

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

#### December 11, 2019, RPBCWD 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

Chuck Holtman, Attorney, Smith Partners

Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: John Bender, Westwood Professional Services      Patrick Sejkora, Eden Prairie Water Resources

Dan Blake, West Bay Homes

Leslie Stovring, Water Resources Coordinator

Rod Rue, Eden Prairie City Engineer

Lori Tritz, CAC Chair

#### 1. Call to Order

1 President Ward called to order the Wednesday, December 11, 2019, Board of Managers Monthly Meeting at 7:00  
2 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, MN 55317.

#### 2. Approval of Agenda

3 President Ward announced that item 7c – Approve land exchange for Carver County Highway 101 right of way –  
4 is pulled from the Consent Agenda and will be added to the agenda as item 12 and will be handled in closed  
5 session because it pertains to land. Manager Crafton said she has a point of discussion to add to the agenda.  
6 President Ward noted she can raise the topic as part of agenda item 9d – Other. Manager Koch requested pulling  
7 all items off the Consent Agenda except for item 7d – Approve Bluff Creek Tributary Stabilization Project – Pay  
8 Application #1. Manager Koch moved to approve the agenda as amended. Manager Crafton seconded the motion.  
9 Upon a vote, the motion carried 5-0.

#### 3. Budget Informational Meeting

10 Administrator Bleser stated she is not proposing any changes to the District’s approved 2020 budget and levy that  
11 has been submitted to the counties. President Ward called for comments. No comments were presented.  
12 Administrator Bleser said she will notify the counties that they can certify the budget and levy provided by the  
13 District in September.

#### 4. Matters of General Public Interest

14 Patrick Sejkora, Eden Prairie Water Resources Engineer, stated the City of Eden Prairie had submitted written  
15 comments to the District regarding the proposed rules changes and received a response to comments from the

16 District. He noted the City will provide a letter to the District regarding points of clarification. Mr. Sejkora  
17 thanked the District for its work reviewing its rules and moving forward with updates to streamline the process  
18 while maintaining protections for the watershed.

## 5. Approval of Minutes

### a. November 6, 2019, RPBCWD Board of Managers Regular Monthly Meeting and Public Hearing

19 Manager Pedersen noted that on page 3, line 75, the repetition of “Upon a vote...” should be deleted.

20 Manager Crafton commented that on page 2, line 33, the word “at” should be changed to “as.” Manager  
21 Ziegler requested the addition of clarifying language on page 2, line 37 so the sentence reads, “...had been  
22 in Lake Minnetonka but had been out of the water for the winter season, from fall of 2018 to April 2019.”

23  
24 Manager Pedersen moved to accept the minutes as amended. Manager Ziegler seconded the motion. Upon  
25 a vote, the motion carried 5-0.

## 6. CAC

26 Ms. Lori Tritz, CAC Chair, reported that the Committee will vote on the CAC slate of officers at its December  
27 meeting. She stated that at its most recent meeting, the CAC conducted a workshop on the District’s wetland  
28 restoration project and discussed how the Committee can help shape that project. Ms. Tritz explained that the  
29 Committee took care of Committee logistics at its most recent meeting as well.

## 7. Consent Agenda

30 Manager Ziegler moved to approve the Consent Agenda as amended. Manager Pedersen seconded the motion.  
31 Upon a vote, the motion carried 5-0. The Consent Agenda included: 7d – Approve Bluff Creek Tributary  
32 Stabilization Project – Pay Application #1.

## 8. Action Items

### a. Pulled Consent Agenda items

#### i. Accept November Staff Report

34 Manager Koch asked for more details about the staff report’s information on page 7 about the  
35 iron-enhanced sand filings, University of Minnesota. Manager Bleser provided details about the  
36 November 15 presentation to staff by the UMN staff and noted the project budget falls under the  
37 District’s Stormwater Ponds, UMN line item. Administrator Bleser and Engineer Sobiech  
38 responded to further questions from Manager Koch. Manager Pedersen asked if it would be  
39 worthwhile for the District to send a letter to BWSR regarding MnRAM. Administrator Bleser  
40 responded yes. The Board directed staff to draft a letter for Board review at its January monthly  
41 meeting. Manager Koch moved to accept the staff report. Manager Ziegler seconded the motion.  
42 Upon a vote, the motion carried 5-0.

