

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

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

PRESENT:

Managers:

Jill Crafton, Treasurer

Tom Duevel, Secretary

Larry Koch\*

Dorothy Pedersen, President

David Ziegler, Vice President

Staff:

Amy Bakkum, Office Administrator

Andrew Hartmann\*, Water Resources Technician

Terry Jeffery, District Administrator

Eleanor Mahon\*, Community Engagement Coordinator

Josh Maxwell\*, Water Resources & Fisheries Manager

Dylan Monahan, Administrative Assistant

Rachel Whittington\*, GreenCorps Member

Louis Smith, Attorney, Smith Partners

Scott Sobiech, Barr Engineering Company

Other Attendees:

Joe Seidl

Mark Seegers

Charlie Howley

Perry Schwartz

Brian Field

Matt Olson

Jake Schmitz

Jason P\*

Adam Tjaden

Marilynn Torkelson\*

John Bender

Thomas Lindquist\*

Mark Weber\*

Rod Fisher\*

*\*Attended the meeting virtually.*

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

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

4 President Pedersen stated that by declaration of the president this meeting is being held in person  
5 in public and hybrid while the District recognizes a manager may, based on advice from a  
6 healthcare professional, have a legitimate reason for not attending a meeting in a public place in

7 person, such as Covid-19 exposure or infection, and in such circumstances may participate in the  
 8 meeting remotely.

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

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

10

**2. Approval of Agenda**

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

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

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

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

24

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

25

### 3. Matters of General Public Interest

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

27 Tom Lindquist of 16750 Baywood Terrace, Eden Prairie said he is a board member of the  
 28 Duck Lake Eden Prairie Homeowners Association. He commented he and several other  
 29 Association board members are pleased the District is proceeding with Task Order 46 to  
 30 look into possible modifications of the outlet at Duck Lake. He said he and the fellow  
 31 members of the Association would like to know the project implementation schedule if  
 32 outlet modification design moves forward . Mr. Lindquist said he is concerned that the Duck  
 33 Lake Outlet Modification feasibility task is reported at only 10% completed. He asked what  
 34 could be done to move it ahead as expeditiously as possible. Mr. Lindquist said apart from  
 35 that point the Association is looking forward to the progress and the potential changes that  
 36 he hopes could bring the Duck Lake level capability to what it was before the 2014 outlet  
 37 modification took place.

38 Administrator Jeffery said the schedule is that the feasibility report will be finished in the  
 39 next 30 days and then presented to the Board. He said he plans to bring the project to the  
 40 Board at the July meeting for the Board to authorize solicitation of bids and then bids will  
 41 be brought back to the Board to award the bid. He added there will be a lot of permitting  
 42 involved including approval from the railroad authority, which adds uncertainty to schedule.  
 43

### 4. Reading and Approval of Meeting Minutes

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

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

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

50

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

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

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

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

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

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**5. Committee Reports**

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**a. Adopt Resolution 2024-033 Receiving Committee Reports.**

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

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

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

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

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

Manager Koch said regarding manager per diems, the federal wage and hour law apply even if the state wage and hour law does not apply. He recommended the

76 Committee look into that issue. He suggested the Committee look into processing  
 77 ACH payments.

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

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

84

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

85

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

87 Manager Duevel volunteered to be the Board representative at the May 20<sup>th</sup> CAC  
 88 meeting.

89

**6. Consent Agenda**

90 **a. Adopt Resolution 24-034 to Approve Consent Agenda**

91 President Pedersen noted no items remain on the adopted modified meeting agenda.  
 92  
 93

**7. New Business**

94 **a. Items Removed from Consent Agenda**

95 **i. Receive April Staff Report**

96 Manager Koch asked for an update on whether the District issued permits for  
 97 projects including three properties along Lake Lucy, one of which is along  
 98 Powers Boulevard, as well as for work going on along Galpin Boulevard south of  
 99 Lake Lucy Road and being done on 78<sup>th</sup> Street. Administrator Jeffery noted the

100 projects that have permits and said he will look at the area along Galpin  
 101 Boulevard.

