesota River. He said that this project being discussed plus future projects along the lower portions of Riley Creek are going to go a long way toward improving the condition of Minnesota River and also will benefit the cities in a number of ways.

President Forster opened the public hearing.

Bill Satterness of 8597 Red Oak Drive in Eden Prairie asked how this project compares to others in terms of dollar cost and amount of sediment prevented from flowing into the lakes and streams. He said that he can think of other places on Bluff Creek, Lower Riley, Lower Purgatory, and even 2,000 feet of eroding shoreline on Red Rock Lake. He wonders what the cost benefit is of this project compared to some of these other ideas and said that this question may be for the District Engineer instead of the engineer who specialized on the presented project.

Engineer Sobiech said that the short answer is that in order to answer Mr. Satterness's question the same type of analysis would need to be completed on all of the locations that Mr. Satterness listed. Manager Crafton stated that one of the opportunities with this project is to leverage the highway project and maximize resources. Mr. Satterness asked for an explanation on how the highway project relates to the timing of the proposed project on Purgatory Creek. Manager Crafton explained that if the area is going to be disturbed for the highway project, it is the prime time to do the creek project.

Larry Koch of 471 Bighorn Drive in Chanhassen said that after reviewing the budget process and looking at this project he has the same question as the person who commented first. Mr. Koch commented that before spending

\$738,000 for a project it would behoove us to do appropriate studies as to what our other hot button area are in this District so we can allocate the limited number of dollars we have to the most important projects. He continued by saying that until we go and do that type of study, he doesn't see how we can justify spending this money. Mr. Koch commented that one of the project options proposes the remediation in the lower leg of the creek reach but he thought that the culvert was to the northern end. He also asked how the number of estimated pounds of sediment that would be prevented from entering the creek due to the construction of this project compares to the other erosions that we have in this District. He said that he would like to see this District analyze and rank our problems and then go ahead and fix them. Mr. Koch said that this project strikes him as the biggest District project that he has seen and before we go ahead and spend that money he would like to know if this is really going to solve our problem and would like to see other projects and know what they cost. He also commented that the creek reach is missing that one water retention pond and he asked why we have the pond if that isn't one of the reasons we have water ponds.

Mr. Weiss responded to Mr. Koch's question about the pond and said that having the stream run through the pond is not recommended for a couple of different reasons. He explained that if the stream goes through the pond then it defeats the purpose of the pond. Mr. Weiss said that the pond likely was constructed to capture stormwater runoff from Highway 62 so if the stream goes through the pond, the stream would flush out the pond before it is able to do its job to filter runoff coming from the highway. Also, he said, streams naturally want to move both sediment and water and actually it is the stream's job to move both. He explained that it isn't good if a stream is moving too much sediment, but if the stream moves through the pond it would drop its sediment out of the flow, then as it leaves the pond it picks up more sediment, and then there is a risk of the stream picking up too much sediment, which puts the stream at a higher risk for contributing to streambank erosion.

President Forster commented that in 2009 to 2010 this watershed District established the plan that it would work from the top down in the watershed because water flows downhill. He said that this project is one of the projects necessary at the top of the watershed. President Forster explained that it doesn't make sense to do some of the downstream projects until the upstream areas are fixed.

Mike Casanova of 18559 Kristy Lane in Eden Prairie asked:

- What kind of base flow in terms of CFS is in this creek;
- Is the stream intermittent or not;
- Is this area segregated from a downstream area where there could be a place that the District could do some dredging;
- Why doesn't the District first work down below where it could catch a lot of sediment before worrying about the stuff upstream; and,
- What kind of biological improvements is the District going to make by doing this project?

Mr. Weiss responded that the base flow is fairly small and was estimated by CH2M Hill as 0.2 CFS, but the flow could be more at different times of year depending how full wetlands are upstream. He said that he is not aware of the stream drying up at all. Engineer Sobiech said that President Forster explained the District's philosophy of trying to improve the upstream resources because as the upstream resources are improved it has the domino effect of improving the downstream resources as well. He said that dredging isn't easily accomplished in the state of Minnesota because there is a strenuous process to go through to identify what contaminants might be in that soil and how to dispose of it. Engineer Sobiech said that he doesn't know of any areas that need to be dredged per say.

