

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

September 5, 2018, Board of Managers Governance Workshop and Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

Dick Ward, President

David Ziegler, Secretary

Staff: Claire Bleser, District Administrator

Terry Jeffery, Project and Permit Manager

Joshua Maxwell, Water Resources Coordinator

Louis Smith, Attorney (Smith Partners)

Scott Sobiech, Engineer (Barr Engineering Company)

Maya Swope, RPBCWD Staff

Other attendees: Tom Bakritges, Homestead Partners\*

Peder Larson, Larkin Hoffman\*

Joe Bischoff, Wenck Partners\*

Mark Nordland, Level 7\*

Paul Bulger, CAC

Steve Sabraski, Landform\*

Chris Call, Landform

Laurie Susla, LLCA

Mary Davy, No Stress Gardening and Landscape\*

\*Indicates attendance at Monthly Meeting only

### 1. Governance Workshop

2 President Ward called to order the Wednesday, September 5, 2018, Board of Managers Governance Workshop at  
3 5:30 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

4 Attorney Smith highlighted the topics that he would cover with the Board during this workshop, including  
5 reviewing the legal authority of watershed districts, an overview of the Minnesota Watershed Law, the Minnesota  
6 Watershed Act of 1955 the Metro Surface Water Management Act of 1982, Watershed District purposes, the  
7 RPBCWD's powers and tools, the Open Meeting Law, the Data Practices Act, the RPBCWD's Bylaws, conflicts  
8 of interest, and Governance Handbook.

9 He provided an overview of the Minnesota Watershed Act of 1955, which created a new special purpose unit of  
10 government as the regulatory authority for land use/water and to finance water resource improvements. This unit  
11 of government, the water management organization, is formed by petition and has an independent citizen board.  
12 Attorney Smith stated that the 1982 Metropolitan Surface Water Management Planning Act required seven  
13 counties in the Twin Cities metropolitan area to be part of a water management organization – either a watershed  
14 district or a watershed organization. He described the differences between watershed districts and watershed

15 management organizations. Attorney Smith pointed out that the 1982 Metropolitan Surface Water Management  
16 Planning Act also required the water management organizations to have 10-year plans.

17 Attorney Smith went through a list of purposes of the watershed district; for example, under the category of  
18 protection one of the purposes is to control/alleviate damage from flood waters. Attorney Smith also explained for  
19 the Board the legal powers given to the Watershed District. He talked about the organization's budget and levies  
20 and annual timelines. Attorney Smith went through the watershed management tools including capital projects,  
21 regulation, and education/programs.

22 Attorney Smith talked about the RPBCWD's governance. He went into detail about the Open Meeting Law and  
23 defined a meeting as "...any gathering of a quorum or more members of a governing body, committee, or  
24 subcommittee...where members discuss, decide, or receive information as a group...about the official business of  
25 that body." Attorney Smith described the sanctions for violating the Open Meeting Law.

26 Attorney Smith provided information about the District's permit program and deadlines for the Board in making  
27 permit decisions.

28 He briefly reviewed the District's Governance Manual Table of Contents. He specifically addressed the  
29 RPBCWD's Bylaws regarding Conflict of Interest. Attorney Smith ended the workshop talking about the State  
30 Auditor's Legal Compliance Audit Guidelines.

31 Manager Pedersen moved to close the Governance Workshop. Manager Ziegler seconded the motion. Upon a  
32 vote, the motion carried 5-0. The workshop adjourned at 7:05 p.m.

## 2. Call to Order

33 Manager Ward called to order the Wednesday, September 5, 2018, Board of Managers Monthly Meeting at 7:12  
34 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

## 3. Approval of the Agenda

35 President Ward added agenda item 8q -KTJ315 LLC ABRA Autobody and agenda item 8r -Personnel.

36 Manager Pedersen moved to approve the agenda as amended. Manager Ziegler seconded the motion. Upon a vote,  
37 the motion carried 5-0.

