

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

December 5, 2018, Board of Managers Duck Lake Road Workshop and Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

Dick Ward, President

David Ziegler, Secretary

Staff: Claire Bleser, RPBCWD Administrator

Zach Dickhausen, RPBCWD Water Resources Technician

Terry Jeffery, Project and Permit Manager

Michelle Jordan, RPBCWD Community Outreach Coordinator

Josh Maxwell, RPBCWD Water Resources Coordinator

Scott Sobiech, Engineer (Barr Engineering Company)

Maya Swope, RPBCWD Outreach and Office Assistant

Michael Welch, Smith Partners

Other attendees: Bob Adomaitis, LRIA*

Paul Bulger, CAC*

John Bushey, LRIA*

Curt Fretham, Lake West Dev.*

Laurie Hable, LRIA*

Barry Hofer, Eden Prairie Resident*

Mary Krause, City of Eden Prairie**

Sarah Lloyd, Bolton & Menk**

Tim Olson, Bolton & Menk**

Rod Rue, City of Eden Prairie**

Perry Ryan, Lake West Dev.*

Laurie Susla, LLCA*

*Indicates attendance at Monthly Meeting only

** Indicated attendance at Workshop only

1. Duck Lake Road Workshop

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

3 Mr. Jeffery described the project proposed for Duck Lake Road in Eden Prairie. He said the project includes
4 extending a 10-foot trail along the west side of the road, adding a five-foot sidewalk along the east side of the
5 road, and inserting a box culvert to connect the two lake areas in order to equilibrate the lake levels between the
6 two sides. He reported that the project triggers a number of the District's rules, and he said he would summarize
7 the ones for which the project is having difficulties meeting the requirements. Mr. Jeffery said that the trail will
8 add fill to the flood plain, and the District's rules require mitigation by volume at plus/minus one foot of
9 elevation. He noted that the current project plan will not achieve this mitigation. He explained that the waterbody
10 crossing itself would require a variance because waterbody crossings require meeting the floodplain rule. Mr.

11 Jeffery said the project doesn't meet the District's requirements for Rule J. He noted that the project has done a
12 nice job demonstrating why infiltration on this site is not practical. He also noted that the District's rules are
13 concrete about requiring 90% total suspended solids and 60% total phosphorous reduction from impervious
14 surface on the site, which is really just the road reconstruction part of the project in this case. Mr. Jefferey said the
15 project proposes to treat a portion of the road to reach the TSS and TP reductions and also treat a portion of the
16 elementary school's parking lot, which currently discharges untreated runoff into the lake. He pointed out that
17 while this measure will provide water quality benefits, it won't treat the road runoff.

18 Ms. Sarah Lloyd of Bolton & Menk used PowerPoint slides and showed on a map the location of the project. She
19 noted the project's proximity to the high school. Ms. Lloyd stated that the project was initiated in spring 2017 and
20 in that time there have been five meetings with the District as well as other regulatory agencies.

21 Ms. Lloyd described the existing conditions and challenges of Duck Lake Road in the project area. She noted that
22 the utility lines currently in place cannot be relocated and must remain in place on the west side of the corridor.
23 She went through the project goals including providing a safe corridor that meets the needs of vehicles and
24 pedestrians, meeting state aid standards, adding pedestrian facilities to improve safety and to be in line with the
25 City of Eden Prairie's pedestrian and bicycle plan, and meeting or exceeding regulatory requirements. Ms. Lloyd
26 shared the project's goal statement: "Balancing pedestrian and transportation needs and safety, constructability,
27 and project cost while minimizing temporary and permanent environmental impacts."

28 Ms. Lloyd talked about how the project team evaluated the corridor design and layout options to find the best
29 reasonable approach to meet the project goals. She described the options evaluated including: Modified City
30 Standard, Utilizing Permanent or Temporary Sheet piling, Boardwalk Construction, Gabion Walls, and Eliminate
31 Pedestrian Facility on One Side.

