

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

January 3, 2018, Board of Managers Workshop and Monthly Meeting

PRESENT:

Managers: Richard Chadwick, Secretary

Jill Crafton, Treasurer

Dick Ward

Leslie Yetka, President

Staff: Claire Bleser, District Administrator

Zach Dickhausen, Water Resources Technician

Jessica Henderson, RPBCWD Intern

Terry Jeffery, Project and Permit Coordinator

Michelle Jordan, Community Outreach Coordinator

Joshua Maxwell, Water Resources Coordinator

Louis Smith, Attorney (Smith Partners)

Scott Sobiech, Engineer (Barr Engineering Company)

Other attendees: Pete Iversen, CAC; Eden Prairie Resident

Darren Lazen, Landform

Mark Kjolhaug, Kjolhaug Env.

Andi Moffatt, WSB

Larry Koch, Chanhassen Resident

Paul Oehme, City of Chanhassen

Greg Krauska, Chanhassen Resident*

David Ziegler, CAC; Eden Prairie Resident

*Indicates attendance only at Monthly Meeting

1. Workshop

President Yetka called to order the Wednesday, January 3, 2018, Board of Managers Workshop at 6:10 p.m. in the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

Mr. Jeffery reported that staff met with the District TAC and talked about the proposed rules updates and, particularly, wetland protection. Mr. Jeffery stated that tonight's workshop discussion would focus on wetland protection and proposed changes to the District's Rule J.

Mr. Jeffery stated that staff has been discussing the issue of volume and finding a way to address flows in order to achieve the intended benefit. He said that staff would like to know if the Board wants staff to investigate further and come back to the Board with more information. He provided two examples of recent permit applications received by the District that highlight the difficulties with the permitting process and the issues clarifying who is the Local Governmental Unit and determining who has what authority. Mr. Jeffery suggested that the Board consider directing staff to send a letter to the cities asking them to weigh in with their perspective regarding the Wetland Conservation Act.

The Board discussed the points raised by Mr. Jeffery and asked what staff would investigate further regarding volume. Engineer Sobiech responded that staff would look at taking a design approach rather than an event-based approach and would look at models in order to create a flow duration curve.

Mr. Jeffery added that staff seeks authorization to run different models under different development scenarios to see if such an approach is tenable. He said that the idea here is to put some hours into investigating this approach and then bringing the information first to the TAC and then the Board.

Manager Chadwick asked where the funds would come from in the District's budget. Administrator Bleser responded that this work could be put into the monthly Engineering Services fee and that staff could discuss this idea with the Engineer. Manager Chadwick asked if staff has a cost estimate for this work. Engineer Sobiech stated that staff is considering looking at three different types of projects: residential, commercial, and perhaps a road project. He said that if a viable approach is found through that investigation and staff meets with TAC then he thinks a ballpark cost estimate is \$8,000.

Manager Ward commented that he thinks the District should take its time to get the rules updates right and that the work described by Mr. Jeffery and Engineer Sobiech is part of that process. Mr. Jeffery said that staff could bring back to the Board in February a letter of proposal. There was discussion on whether to wait until February to move forward. Mr. Jeffery said that it would be beneficial to first send out a general letter to the cities asking for comments about the Wetland Conservation Act and WCA capabilities here with the District.

The Board indicated consent for staff to move ahead with sending such a letter to the cities in the watershed district and for staff to bring more information to present to the Board at its February meeting. Mr. Jeffery added that hopefully there will be a TAC meeting held prior to the February Board meeting.

Manager Yetka adjourned the meeting at 6:45 p.m.

2. Regular Monthly Meeting

President Yetka called to order the Wednesday, January 3, 2018, Board of Managers Meeting at 7:02 p.m. in the District Office, 18681 Lake Drive East, Chanhassen, MN 55317. She noted that Manager Pedersen is not present at tonight's meeting and is not participating, although she is listening via phone.

President Yetka reported that at the December monthly meeting the Board moved into closed session to discuss a performance evaluation of the firm providing the District with accounting services. She reported that once the Board returned to open session, the Board took two actions: 1. To authorize the Administrator to retain Redpath & Company to provide transitional accounting services to the District; and 2. To authorize the Administrator to look into payroll services from Redpath & Company.

3. Approval of the Agenda

Administrator Bleser noted that item 9a is approval of the October financial report in addition to the November financial report as listed on the agenda. She also requested the addition of 10b – Update on Office Assistant position.

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

4. Matters of General Public Interest

President Yetka read aloud the procedures for this portion of the meeting and opened the floor for matters of

general public interest.

