

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

May 8, 2024, RPBCWD Board of Managers Regular Monthly Meeting

PRESENT:

Managers:

Jill Crafton, Treasurer
Tom Duevel, Secretary
Larry Koch*
Dorothy Pedersen, President
David Ziegler, Vice President

Staff:

Zach Dickhausen*, Natural Resources Coordinator
Liz Forbes*, Communication Manager
Terry Jeffery, District Administrator
Eleanor Mahon*, Community Engagement Coordinator
Josh Maxwell*, Water Resources & Fisheries Manager
Dylan Monahan, Administrative Assistant
Alaina Portoghese*, Communications Specialist
Louis Smith, Attorney, Smith Partners
Scott Sobiech, Barr Engineering Company

Other Attendees:

Scott Anderson	Betsy Preus
John Bender	Chris Preus
Brian Field	Jake Schmitz
Rod Fisher*	Perry Schwartz
Charlie Howley	Joe Seidl
Morgan Jacobs	Mark Seegers
Tom Lindquist*	Adam Tjaden
Ted Melby	Marilyn Torkelson*
Matt Olson	Mark Weber*
Jason P.*	

**Attended the meeting virtually.*

1. Call to Order of Board of Managers Regular Monthly Meeting

1 President Dorothy Pedersen called to order the Wednesday, May 8, 2024, Board of Managers
 2 Regular Meeting at 7:00 p.m. at the District Office, 18681 Lake Drive East, Chanhassen,
 3 Hennepin County, Minnesota.

4 President Pedersen stated that by declaration of the president this meeting is being held in person
 5 in public and hybrid while the District recognizes a manager may, based on advice from a
 6 healthcare professional, have a legitimate reason for not attending a meeting in a public place in
 7 person, such as Covid-19 exposure or infection, and in such circumstances may participate in the
 8 meeting remotely.

9 Louis Smith called attendance for the Board of Managers as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Present
Duevel	Present
Koch	Present
Pedersen	Present
Ziegler	Present

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2. Approval of Agenda

11 Manager Duevel moved to accept the agenda. Manager Ziegler seconded the motion.

12 Manager Larry Koch requested removing items 7b – Receive April Staff Report; 7c, –
 13 Receive April Engineer’s Report; 7d – Receive April Regulatory Report; 7e – Approve
 14 Modification for Permit 2022-018 Eden Prairie High School Track Facility; 7f – Approve
 15 Permit 2024-003 Asian Market Parking Expansion as Presented in the Proposed Board
 16 Action Section of the Permit Review Report; 7g – Approve Permit 2024-020 Olympic Hills
 17 Golf Course Hole 5 Reconfiguration as Presented in the Proposed Board Action Section of
 18 the Permit Review Report; 7h – Adopt Resolution 24-036 to Enter into a Cost-Share
 19 Agreement with The Walnut Grove Homeowners Association for a Shoreline Buffer Project
 20 Not to Exceed \$17,603.25 and Professional Maintenance Not to Exceed \$5,280.98.

21 President Pedersen said all Consent Agenda items will be moved under agenda item 7a –
 22 Items removed from the Consent Agenda.

23 Upon a roll call vote, the motion as amended carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
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Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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3. Matters of General Public Interest

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President Pedersen explained the procedures for raising matters of public interest.

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Tom Lindquist of 16750 Baywood Terrace, Eden Prairie said he is a board member of the

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Duck Lake Eden Prairie Homeowners Association. He commented he and several other

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Association board members are pleased the District is proceeding with Task Order 46 to

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look into possible modifications of the outlet at Duck Lake. He said he and the fellow

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members of the Association would like to know the project implementation schedule if

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outlet modification design moves forward . Mr. Lindquist said he is concerned that the Duck

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Lake Outlet Modification feasibility task is reported at only 10% completed. He asked what

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could be done to move it ahead as expeditiously as possible. Mr. Lindquist said apart from

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that point the Association is looking forward to the progress and the potential changes that

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he hopes could bring the Duck Lake level capability to what it was before the 2014 outlet

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modification took place.

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Administrator Jeffery said the schedule is that the feasibility report will be finished in the

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next 30 days and then presented to the Board. He said he plans to bring the project to the

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Board at the July meeting for the Board to authorize solicitation of bids and then bids will

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be brought back to the Board to award the bid. He added there will be a lot of permitting

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involved including approval from the railroad authority, which adds uncertainty to schedule.