He said that regarding creek stabilization projects the City of Eden Prairie is working on an investigation of the lower valley downstream of Staring Lake to identify areas where there are issues. Engineer Sobiech explained that the City is working jointly with the District to identify some of those areas for potential future projects. In response to the question about biological improvements, Mr. Weiss described how stabilizing the banks would improve habitat and how through the plantings the plant diversity would be improved. Administrator Bleser added that the project will increase the diversity of aquatic insects in the stream due to less turbidity of the water and noted that the increase in aquatic insect diversity benefits songbirds.

Tom Devine of 7640 South Shore Drive in Chanhassen acknowledged the comments already given about the District dealing with the upstream issues first. He said that one thing that needs to be tackled is the storm water runoff that runs directly into the lakes. He asked what is going to be done about the sediment that is coming directly from storm water runoff.

Administrator Bleser said that as part of this Purgatory Creek restoration and the Highway 101 reconstruction, the city and the county are putting in a stormwater pond to capture additional runoff that would otherwise be going to the creek. She provided additional details on the proposed design that has been communicated to the District at this point of the design phase of the highway reconstruction project.

John Tyler of 17574 Belfast Cove in Eden Prairie commented that it has been noted that this is a City of Minnetonka and a county project. He wondered where in the District's 10-year plan the project falls, if the project is indeed in the 10-year plan. Mr. Tyler said that if the project isn't in the 10-year plan then what project is this project displacing. He said that if this is a City of Minnetonka and county project then why is the watershed in it to the tune of three-quarters of a million dollars.

Administrator Bleser responded that this project is in the District's 10-year plan and was part of an amendment to the plan approved by the Minnesota Board of Water and Soil Resources. She noted that the 10-year plan and the description of this project are on the District website.

There was a brief recess to rearrange the room for more seating.

Laurie Susla of 7008 Dakota Avenue in Chanhassen commented that the project's price of \$738,000 represents about one-third of the spending that the District does for the year and that her understanding is that the creek is at such a low flow that it is sometimes dry. She asked if we have really determined that this is really worth a third of the budget for next year on a very small creek that is sometimes dry. Ms. Susla said that she doesn't know where it fits in with the District's priorities for the year.

President Forster clarified that Purgatory Creek is not a very small creek and provided details about the creek and its flow through the watershed to the river. Ms. Susla said that she should have said that the project covers a small portion of the creek, and she is wondering if the project is on a cost-benefit basis worth a third of our budget for the year. Ms. Susla also asked if we shopped different engineering firms on this. Administrator Bleser explained that the construction is subject to public bidding and the cost of the project is going to be levied over two years not next year only.

Mr. Koch made the comment that starting high in the stream makes sense but if the county rework on Highway 101 is going to be north of this, then wouldn't it be prudent to wait and see what is going to be completed there and see what, if any, impact it has on that lower part of the creek. He said that at that point there could be an evaluation made as to whether or not remediation is needed.

Administrator Bleser responded that it is already known that there are severely eroded areas of the creek as described earlier in the meeting by Mr. Weiss. She said that the proposed project is part of restoration.

Steve Wanek of 6615 Horseshoe Curve in Chanhasen commented that the estimated reduction in amount of sediment that will be prevented from entering this stream due to this project has been noted tonight. He asked how much silt is running through this area and downstream. Mr. Weiss said that the total sediment isn't qualified here. Mr. Wanek added that earlier there was a comment about the MPCA asking to reduce the amount of sediment in the river. He asked if the MPCA has a monitoring station at the bottom of this creek that monitors how much sediment is going into the river.

Administrator Bleser answered that the District in conjunction with the Metropolitan Council runs a WOMP station. She explained that the WOMP station is at Purgatory Creek at Pioneer Trail at the south end of the District. She said that the District also monitors throughout the creek. Mr. Wanek asked how many tons of sediment is going through that WOMP station. Administrator Bleser said that she does not have that data in front of her. Mr. Wanek asked for an estimate on whether the amount of sediment that will be reduced by this project is a substantial amount of that sediment going through the WOMP station or a small amount. Administrator Bleser said that she can't provide that estimate without an assessment of the whole creek. Mr. Wanek said that he is trying to get an assessment of how much sediment is running through this creek because it would help determine how worthwhile this project is. He said it would be nice to have those numbers.