#### ii. Accept November Engineer’s Report (with attached Inspection Report)

44 Manager Koch asked Engineer Sobiech if staff is tracking time staff spends on variances.  
45 Engineer Sobiech responded yes, the District Engineer and Legal Counsel track the time and said  
46 Mr. Jeffery has started tracking his time as well. Manager Koch asked staff for more detail about  
47 Task Order 26. Administrator Bleser informed him that the variables under Task Order 26 are  
48

49 variables to identify priority areas in terms of areas at risk of flooding. Manager Ziegler moved to  
50 accept the Engineer’s Report. Manager Koch seconded the motion. Upon a vote, the motion  
51 carried 5-0.

52 iii. **Approve Scenic Heights Elementary School Forest Restoration Project – Pay**  
53 **Application #7**

54 Manager Koch asked for an update on the progress of the project. Administrator Bleser and  
55 Engineer Sobiech responded. Manager Ziegler moved to approve the Scenic Heights Elementary  
56 School Forest Restoration Project Pay Application #7. Manager Koch seconded the motion. Upon  
57 a vote, the motion carried 5-0.

58 iv. **Authorize Administrator Bleser to enter into an agreement with Houston**  
59 **Engineering after Legal has Drafted an Agreement for the Permit and Grant**  
60 **Database System with Funds Coming from Reserve Funds**

61 President Ward noted that the information in the Board packet for this proposal is incorrect and  
62 the correct total cost is not to exceed \$45,000. Manager Koch asked for more details about the  
63 costs and annual subscription fee. Administrator Bleser commented that the subsequent annual  
64 subscription fee is \$6,000 per year. Manager Koch noted a correction to the Cost Estimate page to  
65 revise “2019” to “2020.”

66 Manager Koch moved to authorize the District Administrator and Legal Counsel to review the  
67 terms of the contract and return to the Board for approval. The motion died to lack of a second.  
68 Manager Pedersen moved to approve the proposal with Houston Engineering for the permit and  
69 grant databased system as proposed and not to exceed \$45,000 and with the date correction noted.  
70 Manager Crafton seconded the motion. Manager Koch remarked that he finds the contract  
71 documents to be inadequate to protect the District’s interests, and for that reason he will vote  
72 against the motion. Administrator Bleser commented that Legal Counsel is currently working on  
73 the final agreement. Upon a vote, the motion carried 4-1. [Manager Koch voted against the  
74 motion.]

75 v. **Authorize Purchase of Trimble R7 Receiver and T7 Tablet Controller Survey Grade**  
76 **GPS Equipment**

77 Administrator Bleser described the equipment and its use for measuring elevations. Manager Koch  
78 voiced his concerns that the District would use the equipment in place of using surveys. He asked  
79 staff where the data from the equipment would go and how the data would be integrated with the  
80 District’s other data. Staff responded.

81 Manager Ziegler moved to approve authorizing staff to purchase the Trimble R7 Receiver and T7  
82 Tablet Controller Survey Grade GPS equipment. Manager Pedersen seconded the motion. Upon a  
83 vote, the motion carried 5-0.

84 vi. **Approve Stewardship Grant for \$10,334.00 to Ridgewoods Condominium #1**  
85 **Association for 21<sup>st</sup> Century Upgrades**

86 Manager Ziegler moved to approve the stewardship grant in the amount of \$10,334. Manager  
87 Pedersen seconded the motion. Manager Koch commented he’s not convinced the watershed is  
88 receiving bang for the buck in terms of Best Management Practices with this project, which seems  
89 like landscaping. Manager Pedersen responded that this project is an educational opportunity to  
90 teach the public how to do the right things. Upon a vote, the motion carried 4-1. [Manager Koch

91 voted against the motion.]