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4. Reading and Approval of Meeting Minutes

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- a. **Approve Minutes of the April 3, 2024, Regular Meeting of the RPBCWD Board of Managers**

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Manager Ziegler moved to approve the minutes of the April 3, 2024, Regular Meeting of the RPBCWD Board of Managers. Manager Crafton seconded the motion. She noted staff has received her edits.

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Upon a roll call vote, the motion carried 4-0 as follows:

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<i>Manager</i>	<i>Action</i>
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Crafton	Yes
Duevel	Yes
Koch	Abstain
Pedersen	Yes
Ziegler	Yes

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b. Approve the Minutes of the April 18, 2024, Board of Managers Workshop.

Manager Crafton moved to approve the minutes of the April 18, 2024, Board of Managers Workshop. Manager Ziegler seconded the motion.

Upon a roll call vote, the motion carried 4-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Abstain
Pedersen	Yes
Ziegler	Yes

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5. Committee Reports

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a. Adopt Resolution 2024-033 Receiving Committee Reports.

- **Receive Citizen Advisory Committee’s Report and Minutes**

Marilyn Torkelson reported the CAC had at its most recent meeting a discussion about native plants, including the definition of native plant, and the CAC hopes the definition will be discussed further in the EHAP process. She said the Committee and talked about opportunities for hands-on volunteer opportunities in the watershed.

- **Receive Committee Report from Joint Meeting of the Audit and Finance Committee and Governance Committee**

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Manager Koch asked the Governance Committee to consider, as it reviews the Governance Manual, a process to move and receive all the reports at one time in one motion.

Manager Koch said he is not sure what conclusion or recommendation is being made by the Committee regarding reporting of payments.. Mr. Smith said the Committee concluded W-2s are the right option.

Manager Koch said regarding manager per diems, the federal wage and hour law apply even if the state wage and hour law does not apply. He recommended the Committee look into that issue. He suggested the Committee look into processing ACH payments.

Manager Koch asked the Audit and Finance Committee and the Governance Committee to look into the District’s financial policies and to make sure they are adopted and included in the Governance Manual.

Manager Ziegler moved to adopt Resolution 24-033 to Accept Committee Reports. Manager Duevel seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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b. Confirm Board Representative for May 20, 2024, CAC Meeting

Manager Duevel volunteered to be the Board representative at the May 20th CAC meeting.

6. Consent Agenda

a. Adopt Resolution 24-034 to Approve Consent Agenda

President Pedersen noted no items remain on the adopted modified meeting agenda.

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7. New Business

a. Items Removed from Consent Agenda

i. Receive April Staff Report

Manager Koch asked for an update on whether the District issued permits for projects including three properties along Lake Lucy, one of which is along Powers Boulevard, as well as for work going on along Galpin Boulevard south of Lake Lucy Road and being done on 78th Street. Administrator Jeffery noted the projects that have permits and said he will look at the area along Galpin Boulevard.

Manager Koch asked for a summary of the Spring Road status and said he previously asked for documents and does not believe he received all of them. Administrator Jeffery said the District has entered into contract for deed with the Standals and he is working with the League of Minnesota Cities Insurance Trust to insure the properties. Mr. Smith said Manager Koch should have received a number of emails from him last week to complete the data request. Manager Koch replied he did receive a number of emails and to be honest he has not reviewed all of them in detail.

Manager Koch thanked Amy Bakkum for her outstanding work during her time on staff at the District and wished her well in her career. Manager Pedersen said all the managers concur with Manager Koch’s comments.

Manager Koch asked to see information shared to the Twin Cities Metro Watershed Regulators Group.

Manager Koch commented on the discussions with the City of Eden Prairie about taking on some operation and maintenance roles for BMPs. He raised his concern about the City of Eden Prairie and the City of Chanhassen and all the other cities about laying off their costs and expenses to the District, especially regarding BMPs the District may have ended up paying for. He said he just wants to make sure it is not a one-off for the City of Eden Prairie or any city.

Manager Crafton moved to accept the staff report. Manager Ziegler seconded the motion. Upon a roll call vote the motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes

Ziegler	Yes
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ii. Receive April Engineer’s Report

Manager Koch said regarding Task Order 46, item b, it is his understanding the Department of Natural Resources (DNR) has an outlet elevation level that has to be met regarding the Duck Lake outlet.

