

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

January 4, 2017, Board of Managers Plan Workshop and Monthly Meeting

#### PRESENT:

Managers: Mary Bisek, Secretary

Richard Chadwick

Jill Crafton, Treasurer

Perry Forster, President

Leslie Yetka, Vice President

Staff: Claire Bleser, District Administrator

Zach Dickhausen, District Staff

Michelle Jordan, District Technician and Compliance Officer

Josh Maxwell, District Technician II

Louis Smith, Attorney (Smith Partners)

Scott Sobiech, Engineer (Barr Engineering Company)

Other attendees: Paul Bulger, CAC

Dan Parks, Westwood\*

Earth Evans, SWLRT\*

Dorothy Pedersen, CAC

Laurie Hable, CAC

Bill Satterness, citizen\*

Peter Iverson, CAC\*

Emily Stephens, WSB & Associates\*

Larry Koch, CAC; Chanhassen Resident

Laurie Susla, CAC, LLCA

Sharon McCotter, CAC

Rob Wadle, Hy-Vee\*

Bojan Mistic, SWLRT\*

David Ziegler, CAC

Dave Modrow, City of Eden Prairie\*

\*Indicates attendance at the monthly board meeting but not the plan workshop

### 1. Plan Workshop

President Forster called to order the Wednesday, January 4, 2017, Board of Managers Plan Workshop at 5:37 p.m. in the Heritage Room at Eden Prairie City Hall, 8080 Mitchell Road, Eden Prairie, MN 55344.

Administrator Bleser explained that during this workshop staff will present a summary of the comments from the Board and the CAC regarding the prioritization tool, review the updated tool including the metrics being used and the initial project ranking, describe the project CIP coordination, discuss the logistical and timing assumption for final ranking, and provide a minor rules update.

Engineer Sobiech explained the draft scoring metrics:

- Number of the plan's water resources goals addressed;
- Sustainability;
- Volume management;

- Pollutant management;
- Habitat restoration; and,
- Shoreline restoration.

Engineer Sobiech talked about the process of scoring projects, described the sustainability index, the volume management index, the pollutant management index, the habitat restoration index, the shoreline/streambank stabilization index, the watershed benefits index, the partnership opportunities index, and the public education index.

Engineer Sobiech responded to questions. Mr. Koch asked if the process takes into account the public benefit of the projects. Engineer Sobiech said that it comes into play under the watershed benefit. Mr. Koch remarked that it doesn't seem right that all of the factors are weighted equally because not all goals are equal. He asked how public benefit should be measured. Administrator Bleser noted that all of the goals are equal because they are the goals that were identified through the input process. She pointed out that the public education metric weighs accessibility of the project by the public.

Mr. Koch commented on his concern about the large amount of money that could be spent fixing the creeks and said that the District needs to somehow weight the number of people that would benefit from the District's projects. There was a lengthy discussion.

Engineer Sobiech talked about the prioritization sorting factors:

- Total benefit score;
- Resource type;
- Major watershed ;
- Subwatershed;
- Upstream to downstream;
- Tiered; and,
- Cost.

He went into further detail about these factors. Administrator Bleser reported that the TAC has homework to provide the District with logistical input about city projects. Engineer Sobiech added that logistical considerations include items like project timing, leveraging partnership dollars, accessibility and other items.

Engineer Sobiech talked about an idea of a new District policy stating that within five years of an alum treatment project, 50% of external loading would need to be managed.

There was brief discussion of the District's current top-of-the-watershed down approach to projects and a new idea of rotating creek projects through the three watersheds. Administrator Bleser responded to questions. She said that staff will come back to the Board in February with updates.

President Forster closed the Plan Workshop at 6:37 p.m.

## 2. Call to Order

President Forster called to order the Wednesday, January 4, 2017, Board of Managers Monthly Meeting at 7:10 p.m. at Eden Prairie City Hall, 8080 Mitchell Road, Eden Prairie, MN 55344.

