

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

August 4, 2021, RPBCWD Board of Managers Workshop and Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

Dick Ward, President

David Ziegler, Secretary

Staff: Amy Bakkum, Administrative Assistant

Zach Dickhausen, Water Resources Technician II

Liz Forbes, Grant Coordinator

Elizabeth Henley, Attorney, Smith Partners

Terry Jeffery, Interim District Administrator and Watershed Planning Manager

Eleanor Mahon, Education and Outreach Coordinator

Josh Maxwell, Water Resources Coordinator

Scott Sobiech, Engineer, Barr Engineering Company

Michael Welch, Attorney, Smith Partners

Other attendees: Jeff Abrahamson Susu Jeffrey Jim Senske, Bearpath

Miel Arredondo Terry Jorgenson Zach Stafslie

Nicole Banks Natalie Lang Otto Strack

Sue Bennett Kevin Joel Swenson

Brinkley Mary Jo Linder Willow Teri

Cappierre Seth Loken Tim Toavs

Curt Dean Lotter Marilyn Torkelson

Jen Cordell Chad Lukkarila Christine Vantankhah-Gutierrez

Briana Crusan Madhura Clark Wicklund

Chesney Engquist Aspira Maison

Heidi Groven Jesse Mercado

Mark Harding Nick

Greg Hawks Rebecca Prochaska

Paul Heuer Kate Rohlfen

Kim Hyatt Rod Rue

Note: this meeting was held remotely via Zoom in abidance with District Covid procedures.

1. Workshop: District Preliminary 2022 Budget

1 Interim Administrator Jeffery stated the preliminary budget . He said the District set its 2021 levy
2 at \$3,575,000, and the draft 2022 budget prepared by staff is approximately \$3,513,000. Interim
3 Administrator Jeffery walked through the draft 2022 budget line by line, and managers provided
4 feedback.

5 Based on feedback, Administrator Jeffery said he will talk with Treasurer Crafton about
6 accounting services, and they can discuss how the services can be more efficient. Interim
7 Administrator Jeffery said he will break out the staffing costs, acknowledging President Ward's
8 comment the break out is a format change that doesn't need to be completed prior to the Board
9 accepting a budget or submitting it to BWSR. President Ward noted that any costs for additional
10 staff in 2022 should be reflected in the proposed 2022 budget and the budget the Board adopts.

11 Manager Koch asked Interim Administrator Jeffery for data on traffic to the inspection sites for
12 Lotus Lake and Riley Lake in order to understand the justification for the difference in the
13 proposed budget to support the City of Eden Prairie for AIS inspections, \$32,000, versus the
14 proposed amount to support the City of Chanhassen's AIS inspections \$18,000. Interim
15 Administrator Jeffery said the difference is based on use of the inspection sites and he will
16 provide data to Manager Koch.

17 Interim Administrator Jeffery talked about staff's proposal to take \$113,000 from the District's
18 Repair and Maintenance Fund and use it in a 50%-50% match with the City of Eden Prairie for
19 the Purgatory Recreation Area berm repair. Manager Koch asked if the District has a schedule of
20 its facilities and when work might need to be done. Interim Administrator Jeffery said no, and he
21 explained the District's Repair and Maintenance Fund has been used for unexpected repairs.

22 Interim Administrator Jeffery and the managers talked about grant opportunities, such as the
23 Metropolitan Council's Community Resiliency grants and federal climate change grants. Interim
24 Administrator Jeffery said managers can send their grant ideas to him.

25 Interim Administrator Jeffery talked about staff's proposal to transfer funds out of the District's
26 Opportunity Projects budget to the Middle Riley Creek Stabilization Project. He said staff
27 recommends transferring more than \$313,000-\$314,000 because of the project bids the District
28 received. He noted that he would like the Board to consider levying \$100,000 for Opportunity
29 Projects in the 2022 levy. Manager Koch asked Interim Administrator Jeffery to go back and
30 outline in more detail the anticipated use of the proposed \$100,000 Opportunity Project funds.

31 Interim Administrator Jeffery went into detail about the Lotus Lake Watershed Improvement
32 project. He noted the District's 10-Year Plan identifies two of the four locations as scheduled for
33 2022 and two scheduled for 2023. He said staff recommends changing the schedule so design for
34 all project occurs in 2022 and construction for all four occur in 2023. Manager Koch asked if the
35 District could update its tables in its 10-Year Plan to reflect the types of changes Interim
36 Administrator Jeffery is proposing. He suggested providing the updated information to the
37 managers and in the future, if the Board has a Plan Amendment to undertake, the tables in the
38 Plan could be updated.

39 President Ward said staff will make the changes to the draft 2022 budget as discussed and the
40 Board will talk about it next month.

41 Manager Koch said he would like to see what staff would propose if they were to increase the
42 2022 levy by one to five percent. Engineer Sobiech commented on the fact that the draft 2022
43 budget doesn't budget for any reserve funds. There was discussion about the current amount of
44 the District's reserve, and Interim Administrator Jeffery commented he doesn't think the current
45 amount \$180,000 is enough.

46 President Ward noted he will not be able to attend the Board's September meeting. Manager
47 Koch remarked this is the best budget process for the District that he has ever experienced.

48 The workshop concluded at 6:06 p.m.

2. Call to Order of the Regular Meeting of the RPBCWD Board of Managers

49 President Ward announced Carver County appointed Larry Koch to another three-year term as a
50 RPBCWD Board manager and Hennepin County appointed Jill Crafton to another three-year term
51 as a RPBCWD Board manager.