92 vii. **Authorize the Administrator to Enter into an Agreement with Carver County Soil**  
 93 **and Water Conservation District for Technical Services**

94 Manager Ziegler moved to authorize the Administrator to enter into an agreement with the Carver  
 95 County Soil and Water Conservation District for technical services. Manager Pedersen seconded  
 96 the motion. Manager Koch asked where this item falls in the District's budget. Administrator  
 97 Bleser responded that it is under the Cost-Share Program budget line item. She noted an  
 98 adjustment to the agreement on page 3. Upon a vote, the motion carried 5-0.

99 b. **Accept October Treasurer's Report**

100 Manager Crafton moved to accept the Treasurer's Report as submitted. Manager Ziegler seconded the  
 101 motion. Manager Koch asked if the District could utilize a check supplier less costly than Deluxe. He  
 102 asked that the District's Visa charges be tracked per vendor and asked that District staff be allocated Visa  
 103 purchase cards instead of operating on a reimbursement of costs basis. Manager Koch noted that  
 104 regarding professional services on the performance analysis table 2 there is a zero, and he proposed the  
 105 District to take part of the District's reserves and allocate it to that line item. The motion died due to lack  
 106 of a second. Manager Koch stated that on the multi-year project performance table 2, page 4 of 6, a  
 107 column could be added to that table showing the District's remaining share of the projects' life time costs.  
 108 Manager Koch asked for an update on the District's status of moving forward with 4M investments.  
 109 Administrator Bleser explained that the District hasn't moved forward with the 4M investments because it  
 110 is taking time to review the 4M investment options under the perspective of the District's existing  
 111 investments and limits of insuring funds. President Ward called a vote on the motion on the floor. Upon a  
 112 vote, the motion to accept the October Treasurer's Report carried 5-0.

113 c. **Approve Paying of Bills**

114 Manager Crafton moved to pay the bills. Manager Pedersen seconded the motion. Upon a vote, the  
 115 motion carried 4-1. [Manager Koch voted against the motion.]

116 d. **Permit 2019-042 CSAH 101 Chanhassen – Consider Variance Requests from Rule B,**  
 117 **subsection 3.2 Compensatory Storage; Rule D, subsection 3.1 – Average and Minimum**  
 118 **Wetland Buffers; and Rule J, Subsection 3.1 Rate Control**

119 Engineer Sobiech displayed PowerPoint slides regarding the proposed highway reconstruction project. He  
 120 described the proposed work and pointed out on a map that only a small portion of the proposed total  
 121 project is within the Riley Purgatory Bluff Creek Watershed. Engineer Sobiech went through the  
 122 Engineer's review of the project and requested variances, displaying a PowerPoint table "Rule  
 123 Compliance Summary".

124 Engineer Sobiech provided information on each of the three variance requests in turn and in detail.  
 125 Regarding the first variance request, compensatory storage requirement, Engineer Sobiech reported that  
 126 there is adequate technical basis to rely on for managers to grant the requested variance. Engineer Sobiech  
 127 responded to questions and comments. Regarding the second variance request, average and minimum  
 128 buffer requirement, Engineer Sobiech stated the engineer finds there is adequate technical basis for the  
 129 managers to rely on to grant the requested variance. Regarding the third variance request, snowmelt rate  
 130 control, Engineer Sobiech said the engineer finds that because the increased rates would have an  
 131 immaterial impact on Bluff Creek, there is adequate technical basis for the managers to establish practical  
 132 difficulty and grant the requested variance.

133 Manager Ziegler moved to approve the three variances. Manager Crafton seconded the motion. Manager

134 Koch moved to amend the motion to state that the managers considered the factors set forth in Rule K 1  
 135 through 6 and the managers determined, based on demonstration by the applicant that because of unique  
 136 conditions inherent to the subject property, which do not apply generally to other land or structures in the  
 137 Riley Purgatory Bluff Creek Watershed, strict application of the rule provisions will impose a practical  
 138 difficulty on the applicant, not a mere inconvenience. Manager Ziegler seconded the motion to amend.  
 139 The motion to accept the amendment carried 5-0. The motion to accept the amended motion carried 5-0.