### 3. Approval of the Agenda

President Forster requested moving Discussion Item 10a óHy-Vee Eden Prairie ó to Action Item 10a1. Attorney Smith recommended handling Discussion Item 10e ó Office -14500 Martin Drive Lease ó as an Action Item. President Forster said it will be handled with action item 9d ó Office Space. Manager Chadwick requested Consent Agenda items 7c ó Approve Paying of the Bills ó and 7d - Accept November Treasurer's Report with Staff Recommendation ó be moved off of the Consent Agenda. President Forster said the items will be handled together as Action Item 9g.

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

### 4. Matters of General Public Interest

President Forster explained the new procedure for bringing forward matters of general public interest, and he opened the floor.

Mr. Bill Satterness of Red Oak Drive, Eden Prairie described his past roles with the CAC and current role with the Friends of Red Rock Lake. He said he was here to talk about Red Rock Lake. He noted that in 2002 Red Rock Lake was placed on the MPCA's Impaired Waters List and that last week the MPCA removed Red Rock Lake from the Impaired Waters List. Mr. Satterness reported that the MPCA based its decision to remove Red Rock Lake from the list on three factors: phosphorous, algae, and clarity, collected in small water samples from one location above the deepest part of the lake. He described the factors that the MPCA did not weigh in its decision. Mr. Satterness stated that he thinks the MPCA made the wrong decision and he thinks that Red Rock Lake will be back on the Impaired Waters List in just a few years. He said that Red Rock Lake today still has too much mercury, too much chloride, too much PFOS, too much phosphorous, too much nitrogen, too much algae, too many weeds, not enough fish, no crayfish or herons, and very few people attempt to go boating for pleasure. Mr. Satterness remarked that two years ago the District and the City of Eden Prairie agreed to treat the symptom of weed overgrowth. He said that the District applied herbicide to a few acres to control curlyleaf pondweed and the City harvested a few acres. Mr. Satterness said that these actions were helpful and he hopes the City and District continue to do these things. He stated that there is still no plan to treat the underlying cause and no plan to remove or neutralize all the excess nutrients that collect in the sediment. Mr. Satterness commented that the District's third generation plan, which is still in force, does earmark monies and a timeframe to actually restore Red Rock Lake. He stated that the current board and administration have indicated that they now have other priorities. He said that his message tonight is that despite some wishful thinking, Red Rock Lake is not all better and it still warrants the District's attention and investment.

Mr. Larry Koch of Big Horn Drive, Chanhassen, asked for more information about the District's expenditure to the Minnesota Native Landscapes \$183,944.30. He asked why the District's Engineering Services, which has a budget of \$103,000, is at \$24,000. Mr. Koch commented that he noticed that Legal Services are already more than 10% over budget and he asked about that situation. He remarked that for Permit Review and Inspection, the District budgeted \$100,000 and that through November has spent \$159,576.36. Mr. Koch said he would like generally to know why that item is as expensive as it is. Mr. Koch also talked about the membership of the CAC. He said that at the CAC's most recent meeting, the CAC passed a resolution stating that it had no problem having 15 members on the committee. He described the reasons that the CAC was in favor of 15 members. Mr. Koch asked if the permit and professional outreach coordinator be the one who would be taking over Barr Engineering's inspection report so the District's Engineering costs would be reduced in that expenditure. He said

he would like to address the issue about going forward with the Engineering regarding the Lower Reach of Riley Creek. He wondered if, in light of the project prioritization scoring process presented, it is still appropriate to go forward with that task order or if the District should see how the project ranks before spending the money on that task order. Mr. Koch mentioned that he was advised that the UAA (Use Attainability Analysis) for Lotus Lake and for some other lakes were completed. He said that based on his review it seems that treating the phosphorous in Lotus Lake is the cheapest project in terms of phosphorous projects.

The managers and Administrator responded to his questions.