## 4. Matters of General Public Interest

38 President Ward explained the procedure for raising matters of general public interest and opened the floor.

39 Ms. Mary Davy of No Stress Gardening and Landscape said she was there on behalf of the Prairie East  
40 Homeowners Association. She said that the Prairie East HOA submitted a cost-share grant application. Ms. Davy  
41 said her company introduced the HOA to the RPBCWD and suggested the HOA submit that cost-share  
42 application. She said that her company did not make that suggestion because there was money to be had but  
43 because it was an opportunity for the District to get to know a large land owner in the watershed that is an  
44 uncommonly good water and land steward. Ms. Davy pointed out that the Board discussed the complex cost-share  
45 application but did not invite the HOA or herself to come speak to the Board about the application. Ms. Davy said  
46 that at this point the HOA is 90 days into the application with no end in sight. Ms. Davy said that the applicants  
47 have been left with the feeling that they are unwelcome and that the project is untenable. She said that she doesn't  
48 care if the District funds the cost-share project or doesn't, but the applicant deserves better from this Board and

49 organization. Ms. Davy said that cost-share applicants should be informed of when their cost-share application is  
50 on the meeting agenda so they could participate. She asked the Board to reconsider the cost-share application  
51 because it is an extremely good project that was well-considered, studied for months, shopped, and is cutting-edge  
52 irrigation.

53 Laurie Susla of 7008 Dakota Avenue, Chanhassen, said she had a few questions and comments about the  
54 proposed 2019 budget. She asked if there are going to be meeting minutes from the Budget Workshop that the  
55 public will be able to review prior to the Board's meeting on September 17<sup>th</sup>. The Board directed staff to post the  
56 draft minutes from the August 27 Budget Workshop on the District's website. Ms. Susla said the District has  
57 \$6,000,000 in the bank right now. She asked if at the Budget Workshop the Board talked about the money that the  
58 District has in the bank before the Board decides to raise the levy for the next year. Ms. Susla asked if there is a  
59 place in the budget procedure where the Board goes through and sees the different classifications of the balances  
60 including the classifications of non-spendable, restricted, committed, assigned, and unassigned. She said that if  
61 the Board did this, the Board would know how much of that \$6,000,000 is available for offsetting any increases in  
62 budget. Ms. Susla asked when the proposed budget will be available to the public. Administrator Bleser said she  
63 will post the PDF of the proposed 2019 budget spreadsheet on the District's website.

64 Mr. Paul Bulger, CAC President and resident at 15807 Southlawn Road, Eden Prairie, commented on the high  
65 quality of the reports in the meeting packet and said they do a nice job of including the results of the Creek  
66 Restoration Action Strategy and the Lake Management Decision Tree. He said that for permit applications in the  
67 cases that the District has requested more information from the applicant, the line of reasoning has been clear and  
68 the District has provided ample time to respond. Mr. Bulger said he applauds the District and Administration for  
69 having increased transparency and documentation.

## 5. Reading and Approval of Minutes

### a. August 8, 2018, RPBCWD Board of Managers Monthly Meeting and Public Hearing

70 Manager Crafton noted a correction on page 6, item h, paragraph 3 to replace the word "application" with  
71 "applicant." She also noted that on page 6, item I, paragraph 3 the word "it" should be deleted so the  
72 sentence reads "... that as this application..." Manager Pedersen asked for the deletion of the word "so"  
73 on page 2, item 3, second paragraph. Mr. Ziegler noted that on page 3, item 7, in the last sentence the word  
74 "that" should be replaced with the word "than." He also pointed out that on page 6, under item h, in the  
75 last paragraph the date September 4 should be revised to read September 14.  
76

77 Manager Crafton moved to accept the minutes as amended. Manager Ziegler seconded the motion. Upon a  
78 vote, the motion carried 5-0. Manager Koch requested line numbers be added to the future meeting  
79 minutes and asked that questions and answers be reflected in the minutes.

## 6. Consent Agenda

80 President Ward read aloud the Consent Agenda items: 6a – Accept August Staff Report; and, 6b – Accept August  
81 Engineer's Report (with Attached Inspection Report).

82 Manager Pedersen moved to approve the August Staff Report. Manager Ziegler seconded the motion. Upon a  
83 vote, the motion carried 5-0.

84 Manager Ziegler moved to accept the August Engineer's Report. Manager Crafton seconded the motion. Upon a  
85 vote, the motion carried 5-0.