140 e. **Permit 2019-042 CSAH 101 Chanhassen – Approve Permit as Presented in the Proposed**  
 141 **Board Action of the Permit Review Report**

142 Manager Ziegler moved to approve Permit 2019-042 CSAH 101 Chanhassen, incorporating the general  
 143 requirements, findings, and recommendations of the District Engineer. Manager Pedersen seconded the  
 144 motion. Upon a vote, the motion carried 5-0.

145 f. **Permit 2019-043 Cedarcrest Stables – Consider Variance Requests from Rule J, Subsection**  
 146 **3.1a Rate Control and 3.1b Abstraction**

147 Engineer Sobiech summarized the proposed project, which is a 17-lot single-family development in Eden  
 148 Prairie. He went through the details of the variance requests and the engineer’s review, and he  
 149 summarized the engineer’s analysis of the two variance requests. Manager Ziegler moved to approve  
 150 variances 1 and 2 for permit 2019-043 subject to the conditions listed. Manager Crafton seconded the  
 151 motion. Manager Koch moved to amend the motion to state that the managers considered the factors set  
 152 forth in Rule K 1 through 6 and the managers determined, based on demonstration by the applicant that  
 153 because of unique conditions inherent to the subject property, which do not apply generally to other land  
 154 or structures in the Riley Purgatory Bluff Creek Watershed, strict application of the rule provisions will  
 155 impose a practical difficulty on the applicant, not a mere inconvenience. The motion to accept the  
 156 amendment carried 5-0. The motion to accept the amended motion carried 5-0.

157 g. **Permit 2019-043 Cedarcrest Stables – Approve Permit as Presented in the Proposed Board**  
 158 **Action of the Permit Review Report**

159 Manager Ziegler moved to approve Permit 2019-043. Manager Crafton seconded the motion. Upon a  
 160 vote, the motion carried 5-0.

161 h. **Lower Riley Creek Stabilization Project – Request for Additional Engineering Services**  
 162 **Budget**

163 President Ward summarized this item, stating it is regarding a request from Barr Engineering Company  
 164 for \$38,000 for additional services for the Lower Riley Creek Stabilization Project. Manager Koch asked  
 165 staff to clarify if this cost is due to additional planning requirements and when the change was requested.  
 166 Administrator Bleser responded that when the Board approved this task order in January 2017, there were  
 167 certain assumptions regarding project timing and coordinating with the City of Eden Prairie.  
 168 Subsequently, there was change-over in the City’s water resources coordinator position, requiring District  
 169 staff to plan for additional meetings and time with the new coordinator and to take on a greater leadership  
 170 role than originally anticipated. Administrator Bleser went through details of changes compared to the  
 171 assumptions made in January 2017. She responded to questions from Manager Koch.  
 172

173  
 174 Manager Koch remarked he has a hard time approving after-the-fact work and said the sooner he knows  
 175 about a change the better. He said he doesn’t want to get in the habit of approving after the fact because  
 176 then everyone loses focus on being efficient. Manager Koch stated that going forward, he wants to see  
 177 this type of request in advance. Manager Koch moved to approve the additional budget as set forth in the

178 memo in the meeting packet. President Ward suggested the Board should receive draw requests from Barr  
 179 Engineering as Barr spends this requested money because the District isn't just going to write a check for  
 180 \$38,000. Engineer Sobiech explained that the contract between the District and Barr Engineering is  
 181 structured based on time and materials, not to exceed. He added that Barr Engineering bills on a monthly  
 182 basis for the work completed the prior month. President Ward clarified that this request is anticipatory  
 183 and is for work that has not been completed. Engineer Sobiech responded correct. President Ward  
 184 seconded Manager Koch's motion. Upon a vote, the motion carried 5-0.