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

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

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

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

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

123

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

124

125 **ii. Receive April Engineer’s Report**

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

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

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

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

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

142

143 **iii. Receive April Regulatory Report**

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

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

153

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

Koch	Yes
Pedersen	Yes
Ziegler	Yes

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155

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

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Manager Koch asked if permits are listed in the District’s list of resolutions.

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Administrator Jeffery said no, permits are not recorded in the District’s journal of

160

votes. He said the District keeps a separate listing of permits. Manager Koch

161

suggested the Governance Committee look into that process because he thinks it

162

would be good to have permits integrated with the general list of resolutions.

163

Manager Koch suggested the language be changed to “...application for a permit

164

modification to or of Permit...” and to strike the words “approval of.”

165

Manager Ziegler moved to approve the modification of Permit 2022-018 Eden

166

Prairie High School Track Facility Improvements as Presented in the Proposed

167

Board Action Section of the Permit Review Report. Manager Duevel seconded

168

the motion.

169

Manager Koch moved to modify the motion to adopt the proposed Board action

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set forth in the Engineer’s report with the changes proposed by Manager Zieger.

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The managers consented to Manager Koch’s modification.

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

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

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175

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

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

183 Manager Ziegler said with respect to the District’s rules, nothing addresses the  
 184 percentage of hard surface in relation to overall property size. He said for  
 185 example this permit proposes hard surface area on about 90% of the site.  
 186 Manager Ziegler said when the District considers rule changes, the District  
 187 should think about regulating percent of property that can be impervious. He said  
 188 there are things in the environment that are not accomplished with underground  
 189 systems.

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

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

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

201

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

202

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

206 Manager Koch asked if a pond could ever become a wetland.  
 207 Administrator Jeffery said stormwater management ponds are not  
 208 considered a jurisdictional wetland under the Wetland Conservation Act.  
 209 Manger Ziegler moved to approve Permit 2024-020 Olympic Hills Golf  
 210 Course Hole 5 with inclusion of the recommendations in the Engineer’s  
 211 report. Manager Crafton seconded the motion. Upon a roll call vote, the  
 212 motion carried 5-0.

213

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

214

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

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

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

231 Mr. Smith said he can perform that review.

232 Mr. Schwartz of Walnut Grove Homeowners Association commented the  
 233 HOA technically owns the south half of the stormwater retention pond,

234 individual property owners own the north half, and the City of Chanhassen  
 235 has an easement against it. He said responsibility between the HOA and  
 236 the City is questionable.

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

238  
 239

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

240

241 **b. Accept April Treasurer’s Report**

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

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

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

252 Manager Koch said the District should be receiving at least a quarterly report of what the  
 253 fund balance general and fund balance default comprise, what their investments are, and  
 254 their performance, so he requests the District get those quarterly reports from the 4M  
 255 Fund.

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

260 Manager Crafton noted the electronic payments are for items approved in the District’s  
 261 adopted budget. Manager Koch said it makes no difference if something is in a budget –

262 you have to account for it properly in accordance with whatever procedure we have  
 263 adopted.

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

265

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

266

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

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

271

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

272

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

276 Mr. Sobiech displayed the PowerPoint presentation “2023-077 Enclave at Manor Road –  
 277 5/8/24.” Mr. Sobiech explained the proposed project is on a 6.5-acre site to redevelop a  
 278 single-family home to a 17-lot single-family home subdivision. He said the project will  
 279 increase the imperviousness from approximately one-half of an acre to close to two acres  
 280 and the project will not disturb the entire site.