Scott Sobiech explained the DNR is requiring the outlet elevation, the invert to the pipe, to remain the same. Mr. Sobiech said the analysis Manager Koch references looks at changing the configuration of the outlet, and not the bottom elevation, to allow water to mimic what happened between 1969 and 2014, before the outlet was modified by the City.

Manager Koch said he is concerned about the approach because he sees it as a method or scheme to evade the requirements and the purpose of the permit and the elevation. He said he does not believe it should be the District’s approach to skirt the requirements of a law or regulation and he believes the District needs to abide by the rule or get the rule changed.

Manager Ziegler moved to accept the April Engineer’s report. Manager Duevel seconded the motion. Upon a roll call vote, the motion carried 5-0.

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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iii. Receive April Regulatory Report

Manager Koch said the items listed on page 3 of the April Regulatory Report have been going on for quite some time. He said he thinks the District needs a procedure for moving items like this along and getting resolution. He said if the District has rules or procedures in place, the District should follow them and if there are not procedures in place he would like staff and legal counsel to come back to the Board with proposed policies and procedures. Manager Koch said he thinks it is important to get rules back on the Board’s agenda.

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Manager Duevel moved to receive the April regulatory report. Manager Ziegler seconded the motion. Upon a roll call vote the motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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iv. Approve Modification for Permit 2022-018 Eden Prairie High School Track Facility Improvements as Presented in the Proposed Board Action Section of the Permit Review Report

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Manager Koch asked if permits are listed in the District’s list of resolutions. Administrator Jeffery said no, permits are not recorded in the District’s journal of votes. He said the District keeps a separate listing of permits. Manager Koch suggested the Governance Committee look into that process because he thinks it would be good to have permits integrated with the general list of resolutions.

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Manager Koch suggested the language be changed to “...application for a permit modification to or of Permit...” and to strike the words “approval of.”

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Manager Ziegler moved to approve the modification of Permit 2022-018 Eden Prairie High School Track Facility Improvements as Presented in the Proposed Board Action Section of the Permit Review Report. Manager Duevel seconded the motion.

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Manager Koch moved to modify the motion to adopt the proposed Board action set forth in the Engineer’s report with the changes proposed by Manager Zieger. The managers consented to Manager Koch’s modification.

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Upon a roll call vote the motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes

Pedersen	Yes
Ziegler	Yes

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v. Approve Permit 2024-003 Asian Market Parking Expansion as Presented in the Proposed Board Action Section of the Permit Review Report

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Manager Koch commented he pulled this item off the Consent Agenda to comment on whether there is something the District could do, now or with future rule changes, to require some consideration of methodologies regarding controlling and minimizing the salt that gets applied. He said even giving input into design such as south-facing parking lots and drainage slope. He said the salt ends up going down the drain and into the watershed.

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Manager Ziegler said with respect to the District’s rules, nothing addresses the percentage of hard surface in relation to overall property size. He said for example this permit proposes hard surface area on about 90% of the site.

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Manager Ziegler said when the District considers rule changes, the District should think about regulating percent of property that can be impervious. He said there are things in the environment that are not accomplished with underground systems.

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Administrator Jeffery said regarding land use, which is outside of the District’s bailiwick, the District can think about how to work with municipalities regarding design plans. Administrator Jeffery said the District’s regulatory role is to require developers meet our standards.

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Manager Koch said he thinks the District needs to look at it rules sooner rather than later because of redevelopment and the opportunity in redevelopment projects to help save the waters.

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Manager Ziegler moved to approve Permit 2024-003 Asian Market Parking Expansion as Presented in the Proposed Board Action Section of the Permit Review Report. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes

Ziegler	Yes
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vi. Approve Permit 2024-020 Olympic Hills Golf Course Hole 5 Reconfiguration as Presented in the Proposed Board Action Section of the Permit Review Report

Manager Koch asked if a pond could ever become a wetland. Administrator Jeffery said stormwater management ponds are not considered a jurisdictional wetland under the Wetland Conservation Act.

Manager Ziegler moved to approve Permit 2024-020 Olympic Hills Golf Course Hole 5 with inclusion of the recommendations in the Engineer’s report. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 5-0.