32 Mr. Tim Olson of Bolton & Menk summarized the water resources and permitting parts of the Duck Lake Road
33 project. He walked through the permitting requirements and went into detail about the Districts rules B, C, D, F,
34 G, and J. Mr. Olson described project challenges and overcoming those challenges as well as the variances the
35 project is requesting.

36 Mr. Olson responded to manager questions. Managers provided comments including design suggestions, concerns
37 about fill in the floodplain, and in what ways the District could help. There was a lengthy discussion about the
38 project. Mr. Jeffery said that he and Mr. Sobiech have asked for and still would like to receive a breakdown of
39 costs to build a traditional trail boulevard and the costs to build a boardwalk and the difference in those costs. Ms.
40 Lloyd said a rough estimate is that the cost to build the sidewalk trail is approximately \$60,000 and the cost to
41 build the boardwalk trail is approximately \$600,000-\$630,000. She noted that these costs do not include
42 maintenance or life cycle costs. Mr. Jeffery said that there are further details to go into about those costs, but it
43 can be done outside of this workshop.

44 President Ward commented that the Board wants to see this project work and see project options continue to be
45 explored and costs identified. He asked what the ideal time line is for this project. Ms. Lloyd responded the
46 project timeline ideally has the permit getting submitted in January 2019 and with project approval early in 2019
47 so the project can be bid in April 2019, with surcharging and filling in the lake and road area occurring in summer
48 and fall 2019 and the full corridor reconstruction in 2020.

49 President Ward adjourned the workshop at 7:09 p.m.

2. Call to Order

50 Manager Ward called to order the Wednesday, December 5, 2018, Board of Managers Monthly Meeting at 7:21
51 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

3. Approval of the Agenda

52 Mr. Jeffery stated that the applicant for the Saville West item is at the meeting. Mr. Jeffery recommended moving
53 the Saville West Agenda item [7g – Permit #2015-036 Saville West – Approve after the fact permit modification
54 with staff recommendations] to an action items. President Ward moved it to 9a and noted that the rest of the
55 action items move would move down one spot on the agenda.

56 Manager Ziegler moved to approve the agenda as amended. Manager Pedersen seconded the motion. Manager
57 Koch moved to remove all remaining Consent Agenda items off the Consent Agenda and onto the agenda under
58 Action Items. Managers Ziegler and Pedersen agreed to that friendly amendment. Upon a vote, the motion carried
59 4-1 [Manager Crafton voted against the motion].

4. Budget Informational Meeting

60 Administrator Bleser pointed out changes made to the final copy of the budget documents compared to the
61 versions in the meeting packet. She described the changes including: \$26,000 in investment income received,
62 adjustments to the Chloride Initiative and Wetlands reflecting adjustments reflective of the grant agreements, and
63 a \$50,000 increase in revenues due to permit income and investment income.

64 Administrator Bleser noted that this is a public informational meeting about the District's 2019 budget and the
65 meeting at which the Board will decide whether to keep the 2019 levy set at the amount the Board previously set
66 or to lower it. She provided a brief overview of the District's 2019 budget and levy. Administrator Bleser
67 summarized that the District has proposed to levy \$3,602,500. She went through the 2019 budget in detail. She
68 responded to manager questions.

69 Manager Crafton moved to approve the revised 2019 RPBCWD budget as presented and handed out. Manager
70 Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

71 President Ward opened the floor to public comment.

72 Ms. Laurie Susla of 7008 Dakota Avenue, Chanhassen, commented about the \$6,000,000 the District has in the
73 bank as reserves. She said she has asked for this information previously and still wants to know how much of that
74 \$6,000,000 is committed. She explained that with such a large reserve fund the District might not need to increase
75 the 2019 levy compared to the 2018 levy.

76 Mr. Paul Bulger of 15807 Southlawn Road, Eden Prairie, commented about fiscal management. He noted that in
77 the news there have been stories about embezzlement and noted that when funds are being shifted, it can be hard
78 to follow the path of the funds. Mr. Bulger encouraged the Board and managers to do its due diligence, whether
79 through using Redpath or a second organization.