Ms. Laurie Susla of Dakota Avenue, Chanhassen, said that she is happy to hear that the public is now allowed to comment on both agenda and non-agenda items but she is dismayed that the time period is limited to three minutes. She said she was curious about when this decision was made and why it was not run past the CAC. She expressed her concern that Task Order 21 is going straight to the Board for approval without going to the CAC. Ms. Susla said that the same thing happened with Task Orders 14 and 17. She said she is concerned that if the CAC is not brought into these types of things earlier in the process, then when the CAC hears about it at the public hearing it is too late. She said she thinks that the CAC needs to be involved in the process earlier than what is happening right now. Ms. Susla remarked on the moving of \$68,000 in the 2016 budget and said that the same thing happened in January of last year. She stated that this type of thing is appropriate to do mid-year or maybe in October, but she recommends against going back in January or February to amend the previous year's budget.

Mr. Paul Bulger, of Southlawn Road, Eden Prairie, commented that on the appointment list of the District's Technical Advisory Committee, the Minnesota Pollution Control Agency is not listed. He also remarked that the Governance Manual was on tonight's agenda but was not in the meeting packet. Administrator Bleser said that the MPCA representative to the TAC is Chris Zadak and was accidentally left off of the list in the packet. President Forster added that the update tonight on the Governance Manual will be that it will be discussed at the Board's next monthly meeting.

President Forster called several times for additional comments on matters of public interest. Upon hearing none, he moved on to the next agenda item.

## 5. Reading and Approval of Minutes

### a. December 7, 2016, RPBCWD Board of Managers Monthly Meeting

President Forster requested that on page 2 Mr. Paul Bulger be correctly identified as an Eden Prairie resident. President Forster requested the deletion of an extra word on page 4. Manager Crafton noted that the 2016 District of the Year award was awarded by the Minnesota Department of Natural Resources and this should be correctly identified in the minutes. Attorney Smith requested a revised sentence on page 9 to include the phrase "constructive eviction."

Manager Crafton moved to accept the minutes as amended. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0.

### b. Future Agenda Item

Manager Chadwick referenced a discussion held at the Board's December monthly meeting and requested the addition of that topic as a discussion item at the Board's March or April agenda. Manager Chadwick moved, in accord with internal controls and procedures of financial management, to put on the Board's agenda for its March or April monthly meeting a discussion of the nature of the District's expenditures for the last year and the issues relating to budget categories not allocated to or exceeded by more than 10% of

the total program budget without approval by the Board of Managers as well as discussion about the fact that actual expenditures, under internal controls, may not materially deviate from the amount in the budget category. He said he would like the Board to discuss these issues so that the District can avoid some of the problems that he believes have existed for the last couple of years. Administrator Bleser said that the discussion item could go on the March meeting agenda. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0.

## 6. 2016 Organizational Actions

### a. Elections of Officers

Manager Crafton moved to appoint the slate that currently exists. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

### b. Designation of Official Publication

Manager Crafton moved to designate the official publications as listed: Sun Sailor, Sun Current, Chaska Herald, Chanhassen Villager, and Eden Prairie News. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

### c. Appointment of the Technical Advisory Committee

President Forster noted that the list of Technical Advisory Committee members includes Chris Zadak of the Minnesota Pollution Control Agency. Manager Crafton moved to approve appointing the Technical Advisory Committee as listed, including Chris Zadak: Matt Clark, Robert Bean Jr., Leslie Stovring/Dave Modrow, Tom Dietrich, Steve Segar, Terry Jeffery, Paul Hornby, Hennepin County representative, Paul Moline, Mellissa Jenny, Kate Drewry, Jenny Skancke, Mike Wanous, Steve Christopher, Joe Mulcahy, Linda Loomis. Manager Yetka seconded the motion. . Upon a vote, the motion carried 5-0.

