#### **MEETING MINUTES**

#### **Riley-Purgatory-Bluff Creek Watershed District**

#### March 1, 2019, Board of Managers Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

Dick Ward, President
David Ziegler, Secretary

Staff: Claire Bleser, RPBCWD Administrator

Amy Herbert, Amy Herbert LLC, Recorder

Terry Jeffery, RPBCWD, Project and Permit Manager Scott Sobiech, Engineer, Barr Engineering Company

Michael Welch, Legal Counsel, Smith Partners

Other attendees: Matt Lindon, CAC

Bill Satterness, Eden Prairie Resident

#### 1. Call to Order

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President Ward called to order the Friday, March 1, 2019, Board of Managers Monthly Meeting at 1:05 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

#### 2. Approval of the Agenda

Manager Pederson moved to approve the agenda as presented. Manager Ziegler seconded the motion. Manager Koch moved to amend the motion in order to amend the agenda to move item 91 to become item 4c, include a review of the RPBCWD's 2018 finances under agenda item 9a or 9b, remove items 8c, f, g, h, i, and j from the Consent Agenda and add as Action Items 10c - Staff Retreat and 10d - Discuss the Board's and District's 2019 calendar in terms of what will happen this year and what needs to be accomplished. Administrator Bleser requested the addition of items 9n - Order Public Hearing on Alum Project and 10e - Discuss what is happening with Prince's property adjacent to Lake Ann. The motion to amend\_failed for lack of a second. Upon a vote, the motion on the table carried 4-1 [Manager Koch voted against the motion.]

Manager Crafton moved to add to the agenda 9n - Order Public Hearing on Hyland Lake Alum Project. Manager Ziegler seconded the motion. <u>Upon a vote, the motion carried 4-0</u>. [Manager Koch abstained from vote].

Manager Koch requested the following items be removed from the Consent Agenda: 8c – Authorize President to Execute Cooperative Agreement with the City of Eden Prairie and Lower Minnesota Watershed District After Execution from City of Eden Prairie; 8f – Approve Task Order for Hyland Lake Alum Application; 8g – Approve Task Order for Lake Riley Subwatershed Assessment; 8h – Approve Task Order for Mitchell Lake Subwatershed

Assessment; 8i – Approve Task Order for RPBCWD Permit/Grant Database System Agreement; 8j – Approve Task Order 6f WOMP Station. President Ward added these items as Discussion Items.

#### 3. Matters of General Public Interest

Mr. Bill Satterness of 8597 Red Oak Drive, Eden Prairie, handed out written comments and read them aloud, suggesting that RPBCWD undertake greater efforts to control zebra mussels, especially in light of their discovery in Lake Riley last year. He offered resolutions on the topic for consideration by the managers.

Administrator Bleser updated the Board on the information staff has collected and discussions held with other entities on the topic of aquatic invasive species (AIS) including decontamination stations. She said it is important to know who is willing to do what regarding the different aquatic invaders. President Ward indicated that staff should continue to take a collaborative approach, working with other entities on a comprehensive approach to AIS. Manager Koch suggested the Administrator prepare a summary of what is going on within the District regarding AIS so the summary can be disseminated to the District's constituents. The Board agreed and directed the Administrator to summarize where the District is at in its efforts on this issue and to send an email blast with such information to constituents.

### 4. Reading and Approval of Minutes

#### a. Minutes of Board of Managers Meeting, February 6, 2019

Manager Ziegler requested adding the words "to amend" on page 3, line 49, the word "groundwater" to line 24 on page 2, the words "the proposal" to line 30 on page 2 and adding the recorder to the list of attendees. He also noted that "as written" should replace the words "as amended" on page 4, line 87 and that on page 4, line 105 the number should be 5 instead of 50. Manager Ziegler pointed out that the City of Minnetonka should replace the City of Eden Prairie on page 5, line 154.

Manager Pedersen requested that the minutes include the following remarks on page 4, line 97: "Manager Pedersen congratulated the staff on progress made toward data collection and water conservation over the past two years."