Mr. David Ziegler, Eden Prairie resident, announced that he has handed out to the managers information about SMART goals. He talked about SMART goals. He said that it seems like the District could do better about setting goals and timeframes for goals. Mr. Ziegler provided the example of phosphorous loading and said that the District could identify how much phosphorous loading will be reduced for each lake.

Mr. Larry Koch, Chanhassen resident, asked the managers to reconsider its process of taking verbal comments only during this portion of the Board's meetings. He said that he would like to be able to comment as items come up during the meetings. He commented that in the minutes from last month's meeting he didn't see any discussion of the terms of the lease of office space to MAWD. Mr. Koch pointed out several of his concerns, such as confidentiality, that he said should be addressed in the terms of the lease. Mr. Koch raised the idea of seeking out data already available or using drones to collect additional flow and volume data during peak flow events in the District's streams. He suggested that the Board request receiving recommendations from the District Engineer and Mr. Jeffery about ways to improve the CRAS process. Mr. Koch requested from the Board an update on the Lotus Lake alum project. Mr. Koch asked whether the District's revenues information in the financial report includes all of the revenues due to the District from property taxes in 2017. He pointed out that the expenditures for the 10-year plan is over budget and he would like the Board to give him an idea of what the additional costs will be and where the funds will come from. Mr. Koch asked the Board to give him a rough idea of the amount of funds the District has that are committed versus not committed. He suggested that regarding the proposed District rule changes, if staff has a recommendation to the Board, then staff should make the recommendation and provide a cost and time estimate so that the Board and public understand what the work would entail. He said that staff could even write up proposed resolutions of action that the Board could review and consider for action.

Administrator Bleser and President Yetka responded to questions and comments raised in the Matters of Public Interest.

5. Reading and Approval of Minutes

a. December 6, 2017, RPBCWD Board of Managers Monthly Meeting

Manager Crafton noted that staff members Josh Maxwell and Zach Dickhausen were left off of the attendee list. She requested several spelling corrections and a correction of an upcoming event date listed as 1/6 but should have been listed as 1/3. President Yetka requested several spelling corrections.

Manager Ward moved to approve the minutes as amended. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

6. 2018 Organizational Actions

a. Election of Officers

Manager Chadwick moved to appoint the current slate of officers to continue as the 2018 slate of officers. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

Manager Chadwick moved to appoint himself and Manager Crafton to the Governance Committee and Manager Pedersen and Manager Ward to the Personnel Committee. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

b. Designation of Official Publication

Manager Chadwick moved to continue with the same designated official publications as 2017: Sun Sailor, Sun Current, Chaska Herald, Chanhassen Villager, and Eden Prairie News. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

c. Appointment of Technical Advisory Committee

Manager Crafton moved to appoint the TAC members as listed in the meeting packet: Matt Clark, Robert Bean, Jr., Leslie Stovring/Dave Modrow, Tom Dietrich, Steve Segar, Vanessa Strong, Allison Fauske, Karen Galles, Paul Moline, Mellissa Jenny, Kate Drewry, Jenny Skancke, Mike Wanous, Steve Christopher, Joe Mulchay, Linda Loomis, and Chris Zadak. Manager Ward seconded the motion.

Administrator Bleser noted that sometimes during the year a TAC member will be replaced with another individual, which is an action taken by the organization the member represents. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

d. 2018 Meeting Calendar

President Yetka noted that the July meeting date isn't listed in the meeting packet but staff recommends July 11. Manager Ward moved to accept the 2018 meeting calendar including the July 11 meeting.

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

e. Designation of Bank

Manager Ward moved to designate Wells Fargo and Klein Bank as the District's official banks. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

f. Designation of Depository for Permit Financial Assurances

Manager Ward moved to designate Smith Partners LLC as the District's official depository for permit financial assurances. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

7. Consent Agenda

Manager Chadwick requested that Consent Agenda item 7a – Accept Staff Report – be removed. President Yetka added it as Discussion item 10c. President Yetka read aloud the Consent Agenda: 7b - Accept Engineer's Report (with Attached Inspection Report); 7c – Approve Task Order 6e: 2018 Watershed Outlet Monitoring Program Station Servicing. Manager Crafton moved to approve the Consent Agenda as amended. Manager Ward seconded the motion. Manager Ward requested that in the future staff would include in the inspection report not only the site address but also a description of what type of property it is such as residential or commercial. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

8. Citizen Advisory Committee (CAC)

Mr. Zielger reported that the CAC spent most of its meeting reviewing what was learned at the MAWD annual meeting.