5. Matters of General Public Interest

80 Ms. Laurie Susla, of 7008 Dakota Avenue, Chanhassen, presented an idea about the CAC. She said that over the
81 past four years the CAC for this District has moved from serving in an advisory role to more of a
82 volunteer/community outreach role. Ms. Susla said that the statutorily mandated role has fallen to the side. She
83 said her idea for the Board to consider is that the District have two committees: one that would function in the

84 volunteer/education/community outreach space and one that would function in the traditional role to perform the
85 statutory mandated responsibilities.

86
87 Mr. Paul Bulger of 15807 Southlawn Road, Eden Prairie, commented that the Board has in front of it tonight a
88 permit application from the Eden Prairie library. He urged the Board to consider this project as an opportunity
89 project and to stretch and go beyond the minimum project requirements. Mr. Bulger also commented that in
90 regard to the staff increases to be discussed by the Board tonight, he feels the District has very high-quality staff,
91 and he, as a taxpayer in the District, supports the salary increases.

6. Reading and Approval of Minutes

a. November 7, 2018, RPBCWD Board of Managers Monthly Meeting

92 Managers Ziegler, Crafton, and Pedersen and Attorney Welch noted edits to be made to the November 7,
93 2018, meeting minutes.

94
95 Manager Koch moved to accept the minutes as amended. Manager Crafton seconded the motion. Upon a
96 vote, the motion carried 5-0.

7. Consent Agenda

97 President Ward noted that the Consent Agenda items had been moved to action items.

8. Citizen Advisory Committee (CAC)

98 Mr. Paul Bulger, CAC President, reported that the Committee spent the majority of its most recent meeting
99 reviewing the District's application for the cost-share program. He said the Committee will work on it again at
100 the next CAC meeting and plans to have a draft finished to provide to the Board in January. Manager Koch
101 thanked the CAC for its efforts and asked the CAC to consider how the Cost-Share Program information and
102 application should be presented on the District's website.

103 President Ward commended Mr. Bulger for his leadership to the CAC in his role as CAC president and for his
104 contributions during his time volunteering as a CAC member. President Ward noted that Mr. Bulger will not be
105 continuing on with the CAC after the end of this month due to an upcoming relocation out of the District.

9. Action Items

a. Permit #2015-036 Saville West – Approve After-the-Fact Permit Modification with Staff Recommendations

106 Mr. Perry Ryan of Lake West Development summarized the history of the Saville West development. He
107 talked about the evolution of the project and the modification of the lot line, which triggered the District
108 rules for lots 4 and 5 in of the development. Mr. Ryan summarized his meeting with Engineer Sobiech
109 and Mr. Jeffery to discuss the project, District requirements, how to work through the project and
110 requirements in a cost-effective way. Mr. Ryan noted that now, four months after starting to look at
111 meeting these requirements, the project design is what is currently submitted to the District. He said he is
112 hoping for a common sense look at this project tonight. He reiterated that the project does not do anything
113 on lots 4 and 5 and it does not make sense to him to spend such a large amount of money on lots 4 and 5
114
115

116 particularly in light of the fact that something completely different will be done on that west side next
117 year. Mr. Ryan said the \$205,000 is cost prohibitive to gain two lots.

118 Engineer Sobiech explained that this permit started in 2015 and the District approved it in 2017 and at
119 that time BMPs were discussed. He described the redesign and noted that the project complies with the
120 permit requirements except for several conditions, which are detailed in the staff report in the Board
121 packet. Engineer Sobiech stated that the financial assurance was developed based off of the financial
122 assurance schedule the District's Board adopted by resolution. He explained that the financial assurance
123 for this project uses the permit holder's engineer's estimate of probable cost for those elements that aren't
124 specifically called out in the District's financial assurance, primarily the rock underground trenches.