Attorney Welch noted edits to the minutes as shared with him by Attorney Smith, and he said the words "for the Cost-Share Program" should be included at the end of the sentence on page 2, line 46. He corrected line 109, page 4 so the sentence reads, "Manager Koch moved to approve the Consent Agenda with the deletion of the drainage easement requirement in condition 7." Attorney Smith pointed out corrections to be made on page 7 under item 11k, so the paragraph reads: "Manager Koch moved to direct staff to prepare and publish the Plan Amendment regarding item 9.7.2 in the District's 10-Year Plan to amend the language in the Plan to reflect that the Board will review Cost-Share applications above \$10,000, and delegate review and approval of Cost-Share applications for grants of \$10,000 or less to the Administrator, as discussed by the Board and staff earlier this evening in the Cost-Share Program workshop. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0. Attorney Welch also corrected the list of conditions on page 5 starting on line 157, to identify the conditions in the Permit Application Review report for Permit 2018-073 as follows:

- 1. Continued compliance with General Requirements
- 2. Permit applicant must provide the name and contact information of the general contractor responsible for the site. RPBCWD must be notified if the responsible party changes during the permit

term.

- 3. Permit applicant must provide a draft maintenance agreement and inspection plan for the management of stormwater BMPs and buffer areas, including exhibit clearly identifying buffer area, buffer monument locations and all stormwater BMPs. The maintenance agreement must include pump station operation parameters consistent with approved plans and modeling.
- 4. The city of Eden Prairie must enter an agreement with RPBCWD to maintain the project facilities and wetland buffers after approval of a draft by RPBCWD.

  By accepting the permit, when issued, the applicant agrees to the following stipulations:
- 1. Per Rule J Subsection 4.5, upon completion of the site work, the permittee must submit as-built drawings demonstrating that at the time of final stabilization, stormwater facilities and waterbody crossings conform to design specifications as approved by the District.
- 2. Performance monitoring for the proprietary filter chamber will be required to ensure that the project is able to meet the RPBCWD water quality requirements as has been proposed. In accordance with Rule J, Subsection 2.6 performance monitoring, and as a stipulation of issuing a permit for this project, the Applicant must collaborate with RPBCWD (including, but not limited to, site access and system modification to facilitate monitoring) in implementing a monitoring program, as RPBCWD staff and engineer deem appropriate, to monitor the proposed proprietary filter chamber to determine the ability of the system to achieve the estimated water quality treatment as presented in the design for three years. The city of Eden Prairie must reimburse RPCBWD for all expenses associated with RPBCWD monitoring of the system for three years (including equipment and staff time).

Manager Ziegler moved to approve the February 6, 2019, meeting minutes as amended. Manager Pedersen seconded the motion. <u>Upon a vote, the motion carried 5-0.</u>

#### 5. Organizational Activities

#### a. Committees: Personnel

Manager Koch moved to appoint Manager Ziegler as the sole member of the Personnel Committee. The motion failed for lack of a second. Manager Ward moved to appoint Manager Crafton and Manager Pedersen to the Personnel Committee. Manager Crafton seconded the motion. Administrator Bleser reviewed with the Board the responsibilities of the Personnel Committee as identified in the Employee Handbook. Upon a vote, the motion carried 5-0.

#### b. Committees: Governance

Manager Koch moved to appoint himself and President Ward as the two members of the Governance Committee. The motion failed for to lack of a second. Manager Pedersen moved to appoint President Ward and Manager Ziegler as the two members of the Governance Committee. Manager Ziegler seconded the motion. <u>Upon a vote</u>, the motion carried 4-1 [Manager Koch voted against the motion.]

#### 6. Permit and Cost-Share Database

Mr. Jeffery presented on the proposed contract with Houston Engineering Inc. for development of a permitting and cost-share database for RPBCWD. He reported that Michelle Jordan and he have provided the requirements

they want to see in the database, or the ways the District's requirements differ from the database Houston constructed for Capitol Region Watershed District and the other watershed organizations to Houston. He said Houston used that information to put together the cost proposal in the Board's monthly meeting packet. Mr. Jeffery explained that the proposal does provide the District's ability to record, retrieve, and share the data with stakeholders in a much more efficient way than the current process. Mr. Jeffery pointed out the proposal shows that if the District moves forward with the database right now, Houston could have the tool up by August. He said if the District waits until the state municipal stormwater permit is updated by December, it would eliminate the need for patches of more recent code and the tool would be up by January.