### d. 2017 Meeting Calendar

Administrator Bleser pointed out that the July monthly meeting is scheduled for July 5. Manager Crafton moved to approve the 2017 meeting calendar as listed. Manager Chadwick seconded the motion. Upon a vote, the motion carried 5-0.

### e. Designation of Bank

Manager Crafton moved to approve Klein Bank and Wells Fargo as the District's official banks. Manager Chadwick seconded the motion. Upon a vote, the motion carried 5-0.

### f. Designation of Depository for Permit Financial Assurances

Manager Crafton moved to approve Smith Partners LLC as the District's official depository for permit financial assurances. Manager Chadwick seconded the motion. Upon a vote, the motion carried 5-0.

## 7. Consent Agenda

President Forster read aloud the Consent Agenda items: a. Accept Engineer's Report (with attached inspection report); b. Accept Staff Report; e. Advertise Permit and Professional Outreach Coordinator Position; f. TO 20 Hyland Lake; g. TO 6d WOMP Station; h. TO 14b Lower Riley Creek Restoration.

Manager Yetka moved to approve the Consent Agenda as read aloud by President Forster and with the removal of the accepting the Treasurer's Report and the paying of the bills as requested by Manager Chadwick. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

## 8. Citizen Advisory Committee (CAC)

Ms. Dorothy Pederson noted that the CAC's most recent meeting was a busy one with the CAC passing five motions. She thanked the Board for allowing comments on anything not just non-agenda items during the Matters of General Public Interest. She reviewed the CAC's motions including:

- The CAC asks that written comments submitted to the Board are included in meeting minutes for the month.
- The CAC asks that meeting materials discussed at the Board's monthly meetings are included in the meeting packets.
- The CAC wants to provide input on the Education and Outreach Plan
- The CAC wants to provide input on the watershed plan prioritization schedule.
- The CAC is comfortable with having 15 members. Ms. Pederson noted that if the Board decides to have only 13 CAC members, then two current members have offered to resign.

## 9. Action Items

### a. 2016-017 Southwest Light Rail Transit

Administrator Bleser introduced MR. Bojan Mistic of the SWLRT to provide an update on the Metro Green Line Extension project. Mr. Mistic described the project, which includes 14.5 miles of new track, 15 new stations and one deferred station. He talked about the project timeline:

- 2016: Final Environmental Impact Statement
- 2017: Full funding grant agreement
- 2017-2020: Heavy construction
- 2021: Passenger operations

Mr. Mistic gave an overview of the project operations within the Riley Purgatory Bluff Creek Watershed.

Engineer Sobiech described the permit review undertaken for permit 2016-017 SWLRT. He gave a project overview, described the proposed Best Management Practices (BMPs), and summarized the six variances requested by the applicant and the Engineer's recommendations including conditions.

Engineer Sobiech recommended approval of **variance request No. 1**, which was a variance to the District's rule that no structure may be placed, constructed, or reconstructed and no surface may be paved within 100 feet of the center line of any watercourse (except structures and associated impervious surface regulated under Rule G.)

Manager Crafton moved to approve variance request No. 1 as recommended by the District Engineer and in accordance with the District's rules regarding site difficulties. Manager Chadwick seconded the motion. Upon a vote, the motion carried 5-0.

Engineer Sobiech described **variance request No. 2**, which was a variance to the District's rule that the low floor elevation of all new and reconstructed structures will be constructed at a minimum of two feet above any applicable 100-year flood elevation (Rule B, subsection 3.1). He recommended approval of the variance with the condition that the applicant must provide to the RPBCWD a written draft

indemnification of the RPBCWD against all claims and causes of action for flood damages to the property.

Manager Yetka moved approval of variance request No. 2 as recommended by the District Engineer and with the condition as described by the District Engineer. Manager Crafton seconded the vote. Upon a vote, the motion carried 5-0.

