

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

April 6, 2016, Board of Managers Monthly Meeting

PRESENT:

Managers: Mary Bisek, Secretary
Richard Chadwick
Jill Crafton, Treasurer
Perry Forster, President

Staff: Josh Maxwell, District Technician and Compliance Officer
Louis Smith, Attorney (Smith Partners)
Scott Sobiech, Engineer (Barr Engineering Company)

Other attendees: Bob Adomaitis, CAC, LRIA, SW Lakes Sharon McCotter, CAC
Coalit.
Paul Bulger, CAC Dorothy Pedersen, CAC
Laurie Hable, CAC Laurie Susla, CAC, LLCA
Pete Iversen, CAC Dennis Yockers, CAC
Larry Koch, CAC David Ziegler, CAC

1. Call to Order

President Forster called the Wednesday, April 6, 2016, Board of Managers Monthly Meeting to order at 7:02 p.m. at the RPBCWD District Office at 14500 Martin Drive, Suite 1500, Eden Prairie, MN 55344.

2. Approval of the Agenda

President Forster removed from the agenda item 11 ó Closed session to discuss the Post Development litigation. He said that Attorney Smith would provide an update on the item as part of agenda item 8b ó Settlement release from CH2M Hill. Engineer Sobiech requested the addition of an action item regarding permit 2015-041 Eden Prairie Center Landscapingø request for a joint financial assurance.

Manager Chadwick noted that Consent Agenda items b, c, e, and g are worded to request that the Board accept these items. He asked if the Board only needs to take action to accept these items or if Board approval of the items is necessary and if so, he would like more time to review the materials. President Forster said that the annual report needs to be submitted by April 30. He said that if the Board accepts the report, then the Board is saying that it is ok with the District submitting and distributing the report. Manager Chadwick requested that for item 5f ó the requested action be changed from approve to accept, so that the action of the Board would be to accept and distribute the 2015 annual report. The Board consented to his request.

Mr. Koch asked when there would be the opportunity to ask a question about the auditorø report, which is included in the annual report. Attorney Smith asked if the Board has had the auditorø report presented. He reminded the Board that it needs to take action to approve the auditorø report. President Forster removed the annual report item from the Consent Agenda and added it as Action item 8e.

Manager Crafton moved to approve the agenda as amended. Manager Chadwick seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

3. Hearing and Discussion of Matters of General Public Interest

No matters were raised.

4. Reading and Approval of Minutes

a. March 2, 2016, RPBCWD Board of Managers Monthly Meeting and Public Hearing

Attorney Smith requested edits on page 4, section 9, item b, first paragraph to correct the fourth sentence to read, "the wetland on the property is designated high quality, which requires" and in the same section, second paragraph to correct the third paragraph to read, "to mitigate somehow for the loss of the wetland buffer." Attorney Smith also requested an edit on page 5, section 10, item d, first paragraph, fourth sentence so that the word "submitted" is replaced with the word "committed."

Manager Chadwick requested that on page 3, item 6, second paragraph the word "adopts" be replaced with "accepts."

b. March 14, 2016, RPBCWD Board of Managers Special Meeting

President Forster noted spelling errors on page 1, section 3, in the first and sixth paragraphs and typos on page 2 in the first paragraph. Manager Bisek requested an edit to page 1, section 3, fourth paragraph, so that the first sentence reads, "asked questions in regard to notification of the treatment"

Manager Crafton moved to approve the minutes as amended. Manager Chadwick seconded the motion. Upon a vote, the motion carried 3-0 [Manager Bisek abstained from vote. Manager Yetka absent from vote].

5. Consent Agenda

President Forster read aloud the Consent Agenda items: a. Solicit bids for the Purgatory Creek Restoration 101; b. Accept Engineer's Report; c. Accept Staff Report; d. Adopt Resolution 2016-04 Supporting Grant Application for the Environmental Assistance Grant Program; e. Accept Grant Agreement with the Metropolitan Council ; g. Accept bids from Lake Restoration for Herbicide Treatments on Lake Susan, Lake Riley, Mitchell Lake, and Red Rock Lake; and, h. Approve permits with staff recommendations: i. 2015-037 Purgatory Creek Restoration at 101; ii. 2015-050 Arbor Glen 2nd Review Extension; iii. 2016-002 Minnetonka School Warehouse Renovation; iv. 2016-005 Staring Lake Park; and, v. 2016-007 Meditech Site Improvements.