Manager Koch raised his concerns and stated that before he makes a decision, he wants to know who owns what in terms of the software and license rights. He talked about the contracts he deals with in his profession and that he deals with licensing and intellectual property. Mr. Jeffery responded that staff has had consent conversations with Capitol Region Watershed District staff have consented to the District using the database, and he is sure the District can secure a letter to that effect. Manager Koch said a letter does not adequately secure RPBCWD's interest. Mr Jeffery stated that he would work with legal counsel on the necessary contract provisions.

### 7. Lower Riley Creek Enhancement Plan

Administrator Bleser announced that a draft cooperative agreement is in place as of earlier today, and it highlights the cooperative element regarding inspections. She summarized the Plan and displayed a PowerPoint slide of the project map. Administrator Bleser stated that \$150,000 will be coming in from the Lower Minnesota River Watershed, \$150,000 from the City of Eden Prairie, and the City of Eden Prairie will cover costs up to \$50,000 for storm water pipe infrastructure along the creek. She highlighted discussions with the new City of Eden Prairie staff over the last few months regarding details of the project. Administrator Bleser noted that staff anticipates the cooperative agreement going in front of the City of Eden Prairie City Council in the next four to five weeks. She said that the Board of Managers could approve the Cooperative Agreement conditional on the City of Eden Prairie's approval. She said in terms of timing, staff anticipates a fall start to the project. Manager Koch said he has trouble approving agreements he hasn't seen and wants to see the agreements he is to sign off on. He asked if it would cause a problem to hold over the cooperative agreement until the next meeting. Staff responded no, it would not cause a problem. The Board agreed to hold over the cooperative agreement until the Board's April monthly meeting. Administrator Bleser said she would send a PDF of the cooperative agreement to the managers.

Attorney Welch asked the Board for direction on an element of the contract. He described the issue and asked the Managers if it is important to the managers that the investment the District makes in this project has a lifespan that is protected under the agreement for more than the 20 years identified in the contract. Attorney Welch noted the property is public property and declarations won't be recorded on it. Engineer Sobiech said 20 years is more than enough time to establish a very robust project. Attorney Welch talked about ways the Board could approach this issue.

After discussion among the managers, Manager Koch moved to direct legal counsel regarding terms of the contract 20 years is enough time to establish the project and that for any transfer within the 20-year period the transferee would be responsible for the maintenance and after 20 years the transferee would agree not to take any action that would materially degrade the project. Manager Pedersen seconded the motion. <u>Upon a vote, the</u> motion carried 5-0.

#### 8. Citizen Advisory Committee

 Mr. Matt Lindon summarized the most recent CAC meeting. He commented that the CAC is as healthy and functional as the Committee has ever been. He talked about the CAC subcommittees, including education, lakes and streams, stormwater, landscaping for water quality, groundwater, and wetlands, and explained that each subcommittee is responsible for its own charter. He summarized the CAC's review of and discussion about the District's Cost-Share Program. Manager Ziegler noted a citizen suggested to him via an email that the Board handle corrections to its minutes with change tracking via email, and still complying with the Open Meeting Law, instead of during the monthly meeting in order to save time. The Board, Attorney, and staff discussed the idea. Manager Koch moved to adopt the process of providing Word documents to the managers and staff, who will compile comments using the redline tracking feature, and the Administrator will compile those comments into the final draft minutes to be included in the Board packet as the draft minutes. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

#### 9. Consent Agenda

Manager Koch moved to approve the Consent Agenda as amended. Manager Crafton seconded the motion. <u>Upon a vote</u>, the motion carried 5-0.