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

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

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

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

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

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

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

318 President Pedersen asked Mr. Sobiech if he had any other recommendations regarding  
319 possible design. Mr. Sobiech said significantly changing the layout and the BMP and  
320 going back to mimicking how flow leaves the site would be one option or looking at  
321 providing some type of mitigating measure at the site's area 6 so flood elevation does not

322 increase. He said it would be looking beyond the 6.5 acres to look downstream to consider  
 323 mitigating the system as a whole. Mr. Sobiech said he finds it interesting that the 30%  
 324 reduction in imperviousness had essentially no impact downstream and could be  
 325 examined further.

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

328 Manager Koch asked if the holding pond be bigger.

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

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

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

337

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

338

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

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

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

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

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

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

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

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

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

367 Mr. Sobiech said the project meets the District’s requirements and he reviewed his  
 368 recommended conditions on the approval, such as naming the person responsible for  
 369 erosion control during construction, recordation of a stormwater facility maintenance and  
 370 operating plan, and providing a chloride management plan, among other conditions. Mr.  
 371 Sobiech recommended approval of permit 2024-008 contingent on the conditions he  
 372 presented.

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

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

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

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

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

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

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

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398

Mr. Smith asked, regarding the two raingardens, if the applicant has easements from the affected property owners to send the water their way. **Mr. of the City of Chanhassen** said both the raingardens are located on City property or within the right of way. Mr. Smith asked if impact has been discussed with the property owners. **Mr.** said outreach was completed through regular communications with the project but the City has not specifically reached out to the two residents yet. **Mr.** said the City plans to reach out to them in the event this variance request is approved and the project is approved and moved forward.

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

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

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

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

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

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

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

438 Mr. Smith said there are a few things to clarify, such as what happens if the reuse system  
439 is not built. He said if it is not built, the City does not have a permit from the watershed  
440 because the permit is based on that reuse system being built. He said the District is voting  
441 on approving a variance for when it gets built. Mr. Smith said if the City does not build  
442 the reuse system, the City will have to come back to the District and will need a way to  
443 meet the District's rules. Mr. Smith asked the Board what timeframe it is specifying that  
444 the reuse system must be built within. Mr. Sobiech said the variance lays out that the  
445 reuse system must be implemented by early 2026. Mr. (City) said the timing will be  
446 related to the Civic Center project and asked for the timeframe to be mid-2027. Mr.  
447 Sobiech suggested the system be substantially complete by end of the 2026 growing  
448 season. Administrator Jeffery suggested October 15, 2026.

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

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

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

453

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

454

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

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

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

463

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

464

465

**8. Discussion Items**

466 **a. LSOHC Funding**

467 Administrator Jeffery said he met with the assistant director and two other members of  
 468 the Lessard-Sams Outdoor Heritage Council (LSOHC) as well as a Department of

469 Natural Resources representative who is part of the program. He reported the group felt  
 470 the District could apply for funding through Lessard-Sams for the Spring Road  
 471 property, although any expenses already put forward would not be recuperable through  
 472 LSOHC. Administrator Jeffery said that funding would not come through until July of  
 473 2025 and the application is due May 24<sup>th</sup>.

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

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

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

483

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

484

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

487

488

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

492

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

Ziegler	Yes
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493

## 9. Member Reports

494

### a. Manager Reports

495

[Deferred to next Board meeting.]

496

497

### b. Administrator Report

498

[Deferred to next Board meeting.]

499

500

### c. Legal Counsel Report

501

[Deferred to next Board meeting.]

502

## 10. Upcoming Board Topics

503

### a. 2023 Financial Audit – June 5, 2024

504

[Deferred to next Board Meeting.]

505

## 11. Upcoming Events

506

### a. Passport Adventure – All the month of May

507

### b. RPBCWD Creek Week – May 5 - 12

508

#### i. May 9: Creek Week Trivia at Hackamore

509

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

510

### c. MN Watersheds Summer Tour – June 25-27

511

## 12. Adjournment

512

[See action taken under item 8a].

513

The meeting adjourned at 10:31 p.m.

514

515

Respectfully submitted,

516

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518  
519

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Tom Duevel, Secretary