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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vii. Adopt Resolution 24-036 to Enter into a Cost-Share Agreement with The Walnut Grove Homeowners Association for a Shoreline Buffer Project Not to Exceed \$17,603.25 and Professional Maintenance Not to Exceed \$5,280.98

Manager Koch suggested the District specify how long the grantee will need to perform maintenance. He suggested District Legal Counsel look at second paragraph of Section 7 to make sure the owner is indemnifying the District for everything arising out of this project other than something totally attributable to the District’s negligence or willful misconduct. Manager Koch said the second sentence in Section 8 on remedies could be better worded to be clear as to the fact that the District is not waiving any of its immunities in tort.

227 Manager Koch moved to adopt resolution 24-036 as provided with the
 228 condition that Legal Counsel reviews sections 5, 7, and 8 in light of
 229 Manager Koch’s comments and finalize the agreement with the assistance
 230 of staff. Manager Ziegler seconded the motion.

231 Mr. Smith said he can perform that review.

232 Mr. Schwartz of Walnut Grove Homeowners Association commented the
 233 HOA technically owns the south half of the stormwater retention pond,
 234 individual property owners own the north half, and the City of Chanhasen
 235 has an easement against it. He said responsibility between the HOA and
 236 the City is questionable.

237 Upon a roll call vote, the motion carried 3-2 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	No
Duevel	No
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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b. Accept April Treasurer’s Report

242 Manager Crafton moved to accept the April Treasurer’s report. She said it has been
 243 reviewed in compliance with our internal policies, rules, and practices. Manager Pedersen
 244 seconded the motion.

245 Manager Koch asked when the report format changed. Manager Crafton said six months
 246 ago. Manager Koch commented he thinks the District should get rid of Redpath &
 247 Company as well as the District’s auditor because he is not convinced either one of those
 248 parties knows what they are doing.

249 Manager Koch asked the difference between fund balance general and fund balance
 250 default. Administrator Jeffery said he will follow up with Redpath to clarify the
 251 difference.

252 Manager Koch said the District should be receiving at least a quarterly report of what the
 253 fund balance general and fund balance default comprise, what their investments are, and

254 their performance, so he requests the District get those quarterly reports from the 4M
 255 Fund.

256 Manager Koch asked for details about electronic payments and said the District's
 257 Governance Manual needs to be updated to reflect policies on electronic payments.
 258 Manager Koch said he would like to receive the District's detailed financial information
 259 on a regular basis because it is important to him to know where our money is being spent.

260 Manager Crafton noted the electronic payments are for items approved in the District's
 261 adopted budget. Manager Koch said it makes no difference if something is in a budget –
 262 you have to account for it properly in accordance with whatever procedure we have
 263 adopted.

264 Upon a roll call vote, the motion carried 4-1 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	No
Pedersen	Yes
Ziegler	Yes

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267 **c. Adopt Resolution 24-035 Approving Payment of the Bills**

268 Manager Crafton moved to adopt Resolution 24-035 Approving Payment of the Bills.
 269 Manager Duevel seconded the motion. Upon a roll call vote, the motion carried 4-1 as
 270 follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	No
Pedersen	Yes
Ziegler	Yes

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d. Consider Permit 2023-007 Enclave at Manor Road Variance Request from Rule J for Rate Control as Presented in the Proposed Board Action Section of the Permit Review Report

Mr. Sobiech displayed the PowerPoint presentation “2023-077 Enclave at Manor Road – 5/8/24.” Mr. Sobiech explained the proposed project is on a 6.5-acre site to redevelop a single-family home to a 17-lot single-family home subdivision. He said the project will increase the imperviousness from approximately one-half of an acre to close to two acres and the project will not disturb the entire site.

Mr. Sobiech stated the proposed project is not in compliance with the District’s rules for rate control. He reviewed the District’s Rule K – Variance Criteria. He reported the applicant requests a variance for rate control to allow increased discharge into an existing storm sewer system in the northwest corner of the site. Mr. Sobiech said the applicant requests the variance because under existing conditions there is no discharge in the northwest corner of the site into that storm sewer. He explained that under existing conditions those flow rates are zero and under proposed conditions the rates are greater than zero and therefore even discharging into a storm sewer would require a variance. Mr. Sobiech said it is a substantial deviation from District standards because the variation is changing the discharge to the northwest from zero to some number and changes where the water is going.

Manager Koch asked if the total discharge of the proposed project is going to be greater than existing discharge. Mr. Sobiech responded the total discharge from the site in aggregate will be less than existing conditions. Manager Koch said he would want to know that even with increasing discharge off the site the rate of the discharge into the creek does not change because he does not want the creek eroded any more than it already is.