52 President Ward called to order the Wednesday, August 4, 2021, Board of Managers Regular
53 Meeting at 7:00 p.m. The meeting was held remotely via meeting platform Zoom.

3. Approval of Agenda

54 Manager Ziegler moved to approve the agenda. Manager Pedersen seconded the motion. Manager
55 Koch requested removing Consent Agenda item 7f, Task Order 28c and item 7g – ratification of
56 SRF contract and adding them as action items under 8a. He requested adding an item about the
57 slope sloughing around Riley Creek near Frederick Spring, noting this could be discussed as part
58 of the Noble Hill item but could be an opportunity project. Manager Koch also requested adding
59 an item about COVID-19. President Ward said COVID-19 will be addressed in the Manager's
60 Report and if action needs to be taken, it could be done as a consensus item. District staff said
61 they would be prepared to talk about the slope sloughing. Managers Ziegler and Pedersen agreed
62 to Manager Koch's friendly amendment.

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

64

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

4. Matters of General Public Interest

65 President Ward explained the procedures for speaking during the matters of general public
66 interest.

67 Ms. Briana Crusan said she is part of Spring Valley Friends, an advocacy group, and she spoke
68 about her concerns about the proposed Noble Hill development. She said according to the United
69 States Geological Survey, Riley Creek is already at the tipping point as it is already surrounded
70 by 22% impervious surface and at 25% the creek may not be restorable. Ms. Crusan said 3%
71 more development along the banks could cause severe and irreparable damage. She said one-third
72 of a ten-mile creek is one-third of a mile, Ms. Crusan said the Noble Hill development sets
73 precedent for other landowners to follow suit. Ms. Crusan asked when development along the
74 creek is no longer possible. She said her group asks that Professor Strack has time to review the
75 data in the technical reports recently released to the Spring Valley Friends. Ms. Crusan said if a
76 time delay for review of the data is not possible, then she asks the Board to deny the permit to
77 Pulte due to the concerns and contingencies listed in the Barr Engineering study.

78 Ms. Aspira Maison of 7475 Flying Cloud Drive, Eden Prairie, introduced herself, noting she is
79 from the medical profession including surgery, which is very much like carpentry. She talked
80 about how the body is supported and provided an example about orthopedics and how a body is
81 constructed, She talked about climate change and how she has seen along the river bluffs sandy
82 soil cliff falling down. She said these are important factors for future degradation, which are even
83 more of a priority with the 100-year weather events becoming 30-year and 10-year events. Ms.
84 Maison related an analogy about a MNDOT sign on Highway 169 stating “Secure your load” and
85 how to prepare for the weather extremes that are now the norm. She asked the rhetorical
86 questions of whether to build something and take the money and run, insure it and let somebody
87 deal with it later, or invest in good decisions. Ms. Maison said she thinks best practices would
88 have denied the rezoning of the property behind Frederick Miller Spring. She said she could see
89 how two houses on that property would still allow the property to secure the load, but fifty houses
90 seem like very little bone density on a fractured foundation. She said for those people who are
91 investing their livelihood in the purchase of a home, she would ask for a warranty, so the city
92 doesn’t have to pay for the loss. She asked for an environmental risk evaluation to be conducted
93 to allow time for a second opinion review of the study data provided, and if additional time is not
94 possible, she asked that the Board deny the permit due to multiple contingencies and concerns
95 within the summary.

96 Ms. Miel Arredondo of 2214 Lincoln Street Northeast, Minneapolis said she is raising her
97 concerns about the chain of compliance risk and the potential cost to taxpayers and homeowners
98 and the potential liability to the homeowner. She said she is concerned after reviewing the past
99 four years of stormwater reporting to the Minnesota Pollution Control Agency that they rely
100 heavily on the developers to self-report during construction projects and the City has minimal
101 inspection processes. Ms. Arredondo said from reading the reports it appears the City has a soft
102 enforcement strategy comprising verbal warnings not fines or stop work orders. She said out of
103 60 reported stormwater concerns in the City’s system, five were discovered by staff and the rest
104 came from public reporting, and less than 10 were given warnings. Ms. Arredondo said when the
105 Minnehaha Creek was polluted during construction in Eden Prairie, the impaired waterbody and

106 wetland suffered, and the MPCA investigated, enforced, and penalized all parties, not the City of
107 Eden Prairie. She said we are dealing with a corporation that has a reputation as a Clean Water
108 Act violator and which were sued by River's Edge and the lawsuit involved grading complaints.
109 She said she is here tonight because citizens in the watershed have pushed compliance, which is a
110 step that was skipped. Ms. Arredondo said the mud slide in Eden Prairie along Bear Ridge
111 alongside the creek cost more than \$1 million in tax payer money, including buy back of the land,
112 slope reinforcement, and stormwater infrastructure repair. She stated the incident risked lives and
113 required neighborhood evacuation . Ms. Arredondo said according to a creek-side homeowner,
114 when the homeowner has structure defects to their structure due to slope issues, the City charged
115 them a \$200,000 assessment fee. She said Pulte has been in the situation of buying back homes
116 for millions of dollars including slope failure and buyers' inability to live and occupy their
117 homes. She said the environmental consequences, liability, and property are all at risk, and a
118 complete analysis would be in all the parties' best interest. Ms. Arredondo said due to these risks,
119 she urges the Board to allow time to for a second opinion expert review of the study data and if
120 that's not possible, then to support accountability at this stage in the chain of compliance,
121 requiring completion of all contingencies before issuing permits.