Alan Henderson of 7330 Kurvers Point Road in Chanhasen raised the issue of rules. He said that the message at the last Board meeting seemed to be that the rules didn't really have a major impact on homeowners. Mr. Henderson said that if the Board passes rules and regulations that are in existence for many years it has to impact every single homeowner and every future buyer, and that all of the future homeowners and future buyers in the communities are impacted because it is impossible not to come to some point in time when all of these changes are taken in. He commented on the fact that there are only 10 people in the meeting upstairs in the Council Chambers and that the Board should have known that there would be a huge turnout at tonight's meeting. Mr. Henderson said that if the Board has an answer on how the proposed rules won't ever impact homeowners during the course of their lifetime and impact future landowners, he would like to hear it.

President Forster asked if there is any additional public comment having to do with the proposed project. Upon hearing none, President Forster called for a motion to close the public hearing. Manager Crafton moved to close the public hearing. Manager Yetka seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencil absent from vote].

President Forster said that a number of questions on the project were raised today and asked that staff bring answers to the questions to the next Board meeting.

### **3. Approval of the Agenda**

President Forster announced the meeting agenda. Manager Crafton moved to approve the agenda as presented. Manager Bisek seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencil absent from vote].

### **4. Hearing and Discussion of Matters of General Public Interest**

President Forster announced that anyone wishing to address the Board of Managers on an item not on the agenda may come forward at this time and the Chair will recognize speakers one by one. He said that speakers are

requested to state their name and address for the record and that comments will be limited to three minutes per speaker.

No issues were raised.

## 5. Citizen Advisory Committee (CAC)

There was a question about what the CAC is. President Forster described the Citizen Advisory Committee (CAC) and the Technical Advisory Committee (TAC). Manager Yetka reported that she attended the CAC meeting this past Monday. She said that at the meeting there was discussion about how the CAC operates and she encouraged the CAC to review their processes and bylaws. She said that the CAC reviewed its past meeting minutes, recapped the July 2 Board meeting, talked about this upcoming Board meeting and public hearing on the Purgatory Creek restoration project, discussed some recommendations to the proposed rules and the staff recommendations in particular to removing parts of the rules that apply to single-family residential and specifically the lakeshore buffer requirement and the stormwater management requirement.

Manager Yetka said that there was quite a bit of discussion on the staff's recommended changes to the proposed rules and there is no recommendation from the CAC on the proposed changes to the rules. She said that the CAC reviewed a cost-share permit application and recommended approval. She reported that the CAC requested more information in future applications about the quantifiable impacts associated with the project. Manager Yetka said that there was a presentation to the CAC by District staff about the proposed budget and that the CAC passed a motion to have a future workshop about bylaws. She said that there were some questions on whether the CAC is subject to the Open Meeting Law and the CAC would like the Board to direct Counsel to provide this insight.

There was discussion about the CAC's wondering at its meeting about whether or not it had a quorum at the meeting and whether it could take action to make recommendations.

## 6. Treasurer's Report

Manager Crafton moved to accept the Treasurer's Report. Manager Bisek seconded the motion.

Mr. Koch said that he reviewed the report and what made it difficult for him was that the report that was posted does not have accounting on a per project basis so it's difficult for him to determine whether or not and to what extent we've used up funds and what we have left to be committed. He requested that the Board and Treasurer look into providing more detail in the reporting.

Manager Crafton said that the report does have a page that reports by project. She provided amounts listed on that page of the report and said that it is posted on the website along with the meeting materials. She said that if after looking at the report if anyone has any questions, the Board would love to clarify.

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

Manager Crafton moved to pay the bills. Manager Yetka seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencil absent from vote].

## 7. Engineer's Report

Engineer Sobiech highlighted that there were a couple of memos included in the Engineer's Report related to the status of the spent lime project up at Lake Lucy and also there's a report on a potential project on the southern end of Lake Susan.