John Bender of James R. Hill introduced himself as the civil engineer on the project for the applicant Brandl Anderson. Mr. Bender said James R. Hill took the District’s watershed model for the site and added the firm’s own proposed model for the site, looking at downstream and upstream impacts, and tried to balance impacts as best we could and minimize downstream impacts as much as we could.

Manager Koch said he wants to know if the proposed project will adversely increase the rate of flow into the creek and if so, is there is something that can be done to prevent the increase of rate of discharge into the creek.

Mr. Sobiech said in comparing the existing conditions to proposed conditions, the overall proposed rate from the site in aggregate is less than existing conditions. He said the timing of the flow could change from existing conditions to proposed conditions, but the model shows the flows going into the creek in a 100-year storm event are less under the proposed conditions than for the existing conditions. Mr. Sobiech noted that the stormwater pond in the northwest corner of the site does not have additional capacity, so the fact that the proposed project is lowering the elevation in this area would provide some flood relief for the three homes adjacent to the pond.

314 Manager Pedersen said regarding the variance request and the applicant’s plan to develop
 315 the site for 17 homes, it seems the applicant has created the issue for themselves.

316 Mr. Bender said in his opinion this variance necessary for site development and to
 317 preserve some of the trees on the site.

318 President Pedersen asked Mr. Sobiech if he had any other recommendations regarding
 319 possible design. Mr. Sobiech said significantly changing the layout and the BMP and
 320 going back to mimicking how flow leaves the site would be one option or looking at
 321 providing some type of mitigating measure at the site’s area 6 so flood elevation does not
 322 increase. He said it would be looking beyond the 6.5 acres to look downstream to consider
 323 mitigating the system as a whole. Mr. Sobiech said he finds it interesting that the 30%
 324 reduction in imperviousness had essentially no impact downstream and could be
 325 examined further.

326 Administrator Jeffery brought up the idea of water reuse on the site and utilizing the water
 327 on site to irrigate the green space and to be run by a Homeowners Association.

328 Manager Koch asked if the holding pond be bigger.

329 Manager Koch moved to approve the variance on the stipulation that it is confirmed that
 330 the rate of discharge to the creek is not more than the various 10-year to 100-year
 331 scenarios. Manager Duevel seconded the motion.

332 Manager Crafton asked how much contamination is going off the site to the creek. Mr.
 333 Sobiech said the proposed project meets water quality requirements and reduces total
 334 suspended solids and total phosphorous relative to existing conditions. Manager Crafton
 335 mentioned salt and fertilizer leaving the site.

336 Upon a roll call vote, the motion failed 2-3 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	No
Duevel	Yes
Koch	Yes
Pedersen	No
Ziegler	No

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339 Mr. Bender asked for direction on the Board’s criteria to guide him regarding modifying
 340 the design, He asked if he should focus on mitigating the one-tenth of an inch bounce
 341 downstream.

342 Mr. Sobiech said he thinks there are things that can be done to reduce the magnitude of
 343 the variance request, such as reuse and working with the District to brainstorm other
 344 iterations.

345 Manager Koch pointed out the only District criteria the application does not meet is the
 346 flow rate leaving the site. He said he asked earlier about the flow rate impact to the creek
 347 and the explanation shared by the District Engineer is that the rates to the creek will not
 348 increase. Manager Koch said he does not understand why the Board would not approve
 349 this variance based on the District’s rules. He said if the Board thinks things should be
 350 different, then the District needs to change its rules.

351 Manager Ziegler said he thinks options include increasing onsite stormwater pond, water
 352 reuse, and rain gardens.

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354 **e. Approve Permit 2023-077 Enclave at Manor Road as Presented in the**
 355 **Proposed Board Action Section of the Permit Review Report**

356 Manager Crafton moved to extend the review period of Permit 2023-077 Enclave at
 357 Manor Road. Manager Duevel seconded the motion. Upon a roll call vote, the motion
 358 carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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361 **f. Approve Permit 2024-008 Chanhassen Apartments as Presented in the**
 362 **Proposed Board Action Section of the Permit Review Report**

363 Mr. Sobiech displayed a PowerPoint presentation “2024-008 Chanhassen Apartments”
 364 and explained the project is redevelopment of 4.7 acres to include two multi-family/mixed
 365 -use retail and restaurant buildings. He said the proposed project would increase
 366 imperviousness of the site.