122 Ms. Sue Bennett Eden Prairie resident for over 30 years. She thanked the Board for this
123 opportunity to speak. Ms. Bennett said she is very concerned about the Noble Hill project and the
124 long-term accumulative effect on Riley Creek. She said this is why we are moving forward with
125 the EAW appeal that will go to court in September. Ms. Bennett stated that without an EAW
126 study, you cannot get an overall picture of the long-term accumulative effects of this area, which
127 would include the negative impact of removing over 400 trees, the effect of soil erosion and
128 stormwater runoff on the already impaired Riley Creek, the long-term effects on Frederick Miller
129 Spring, the biodiversity of this area, and endangered species like the rusty patch bumblebee. Ms.
130 Bennett said that after studying the slope analysis report, she has many concerns. She said on
131 page 95 Barr noted the methods and design of this project must be addressed to increase the level
132 of confidence in the results presented in the technical memos and the overall resiliency of the
133 proposed development. She continued reading, noting within those modifications on points C4, a
134 modified construction drawing is needed to increase the proposed project's robustness against
135 potential erosion during storms. She read from the report's page 96 about the property's steep
136 slopes and minimum buffers from the steep slopes. Ms. Bennett read aloud from the report's
137 summary on page 108 that many items need to be addressed to address the overall level of
138 certainty in the results of the overall resiliency of the proposed development. Ms. Bennett
139 remarked that after reading the report, it is clear a lot of outstanding issues still need to be
140 addressed, and there are many notes of high-risk of erosion. She stated given the sensitivity of
141 this project and over 3,000 petition signatures, she is asking Board to deny the issuing of the
142 permit. Ms. Bennett commented a project of this nature should not be confirmed with so many
143 contingencies for modifications within a contract.

144 Professor Strack said he has been asked to look into this slope stability problem. He said he has
145 been a professor at the University of Minnesota teaching Civil Engineering, and he has written a
146 textbook on groundwater flow and a textbook on slope stability. Professor Strack said he agreed
147 to look into this problem, He stated it would be a good idea to look into slope stability a little

148 differently than in the past because of climate change and the high rainfalls, which affect slope
149 stability.

150 Ms. Chesney Engquist thanked the Board for the opportunity to speak and for its concern
151 surrounding open safety risks unanswered by the recent slope stability analysis pertaining to the
152 proposed Noble Hills development and the potential for landslide and ground water degradation.
153 She said when she last addressed this Board regarding delays to the permit, she invoked her oath
154 of engineer that she took to make the best use of the Earth's precious wealth, to act with integrity
155 and safety to the standards of her profession, which may need to be updated due to the continual
156 disruption of the climate . She said from her initial review she understands the project proposes a
157 13.75 % increase in impervious area and 67.56 % of the total 31.94-acre site to be disturbed
158 within a contiguous portion of highly sensitive ecosystem and adjacent to an identified impaired
159 body of water. She said based on this information alone, it is not advised to proceed with this
160 proposal without understanding the cumulative impacts of development in this region. Ms.
161 Engquist said furthermore, the implication of the loss of tree root structure and canopy may be
162 potentially catastrophic and has not been examined. She said the recent report indicates up to two
163 feet of topsoil and alluvial soils beneath. Ms. Engquist stated she would like to understand the
164 influence of the vegetative impact of the 455 trees of significance, which stabilize the soil and
165 slope on the hill. She said some factors she didn't see reported on in the engineering summary
166 include the mechanisms and results of the tree roots and canopy, reinforcement of anchorage by
167 roots, roots extract moisture from the soil, increasing hydraulic conductivity, increasing soil sheer
168 strength, and the canopy intercepts and evaporates rainfall, weight of trees surcharges the slope,
169 vegetation exposed wind forces into the slope, reducing rainfall for infiltration and increasing
170 normal stress and increasing driving force. Ms. Engquist commented these are factors she doesn't
171 see assessed from boring tests alone, and she read in the report the boring tests were unable to be
172 conducted in areas of vegetation, so therefore we know we need more information on the impacts
173 of the vegetation on the slope stability. She said she trusts the Board would agree that not enough
174 information has been gathered to inform the level of potential risk and to further delay the
175 permitting of this project. Ms. Engquist said the level of disturbance of the root structure and the
176 soil system is unknown. She stated that with trusted experts standing by to provide secondary
177 opinion on the current data, the Board is well positioned to gather more information and more
178 expertise to better inform the decision going forward. Ms. Engquist said if the Board is not able to
179 provide the time, then she asks the Board to deny the permit.

180 Ms. Nicole Banks, resident 2601 Marshall Avenue, St. Paul, opened her comments with an
181 introduction in Ojibwe, recognizing this land as Dakota. She said she is an enrolled member of
182 the White Earth Nation, which is part of Minnesota Chippewa Tribe. Ms. Banks said she is also a
183 member of the American Indian Movement. She said this land is a heritage site to her family and
184 community, and this, coupled with the low viability of building sound structures here, along with
185 recent data collected by professional archeologists in the area showing there are native artifacts, is
186 why she is asking that building not be permitted or at the very least allow more time for analysis
187 on what is here on this land surrounding the spring. Ms. Banks said the water is also very
188 important and is what brought this to her attention. She said she has respect for the District's
189 position, and she hopes the District does for her and her community as well.