Manager Bisek moved to accept the Consent Agenda as read. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote]. There was a question about how Lake Restoration will communicate with the lakeshore owners about the locations treated with herbicide. Mr. Maxwell responded that a map of the treatment areas will be distributed to all of the lakeshore owners and to the Lake Association.

6. Citizen Advisory Committee (CAC)

Dorothy Pedersen provided a summary of the workshop and commented that a lot of input was provided. She said that the workshop ran long but the CAC did have a little time to work on the welcome kit and the Board will likely be seeing it next month. Ms. Pederson reported that the CAC spent time working on its 2016 calendar and collecting ideas for topics, which the CAC will discuss at its next meeting.

7. Treasurer's Report

Manager Crafton reported that the Treasurer's Report has been reviewed through the Board's internal controls and protocols. Manager Crafton moved to approve paying the bills. Manager Bisek seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

Mr. Koch voiced questions about the Treasurer's Report and asked if Manager/Treasurer Crafton would look into the issues he raised and follow up with him. He made several requests regarding information he would like included in the Treasurer's Report, such as a breakdown of the KleinBank Visa expenditures in greater detail. He also requested that the compilation table referenced in the letter be attached to the letter.

Manager Chadwick remarked that he thinks the District needs some additional accounting procedures and maybe some additional internal controls and clarifications. He said that he has some suggestions to make the District's accounting procedures more transparent. Manager Chadwick noted that he still has questions as to why the District operates on a cash basis combined with a partial modified accrual basis. He commented that he thinks the monthly reports need to continue to be developed and upgraded.

Manager Crafton moved to approve the Treasurer's Report as presented. Manager Bisek seconded the motion. Manager Chadwick requested the friendly amendment that the Board accepts, instead of approves, the Treasurer's Report. Managers Crafton and Bisek agreed to the friendly amendment. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

8. Action Items

a. Approve Purchasing of Carp Monitoring Equipment

Mr. Maxwell reported that staff is asking the Board to authorize an expenditure of up to \$6,000 for a telemetry tracking system and equipment including tags. He said that staff would tag carp this summer and would plan to do a seining this winter to keep the carp population in Staring Lake under control.

President Forster provided more detail on the seining process. Mr. Maxwell added that he has already submitted the fisheries permit to the Department of Natural Resources.

Manager Bisek moved to approve the purchase request at an amount not to exceed \$6,000. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

b. Settlement Release from CH2M Hill; Update on Post Development

Attorney Smith reported that there is a request for action on the previously discussed matter of the District's claim against engineering firm CH2M Hill related to modeling work it did for the District. He reminded the Board that the modeling work was found to be inadequate. He announced that CH2M Hill agreed to settle for the full amount of the District's claim, which is \$50,000. Attorney Smith asked the Board to approve a settlement and release document, which he brought to the Board tonight. He explained that the document resolves that this is a complete settlement of all claims related to the modeling work provided by CH2M Hill in the task order. He noted that warranties for CH2M Hill's other work survive this settlement and release.

Manager Crafton moved to approve the settlement and release from CH2M Hill regarding the modeling and to authorize President Forster to sign it. Manager Bisek seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

Regarding the Post Development, Attorney Smith stated that late last week the District was informed that

the Post brothers have elected to voluntarily dismiss their claim with prejudice. He explained that the District now has an order that has been approved by the court that dismisses the case. Attorney Smith said that no action is needed. Manager Chadwick asked whether all of the defense costs in this case were assumed by the District's insurance. Attorney Smith responded yes, with a \$500 deductible.

c. Permit 2015-060 Optum Parking Lots – Variance and Permit

Engineer Sobiech explained that this project is for Optum on Technology Drive. He said that Optum, the applicant, is looking to construct two parking lots with associated storm water management facilities. Engineer Sobiech reported that one of the storm water management facilities is an infiltration basin and the second facility is a filtration basin because of the high ground water. He went into further detail about the project's compliance with the District's rules.

Engineer Sobiech stated that the applicant is requesting a variance to the wetland buffer criteria. He explained that there is a lot of existing infrastructure in place and, as a result, the applicant is not able to provide the minimum buffer distance for the wetlands. Engineer Sobiech noted that the wetland buffer width minimums for these high value wetlands are 30 feet with an average of 60 feet. He reported that the applicant is able to provide the average buffer distance of 60 feet or more but there is one parcel where the applicant is providing only 5.3 feet from the minimum because of a roadway that allows access to the Optum building. Engineer Sobiech noted that the roadway was constructed prior to the District's establishment of its regulatory program with the buffer provisions.