86

## 7. Citizen Advisory Committee (CAC)

87 Mr. Paul Bulger, CAC President, reported that at its last meeting the CAC passed two motions. He said that the  
88 first motion was to recommend approval of the cost-share application. He described the second motion, which  
89 was administrative action. Mr. Bulger highlighted other business discussed by the CAC at its meeting. He said  
90 that the CAC talked about the Silver Lake Watershed adopt-a-drain pilot program, which will start with 30 storm  
91 drains. Mr. Bulger said that at its next meeting the CAC will discuss the State Fair booth. Manager Koch asked if  
92 the CAC reviewed the District's proposed 2019 budget. Mr. Bulger said that the CAC had a presentation by  
93 District staff about the proposed budget. He said that the major projects in the proposed budget are incorporated  
94 into the District's 10-year plan and given the fact that the CAC was actively involved in the 10-year plan process  
95 and coupled with the decision process that has been made more robust with the 10-year plan, there was no active  
96 discussion about the projects. Mr. Bulger reported that proposed changes regarding increased number of staff and  
97 changes for administrative and office costs were not questioned by the CAC.

98 Manager Pedersen thanked Mr. Bulger for stepping in to the CAC president role for the remainder of the year.

## 8. Action Items

### 99 a. Accept July Treasurer's Report

100 Treasurer Crafton communicated that she and the Administrator have reviewed the report in accordance  
101 with the District's internal controls and procedures. She moved to accept the Treasurer's Report. Manager  
102 Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

### 103 b. Approve Paying of Bills

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

### 106 c. Accept Bid and Award Contract for Rice Marsh Lake Alum Project (Bid Opening on 107 September 4<sup>th</sup>) and Accept Bid and Award Contract for Lotus Lake Alum Project (Bid 108 Opening on September 4<sup>th</sup>)

109 President Ward announced that Accepting the Bid and Awarding the Contract for the Rice Marsh Lake  
110 Project and Accepting the Bid and Awarding the Contract for the Lotus Lake Alum Project will need to  
111 be acted on in the same motion. Administrator Bleser explained that both projects address internal loading  
112 of phosphorous and both projects are identified in the District's 10-year plan. She pointed out that the  
113 bidding process was combined for the two projects.

114 Joe Bischoff of Wenck Associates provided a summary of the bidding process and the results. He  
115 explained that the District received two bids, and he provided details on the bids received. Mr. Bischoff  
116 explained that the bid from HAB Aquatic Solutions was less than the Engineer's project estimate. Mr.  
117 Bischoff also pointed out that HAB Aquatic Solutions has experience with applying alum treatments in  
118 Minnesota whereas the other company that submitted the bid did not. Mr. Bischoff recommended that the  
119 Board accept the bid from HAB Aquatic Solutions to do the alum treatments on Rice Marsh Lake and  
120 Lotus Lake.

121 Manager Koch asked if the bids were within the amount that the District budgeted for the projects. Staff  
122 responded yes. Manager Pedersen asked if Mr. Bischoff has used HAB Aquatic Solutions in the past for

123 alum treatments. Mr. Bischoff responded yes.

124 Manager Pedersen moved to accept the bid from and award the contract to HAB and Associates for the  
125 Rice Marsh Lake and Lotus Lake Alum Projects. Manager Ziegler seconded the motion. Upon a vote, the  
126 motion carried 5-0.  
127

128 **d. Authorize a Request for Bids for Bluff Creek Tributary**

129 Administrator Bleser explained the need for stabilizing this area of the creek. She reported that the  
130 District and the City of Chanhassen have been going back and forth working on the Cooperative  
131 Agreement, which is almost finalized. Administrator Bleser said that the District is waiting for  
132 confirmation from the City about when the Agreement is going in front of the City Council.

133 Engineer Sobiech reminded the Board that the project entails approximately 1500 square feet of  
134 streambank stabilization. He reported that the project design is complete, specifications are nearly  
135 complete, and Legal Counsel is working on the front-end documents. Engineer Sobiech stated that the  
136 Engineer's Opinion of Cost for the project is \$259,000, which is higher than the \$200,000 estimated in  
137 the feasibility study but is within the range of accuracy.

138 Engineer Sobiech said that staff is seeking authorization from the Board to go out for bids for this project,  
139 but staff recommends not to go out for bids until the City of Chanhassen signs the Cooperative  
140 Agreement.