190 Ms. Rebecca Prochaska of 15781 Porchlight Lane, Eden Prairie, thanked the District for this
191 opportunity to speak. She said considering this is a very important decision ahead of the Board,
192 she encouraged the Board members to hear from the slope authority. Ms. Prochaska provided
193 credentials of Professor Strack as an expert on local rock mechanics and a slope stability
194 authority, who is amenable to reviewing the data. She encouraged the Board to take the
195 opportunity to gather more information, which will lead to better decision making. Ms. Prochaska
196 said her group hadn't received the requested report until yesterday, and one day is not adequate
197 time for the professor to review the information plus the remaining reports that were requested, so
198 she is asking for the Board's cooperation to provide that information and allow Professor Strack
199 to give an opinion based on his credentials. She asked Board to grant another extension or if an
200 extension isn't possible then to deny the permit based on the lack of confidence in the results and
201 the concerns brought up in the Barr Engineering summary, including contradictory things that
202 don't sit well and need more due diligence.

203 Ms. Susu Jeffery of 1063 Antoinette Avenue, Minneapolis, quoted the former executive director
204 of Greenpeace International's statement "nature does not negotiate. She remarked Pulte has
205 decided the residents will be responsible for the retaining walls and wished the residents good
206 luck. Ms. Jeffery said it's just lock blocks on sand, which is iffy. She displayed three photos and
207 described what the photos show. Ms. Jeffery talked about buckthorn in the proposed project area,
208 stating 30% of the vegetation is buckthorn. She described the effects of buckthorn on the
209 environment. She said where else can residents get real water without chemicals in it. Ms. Jeffery
210 commented Pulte is selling these homes as a city built on a hill, but it's not that and instead is
211 houses built upon sand, a misquote from the book of Matthew 7:27. She asked where Hennepin
212 County residents can get real water that doesn't have chemicals in it, since the Great Medicine
213 Spring in Theodore Wirth Park is gone – permanently dewatered, Glenwood Spring is
214 permanently dewatered, Coldwater Spring, the spring where the state of Minnesota was founded
215 and furnished water to Fort Snelling for a century has no access

216 Ms. Madhura Patel of 7501 Devon Lane, Shakopee said nature carries a lot of weight and she
217 feels very emotional about it. She quoted from a sign hanging over the Frederick Miller Spring.
218 Ms. Patel said this land has special value, and it would be very sad if environmental factors were
219 ignored and there is a landslide. She said so many trees will be lost. Ms. Patel said it makes sense
220 to make careful steps and it's a fair ask to let there be a period for the public to assess the slope
221 stability data to assess the slope stability data.

222

5. Reading and Approval of Meeting Minutes

223 a. July 7, 2021, RPBCWD Board of Managers Regular Meeting

224 Manager Ziegler moved to approve the minutes of the July 7, 2021, Board of Managers
225 Regular Meeting. Manager Pedersen seconded the motion. Manager Crafton noted a
226 correction to the spelling of inappropriate on line 84. Attorney Welch shared corrections
227 from Attorney Smith, including line 44 in the motion to approve the amended agenda, add
228 Managers Ziegler and Pedersen concurred to Manager Koch's additions as a friendly
229 amendment; line 262 after the word project, add "which is being pursued in partnership

230 with the District”; line 306 revise the sentence to “he explained the practical difficulty was
231 created by the District, as the proponent of the project, in its efforts to restore and enhance
232 portions of the Creek.” Managers Ziegler and Pedersen accepted the friendly amendments.

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

234

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

235

6. CAC

236 Ms. Heidi Groven, CAC Chair, stated the CAC was one of the groups that brought the Noble Hill
237 project to the Board to be aware of the issues and concerns. She asked for copies of the reports for
238 the CAC’s review and comment to the Board and offered to do that as well as offered the
239 opportunity to work with the citizens. President Ward noted the CAC’s next meeting is Monday,
240 August 16 and Manager Crafton is the Board Representative.

241

7. Consent Agenda

242 Manager Ziegler moved to approve the Consent Agenda as amended in item 2. Manager Pedersen
243 seconded the motion.. The Consent Agenda included the following items: 7a - Accept July Staff
244 Report, 7b – Accept July Engineer’s Report, 7c – Accept June Construction Report, 7d – Approve
245 2021-030 Johnson Ridge as Presented in the Proposed Board Action Section of the Permit
246 Review Report, 7e - Approve Permit 2021-055 Prop Inc. Parking Lot Reconstruction as Presented
247 in the Proposed Board Action Section of the Permit Review Report, and 7h – Authorize
248 Administrator to Register and Pay for Managers, CAC Members, and Staff for the MN Water
249 Resources Conference, Oct. 19-20, 2021. Upon a roll call vote, the motion carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye

Pedersen	Aye
Ward	Aye
Ziegler	Aye

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8. Action Items

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a. Items Pulled from Consent Agenda

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i. Task Order 028C for Rice Marsh Lake Water Quality Project Construction Administrator Services

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Engineer Sobiech stated this task order is to provide to provide construction management services for the Rice Marsh Lake Water Quality Project, which is on the agenda later for action to award the contract. Engineer Sobiech explained when the task order was prepared and authorized, it didn't include construction management services, partially because the project wasn't fully defined, which it is now. Engineer Sobiech explained the items included in this task order.