125 Attorney Welch explained what a financial assurance is, what forms it can take, and how it functions,
126 including that the funds are returned to the applicant at time of project close and that partial returns are
127 possible as pieces of the project are built and as compliance with the permit requirements and District
128 rules are shown to the District.

129 Mr. Curt Fretham went into detail about the project and summarized that the permit holder is looking to
130 the District for some kind of latitude for a reasonable escrow and to set aside lots 4 and 5 for when they
131 are developed.

132 Manager Pedersen asked about the installation of the stormwater reuse system on lot 1. Engineer Sobiech
133 responded that the homeowner did install the stormwater reuse system, but at this point the District
134 doesn't know if the system functions correctly, which is why the system is still included in the project
135 financial assurance.

136 Engineer Sobiech went into further detail about how the project evolved into needing stormwater
137 treatment on lots 4 and 5.

138 The Board discussed possible actions it could take. Mr. Koch asked Attorney Welch if the Board has
139 variance authority or exception authority if the Board is convinced there would be no additional detriment
140 than if the permit holder had started right off with the original three lots. Attorney Welch responded that
141 the District has a variance, an exceptions rule, and a framework specifically laid out in the rules. He said
142 he would move the conversation away from the exception because that is for projects that do not strictly
143 comply with the rule but great exceed the overall holistic environmental performance. Attorney Smith
144 said that the variance accounts for hardships. He went into detail about the variance considerations.
145 Attorney Smith pointed out that this applicant could withdraw its application in front of the Board and
146 submit for a variance, but right now there is not a variance request in front the Board for this project.

147 Attorney Welch explained that the Board can only act on the application that is in front of it at the
148 meeting tonight, though the Board can condition its approval. He added that the statutory timeframe for
149 permit decisions requires that the Board take some action on the application at tonight's meeting.

150 Manager Koch moved to approve the application with the conditions recommended by staff as set forth
151 on page 10 of the staff report with the following one change: make paragraphs 1 and 2 at the bottom of
152 page 10 conditions so that the applicant agrees to do those things as listed. Manager Ziegler seconded the
153 motion. Attorney Welch clarified that those items are stipulations not conditions on the permit because
154 they cannot be met before the applicant has to do work and the applicant cannot proceed with work until
155 all of the conditions are met and the permit is issued. He continued by saying the stipulations are part of
156 the agreement that is the permit but are complied with as conditions subsequent not conditions precedent.

157 Manager Koch stated that his condition is that the permit holder agrees to those stipulations in advance.
158 Upon a vote, the motion failed 2-3 [Managers Koch and Ziegler voted in favor and Managers Ward,
159 Pedersen, Crafton voted against the motion].

160 Manager Ziegler moved to approve Permit 2015-036 with the recommendations of staff as listed on page
161 10 [he read aloud the conditions 1-7]. Manager Pedersen seconded the motion. Upon a vote, the motion
162 carried 4-1 [Manager Koch voted against the motion].

163 **b. Pay App #2 Chanhassen High School, Pay App #3 Lake Susan Park Pond, Pay App #4**
164 **Scenic Heights Restoration**

165 Manager Crafton moved to approve Pay App #2 Chanhassen High School, Pay App #3 Lake Susan Park
166 Pond, and Pay App #4 Scenic Heights Restoration. Manager Pedersen seconded the motion. Manager
167 Koch asked questions, and Engineer Sobiech responded.

168 Upon a vote, the motion carried 5-0.

169 **c. Accept October Treasurer's Report**

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

173 **d. Approve Paying of Bills**

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

176 **e. Approve Auditor Engagement**

177 Manager Crafton moved to accept the engagement letter. Manager Ziegler seconded the motion. Attorney
178 Welch recommended the Board authorize the Administrator to enter into agreement with the auditor
179 based on the proposal, which will serve as the scope of work and the District will use standard templates
180 that comply with state law and requirements applying to the watershed that were not included in the
181 engagement letter. Managers Crafton and Ziegler agreed to the friendly amendment.