#### 10. Action Items

#### a. Accept January Treasurer's Report

Treasurer Crafton reported that she and the District Administrator reviewed the report in accordance with the District's practices and procedures. Treasurer Crafton moved to accept the January Treasurer's report. Manager Ziegler seconded the motion. Manager Koch raised his concerns including that information on the report's page 2 is not consistent with the budget adopted by the Board. He also noted that at last month's meeting he requested staff present information at this meeting about the 2018 year-end financials. There was discussion of the Treasurer's Report, grants received since the time the 2019 budget was adopted, 2018 year-end financials, and opinions on how information should be presented in the Treasurer's Report. Manager Crafton called the question on the motion on the table. Upon a vote, the motion carried 4-1 [Manager Koch voted against the motion.]

#### b. Approve Paying of the Bills

Manager Crafton moved to pay the bills. Manager Pedersen seconded the motion. <u>Upon a vote, the</u> motion carried 5-0.

# c. Direct Governance Committee to Review Fund Balance Policy Update and Investment Deposit Policy

President Ward moved to have the Governance Committee review the District's Fund Balance Policy and Investment Deposit Policy. <u>Upon a vote, the motion carried 5-0.</u>

# d. Wetland Restoration Project at Pioneer Trail [Chanhassen Transferring Grant to Watershed District]

Mr. Jeffery explained that in front of the Board is action to authorize staff to apply for a Department

of Natural Resources (DNR) grant to purchase specific properties. He used PowerPoint slides to display a map showing three properties in Chanhassen built in the floodplain in the 1960s. He noted that these properties drain into the same watershed as the Avienda project. Mr. Jeffery reported that the City of Chanhassen is in the process of purchasing one of the properties and that the owners of the other two properties have communicated that they will sell their properties to the City. He added that the DNR grant would be a 50-50 match and the City of Chanhassen has \$300,000 available in funds that were provided to offset water-resource impacts of the Avienda project. He reiterated that staff is asking the Board to direct staff to apply for a DNR grant for this project. Mr. Jeffery said staff will come back in April with more details on the project. He noted that the District has Clean Water Legacy grant funds for the restoration, but those funds can't be used to purchase the property. Mr. Jeffery noted that ordering the project would require a public hearing. Mr. Jeffery responded to manager questions.

Manager Koch moved to approve the resolution and to authorize the President or Secretary to sign off on the Resolution and have the District's legal counsel to review and approve the resolution before it is signed. Manager Crafton seconded the motion. <u>Upon a vote, the motion carried 5-0</u>.

### e. Adopt Resolution 2019-008 to Amend 2018 Plan's Cost-Share Program

Manager Ziegler moved to adopt Resolution 2019-008 to Amend the 2018 Plan's Cost-Share Program. Manager Crafton seconded the motion. <u>There was a roll call vote.</u>

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

The president declared the motion adopted 5-0.

#### f. Approve Release of Cost-Share Program

 Manager Ziegler moved to approve and release the new Cost-Share Program. Manager Pedersen seconded the motion. Manager Koch raised his concerns about what the eligible percentage could apply toward and the lack of language to clarify such. He said there are inconsistencies about when a project can move forward. Manager Koch moved to amend the motion and to direct Legal Counsel to review the Cost-Share Program information for inconsistencies that might cause issues and for staff to make changes as needed to clear up the inconsistencies. Manager Ziegler seconded the motion to amend. Upon a vote, the motion to amend carried 2-0-3 [Managers Ward, Pedersen, and Crafton abstained from vote.] Upon a vote the motion on the table carried 4-1 [Manager Koch voted against the motion.]

# g. Authorize Administrator to Execute Task Order 26 Stormwater Model Option Alternative Phase A

Administrator Bleser detailed the Option Alternative Phase A and explained staff's recommendation to authorize the Administrator to Execute Task Order 26 Stormwater Model Option Alternative Phase A. Manager Crafton moved to Authorize the Administrator to Execute Task Order 26 Stormwater Model Option Alternative Phase A. Manager Pedersen seconded the motion. <u>Upon a</u> vote, the motion carried 5-0.

#### h. AIS Survey

Administrator Bleser shared a presentation from the Bassett Creek Watershed Management Commission about how it gathered information about who in the watershed was doing what about invasive species. She went through the presentation and the tables within it. Administrator Bleser said one idea is for the District to engage the different entities within the watershed to formally identify what each of those entities is willing to do toward AIS and to identify gaps. The Board indicated it is interested in staff moving forward in this direction.