Engineer Sobiech talked about **variance request No. 3**, which is a variance to the District's requirements of Rule D, subsection 3.1a.ii. of the Wetland Buffer Rule, which states that a buffer with an average width of 60 feet from the delineated edge of a high-value wetland and minimum of 30 feet must be created.

Manager Crafton moved to approve variance request No. 3 as stated by the District Engineer. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

Engineer Sobiech recommended approval of **variance request No. 4**, which is a variance from the District's Rule D, subsection 3.1.a.iii. of the Wetland Buffer Rule, which states that buffer with an average width of 40 feet from the delineated edge of a medium value wetland and minimum 20 feet must be created.

Manager Yetka moved to approve variance request No. 4 as described and the conditions as stated by the District Engineer. Manager Chadwick seconded the motion. Upon a vote, the motion carried 5-0.

Engineer Sobiech described **variance request No. 5**, which is a variance from the requirements of Rule E, subsection 3.1.f of the Dredging and Sediment Removal Rule, which states that dredging or sediment removal must not be proposed for a location where any portion of the area to be dredged contains any slope steeper than 3:1 (H:V) in a channel. He recommended approval of the variance request.

Manager Bisek moved to approve variance request No. 5 with any conditions as described by the District Engineer. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

Engineer Sobiech recommended approval of **variance request No. 6**, which is a variance from the requirement of Rule F, Subsection 3.3g (compliance is required due to Rule G, subsection 3.7d), which calls for the finished slopes of the stabilization areas to be 3H:1V or flatter.

Manager Chadwick moved to approve variance request No. 6 as reviewed and described by the District Engineer. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0.

Manager Yetka moved approval of permit 2016-017 SWLRT with the five-year permit term and variances as approved and the conditions as reviewed by staff. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

### **a1. Hy-Vee Eden Prairie – Stormwater Rule**

Administrator Bleser explained that the District has had a question from a potential permit applicant about the permissibility of utilizing a regional facility instead of an on-site facility. She said this item is a discussion with the potential applicant to provide information as the developer determines how it will develop that parcel. She introduced Dan Parks, Professional Engineer with Westwood Professional Services, to describe the parcel and the potential project.

Mr. Parks stated that his company has been part of a project that included the construction of a regional pond but, he said, strict application of the District's rule would require that the storm water would be handled on site and not through the existing regional pond.

Mr. Parks presented the Hy-Vee project and project ideas to treat the storm water by utilizing the regional pond as well as onsite infiltration.

There was discussion including remarks about the capacity of the existing offsite regional pond and about how the District wouldn't grandfather approval of utilizing the offsite regional pond, which was designed for a six-inch rainfall, by virtue of the fact that the pond was designed prior to the District's adoption of its rules.

President Forster directed District staff to work with Mr. Parks of Westwood and Hy-Vee staff to discuss the project details. President Forster wondered if the District would need to revisit its rules based on the issue raised tonight regarding offsite treatment. Attorney Smith responded that unless the Board wants to change its policy regarding onsite treatment in order to embrace a broader regional approach, he doesn't believe that the District has seen a dramatic need to revise its rules. Attorney Smith continued by saying that through what has been discussed here tonight, it would amount to a variance from the District's rules and he has heard President Forster direct District staff to discuss how the broader purposes may be achieved in the context of the variance.

**b. 2015-016 Reduce Financial Assurance Blossom Hill**

Administrator Bleser noted that this is the same permit the Board discussed last month and that after talking with the applicant, staff is still not comfortable with the applicant's request to reduce the financial assurance by \$31,531.50.

Administrator Bleser said that staff does not know if the infiltration system is working and if the pond is functioning appropriately. There was discussion about the idea of reducing the financial assurance by \$12,700, the permit being expired, and that the permit could be renewed only by the Board. Administrator Bleser noted that a permit renewal has been requested.

Attorney Smith offered a recommended motion based on his understanding of the information presented.