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Manager Koch asked if the \$37,500 cost associated with this task order is in the line-item budget for this project or will be an addition to the amount. Interim Administrator Jeffery said it will be an addition. Manager Koch said so the Board will need to make an adjustment to cover the additional cost. Interim Administrator Jeffery agreed.

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Manager Koch moved to approve Task Order 028-C for Rice Marsh Lake Water Quality Project Construction Administration Services with Barr Engineering Company. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

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<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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ii. Ratification of SRF Contract for St. Hubert

Administrator Jeffery said the motion made at the Board's May meeting was a

275 Not-to-Exceed amount, which is about \$9,000 short of what is needed for the
276 contract and what was stated in the contract. He said this item is a ratification of
277 that oversight. Attorney Welch provided more details about the action the Board
278 took in May and the execution of the agreement.

279 Manager Koch moved to ratify the SRF contract for St. Hubert as signed to the
280 correct amount \$27,399. Manager Pedersen seconded the motion. Upon a roll
281 call vote, the motion carried 5-0 as follows:

282

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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284 **b. Accept June Treasurer’s Report**

285 Manager Crafton stated the report has been reviewed in accordance with the District’s
286 internal control procedures. She moved to accept the June Treasurer’s Report. Manager
287 Ziegler seconded the motion. Manager Koch objected to tracking credit card
288 expenditures with the credit card as the vendor and said it is an item the Board needs to
289 review.

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

291

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

292

293 **c. Approve Paying of Bills**

294 Manager Crafton moved to pay the bills. Manager Pedersen seconded the motion. Upon
295 a roll call vote, the motion carried 5-0 as follows:

296

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

297

298

d. Permit 2021-012 Noble Hills

299

i. Accept Slope Stability Analysis for Noble Hill

300

Interim Administrator Jeffery reminded the Board it took action at its June meeting to extend the permit review by 60 days to provide time for the slope stability study to be done. He described how the scope of work for the slope stability study was developed. Interim Administrator Jeffery said upon completion of the study, Braun Intertec provide the study to Barr for review. He noted Barr raised concerns about several assumptions and met with Braun to address those concerns. Interim Administrator Jeffery introduced Chad Lukkarila of Braun Intertec.

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Mr. Chad Lukkarila shared a presentation on the slope stability and seepage analyses for the Noble Hill Development. He summarized Braun's geotechnical evaluation and findings. Mr. Lukkarila stated based on Braun's exploration and analysis, it is Braun's opinion the planned development doesn't pose instability or seepage concerns for the slopes and existing creek area. He provided a detailed review of the evaluation and methods. Mr. Lukkarila repeated Braun's conclusion that based on the subsurface information and Braun's seepage and stability analysis, it is Braun's opinion that the planned development does not pose instability or seepage concerns for the existing creek, provided the development and engineering controls are constructed as planned.

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Manager Ziegler moved to accept the slope stability analysis. President Ward seconded the motion. Manager Koch asked what ability the Board has to defer this decision, under rules and statutes. Attorney Welch noted the analysis fulfills a request the Board made to get more information, and there isn't a timeframe on accepting the report. He said the report is additional background information about the permit. Manager Koch asked about the Board's options for approving, denying, or delaying action on the permit. President Ward recommended the Board act on the motion on the table and then discuss Manager Koch's question about the Board's action options regarding the permit. Manager Koch said he thinks it would be appropriate to table this motion until the Board has time to review the analysis.

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326 Manager Pedersen asked if the slope stability analysis takes into account the trees on the
327 slope provides some sort of stability or is the stability based on strictly on the type of
328 soil and slope grade. Manager Koch added he would like to read the analysis before
329 accepting or denying it. Mr. Lukkarila said soil parameters are based strictly on the soil
330 and soil properties and use lab data and correlations to determine strength and does not
331 take into account vegetation. He added that for the existing slope below the pond, the
332 analysis did include added sheer strength for vegetation on the upper three feet to
333 calibrate the model. Manager Pedersen clarified that Mr. Lukkarila is saying that in his
334 opinion, if the entire area except for the pond area is denuded of vegetation, the
335 calculations say there is no slope instability. Mr. Lukkarila said that is correct.

336 Manager Crafton raised her concerns about how much data was estimated and said she
337 doesn't think the study has been ground-truthed enough, so she needs another opinion.

338 Mr. Seth Loken of Alliant Engineering displayed a presentation reported on the Noble
339 Hills hydrologic and hydraulic analysis.

340 He reported that based on modeling and the provided project plans, Aliant Engineering
341 demonstrates a design of safe conveyance of surficial flows in the most extreme and
342 unlikely events modeled for the Noble Hills Development. Mr. Loken summarized the
343 four scenarios and seven modeling events analyzed per location, explaining 98 scenarios
344 were considered. He stated the events modeled included: 1-year, 10-year, 100-year, 500-
345 year with the current Atlas-14 rainfall depth as well as the Mid-21st Century 10-year and
346 100-year event.

347 Mr. Loken presented the analysis conclusions for the four scenarios modeled:

348 Scenario 1 – Full buildout: all events modeled up to 100-year event contained within the
349 storm sewer and events exceeded 100-year contained within turf reinforcement mat
350 swale or infiltration basins

351 Scenario 2- Plugged storm sewer condition: All modeled events contained within turf
352 reinforcement mat swales or infiltration basins

353 Scenario 3 – Interim condition: all modeled events contained within turf reinforcement
354 mat swales and additional erosion control measures added for larger storm events

355 Scenario 4 - Plugged primary basin outlet condition: All modeled events are contained
356 within proposed storm sewer utilizing secondary overflow grate.