182 Manager Pedersen brought up the potential for conflict because the auditor is auditing its own work and
183 said that for next year the District needs to find an independent auditor. Manager Koch agreed and said
184 the District needs to find someone else to audit the books. Administrator Bleser stated that the watershed
185 will send out Requests for Proposals for professional services next year as required and auditor services
186 will be one of those RFPs.

187 Upon a vote, the motion carried 4-1. [Manager Koch voted against the motion].

188 **f. City of Minnetonka Local Surface Water Management Plan (LSWMP)**

189 Administrator Bleser reported that she, Engineer Sobiech, Attorney Welch, and Mr. Jeffery conducted a
190 thorough review of the City of Minnetonka's Local Surface Water Management Plan (LSWMP). She said
191 staff is looking for some clarification in parts of the plan, and the intent of the draft memo in the meeting
192 packet is to provide the Board the background of the review and note staff's concern. She said that staff
193 recommends the Board make a conditional approval and having staff's concerns addressed.

194 Manager Crafton said she thought the language in the staff's memo was harsh. She offered further
195 comments on how the District could frame its comments to the City. Manager Koch offered suggestions
196 on how the District could communicate its concerns to the City. Manager Pedersen asked if the Board

197 needed a motion on this item. Attorney Welch said yes and detailed the responsibility of the District
198 regarding LSWMP reviews.

199 Manager Pedersen moved to conditionally approve the City of Minnetonka's LSWMP with the changes
200 as specified by staff. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

201 **g. Hiring of HR Consultant**

202 Manager Koch moved to adopt the plan set forth in his November 27, 2018, memo, which includes
203 allocating \$2,500 for the review and total of \$5,000 under the project to include the cost of training by an
204 HR consultant recommended to him. He said he believes it is important that the consultant review the
205 District's processes. Manager Ziegler seconded the motion.

206 There was a lengthy discussion about the need for a salary survey/compensation review since one took
207 place this past summer, the timeline for a future review of compensation, the need for developing an HR
208 manual, and the need for reviewing the District's HR processes.

209 Upon a vote, the motion failed 2-3 [Managers Koch and Ziegler voted in favor of the motion. Managers
210 Ward, Pedersen, and Crafton voted against the motion.]

211 **h. Personnel Committee: Salary Adjustments**

212 Manager Pedersen reported that the District hired Noah & Associates to take a look at not only the
213 District's staff positions but also where they stand within other watersheds and the local market including
214 11 other entities. She talked about the results of the survey and the recommendations by Sarah Noah of
215 Noah & Associates. Manager Pedersen went into detail about the salary adjustments and explained that
216 they aren't based on performance but are addressing the positions and at what salary the positions should
217 have based on comparable employers in the local market and what it would take to staff these positions in
218 the current market. She said she would like the District to retain the good people it has on staff and that
219 the adjustments should become effective on December 1, 2018. President Ward said he believes the
220 District will need to do this again next year in order to get close to where the salaries for these positions
221 need to be in order to be competitive in this marketplace. There was discussion. Manager Koch asked if
222 these funds have been included in the budget. Administrator Bleser said the District has reserve funds
223 available to cover it.

224 Manager Pedersen moved to accept the salary adjustments as identified in the November 26, 2018, memo
225 included the meeting packet materials. Manager Ziegler seconded the motion. Upon a vote, the motion
226 carried 4-1. [Manager Koch voted against the motion].

227 **i. Comprehensive Legal Review**

228 President Ward noted the meeting packet includes a memorandum from Manager Koch regarding a
229 comprehensive legal review.

230 Manager Koch moved to adopt the resolution set forth in his memo from November 27, 2018, to engage
231 Smith Partners to do a legal review so that the District knows it is in compliance. He noted that Louis
232 Smith estimated the cost of such a review would not exceed \$2,500. Manager Ziegler seconded the
233 motion. Attorney Smith noted that in Mr. Koch's memo item 4c should replace the word "believes" to
234 "finds" so the sentence is "...finds operations not consistent." Attorney Smith emphasized that this would
235 be a technical review. There was discussion.