141 Manager Koch asked if the City of Chanhassen is providing funds for this project. Administrator Bleser  
142 responded \$50,000. Administrator Bleser noted that the District's proposed 2019 budget included \$50,000  
143 for this project. Manager Koch asked when the project would start. Engineer Sobiech said that the  
144 schedule is tentative right now since the Cooperative Agreement isn't executed, but he said the project  
145 would start this year and extend into 2019. Staff described possible actions that the Board could take on  
146 this item.

147 Manager Ziegler moved to authorize staff to go out for bids for the Bluff Creek Tributary project as soon  
148 as the project's Cooperative Agreement is signed. Manager Koch seconded the motion. Attorney Smith  
149 recommended that the Board take action to direct staff to keep working with the City of Chanhassen on  
150 the Cooperative Agreement and when it is finalized to go out for bids. Managers Ziegler and Koch  
151 accepted the friendly amendment to the motion. Upon a vote, the motion carried 5-0.

152 **e. Authorize a Request for Bids for Lower Riley Creek**

153 Administrator Bleser explained that the City of Eden Prairie's legal counsel is reviewing the Cooperative  
154 Agreement for this project. She recommended that the Board take the same action on this item as it did  
155 with the previous item for the Bluff Creek Tributary project.

156 Attorney Smith clarified that staff just realized that the Board has not taken action to approve submitting  
157 the Cooperative Agreement for this project or for the Bluff Creek Tributary project to the cities. He  
158 recommended the Board reconsider its action on the previous item. Manager Koch moved to amend the  
159 motion on the Bluff Creek Tributary project so that the motion is contingent on the Board's approval of  
160 the Cooperative Agreement. There was discussion. Manager Koch withdrew his motion.

161 Manager Koch moved to reconsider the Board's previous action. Manager Ziegler seconded the motion.  
162 Upon a vote, the motion carried 5-0.

163 Manager Ziegler moved to defer action on items 8d and 8e until the Board's meeting on September 17.

164 Manager Koch seconded the motion. Upon a vote, the motion carried 5-0.  
165

166 **f. Deny One-Year Extension Request for Conditionally Approved Permit 2015-036 – Saville West in**  
167 **Minnetonka**

168 Mr. Jeffery noted that this permit was originally approved in 2015. He talked about the history of the  
169 permit and the communications that the District has had with the permit holder. Mr. Jeffery explained that  
170 what the Board is considering tonight is a modification to the language to the Board’s motion granting a  
171 60-day extension. He said that the modification is to grant the permit holder until October 2, 2018, to  
172 comply with the District’s conditions and if the conditions are not met by October 2, 2018, the permit  
173 request extension is denied by the District.

174 Manager Ziegler moved to deny the one-year extension contingent upon staff’s recommendation to give  
175 the permit holder until October 2 to meet the conditions as described by staff and as stated in the draft  
176 letter. Mr. Jeffery noted that as noted in the draft letter the permit holder has until September 21 to supply  
177 the materials to the District. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

178 **g. Approve Assignment of Pentom Land Company Conditionally Approved Permit 2017-007**  
179 **Cedarcrest Stables to HP Holding, LLC with Staff Recommendations**

180 President Ward noted that he is good family friends with the owner of Pentom but doesn’t have any  
181 knowledge of this Board item and there is no conflict of interest.

182 Mr. Jeffery said that this action is to assign the permit from Pentom Land Company to HP Holding, LLC  
183 with the conditions attached to the permit. Manager Koch asked if documentation of the conditions should  
184 be required or what information legal counsel might require to verify the actual transfers of the property  
185 to keep the District is apprised of the transfer. Attorney Smith said that the District’s posture has typically  
186 been that it does not review the land transactions. Attorney Smith noted that the District reviews permits  
187 and has been asked to approve a permit transfer.

188 Manager Pedersen asked if the District’s rules have changed since the time the permit was issued and if  
189 so, would HP Holding, LLC be required to meet the new rules. Mr. Jeffery said yes, there have been  
190 changes but the rule changes don’t go into effect until January 1, 2019.

191 Manager Ziegler moved to approve the assignment of Pentom Land Company Permit 2017-007 to HP  
192 Holding, LLC with staff recommendations. Manager Pedersen seconded the motion. Upon a vote, the  
193 motion carried 5-0.