Manager Chadwick moved that the Board reject at this time this request to reduce the financial assurance. Manager Crafton seconded the motion. President Forster requested a friendly amendment that the applicant has to reapply for a permit, pay the permit fee again, and get a determination on the bond. Managers Chadwick and Crafton agreed to the friendly amendments. Upon a vote, the motion carried 5-0.

**c. Bluff Creek Restoration and Grant Update; TO 21a Bluff Creek Restoration**

Administrator Bleser reminded the Board that the District received a grant for the Bluff Creek Restoration fish passage and shoreline restoration project. She reported that the District, Carver County, and the City of Chanhassen were unsuccessful in securing an agreement with the property owner to access the site to do the restoration.

Administrator Bleser said that the District asked the Minnesota Board of Water and Soil Resources (BWSR) for a one-year grant extension and also asked if the grant could be used on one of two different District projects. She reported that BWSR responded that it would like the District to use the grant on a project of a similar nature, meaning a streambank stabilization project on Bluff Creek.

She said that internally District staff had identified other stabilization project areas based on the Creek Restoration Action Strategy (CRAS). She noted that staff is in contact with the City of Chanhassen regarding site access information.

Administrator Bleser stated that if the District doesn't find another Bluff Creek restoration project, the District will lose the grant money. She explained that this is why Task Order 21a is necessary, and she noted that it is a tight timeline. Administrator Bleser stated that the draft plan amendment would need to

be drafted simultaneously with the feasibility work. She said that staff would bring a draft plan amendment to the Board at its next monthly meeting and to then go out for comments per Board direction.

Administrator Bleser reminded the Board that the amount of the grant is \$150,000 and said that the City of Chanhassen would still be interested in partnering although the Hennepin County Regional Rail Authority would no longer partner due to the location of the project.

Manager Yetka moved to approve Task Order 21a for the Bluff Creek Stabilization Feasibility work so that the District can find an alternative project for the grant funds. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

**d. Office Space**

Attorney Smith passed out an updated document, and he reviewed key issues. He reminded the Board that at its December meeting it directed staff to negotiate the lease on the Chanhassen office space. Attorney Smith described two main issues that staff has been discussing with the property's landlord. He noted the reasonable protections to the District that staff successfully negotiated with the property's landlord. Attorney Smith recommended that he conduct a final legal review of the lease for non-substantive changes.

Manager Crafton moved to accept the lease subject to final legal review. Manager Yetka seconded the motion. Attorney Smith added that the District Administrator received a communication from the current landlord inquiring if the dance studio were to move would the District stay. He explained that staff had communicated to the current landlord that if specific details of the dance studio's move including move date were provided to the District by tonight then staff would present that information to the Board. He said that such information has not been provided by the current landlord to the District. Upon a vote, the motion carried 5-0.

Administrator Bleser raised the topic of coordinating the information technology and audio visual set up for the new office space. She described the proposal received from ImagineIt and noted that she is waiting for a final proposal from MSpace. Administrator Bleser requested that the Board direct her to work with those two companies and the District's Legal Counsel to get a contract in order to meet the timeline of the retrofitting of the new office space. President Forster asked about the financial liability for the contractor. Administrator Bleser said \$3,000-\$4,000 for the IT set up plus a monthly maintenance cost. She explained that she is waiting for the audio and technology cost quote but she thinks it will be a \$20,000-\$25,000 cost. Administrator Bleser recommends that these funds come from the District's reserve funds.

Manager Yetka moved that staff proceed with meeting the new office space's electronic and audio-visual needs with a not-to-exceed budget of \$25,000 pending legal review for contracting and for funds to be taken from the District's reserve. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0.

**e. 2017 CAC Applications**

Administrator Bleser reported that the District received 15 applications. She recommended that the managers discuss what they would like to see from the Citizen Advisory Committee in 2017.

Manager Crafton offered comments and said that she would like to see the Board appoint applicants that have received four or five manager votes.