236 Manager Pedersen questioned the value of having its own legal counsel perform a comprehensive legal
237 review. Managers offered comments.

238 Upon a vote, the motion carried 3-2. [Managers Koch, Ward, and Ziegler voted in favor of the motion.
239 Managers Crafton and Pedersen voted against the motion].

240 **j. Accept November Staff Report**

241 Manager Koch moved to accept the staff report. Manager Ziegler seconded the motion. Upon a vote, the
242 motion carried 5-0.

243 **k. Accept November Engineer's Report (with Attached Inspection Report)**

244 Manager Ziegler moved to accept the November Engineer's Report. Manager Pedersen seconded the
245 motion. Managers Koch and Ziegler asked questions about the report. Engineer Sobiech responded. Upon
246 a vote, the motion carried 5-0.

247 **l. Permit #2018-067 Hennepin County Library – Eden Prairie Refurbishment – Approve with Staff**
248 **Recommendations**

249 Mr. Jeffery described the proposed project, which includes removing part of the existing parking lot,
250 adding an outdoor seating area and trails, removing the surface in front of the building and replacing it
251 with concrete, and adding electrical vehicle charging stations. He added that there is an extensive
252 landscaping plan for the project and the plan includes natives and cultivars.

253 Manager Ziegler moved to approve Permit 2018-067 Hennepin County Library Eden Prairie Branch
254 Refurbishment with staff recommendations. Manager Pedersen seconded the motion. Upon a vote, the
255 motion carried 5-0.

10. Discussion Items

257 **a. Bylaws Modification and Additions**

258 Administrator Bleser said she will be sending the Bylaw changes out again to the managers and will bring
259 them in front of the Board at the January monthly Board meeting.

260 **b. Upcoming Meetings**

261 Administrator Bleser announced that a special meeting has been requested by a permit applicant. Mr.
262 Jefferey provided details and noted that the applicant is hoping to break ground before the end of the year.
263 The Board agreed to a special meeting on Tuesday, December 18 at 9:00 a.m.

264 Administrator Bleser announced that the District's visioning workshop is planned for January. The Board
265 changed the date of its January monthly Board meeting to January 9 and added the visioning workshop at
266 5:30 p.m. prior to the January 9th meeting. The Board agreed to hold its cost-share workshop in February.

267 President Ward and Administrator Bleser announced upcoming events as listed on the agenda.

268 **c. Stormwater Model Update**

269 Administrator Bleser stated that the Task Order for the stormwater model update will be coming to the
270 Board at its January monthly Board meeting.

11. Upcoming Events

- 271
- Meeting about Zebra Mussels, December 12, 10 a.m., District Office, 18681 Lake Drive East, Chanhassen

- 273 • Staring Lake Outdoor Center Volunteer Event, December 13
- 274 • Citizen Advisory Committee Monthly Meeting, December 17, 6:00 p.m., District Office, 18681 Lake Drive
275 East, Chanhassen
- 276 • RPBCWD Offices Closed, December 24-25, 2018
- 277 • RPBCWD Board Workshop and Regular Board Meeting, January 2, 2018, 7:00 p.m., District Office, 18681
278 Lake Drive East, Chanhassen,
- 279 • Meet and Greet the Board, February 6, 2018, 6:00 p.m., 18681 Lake Drive East, Chanhassen
- 280 • RPBCWD Regular Board Meeting, February 6, 2018, 7:00 p.m., District Office, 18681 Lake Drive East,
281 Chanhassen

12. Adjourn

282 Manager Ziegler moved to adjourn the meeting. Manager Pedersen seconded the motion. Upon a vote, the motion
283 carried 5-0. The meeting adjourned at 10:06 p.m.

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Respectfully submitted,

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David Ziegler, Secretary