194 **h. Consider Permit 2018-016 Avienda Variance Request and Conditional Approval with Staff**  
195 **Recommendations**

196 Engineer Sobiech said this permit application is for the development of a multi-use property in  
197 Chanhassen south of Lyman Boulevard and west of Powers Boulevard. He noted that there are 10  
198 wetlands on the property. He explained that the applicant is looking for approval of phase 1, which  
199 involves construction of the public infrastructure including the roadways, the water main, the storm  
200 sewer, and the sanitary sewer as well as some of the storm water management facilities.

201 Engineer Sobiech, using PowerPoint slides, gave an overview of the project site, the locations of the  
202 wetlands, and locations of permanent BMPs. He went through in detail the Engineer’s review of the  
203 permit application. Engineer Sobiech stated that the applicant is looking for a variance from the rule for  
204 compensatory storage plus or minus one foot on the same water resource. He talked further about the

205 wetlands on the site and buffers and which wetlands are going to be filled. He described each of the  
206 Engineer's conditions to the permit and pointed out that the financial assurance is \$3,875,600.

207 Engineer Sobiech recommended approval of the variance with the conditions as detailed by the Engineer.  
208 He stated that if the Board approves the variance, the Engineer recommends approval of the permit based  
209 on the conditions as explained by the Engineer.

210 Manager Pedersen asked if the Board has ever approved a permit that has filled in these many acres of  
211 wetland. Engineer Sobiech said that since the time that the District reinstated its regulatory program the  
212 Board has not. Manager Pedersen asked if the Board would be setting a precedent by approving this  
213 permit. Engineer Sobiech pointed out that the land use decision is the authority of the City of Chanhassen.  
214 Manager Pedersen responded that for a body that represents water conservation this goes against every  
215 grain of what she is sitting on the Board for and this project is not what she stands for.

216 Manager Ziegler moved to approve the variance request based on the conditions as presented by the  
217 Engineer. Manager Crafton seconded the motion. Upon a vote, the motion carried 4-1 [Manager Pedersen  
218 voted against the motion.]

219 Manager Ziegler moved to approve permit 2018-016 based on the conditions listed by the Engineer.  
220 Manager Crafton seconded the motion. Manager Ziegler made a friendly amendment to add that the  
221 permit applicant must submit as-built drawings to Engineer Sobiech. Manager Crafton agreed to the  
222 friendly amendment. Upon a vote, the motion carried 4-1 [Manager Pedersen voted against the motion.]

223 **i. Consider Permit 2018-028 Oak Point Elementary Parking Lot Conditional Approval with Staff**  
224 **Recommendations**

225 Engineer Sobiech described the project and went through the Engineer's review of the permit application.  
226 He talked about the proposed underground infiltration system. He commented that all the requirements of  
227 the rules are met with the exception of providing the name of who is responsible for providing erosion  
228 control on the site. He noted that one of the conditions of permit approval is that the applicant needs to  
229 enter into an agreement with the District for ongoing maintenance of the buffer.

230 Manager Ziegler moved to approve permit 2018-028 Oak Point Elementary Parking Lot with staff's  
231 recommendations and the applicant must submit as-built drawings demonstrating at the time of final  
232 submittal that storm water facilities conform to design specifications as approved by the District. Manager  
233 Crafton seconded the motion. Manager Pedersen pointed out that the watershed is losing half of an acre of  
234 pervious surface with this project and she is disturbed by the trend. Upon a vote, the motion carried 5-0.

235 **j. Approve Change Order for Lake Susan Park Pond (No Fund Transfers at this time)**

236 Administrator Bleser explained that for this project there has been extensive back and forth with the  
237 contractor Peterson Company. She said that the amount time put into this back and forth communication  
238 has exceeded the amount estimated. Attorney Smith pointed out that the requested action is to amend the  
239 Task Order and this action is not for a construction change order.

240 Manager Ziegler asked if the District can charge Peterson Company for these costs. Attorney Smith  
241 responded that on August 17, 2018, the District sent a letter to the contractor putting the contractor on  
242 notice that the District reserves the right for liquidated damages for the delays and costs that have  
243 occurred. Engineer Sobiech clarified that Peterson Company is the contractor for the Lake Susan Park  
244 Pond project and the Chanhassen High School Reuse project. He explained that the contractor is within  
245 the construction timeline for the Lake Susan Park pond project but for the Chanhassen High School  
246 project the contractor was supposed to have the project finished by August 7. There was discussion on

247 whether the District has cause for liquidated damages.