367 Mr. Sobiech said the project meets the District’s requirements and he reviewed his
 368 recommended conditions on the approval, such as naming the person responsible for
 369 erosion control during construction, recordation of a stormwater facility maintenance and
 370 operating plan, and providing a chloride management plan, among other conditions. Mr.

371 Sobiech recommended approval of permit 2024-008 contingent on the conditions he
 372 presented.

373 Manager Ziegler moved to Adopt 2024-008 Chanhassen Apartments as Presented in the
 374 Proposed Board Action Section of the Permit Review Report with all conditions listed by
 375 Engineer Sobiech. Manager Duevel seconded the motion. Manager Koch moved to amend
 376 the motion to add the second resolution on page 1 as listed in the staff report. Manager
 377 Ziegler and Manager Duevel consented to Manager Koch’s amendment to the motion.

378 Upon a roll call vote, the motion carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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381 **g. Consider Permit 2024-013 Chan View Street Reconstruction Variance**
 382 **Requests from Rule J for Low Floor Elevation and Stormwater Management**
 383 **Implementation Timing**

384 Administrator Jeffery reported City of Chanhassen representatives were in front of the
 385 Board at a Board meeting earlier this year to introduce their idea of a regional system. He
 386 said one of the three projects for which the City wants to use the regional system is the
 387 Chan View Neighborhood Street Reconstruction project proposed for 2024 that is in front
 388 of the Board tonight.

389 Mr. Sobiech shared the PowerPoint presentation “2024-013 Chan View Street
 390 Reconstruction.” He summarized the project will comprise approximately three miles of
 391 street reconstruction and rehabilitation. Mr. Sobiech listed the proposed stormwater
 392 management components of the project, including constructing a regional stormwater
 393 reuse system as part of a future project, proposed for 2025, that would provide the
 394 necessary water quality removals for the project.

395 Mr. Sobiech explained the project meets the District’s requirements except for a low-floor
 396 criteria related to locating a couple of the BMPs – raingardens – so the applicant is asking
 397 for a variance from that as well as a variance related to the timing of implementation.

398 Mr. Smith asked, regarding the two raingardens, if the applicant has easements from the
 399 affected property owners to send the water their way. Mr. Seidl of the City of Chanhassen
 400 said both the raingardens are located on City property or within the right of way. Mr.

401 Smith asked if impact has been discussed with the property owners. Mr. Seidl said
402 outreach was completed through regular communications with the project but the City has
403 not specifically reached out to the two residents yet. Mr. Seidl said the City plans to reach
404 out to them in the event this variance request is approved and the project is approved and
405 moved forward.

406 Manager Koch stated he is concerned with this type of variance and asked what could be
407 done that could give the same protective impact to reduce the change of an adverse impact
408 to these properties. He said he thinks anything the Board approves would be conditioned
409 upon getting informed consent from those property owners.

410 Mr. Seidl said the City is looking at the safe passage of overflow water, so regarding both
411 scenarios, analysis was conducted regarding flood conditions and the water would not go
412 into anyone's low-floor opening. He said the City believes the design mitigates risk and
413 provides a stormwater benefit in the effort to meet both City's and the Watershed's rules.

414 Manager Pedersen commented on the rain tile proposed in the design and noted she has
415 seen instances in which the drain tile is filled with sediment and no longer works. She
416 asked if the City could consider adding another section of storm sewer. Mr. Seidl said that
417 could be considered. He noted the drain tile has clean outs, meaning areas the public
418 works staff can access the drain tile to clean it out to maintain its function throughout its
419 service life.

420 Mr. Smith stated normally when the District looks at variance requests, it is the landowner
421 or a developer with land rights coming to the District saying the proposed project will not
422 meet the District's freeboard requirement. He said the District could respond to the
423 variance request by approving it on the condition the landowner records it on the property,
424 which indemnifies the District from any legal responsibility for that difference in risk. Mr.
425 Smith said the difference with this variance request is the City is asking for the District's
426 permission to vary from the District's low flow requirement as it affects other landowners.
427 He said this invites from a legal perspective some thought on who is going to bear that
428 risk.

429 Manager Crafton said she likes that this project it is a regional reuse of water.

430 Mr. Sobiech addressed the applicant's second variance request and said the timing
431 between the Chan View road reconstruction project and the implementation of the reuse
432 system is between 12 to 18 months. He said the reuse system by itself will provide enough
433 water quality benefit for the Chan View reconstruction area project, the Civic Center
434 reconstruction project, and some of the Market Boulevard reconstruction project.