Engineer Sobiech stated that a second parcel is affected as well. He said that the second parcel has a minimum distance from a roadway of 12.3 feet. He noted that the existing impervious surface was in place prior to the establishment of the District's regulatory program. Engineer Sobiech recommended approval of the variance request for the reasons he just described.

Manager Crafton expressed concern that the District is seeing a lot of variance requests for buffers, and she noted that buffers are really important. Engineer Sobiech responded to questions. There was a short discussion of signage.

Manager Chadwick moved to approve the variance. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

Manager Chadwick moved to approve the permit. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

d. Request for Joint Financial Assurance for permit 2015-041 Eden Prairie Center Landscaping

Engineer Sobiech reported that the applicant for permit 2015-041 requested that the District allow joint financial assurance for the permit with the City of Eden Prairie. He explained that the way the permit was approved is that the financial assurance would be provided to the District and a separate financial assurance would be provided to the City of Eden Prairie. Engineer Sobiech recommended that the District's legal counsel work with the City of Eden Prairie's legal counsel to draft the proper language that would allow a joint financial assurance to occur.

President Forster suggested that the Board put a motion in place directing the District's Legal Counsel to work with the appropriate party at the City of Eden Prairie to develop a common financial assurance. Manager Crafton made the motion just stated by President Forster. Manager Chadwick seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

e. Annual Audit

President Forster reported that the auditors were very satisfied with the way the watershed conducted its business in the past year.

Mr. Koch asked several questions and provided comments and recommendations about the annual audit and items related to the District's financial reporting for the Board's consideration.

Manager Chadwick thanked Mr. Koch for his comments.

President Forster noted that the District is required to transmit its annual report to the state auditor and the Minnesota Board of Water and Soil Resources by the end of April. Attorney Smith recommended that the Board direct the Administrator to coordinate with the auditor to follow up on these questions and comments and to make sure that the reports are filed as required by April 30th.

Manager Chadwick moved to accept the audit report and for the District to transmit it to the appropriate bodies as indicated by Legal Counsel. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

Manager Crafton moved to accept and distribute the annual report. Manager Bisek seconded the motion. Upon a vote, the motion carried 4-0 [Manager Yetka absent from vote].

9. Discussion Items

a. CAC/Board Communication Process

President Forster noted that the CAC/Board Communication Process will be part of Monday's workshop.

b. Eden Prairie Local Surface Water Management Plan Update

President Forster reported that the District received the City of Eden Prairie's Local Surface Water Management Plan last Friday.

c. Bluff Creek Update

President Forster stated that the District continues working with the City of Chanhassen on this project.

d. Update on the MAWD Legislative Days

President Forster reported that he and Manager Crafton participated in the MAWD Legislative Days and that the big issues were budget issues and developing a firm definition of buffers.

e. Upcoming Meetings

President Forster announced that there is a meeting on Monday, April 11 at 4 p.m. here at the District Office. He said that the next regular meeting of the Board is on Tuesday, May 3 at 5:30 p.m. at the Chanhassen American Legion and will be followed by the Evening with the Watershed.

10. Upcoming Events

- Board Meeting, Wednesday, April 6, 2016, 5:30 p.m., RPBCWD District Office
- Special Board Meeting and Workshop, Monday, April 11, 2016, 4:00 p.m., RPBCWD District Office
- CAC Meeting, Monday, April 18, 2016, 6:30 p.m., RPBCWD District Office

- Board Meeting/Evening with the Watershed, Tuesday, May 3, 2016, 5:30 p.m., Chanhassen American Legion
- Urban Waters Forum, Saturday, April 23, 8:30 a.m. ó 12:30 p.m., Minnesota Landscape Arboretum
- Public Forum on Bluff Creek Watershed, May 11, 6:30 p.m. ó 8:30 p.m., Chanhassen Recreation Center, 2310 Coulter Boulevard, Chanhassen MN 55317
- Public Forum on Riley Creek Watershed, May 18, 6:00 p.m. ó 8:00 p.m., Chanhassen Public Library, 7711 Kerber Boulevard, Chanhassen, MN 55317
- Public Forum on Purgatory Creek Watershed, May 24, 6:30 p.m. ó 8:30 p.m., Eden Prairie Community Center, 16700 Valley View Road, Eden Prairie, MN 55436

11. Adjourn

Manager Crafton moved to adjourn the meeting. Manager Chadwick seconded the motion. The meeting adjourned at 8:28.

Respectfully submitted,

Mary Bisek, Secretary