#### i. After-the-Fact Permit Applications (Manager Koch)

Manager Koch moved to direct staff to gather data and come back to the Board with recommendations on how to deal with after-the-fact permits including how the District will get information on that permit and will be reimbursed costs. Mr. Jeffery responded that the managers recently adopted an updated fee schedule that addresses this matter and directs that any after-the-fact permit application must be decided by the Board of Managers. Mr. Jeffery said he will confirm the language in that resolution. Manager Koch requested an update about it at the next monthly Board meeting because the District wants to make sure it recoups its costs.

#### j. Permit Fees and Data (Manager Koch)

Manager Koch discussed his opinion that there was a significant deficit in permit fees against costs in 2018 and that the District should analyze what were the District's permit costs and fees and review the information and review the fees, whether the District changes fees this year or next year. He said he thinks the District should even amend its rules to make sure the District can recoup the costs of having to go chase those people for inspections. Manager Koch moved to direct staff to collect the information he just described and deliver the information to the Board so the Board can analyze it and decide if the fee schedule still makes sense. Mr. Jeffery commented that retrieving the Engineer's and legal counsel's past costs per permit fee wouldn't be difficult, but he hasn't tracked his time per permit. There was discussion about tracking time and analyzing permit fee costs.

President Ward remarked he thinks it is the staff's role to analyze this issue and if staff thinks changes are needed, then staff should bring the topic in front of the Board at a monthly meeting. The discussion continued about the data behind the permit fees set by the District. Manager Koch's motion failed for lack of a second. After additional discussion, Mr. Jeffery asked if the Board wants him to begin tracking the time he spends on permit activities and on a permit-by-permit basis. President Ward said this is for staff to discuss and figure out. Administrator Bleser said staff will figure out the logistics of tracking staff time going forward with the 2019 construction year.

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 k. Hire IT Consultant (Manager Koch)

Manager Koch stated that because of the risks of hacking and data breaches. He felt it is important for the District to hire an information technology consultant. He moved to direct staff to solicit proposals for an IT consultant and receive and bring to the Board at least three IT consultant proposals. The motion failed due to lack of a second.

#### 1. Create an Audit and Risk Committee (Manager Koch)

Manager Koch talked about why he felt it is important to create an Audit and Risk Committee. He moved to create an Audit and Risk Committee that would include at least two Board managers, the District Administrator, and the accountant and would supervise the annual audit and make recommendations to the Board. The motion fai-led due to lack of a second.

Manager Koch commented that an agenda item held over from last month was the legal review item. He stated that Attorney Smith said he felt Smith Partners could cover contracting, Open Meeting Law and Data Practices Act.

#### m. Hire an HR Consultant (Manager Koch)

Manager Koch explained to the Board why he felt it is important for the District to hire an HR consultant. He moved to direct staff to solicit proposals from at least three HR managers to review the District's policies and procedures and to bring the proposals to the Board. The motion failed due to lack of a second.

## n. Host Public Hearing on Hyland Lake Alum Treatment at April Meeting

Administrator Bleser explained that later on the agenda is a Task Order for this project, which is included in the District's 10-Year Plan and in the District's budget. She described the timeline for the project and said a public hearing is required before the project can be ordered. She asked the Board to direct staff to publish notice for an April 3, 2019, public hearing on the Hyland Lake Alum Treatment.

Manager Koch moved to authorize legal counsel and the District Administrator to work on and publish the notice for the April 3, 2019, public hearing for the Hyland Lake Alum Treatment. Manager Ziegler seconded the motion. <u>Upon a vote, the motion carried 5-0</u>.

o. Authorize President to Execute Cooperative Agreement with the City of Eden Prairie and Lower Minnesota Watershed District After Execution from City of Eden Prairie [Item tabled to the Board's next monthly meeting. See item 10d.]