435 Manager Ziegler moved to approve the variance requests with the condition that all the
436 engineering recommendations are included, including the indemnification of the
437 Watershed District on the two properties where the low floor or separation is not meeting
438 District rules. Manager Crafton seconded the motion.

439 Mr. Smith said there are a few things to clarify, such as what happens if the reuse system
440 is not built. He said if it is not built, the City does not have a permit from the watershed
441 because the permit is based on that reuse system being built. He said the District is voting

442 on approving a variance for when it gets built. Mr. Smith said if the City does not build
 443 the reuse system, the City will have to come back to the District and will need a way to
 444 meet the District’s rules. Mr. Smith asked the Board what timeframe it is specifying that
 445 the reuse system must be built within. Mr. Sobiech said the variance lays out that the
 446 reuse system must be implemented by early 2026. Mr. Seidl said the timing will be related
 447 to the Civic Center project and asked for the timeframe to be mid-2027. Mr. Sobiech
 448 suggested the system be substantially complete by end of the 2026 growing season.
 449 Administrator Jeffery suggested October 15, 2026.

450 Mr. Smith said the City shared tonight that it will be informing the land owners and he
 451 would like that language included in the motion as well.

452 Manager Ziegler and Manager Crafton consented to the changes to the motion.

453 Upon a roll call vote, the motion carried 5-0 as follows:

454

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

455

456 **h. Approve Permit 2024-013 Chan View Street Reconstruction as Presented in**
 457 **the Proposed Board Action Section of the Permit Review Report**

458 Manager Ziegler moved to approve Permit 2024-013 Chan View Street Reconstruction
 459 with the Engineering Report recommendations. Manager Crafton seconded the motion.
 460 Manager Koch moved to amend the motion to add the second resolution set forth in the
 461 report, which gives the Administrator the ability to sign or issue the permit upon
 462 satisfaction of the conditions.

463 Upon a roll call vote, the motion carried 5-0 as follows:

464

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes

Pedersen	Yes
Ziegler	Yes

465

466

8. Discussion Items

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a. LSOHC Funding

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Administrator Jeffery said he met with the assistant director and two other members of the Lessard-Sams Outdoor Heritage Council (LSOHC) as well as a Department of Natural Resources representative who is part of the program. He reported the group felt the District could apply for funding through Lessard-Sams for the Spring Road property, although any expenses already put forward would not be recuperable through LSOHC. Administrator Jeffery said that funding would not come through until July of 2025 and the application is due May 24th.

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Manager Koch said he does not think Administrator Jeffery inherently has the authority to do an application like that and he thinks the Board should vote on it. He said he thinks this issue would be appropriate for discussion between his legal counsel and the District's legal counsel as this could lead to a settlement of at least some of the claims in the litigation.

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Manager Koch moved to authorize Administrator Jeffery to put together an application and submit it to Lessard-Sams Outdoor Heritage Council for funding payments on the acquisition. Manager Ziegler seconded the motion.

483

Upon a roll call vote, the motion carried 5-0 as follows:

484

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes*
Pedersen	Yes
Ziegler	Yes

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*After voting, Manager Koch stated, "But with the caveat that none of this is to be construed as a waiver of any of my rights or claims under the current litigation."

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Manager Koch moved to defer the remaining agenda items to the Board’s next meeting and to adjourn. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

494

9. Member Reports

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a. Manager Reports

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[Deferred to next Board meeting.]

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498

b. Administrator Report

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[Deferred to next Board meeting.]

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501

c. Legal Counsel Report

502

[Deferred to next Board meeting.]

503

10. Upcoming Board Topics

504

a. 2023 Financial Audit – June 5, 2024

505

[Deferred to next Board Meeting.]

506

11. Upcoming Events

507

a. Passport Adventure – All the month of May

508

b. RPBCWD Creek Week – May 5 - 12

509

i. May 9: Creek Week Trivia at Hackamore

510

ii. Cycle the Creek and Creek Week Pop-up Party

511

c. MN Watersheds Summer Tour – June 25-27

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12. Adjournment

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[See action taken under item 8a].

514

The meeting adjourned at 10:31 p.m.

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516

Respectfully submitted,

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518

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520


Tom Duevel
Tom Duevel, Secretary