248 Manager Koch asked if the District's Engineer charges the District for the time the Engineer spends  
249 working on the Task Order items or if the District pays the Engineer the lump sum amount budgeted in  
250 the Task Order. Engineer Sobiech responded that the task orders are typically constructed as Not-to-  
251 Exceed amounts and not lump sum amounts. He explained that if Barr Engineering is working on a task  
252 order with a not-to-exceed budget of \$25,000 and Barr Engineering Company spends \$20,000 worth of  
253 time on it, then the District is only charged \$20,000. There was discussion about the reason why  
254 additional time has been spent on this project and the contractor's role in these extra costs. Engineer  
255 Sobiech talked about some of the work that the contractor did without contacting the Engineer and the  
256 errors involved in that work. Manager Koch remarked that he thinks that the District should have the  
257 contractor pay for these extra costs. President Ward said his opinion is that the Board approve this request  
258 to modify the task order to increase the budget and to move forward seeking liquidated damages.  
259 Managers Crafton and Pedersen agreed with that course of action.

260 Manager Ziegler moved to authorize to increase the Task Order budget by \$20,000 for the Lake Susan  
261 Park Pond treatment and storm water reuse project. Manager Crafton seconded the motion. President  
262 Ward added the friendly amendment that the District will pursue liquidated damages from the contractor  
263 for the additional costs above the budgeted amount for Barr Engineering's work on the project. Managers  
264 Ziegler and Crafton approved the friendly amendment. Upon a vote, the motion carried 5-0.

265 **k. Approve Change Order for Chanhassen High School**

266 Administrator Bleser shared that this project is behind schedule and the task order needs to be amended  
267 for additional budget for this task order. Attorney Smith talked about the August 17, 2018, letter from the  
268 District sent to Peterson Company. He explained that the letter called attention to Peterson Company's  
269 failure to perform and highlighted the District's intent to seek liquidated damages. Administrator Bleser  
270 noted that the District has not receive any official communication back from Peterson Company in  
271 response to the District's letter.

272 Manager Ziegler moved to approve the change to the Task Order for the Chanhassen High School Storm  
273 Water Reuse project to increase the budget by \$15,000 with legal support to try to recoup liquidated  
274 damages from the contractor for failure to perform. Manager Crafton seconded the motion. Upon a vote,  
275 the motion carried 5-0.

276 **l. Approve Fund Transfers**

277 Administrator Bleser said staff estimates needing \$50,000 in additional funds for the Chanhassen High  
278 School Storm Water Re-Use project, including the additional \$15,000 that the Board just approved.

279 Manager Crafton moved to authorize the Administrator to transfer \$50,000 from the District's Reserve  
280 Funds to the Chanhassen High School Storm Water Reuse project. Manager Pedersen seconded the  
281 motion. Upon a vote, the motion carried 5-0.

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283 **m. Approve Resolution 2018-08 Affirming Acceptance of Responsibility for MN Wetland Conservation**  
284 **Act in Shorewood**

285 President Ward read aloud the resolving statements of Resolution 2018-08 Affirming Acceptance of  
286 Responsibility for MN Wetland Conservation Act in Shorewood.

287 Manager Pedersen moved to adopt Resolution 2018-08. Manager Crafton seconded the motion. Upon a



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roll call vote, the motion carried 5-0.

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| Manager  | Aye | Nay | Absent | Abstain |
|----------|-----|-----|--------|---------|
| Crafton  | X   |     |        |         |
| Pedersen | X   |     |        |         |
| Ziegler  | X   |     |        |         |
| Koch     | X   |     |        |         |
| Ward     | X   |     |        |         |

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**n. Authorize Administrator to Enter Agreement with 4M Fund**

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Administrator Bleser gave an update on the District’s KleinBank accounts. She reported that the accounts are earning 0% interest. She reminded the Board that it had a presentation on the 4M Fund at a previous monthly Board meeting.

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Manager Koch said it is a best management practice to first put in place an investment policy. He said he would like to see a proposal about what and how much the District plans to invest and other such details and for the District’s legal counsel to review to make sure that the investments comply with Minnesota’s strict law that the funds are secure.

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Manager Pedersen noted that whatever action the Board takes with its investments, the Board needs to ensure it offers enough flexibility that the District can finish projects if there are cost increases such as with the projects already discussed this evening. There was a discussion about the Administrator’s authority over the District’s funds. Manager Koch commented that he is not comfortable with the Administrator being granted any additional authority over the funds than the authority already in place.