357 Manager Koch raised his concerns about the site slope and sloping into Riley Creek and
358 where the water goes. He reiterated he hasn't had time to review the information being
359 presented. Interim Administrator Jeffery summarized the information Mr. Lukkarila and
360 Mr. Loken presented.

361 Manager Pedersen asked if Atlas 14 is being used for the 100-year events. Mr. Loken
362 said yes and the mid-21st century via Barr Engineering was used, too. Manager Koch
363 asked what effect this year's level of annual rainfall had on this stormwater analysis.
364 Mr. Lukkarila said the groundwater boring in 2019 was within a foot of this year's,
365 showing the groundwater elevations consistent with this year's, even given this year's

366 drought conditions. Manager Koch asked Mr. Lukkarila if he knows if the soils in the
367 area in Eden Prairie that recently had a major slope collapse are similar to the soils
368 evaluated for the Noble Hills development. Mr. Lukkarila said he does not. He pointed
369 out the slope proposed to be developed for the Noble Hills development are a 3
370 horizontal to 1 vertical slope, which is different than some other developments in Eden
371 Prairie that were built at a 2 to 1 slope.

372 Manager Koch talked about his concerns with saturation levels and sloughing. Manager
373 Crafton raised her concerns about the turf reinforcement mats and how well they might
374 perform given the possible violent rain storms that may occur.

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

376

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

377

378 **ii. Approval of Permit 2021-012 Noble Hill as Presented in the Proposed**
379 **Board Action Section of the Permit Review Report**

380 Engineer Sobiech reviewed the water resource protection concerns about the project that
381 the managers raised at its June 2nd Board meeting. He reminded the Board it approved
382 on June 2nd to extend the District's timeline of review of the permit by 60 days. He
383 displayed slides showing the existing site and the proposed site, which would include 50
384 single-family homes, three infiltration basins, one pretreatment sedimentation pond, and
385 wetland buffer.

386 Engineer Sobiech summarized the District Engineer's permit review, per applicable
387 rule, noting the exposed soils on the site are highly erodible, the applicant's analysis is
388 based on the best available information, standard engineering principals were used to
389 complete the analysis, interior drainage assessment revealed the need for additional
390 erosion protection measures – and the applicant has included remedial measure in the
391 revised submittal, which increases project resiliency, the slope stability and seepage
392 analysis results for the graded slopes are consistent with USACE guidelines for seepage
393 gradients and factors of safety, and the District Engineer concurs with the findings
394 presented and recommends additional conditions, if the Board conditionally approves
395 the permit.

396 Engineer Sobiech reported the District Engineer recommends approval of the permit
397 contingent on:

- 398 • Continued compliance with General Requirements
- 399 • Financial Assurance in the amount of \$150,030
- 400 • The applicant providing documentation demonstrating that the necessary land-
401 use rights have been obtained for the proposed activities within right of way
- 402 • Incorporation of seepage relief or other mitigation measures to minimize soil
403 loss at the toe of slopes if analysis shows excessive seepage, exit gradients, or
404 subsequent risk of erosion, including but not limited to where potential seeps
405 develop downslopes of infiltration basin 3 or at flared end section outlets.
- 406 • Submission to the District of updated drawings
- 407 • Receipt in recordation a maintenance declaration for the stormwater
408 management facilities and buffers. Drafts of any and all documents to be
409 recorded must be approved by the District prior to recordation.
- 410 • Revision of Braun Intertec's Stability and Seepage Analysis and Alliant
411 Engineering's Additional Hydrologic/Hydraulic Analysis to address
412 RPBCWD's comments and submission for RPBCWD's review and
413 concurrence.

414 Engineer Sobiech responded to many questions.

415 Manager Koch said he is a little leery about approving something conditioned on
416 Engineer Sobiech's opinion, and Manager Koch commented he is really concerned
417 about that creek and doesn't want to vote on something he doesn't understand. President
418 Ward said he thinks the District's Engineering firm needs to inform the Board what's
419 right or not, and he is hearing that the Engineers are comfortable. Manager Crafton said
420 she is comfortable with Otto Strack providing another opinion and said she doesn't want
421 the perception of conflict of interest. Manager Koch remarked he wants to make sure
422 the citizens have confidence in the Board's process.

423 The was discussion about the 60-day extended review period deadline, which ends
424 either August 11 or 12. Manager Crafton asked if the Board could extend the permit
425 review period again to allow more examination. Attorney Welch said the Board can
426 request the applicant grant an extension, but the applicant needs to concur and grant it.

427 Attorney Welch said the managers should vote on the information in front of them,
428 including the information presented and District Engineer's recommendation. He
429 reminded the Board the District Engineer recommends a conditional approval. Attorney
430 Welch said the Board can ask the applicant to concur an extension, but that would need
431 to happen on the record tonight, and he isn't sure there is a representative of the
432 applicant at tonight's meeting. President Ward asked if there could be a meeting on
433 Monday, August 9th and asked Engineer Sobiech if additional information could be
434 ready by that time. There was discussion about the information being requested and

435 timing of delivery of that information. Manager Koch recommended that if the applicant
436 doesn't grant an extension and the information isn't provided to the Board, then the
437 Board deny the permit on the basis of lack of information.

438 Attorney Welch said some of the requests brought up tonight couldn't happen before the
439 end of the District's 120-day review period. The managers discussed what information
440 they need.