Manager Chadwick read a prepared statement of his comments regarding his opinion of the Board's CAC

application review and appointment process, the appearance that the Board is trying to stifle and limit the statutory obligations of the CAC, the experience of the applicants based on their applications, the need for a broad spectrum of CAC members with expertise in various areas, his disappointment in the manner in which staff has conducted itself in this situation, that the current CAC would like 15 CAC members for 2017, that the CAC is not intended to be and should not be just a rubber stamp, that if one is cooking in the kitchen you have to be able to tolerate the heat, and his suggestion of appointing the three new applicants as alternate members of the CAC to sub for any members who cannot attend a CAC meeting.

Managers Yetka and Bisek and President Forster provided comments about the Board-CAC process and interaction in past years, their visions of an effective CAC, and what number of CAC members and make-up of the 2017 CAC would be most effective.

Manager Crafton moved to approve appointing to the CAC those applicants that received four or five manager votes. Manager Yetka seconded the motion. There was lengthy discussion.

Ms. Laurie Hable rescinded her application to the 2017 CAC. Mr. Larry Koch rescinded his application to the 2017 CAC and requested a copy of the recording of this meeting. There was additional discussion.

Manager Chadwick requested a friendly amendment. Manager Crafton did not accept the friendly amendment. President Forster read aloud the names of the 11 applicants to the 2017 CAC who received four or five votes. Upon a vote the motion carried 4-1 [Manager Chadwick opposed the motion.]

President Forster nominated Robert Adomaitis and Laurie Susla to be members of the 2017 CAC. Manager Chadwick seconded the motion. Upon a vote the motion failed 2-3 [President Forster and Manager Chadwick voted in favor of the motion and Managers Bisek, Crafton, and Yetka opposed the motion].

**f. Cost-Share Program**

Ms. Jordan reminded the Board that this item was a discussion item at the Board's previous monthly meeting. She said that staff is looking for direction from the Board on whether it wants to increase the District's cap for its cost-share program tier for commercial businesses and local government from \$20,000 to \$50,000 at the same match and percentage of cost as stands currently for that tier. She described how this increase could help incentivize larger projects with larger water quality benefits.

Manager Crafton moved to increase the cap from \$20,000 to \$50,000. Manager Bisek seconded the motion. Upon a vote, the motion carried 5-0.

**g. Accept Treasurer's Report; Pay Bills**

Manager Chadwick stated that he wanted to call attention to the fact that the payment of the bills and the Treasurer's Report should be presented in accord with the Internal Controls and Procedures for Financial Management, which states specifically that at the monthly board meeting the Treasurer presents the Treasurer's Report; the Board of Managers receives and discusses, as necessary, the Treasurer's Report then authorizes payment of the monthly bills as presented in the check register.

Manager Chadwick had questions about the cash disbursements reflected in the Treasurer's Report. He asked if the District's Treasurer recommends the paying of the bills. Manager Crafton responded that she does. He asked for more information about the \$183,144 payable to the Minnesota Native Landscapes. Administrator Bleser responded that it was for the creek stabilization project at County Road 101 in Minnetonka.

Manager Chadwick remarked that at each monthly meeting the Board is asked to pay bills in amounts up

to \$300,000 or more and he thinks that the Treasurer's Report and the paying of the bills should be moved off of the Consent Agenda and onto the Action Agenda. Manager Chadwick said that the Board has previously discussed the \$50,000 that was reallocated to Engineering and he asked where it is reflected in the Treasurer's Report. Manager Crafton responded that the \$50,000 went back against the Engineering costs for reviewing the flawed model. Manager Chadwick asked in what month the \$50,000 was allocated. President Forster said probably in July or August. Manager Crafton said that she will get that information to Manager Chadwick.