## 8. Administrator's Report

Administrator Bleser announced that the District will move into its new office space hopefully on August 15<sup>th</sup> if there are no construction delays. She said that the District's new address starting August 15<sup>th</sup> is 14500 Martin Drive, Eden Prairie, and said that there will be new phone numbers for the District but email addresses will remain the same.

She provided an update on monitoring, outreach, and the July NEMO event.

## 9. Board Action

### a. Rules

President Forster said that this part of the meeting will start out with a few announcements, then there will be presentations, and then manager discussion. He said that the Board will not be passing any rules tonight.

President Forster provided background on the process that the District went through to develop the proposed rules and to receive comments on them up to and including the July 2 RPBCWD Board meeting. He reported that staff drafted a memo responding to the comments and tonight is the manager's opportunity to discuss staff's recommended revisions to the proposed rules and to provide staff with direction on the final revisions to the rules. President Forster said that the Board has not held any meetings since the July 2 meeting and this is the manager's first opportunity to respond to comments provided at the July 2 meeting. He stated that Administrator Bleser will present the recommended changes with help from the District Engineer and Legal Counsel as needed.

Administrator Bleser said that the memo with staff's recommendations is on the District's website and described where it could be found. She explained that in its July 24, 2014, memo, staff recommends to eliminate lake buffers from the buffer rule and to exclude existing single family homes from storm water requirements.

Administrator Bleser provided an update on the TAC's response to those two recommendations. She reported that the TAC said it would support those two recommendations and said that the City of Eden Prairie commented that it would be nice to have stormwater Best Management Practices (BMP) for existing single family homes put in the rules.

President Forster commented that the District heard a number of comments questioning the operation of and the applicability of the rules. He explained that many of these comments are addressed in the materials that the District has already produced such as the Statement of Need and Reasonableness (SONAR) and Answers to Frequently Asked Questions, which are available on the District's website.

President Forster said that the District does not have yet a draft of the revised proposed rules. He said that

what the District has is the staff's recommendation to the managers and in a few minutes the managers will discuss what direction it wants to give staff. President Forster stated that based on that direction, staff will revise the rules. He said that there is a sign-up sheet for names and emails in the back if people would like to receive a copy of the revised rules and supporting documents at the same time as the managers and prior to the meeting at which the managers will consider adopting the rules. President Forster explained that the meeting date has not been set yet but there will be ample notice of the meeting. Administrator Bleser clarified that the District will be sending out a link to those documents.

Beth Halverson 9585 Lakeland Terrace said that something that would help restore trust in this whole process is that once the revised rules are written and dispersed that there is an open meeting with the District Engineer and Legal Counsel and everyone can come in and have an active Q & A before the Board members vote on something. President Forster said that he has no problem with that.

Mary Born suggested that the next meeting is not held on a Monday because City Council people and Mayors wanted to be here but couldn't be here on a Monday.

President Forster said that he understands that John Tyler has some documents that he wants to hand out to the Board and asked Mr. Tyler to hand them out. President Forster stated that the District's legal counsel has a memo on the District's authority and responsibility to adopt rules.

President Forster opened the floor to the managers to ask their questions about the proposed rules and staff's recommendations for changes. The managers asked questions and provided comments and staff answered questions.

Administrator Bleser said that the District had received several comments about sand blankets and received questions about how many times sand blankets, or sand on property to make a beach, can be applied. She explained that the District's proposed rules specifically state that they can be applied no more than two times within the lifetime of the property, which is a state regulation coming from the Minnesota Department of Natural Resources (DNR). Administrator Bleser said that the District is seeking a general permit so that the sand blanket application could be done under the general permit rather than property owners needing to go to the DNR or the watershed district. There were comments about the sand blanket regulation.