441 Mr. Dean Lotter of Pulte Homes asked for a ten-minute recess so he can talk with his
442 team. The Board agreed. At 9:10 p.m., President Ward called for a meeting recess.

443 President Ward resumed the meeting at 9:20 p.m.

444 Mr. Dean Lotter of Pulte Homes said the applicant is willing to extend review until
445 August 18th. He said the family that owns the property is upset, and he noted that there
446 are two District staff reports that recommend approval of the permit and the applicant is
447 concerned with the delay. Mr. Lotter asked for clarification about under what rules is
448 the Board asking for further clarification. Administrator Jeffery directed the question to
449 the Board and asked what the managers are asking the applicant provides to the District.
450 Manager Koch said in lieu of voting no, he needs more time to understand the
451 information, the slope rule, and the list of the District Engineer's conditions and make
452 sure the District's rules are being met. He said he votes for what he understands and if
453 he doesn't have the information, he will not make a decision. Manager Koch said he
454 wants to make sure the District has been provided the information to make sure the
455 District's rules are being met.

456 Manager Ziegler noted he is not a civil engineer but feels he has enough information to
457 make a decision.

458 Manager Pedersen and Manager Crafton said they would like to know the answers to
459 Engineer Sobiech's conditions.

460 President Ward suggested continuing this item. The Board and staff discussed timing.
461 The Board decided to set a meeting on August 12th at 3 p.m. to continue this item.

462 Attorney Welch asked Mr. Lotter to email Interim Administrator Jeffery concurring the
463 granting the District the permit review extension until August 18. Mr. Lotter said he will
464 do so.

465

466 **e. Middle Riley Creek Stabilization Project**

467 **i. Consider award of Middle Riley Creek Stabilization Project as**
468 **presented in the recommended Board action section of the**
469 **Engineer's memorandum.**

470 Engineer Sobiech displayed a map of the project site and photos of eroded sites.
471 He reviewed the proposed project and the bid process and reported on the two
472 bids received, noting the Engineer's opinion of probable cost was \$344,000 and
473 the lowest bid was Sunram Construction with a total base bid of \$439,582 .

474 Engineer Sobiech said the Engineer’s requested Board action is to award the
 475 project to Sunram Construction, Inc. at the bid price of \$439,582, authorize the
 476 president or Interim District Administrator to sign the Notice of Award, execute
 477 the contracts, and sign the Notice to Proceed at the appropriate points in the
 478 contracting and authorize the Interim District Administrator to execute change
 479 orders within 10% of the contract amount.

480 There was discussion amongst the managers, staff, and Mr. Senske about how
 481 Bearpath could conduct education activities, buffer markers, the parameters of
 482 being a Jack Nicklaus Signature Golf Course, and the contract, and the correct
 483 legal parties.

484 Manager Pedersen moved to award the contract to Sunram Construction.
 485 Manager Crafton seconded the motion.

486 Manager Koch asked if the District could terminate the contract if an adequate
 487 cooperative agreement isn’t come up with. Attorney Welch said the contract
 488 award is the start of the process, and there are provisions to withdraw from the
 489 contract, but the provision Manager Koch is asking about isn’t specifically in
 490 the construction contract.

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

492

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

493

494 **ii. Consider Approval of Cooperative Agreement with Bearpath Golf**
 495 **and Country Club and Authorize President Ward to Sign.**

496 Interim Administrator Jeffery said the agreement does not have specifics in it
 497 about the education commitments as Manager Koch has noted. Interim
 498 Administrator Jeffery asked Mr. Senske if can meet quarterly meeting to
 499 determine education opportunities throughout the year. Mr. Senske agreed,
 500 noting the meetings would be with his team, and his team wants to overachieve
 501 with this.

502 Manager Koch said he doesn’t believe the cooperative agreement is in a
 503 position to be approved because it doesn’t reflect what Mr. Senske and his

504 entity will be doing. He suggested Attorney Welch and Mr. Senske work on the
505 agreement and bring it back to the Board on August 12th. Attorney Welch stated
506 the cooperative agreement provides for the necessary cooperation between the
507 parties, provides for permitting, and provides for education. He agrees some of
508 the specifics Manager Koch has noted aren't in the agreement, but they are
509 present in the proceedings of this meeting or other drawings and plans that are
510 part of the cooperative agreement.

511 There was discussion about plans and contracts with contractors, and Mr.
512 Senske outlined plans Bearpath would move forward with even if the District
513 decides not to enter into a cooperative agreement with Bearpath. Manager Koch
514 raised his concerns about the cooperative agreement.

515 Manager Crafton moved to approve the Cooperative Agreement as presented.
516 Manager Ziegler seconded the motion. Attorney Welch recommended the
517 motion also authorize President Ward to execute the agreement on behalf of the
518 RPBCWD. Managers Crafton and Ziegler seconded the motion. Manager Koch
519 moved to amend the motion to authorize Interim Administrator Jeffery and
520 Attorney Welch to work through the specifications discussed, and correct any
521 errors, including making sure the agreement to has the correct legal parties.
522 President Ward seconded the motion.

523 Upon a roll call vote, the motion to amend carried 5-0.

524

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

525

526 Upon a roll call vote, the motion to approve the amended motion carried 4-1.

527

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	No
Pedersen	Aye

Ward	Aye
Ziegler	Aye

528

529

iii. **Consider Approval of License with Bearpath Homeowners' Association and Authorize President to Sign**

530

531

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533

534

535

Engineer Sobiech stated in order to access the construction site in the north area, the permission is needed from the HOA to allow construction access and if damage occurs, it needs to be repaired to the owner's satisfaction, and access extends the duration of the vegetation establishment period, which is three years.