# p. Approve Task Order for Hyland Lake Alum Application

Manager Ziegler moved to Approve Task Order for Hyland Lake Alum Application. Manager Pedersen seconded the motion. Attorney Welch recommended the Board's condition approval of work on items 4 and 5 are contingent on the board ordering of the project. Manager Ziegler moved to amend to make items 4 and 5 of the task order contingent on ordering the project. Manager Pedersen seconded the motion. The motion to amend carried 5-0. President Ward called the vote on the amended motion. The amended motion carried 5-0.

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# g. Approve Task Order for Lake Riley Subwatershed Assessment

Manager Koch confirmed with staff that RPBCWD has an existing service agreement with Wenck. Manager Koch moved to approve the Task Order for Lake Riley Subwatershed Assessment subject to amendment if deemed necessary by legal counsel to make the task order consistent with the existing services agreement with Wenck. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

#### r. Approve Task Order for Mitchell Lake Subwatershed Assessment

Manager Koch moved to approve the Task Order for Mitchell Lake Subwatershed Assessment subject to amendment if deemed necessary by Legal Counsel to make the task order consistent with the existing services agreement with Wenck. Manager Ziegler seconded the motion. Upon a vote, the motion carried 5-0.

## s. Approve Task Order for RPBCWD Permit/Grant Database System Agreement

The Board tabled this item to a future meeting in order for Legal Counsel to have time to review the agreement.

#### t. Approve Task Order 6f WOMP Station

Manager Koch asked if any of the Watershed Outlet Monitoring Program functions are things the District should consider having staff do instead of Barr. Administrator Bleser and Engineer Sobiech talked about Barr staff collecting data after storms. Administrator Bleser noted that in previous staff discussions about that work, District staff have raised concerns with its capacity to do that work. Manager Ziegler moved to approve Task Order 6f WOMP station services. Manager Koch seconded the motion. Upon a vote, the motion carried 5-0.

#### 11. Discussion Items

# a. Chloride Management Plan Rule J Section 3.8

Mr. Jeffery summarized that staff would like to have a policy in place that clearly communicates the chloride management requirements for single-family home developments and staff will come back next month with that policy. Attorney Welch said the distinction staff is raising is that single-family owned home properties' common areas, if any, and any public or private streets would be subject to the chloride requirement, but individual single-family home properties within a subdivision would not. There was discussion of the details, and staff communicated it believes the nuances can be handled through a policy. Mr. Jeffery noted that the Board adopted an updated financial assurance schedule in January and the schedule should have specified a chloride financial assurance. He said staff will bring this proposed language back to the Board next month as well.

#### b. Upcoming April Board Meeting

#### **Board/Staff Retreat Governance**

Administrator Bleser reported she is working on coordinating with the Board of Water and Soil Resources for a date for this retreat and will update the Board when she has more details.

# ii. Eden Prairie/Board Workshop March 19, 2019, 5:00 p.m., Eden Prairie City Hall, Lower Level

President Ward explained the joint workshop between the Board of Managers and the City of Eden Prairie City Council will be on March 19 at 5 p.m. until no later than 6:30 p.m. at Eden Prairie City Hall in the lower level.

#### 12. Upcoming Events

- Carver County Stormwater Workshop, March 8, 8:30 a.m. -11:30 a.m., Chaska Government Center
- RPBCWD at Eden Prairie Home and Garden Expo, March 16, 9:00 a.m.-3:00 p.m., Grace Church, Eden Prairie
- Citizen Advisory Committee Meeting, March 18, 2019, 6:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- Smart Salt Training for Schools, March 25, 9:00 a.m.-2:30 p.m., Bloomington Public Works
- RPBCWD Regular Monthly Board Meeting and Public Hearing, April 3, 2019, 7:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- First Friday Hike with the Watershed, April 5, noon-1:00 p.m., Location TBC
- Meet and Greet, April 10, 2019, 4:00 p.m.-6:30 p.m., District Office, 18681 Lake Drive East, Chanhassen

#### 13. Adjourn

Manager Pedersen moved to adjourn the meeting. Manager Pedersen seconded the motion. <u>Upon a vote, the</u> motion carried 5-0. The meeting adjourned at 4:02 p.m.

I	Respectfully submitted,
	David Ziegler, Secretary