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Attorney Smith commented that he thinks it is a good practice to adopt an investment policy, which tends to be about security and collateral. He said the other piece to consider is the District’s regular cash flow with its Certificates of Deposit. Attorney Smith said the District can put this process into a policy about the considerations regarding maturity dates and the stacking of the CD. He said the policy would address the Administrator’s authority to manage the CDs. Attorney Smith said the policy would be protective of the Administrator’s decision-making and transparent for the Board about how it all works. Attorney Smith said that if the Board is interested in having a policy to address this and bring back a specific agreement with 4M, staff can bring this to the Board for its October Board meeting. Managers Crafton and Ward remarked that they would be in support of that action. Attorney Smith said that the District’s policies include internal controls and procedures for financial management, which include banking authority and authorizes the Administrator in consultation with the District Treasurer to invest District funds in accordance to MN Statutes Chapter 118A, which prescribes where the District can put funds.

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There was discussion about entering into an agreement with the 4M Fund tonight.

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Manager Pedersen moved to authorize the District Administrator to enter into an agreement on behalf of

318 the District to join the 4M Fund. Manager Crafton seconded the motion. Upon a vote, the motion carried  
319 4-1 [Manager Koch voted against the motion]. President Ward said that there will be a policy for the  
320 Board to review at its October meeting.

321 **o. Consider Permit 2018-052 HCRRR Culvert Replacements Variance Request and Conditional**  
322 **Approval with Staff Recommendations**

323 Engineer Sobiech stated that the project is to replace two culverts underneath the trail owned by the  
324 Hennepin County Regional Railroad Authority. He noted that one crossing is in Deephaven and one  
325 crossing is in Minnetonka. Engineer Sobiech went through the Engineer's review of the permit  
326 application. He explained that the applicant is requesting a variance from the minimum-width set back  
327 because of one of the wetland buffers. He went into detail about the buffer and noted that there is no way  
328 for the applicant to extend all the way to the edge of the right-of-way. Engineer Sobiech explained that  
329 this variance request ties to the fact that this is an existing trail that was there long before the applicant  
330 took over the trail. He pointed out that re-aligning the trail is not practical.

331 Engineer Sobiech said he supports the variance request and recommends approval of the permit.

332 Manager Crafton moved to grant the variance based on findings presented by staff for Permit 2018-052.  
333 Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

334 Manager Crafton moved to approve Permit 2018-052 with conditions as recommended by staff. Manager  
335 Pedersen seconded the motion. Upon a vote, the motion carried 5-0.

336 **p. Permit 2018-041 KTJ315 LLC / ABRA Auto Body**

337 Mr. Jeffery summarized the permit application review and said staff recommends approval of the permit  
338 with the conditions listed in the permit review materials in the meeting packet. Mr. Jeffery added a fifth  
339 condition to staff recommendations. He said the fifth condition is to authorize staff to transfer the Permit  
340 2018-041 from KTJ315 LLC to ABRA Auto Body upon transfer of the property.

341  
342 Manager Ziegler moved to approve Permit 2018-041 with staff recommendations. Manager Koch  
343 seconded the motion. Upon a vote, the motion carried 5-0.

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345 **q. Board Review of Personnel**

346 President Ward reported that a few weeks ago the Board conducted a personnel review of the District  
347 Administrator. The Board gave the Administrator a satisfactory rating and a 2% performance increase in  
348 salary.  
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## 9. Discussion Items

350 **a. Upcoming Meetings**

351 Administrator Bleser announced that on September 17 the Board will hold a public hearing and a special  
352 meeting with other agenda items. She said that the notice for that hearing and meeting is already posted  
353 on the District's website. Manager Pedersen noted that the District is holding a lunch and learn here at the  
354 District office on September 14.

## 10. Upcoming Events

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- Budget Public Hearing, September 17, 6:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- Citizen Advisory Committee Meeting, September 17, 6:00 p.m., District Office, 18681 Lake Drive East, Chanhassen

## 11. Adjourn

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Manager Koch moved to adjourn the meeting. Manager Crafton seconded the motion. Upon a vote, the motion carried 5-0. The meeting adjourned at 9:28 p.m.

Respectfully submitted,

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David Ziegler, Secretary