Manager Chadwick commented that the Administrator has asked that the Board reallocate \$68,000 to permit activity and \$5,000 in office costs from the District's reserve funds. He asked if that reallocation is to cover the budget deficit. Manager Crafton responded that the District's budget is based on the information the Board knows at that time but the Board doesn't always know what will come up, which is why the District has its contingency and reserve and is able to reallocate resources. Manager Chadwick asked if the Board should reallocate during the budget year. There was discussion about the timing.

Manager Bisek commented that it has been indicated before that if folks have detailed questions regarding the Treasurer's Report, those people should either set up an appointment with the Board's Treasurer, Manager Crafton, or in the time prior to the monthly meeting when it is at the District office when all of the records and information can be easily accessed thereby helping to provide timely answers to the questions. Manager Chadwick said that he would like to see transparency in the records, have them available to the public, and also have best practices so that the public, taxpayers, and the Board's committees can understand the information on the first read. He said that the Board has gotten a lot of questions about its records in the last year and a half.

Manager Chadwick commented that he had a question for the Administrator regarding the KleinBank Visa activity and that he was sure that there was an appropriate answer. He asked about the charge to the Eddie Bauer store. Administrator Bleser said that the District recently purchased gear for the staff and managers with the District's logo and staff had asked the managers if they would like a fleece or some sort of jacket with the District logo so that the managers and staff can be identified as part of the District. Manager Chadwick said that he had been asked questions by citizens about the Treasurer's Report. Administrator Bleser noted that she has not had any questions from citizens about the Treasurer's Report and thanked Manager Chadwick for sharing this information with her.

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

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

## 10. Discussion Items

### a. Scenic Heights

Administrator Bleser reported that staff had a good conversation with Hennepin County. She said that County staff is recommending to its Board of Commissioners a grant of \$50,000 for the Scenic Heights project. She stated that the Minnetonka School District is willing to contribute \$45,000 over three years and the City of Minnetonka will help with a match of in-kind services. Administrator Bleser noted that there is still a project funding shortage of approximately \$165,000. She said that staff will come back to the managers with a proposal, and she reminded the Board that this project is a two-year project.

**b. Governance Manual**

Administrator Bleser announced that staff received additional comments on the manual so the committee will meet again and Legal Counsel will review. Manager Chadwick asked if the manual is online, and Administrator Bleser said yes, with the Board packets. She said she would send him a copy as well.

**c. Office Space**

Attorney Smith stated that the District currently has its office at 14500 Martin Drive in Eden Prairie. He noted that the Board has had past discussions about its dissatisfaction with its lease and the chronology and the noise problems that amounted to constructive eviction, which led to the Board's decision to move. Attorney Smith reminded the Board that he reported on the initial inquiry from the landlord of the current office space about the possibility of the District staying if the dance studio moves. He stated that the landlord did not furnish to the District the requested information. He referenced the Open Meeting Law and its provision of the Board moving into a closed executive session for the purpose of developing or considering an offer or a counter offer for the purchase or sale of real or personal property. Attorney Smith said that the District has received an offer of information from the current landlord about the resolution of the District's current lease. Attorney Smith explained that he thinks this information constitutes the kind of subject for which the Board can go into closed session to discuss.

Manager Crafton moved to go into closed session. Manager Yetka seconded the motion. Upon a vote, the motion carried 5-0. The Board moved into closed session at 10:30 p.m.

**11. Closed Session**

The Board of Managers concluded the Executive Session at 10:52 p.m.

**12. Upcoming Events**

- CAC Orientation Part 1 and 10-Year Plan, January 23, 2017, Location TBD
- Community Resilience Education Forum, Bent Creek Golf Course, January 24, 2017, 6:00-8:00 p.m.
- District Board Workshop and Monthly Meeting, Wednesday, February 1, 2017, Eden Prairie City Hall, 5:00 p.m.

**13. Adjourn**

Manager Chadwick moved to adjourn the meeting of the Board of Managers. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0. The meeting adjourned at 10:52 p.m.

Respectfully submitted,

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Mary Bisek, Secretary