185  
 186 **i. Adopt Resolution 2019-021 – Rules**

187 Manager Ziegler commented on the definition listed for "land-locked basin." He requested the definition  
 188 be revised by deleting the word, "natural" and changing "a" to "an." Manager Koch remarked that the  
 189 sooner the District can add the guidances to the rules, the better. Engineer Sobiech clarified that staff  
 190 plans to develop a separate guidance document to accompany the rules. Manager Koch had a comment  
 191 about page 65 and the topic of permit fees. He noted that he would like more narrative and guidance  
 192 regarding what happens when there is a permit violation, and he will raise this comment at the January  
 193 regular meeting when the Board discusses permit fees. Manager Ziegler moved to adopt rules with his  
 194 modification regarding the land-locked basin definition and the guidance document to follow. Manager  
 195 Koch seconded the motion. Attorney Holtman stated that the Board has a resolution in front of it  
 196 regarding adopting the rules. Manager Ziegler moved to adopt Resolution 2019-021. Manager Crafton  
 197 seconded the motion. By call of roll, the motion carried 5-0.

<i>Manager</i>	<i>Aye</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Crafton	X			
Koch	X			
Pedersen	X			
Ward	X			
Ziegler	X			

199  
 200 **j. Approve Purchase of iPads for Board of Managers for Official District Business**

201 Manager Koch moved to approve the District hiring an IT consultant to advise the District on going  
 202 digital and eliminating paper. The motion died due to lack of a second. There was a discussion about  
 203 moving from paper Board packets to digital packets and using tablets or various other devices. The Board  
 204 reached consensus to direct Administrator Bleser to investigate digital device options and report back at  
 205 the Board's January monthly meeting.

206  
 207 **9. Discussion Items**

**a. Manager Report**

208 i. **MAWD**

209 Manager Crafton reported on the resolutions that passed at the MAWD annual meeting, noting the  
210 two resolutions the District brought forward failed. President Ward said the managers were  
211 encouraged by the close vote on the resolution this District put forth regarding wake boarding, and  
212 the District should consider bringing it forward again next year. Administrator Bleser commented  
213 that several watershed representatives talked to her at the meeting about co-authoring the  
214 resolution for next year.

215 Manager Ziegler talked about attending a MAWD break out session about building ownership. He  
216 noted that the six representatives presenting on the topic communicated their watersheds were  
217 saving money by owning the building housing the watershed office, and the payback to the initial  
218 investment was in the seven- to ten-year range. Manager Ziegler noted that the District should  
219 keep its eyes open for opportunities.

220 b. **Governance Manual**

221 President Ward reported that the draft Governance Manual has been distributed to the managers and will  
222 be discussed at the next Governance Committee meeting, being held December 19.

223 c. **Other**

224 Manager Crafton said she attended the Soil and Water Conservation annual meeting and heard from three  
225 separate people who said soil structure may be the issue in this watershed in places where a high-water  
226 table is being pinpointed as an issue for storing water. She raised the idea of the District doing a pilot  
227 project to do research on soils and soil structure in the watershed.

## 10. Upcoming Board Topics

228 President Ward noted that upcoming Board topics are listed on the agenda and include Water Quality  
229 Report, Approve Task Order Wetland Restoration at Pioneer Trail, and Order Silver Lake Water Quality  
230 at Pleasant View Drive (on hold). He pointed out that upcoming events are listed on tonight's meeting  
231 agenda.

## 11. Upcoming Events

- 232 • Citizen Advisory Committee Meeting, December 16, 2019, 6:00 p.m., District Office, 18681 Lake Drive East,  
233 Chanhassen
- 234 • Board of Managers Meeting, January 8, 2020, 7:00 p.m., District Office, 18681 Lake Drive East, Chanhassen
- 235 • Personnel Committee, January 17, 2020, 3:00 p.m., 18681 Lake Drive East, Chanhassen

## 12. Closed Session

237 Manager Ziegler made a motion to move into closed session to discuss a potential offer relating to real property  
238 PID 352360010. Manager Pedersen seconded the motion. Upon a vote, the motion carried 5-0. The meeting  
239 moved into closed session at 9:35 p.m.

**13. Adjournment**

The closed session adjourned at 9:50 p.m. and the RPBCWD Board of Managers December meeting adjourned at 9:50 p.m.

Respectfully submitted,

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David Ziegler, Secretary