9. Action Items

a. Accept October and November Treasurer's Reports

Administrator Bleser reported that staff and Manager Crafton have worked with the accountant to make the necessary changes but a few more need to be made to the November report. Manager Crafton moved

to accept the October and November Treasurer's reports. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote]. Manager Chadwick asked if Repath & Company can provide the Board with an overview of the accounting procedures and standards that it will use. There was discussion.

b. Approve Paying of Bills

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

c. Update on Avienda Wetland Conservation Act Application and Seeking Board Direction on Next Steps

Mr. Jeffery summarized the Board's December discussion of this topic. He updated the Board on the City of Chanhassen's action in December to approve the wetland replacement plan for the Avienda project. Mr. Jeffery went into detail about the wetland banking plan and the question of whether those wetland banks are certain to replace the loss of function of wetland value. He also address the sequencing flexibility and the discussion point of whether or not the sequencing flexibility was appropriately applied. President Yetka clarified that the District has 30 days, from the date of the City of Chanhassen's decision, to file an appeal.

The Board discussed the points raised by Mr. Jeffery. Manager Chadwick asked to hear from the City of Chanhassen representative present at the meeting before the Board makes any decisions. Mr. Paul Oehme, City of Chanhassen Public Works Director and City Engineer, spoke about how the City staff and council value the city's wetlands and the process the city went through on this project. He responded to Board questions.

Mr. Mark Kjolhaug of Kjolhaug Environmental Services Company and Mr. Darren Lazen of Landform spoke of the lengthy and in-depth process gone through with this project regarding the wetland planning and mitigation. They responded to comments.

The Board discussed the idea of submitting an appeal to BWSR. Manager Crafton spoke in favor of an appeal and Managers Chadwick and Ward raised points against submitting an appeal.

Administrator Bleser suggested that the District send a letter to the Minnesota Board of Water and Soil Resources stating the District's concerns with the nebulousness of the Wetland Conservation Act and seeing if BWSR would consider looking at the WCA in terms of its intent.

Manager Chadwick moved that the Board does not appeal the City of Chanhassen's action. Manager Ward seconded the motion. Upon a vote, the motion carried 3-1 [Manager Crafton voted against motion; Manager Pedersen absent from vote].

Manager Chadwick moved to direct staff work with District Counsel to develop a letter from the District, and perhaps in conjunction with other Districts, raising the point that there is a tension between the WCA and the purpose of the Watershed Districts and their charge to protect their watersheds. The letter could ask BWSR to work with the state legislature and perhaps MAWD to look at and reduce those tensions. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

Manager Ward pointed out that it wasn't in any motion but it is the District's understanding that the District will work with the City of Chanhassen on identifying possible wetland projects that could be funded by the \$300,000 from the developer of Avienda to be used toward a local wetland project.

Attorney Smith noted that the idea of a letter to BWSR about the WCA has merits but that changing legislature it is a monumental and lengthy task. He said that his experience also tells him that for metro area watersheds, the task really is to proactively identify the wetland complexes that either need preservation or present opportunities for restoration. Attorney Smith said that if the District could partner up with entities, such as the City of Chanhassen, on wetland projects then the District will feel more satisfaction and feel it sooner than waiting for the legislature.

10. Discussion Items

a. Upcoming Meetings

President Yetka read aloud the list of upcoming meetings.

b. Update on Office Assistant Position

Administrator Bleser reported that staff extended by a couple of weeks the deadline to accept applications. She said that the District has received applications and she will come back to the Board at its February meeting with an update.

c. Staff Report

Manager Chadwick provided comments about the January 3rd staff report and requested that in the future staff identify publications to which staff is submitting information for publication. Manager Crafton moved to accept the staff report. Manager Ward seconded the motion. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

11. Upcoming Events

- CAC Monthly Meeting and Annual Orientation, Monday, January 22, 5:30 p.m., District Office, 18681 Lake Drive East, Chanhassen. Orientation begins at 5:30 p.m. and regular meeting will follow.
- Board of Managers Workshop, Meet & Greet, and Regular Monthly Meeting, Wednesday, February 7. Workshop will start at 5:30 p.m., Board Meet & Greet will begin at 6:30 p.m., Monthly Board Meeting will begin at 7:00 p.m., District Office, 18681 Lake Drive East, Chanhassen

12. Adjourn

Manager Chadwick moved to adjourn the meeting. Manager Crafton seconded the motion. The meeting adjourned at 9:21 p.m. Upon a vote, the motion carried 4-0 [Manager Pedersen absent from vote].

Respectfully submitted,

Richard Chadwick, Secretary