Attorney Welch clarified that the staff recommendation is to remove sand blankets as a trigger for the buffer requirement in the proposed rules. He said that this recommendation means if you do a sand blanket on the lake, you will not be required to do a buffer on the wetland. Attorney Welch explained that for all of these District rules that affect public waters, which are the large lakes and all of the creeks in the watershed, if people get the DNR permit for that work they can bypass the watershed because the District's rules explicitly state that with a DNR permit a watershed permit is not needed. He explained that the DNR authorizes water management organizations to permit at a certain activity threshold and below it in lieu of people needing to go to the DNR for a permit. Attorney Welch stated that above that activity threshold people would need to go to the DNR for the permit.

President Forster remarked that the District received comments about the rules' language about the types of plans that need to be submitted to the District for approval. President Forster said he liked the language in the Brown's Creek rules on this topic and recommended staff and Board members take a look at that language. He said that the language basically states that whatever people need to take to their cities for the city permitting process are the materials that need to be submitted to the District.

President Forster said that Rice Creek Watershed District makes reference to buffers in certain areas but doesn't mandate them. However, he, explained, the rules suggest that buffers be considered as a best management practice, and he would like the District to incorporate this in the future rule process.

He reported that the District received some comments stating that the rules are ambiguous in some spots, and he suggested that someone or some people look at the rules from an editorial point of view.

President Forster stated that the District received some comments on Rule H, which pertains to people who have wells or withdrawal of water from the lakes. He explained that the state of Minnesota has asked the watershed districts to get a handle on this information, and he would like the District to investigate better ways of gathering this information.

President Forster mentioned that the District received a lengthy memo from the Coalition of Southwest Metro Lakes. He asked staff to review that memo and make sure that the District has covered all of the issues raised.

Manager Bisek raised the topic of groundwater.

Attorney Welch clarified that Rule H is mandated by state law, so the District doesn't have wiggle room on it. He said that the stormwater requirement for major developments and redevelopment would stay the same under the staff recommendation and he is hearing the managers agreeing with this. Also he noted that staff developed supporting material for the rules and those materials will need to be revised. He said he is hearing the managers agree that staff can hold off on revising those materials until the rules are finalized. The managers agreed.

There was a comment from the public asking why staff has made the recommendations about rules revisions. Administrator Bleser provided an explanation and reiterated the staff recommendations. She said that staff has presented the recommendation to remove the lake buffers as a concession in order to move ahead with the rules, even though staff sees benefits to the watershed of having lake buffers. Administrator Bleser said that regarding stormwater it sounds like the managers are interested in having single family homes incorporate a Best Management Practice and perhaps provide supporting document on how the BMP will be installed as opposed to the stormwater requirement proposed in the July 2 rules. She also asked the managers to direct staff on what revisions if any that the Board wants made to the rules.

Manager Bisek moved that the District put into its rules a recommendation that single family homes do a buffer and for stormwater the District request single family homes put in a BMP. Manager Crafton seconded the motion. Manager Yetka asked for more information on how a recommendation in rules works compared to a requirement. Attorney Welch responded. Manager Bisek withdrew her motion and Manager Crafton approved.

Manager Yetka moved to direct staff to maintain the rules as written except for a change so that existing single family residential is not included in the lake buffer requirement, because she would prefer to see education and incentives be used, and that the rules maintain that existing single family residential fall under the stormwater rule but the rule is amended to require a stormwater BMP on a single family residential lot if certain threshold criteria are met as stated in the rules. Manager Crafton seconded the motion. President Forster made the friendly amendment that the District review the language of the rules so that they are as clear as possible, staff look at Rule H and Rule L in light of the comments on them he

made earlier in the meeting, and for staff to review the comment letter from the Coalition of Southwest Metro Lakes. Attorney Welch asked the Board to provide direction on the staff recommendation of removing from the rules the provision that sand blanket application trigger the buffer requirement.

There was a question from the public about Best Management Practices (BMPs). Engineer Sobiech provided an explanation. Manager Yetka described different types of BMPs and said that the Minnesota Pollution Control Agency and the Minnesota State Stormwater Manual have a lot of information on BMPs. She said that city staff, landscapers and landscape designers, and builders all know about BMPs and there is a lot of information and help available about BMPs.

Mary Born of 7199 Frontier Trail remarked about the rain garden running along the east side of her property and described how all of the water draining off of Highway 101 runs through a hole in the ground and into the lake through this big rain garden. Ms. Born stated that in her little patch of grass she manages, she gets all of 101 and Eden Prairie's water, and she asked what is going to be done about that. Manager Crafton began responding that it would be nice to see rain gardens all along, and Ms. Born interjected that she brought along a sheet that shows 16 huge culverts that runs into one our lakes, saying that there are more than 16. Ms. Born said that she thinks the group is here too early talking about what people can do with little plots of land, and she realizes that this is a good way for the District to do something that doesn't cost the District a dime. She continued by saying that that the Citizen Advisory Committee has been asking since 2006 for the District to partner with the City of Chanhassen, Eden Prairie, Minnetonka, and others to remove problems like these.

There was a comment from the crowd that Lotus Lake is not a spring-fed lake and without runoff, there wouldn't be a lake.

Ms. Born referenced the District's 10-year plan and commented that the District doesn't need rules if the cities are willing to make them. She went through a short history of the 10-year plan process and the historical roster of the District's Board of Managers. Ms. Born said that no one is paying attention to the plan. Manager Crafton said that she disagreed with that statement.

Administrator Bleser stated that the District's proposed rules would impact cities, counties, the Minnesota Department of Transportation, and anyone who would majorly disturb the landscape, not just residents. There were further comments on rain gardens and comments on the District's cost-share program.

Manager Yetka said that regarding the remarks about storm sewers draining directly into the lake, she agrees that they are a major part of the problem. She explained that these proposed rules apply equally to the all of the development that drains into those storm sewers. Manager Yetka stated that there are multiple ways that we need to address our clean water goals and addressing them at the one-property level is one way.

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

President Forster thanked everyone for coming. There was a question on whether there is more time for public comment on the rules. President Forster said that he is open to holding another public forum once the rules are finished. One resident made additional comments. Another resident requested the Board move forward with what is on the agenda. President Forster proceeded to the next agenda item.

#### **b. League of Minnesota City Insurance Trust**

Attorney Smith explained that the District is required to have insurance and each year the District receives

an insurance policy from the League of Minnesota Cities Insurance Trust (LMCIT). He stated that as part of that process the LMCIT asks the District whether or not it wants to abide by the limits set forth for liability for all municipal and political subdivisions under state law. Attorney Smith said that the item before the Board tonight is to decide if it wants to waive those limits and allow people who might ever be injured to recover above and beyond those statutory limits of liability or for the Board to resolve not to waive them. He explained that the District's Counsel recommends that the District not waive them and instead receive the protection of those caps on liability provided by state statute, which is the action that the Board took last year.

Manager Bisek moved that the District not waive the limits. Manager Yetka seconded the motion. Upon a vote, the motion carried 4-0 [Manager Wencil absent from vote].

**c. Survey and Data Analysis Funds**

Administrator Bleser reported that the District has some funds left in its Surveys and Data Acquisition budget and staff is looking into purchasing a commercial ice-maker to provide ice for storing the District's lab samples. She said that the other item staff is looking into purchasing is a deionizer because deionized water is used to rinse the lab equipment and containers. Administrator Bleser reported that staff is requesting \$1,343.10 for the cost of purchase of these two pieces of equipment

Manager Bisek moved to authorize the Administrator to purchase these two pieces of equipment. Manager Crafton seconded the motion. Administrator Bleser clarified that she brought this purchase in front of the Board since the funds are coming from the surveys and data acquisition fund but originally were not recognized within that fund.

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

## 10. Upcoming Events

- **Family Fishing Event**, Saturday, August 16, 2014, 9:00 a.m. Round Lake Park
- **Citizen Advisory Committee Meeting**, Monday, August 18, 2014, 6:30 p.m., Eden Prairie City Center
- **Board Meeting**, Wednesday, September 3, 2014, Eden Prairie City Hall, 7:00 p.m., Eden Prairie
- **Clean Water Summit**, September 11, 2014, 8:00 a.m., University of Minnesota Arboretum
- **District Fall Tour**, TBD

## 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 vote]. The meeting adjourned at 9:34 p.m.

Respectfully submitted,

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Ken Wencil, Secretary