536

537

538

539

540

Manager Ziegler moved to approve the license with the Bearpath Homeowners Association and authorize President Ward to sign on behalf of the District. Manager Pedersen seconded the motion. Manager Koch said he just received the agreement and can't vote for something he hasn't reviewed. Upon a roll call vote, the motion to carried 4-1.

541

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

542

543

iv. **Approve Task Order 029B for Middle Riley Creek Stabilization Project Construction Administration Services**

544

545

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551

Engineer Sobiech said the request from Barr Engineering is for additional budget to perform project construction administration services for the Middle Riley Creek Project. He said the original task order included design, permitting, and construction observation; however, the project has been extended several years and all the authorized budget has expended to complete the construction observation and the vegetation establishment, which would extend through 2024 and not anticipated in the original scope.

552

553

Manager Ziegler moved to approve Task Order 029 B for Middle Riley Creek Stabilization Project construction administration services. Manger Crafton

554 seconded the motion. Manager Koch asked if this amount will be enough
555 money. Engineer Sobiech said his best opinion is yes.

556 Upon a roll call vote, the motion carried. 5-0.

557

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

558

559 v. **Permit 2021-017 Middle Riley Creek Stabilization Project**

560 i. **Consider Approval of Request for Variance from Rule D,**
561 **Subsection 3.2.b Minimum and Average Buffer Widths for**
562 **Permit Application 2021-017 Middle Riley Creek**
563 **Stabilization Project**

564 Engineer Sobiech reminded the Board it took action at its July meeting
565 to approve this variance, so no action is needed tonight.

566

567 ii. **Consider Approval of Request for Variance from Rule D,**
568 **Subsection 3.4 Buffer Monumentation Requirements for**
569 **Permit Application 2021-017 Middle Riley Creek**
570 **Stabilization Project.**

571 Engineer Sobiech shared his screen and presented the Engineer's
572 review of the variance request, including the variance criteria and
573 analysis summary. He reported the District Engineer makes no
574 determination as to whether there is an adequate technical basis for the
575 managers to rely on to grant the requested variances from the free-
576 standing sign requirement, District Rule D, subsection 3.4.

577 Manager Koch engaged in extensive discussion with Mr. Senske about
578 Manager Koch's concerns

579 President Ward moved to approve variance from Rule D Subsection 3.4
580 Buffer Monumentation Requirements for Permit Application 2021-017
581 Middle Riley Creek Stabilization Project. Manager Crafton seconded
582 the motion.

583 Manager Koch said he doesn't believe this variance meets the District's
584 rules. Upon a roll call vote, the motion carried 4-1.

585

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

586

587 **iii. Consider Approval of Permit 2021-017 Middle Riley Creek**
588 **Stabilization Project as Presented in the Proposed Board**
589 **Action Section of the Permit Review Report.**

590 Manager Ziegler moved to approve permit 2021-017 Middle Riley
591 Creek Stabilization Project. Manager Pedersen seconded the motion.
592 Manager Koch asked Engineer Sobiech to clarify the work being
593 approved under the permit. Engineer Sobiech responded. Manager
594 Koch said he doesn't think the District is taking the right approach with
595 this permit. Upon a roll call vote, the motion carried 4-1 as follows:

596

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

597

598 **f. Consider Award of Pioneer Trail Wetland Restoration Project as Presented**
599 **in the Recommended Board Action Section of the Engineer's Memorandum**

600 Engineer Sobiech explained bids were opened on July 28th and four contractors
601 submitted bids, ranging from \$295,098 and \$391,735 . He said Sunram Construction
602 was the lowest bidder at \$295,098.00 and recommended awarding the project to Sunram
603 Construction at that bid amount. Engineer Sobiech added that if the District awards the

604 bid, he recommends authorizing the President or Interim District Administrator to sign
605 the notice of award, execute the contracts, and sign the notice to proceed at appropriate
606 points in the contracting process and to authorize the Interim Administrator to execute
607 change orders within an aggregate change amount of 10% of the contract amount.

608 Manager Pedersen moved to award the Pioneer Wetland Restoration Project to Sunram
609 Construction and authorize the President and Interim Administrator per the District
610 Engineer’s recommendation. Manager Crafton seconded the motion.

611 Manager Koch commented he doesn’t think the District is going about this project quite
612 correctly. Upon a roll call vote, the motion carried 4-1.

613

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

614

615 **g. Consider Award of Rice Marsh Lake Water Quality Project as presented in**
616 **the Recommended Board Action Section of the Engineer’s Memorandum**

617 Engineer Sobiech reported bids opened on July 29 and the District received three bids
618 ranging from \$593,384 to \$786,306. He stated Meyer Contracting Incorporated was the
619 lower bidder. He recommended awarding the bid to Meyer Contracting Incorporated in
620 the dollar amount \$593,384, and if the Board awards the bid to also authorize the
621 President or Interim District Administrator to sign the notice of award, execute the
622 contracts, and sign the notice to proceed at appropriate points in the contracting process
623 and to authorize the Interim Administrator to execute change orders within an aggregate
624 change amount of 10% of the contract amount.

625 Manger Pedersen_ moved to award the Rice Marsh Lake Water Quality Project to Meyer
626 Contracting and authorize the President and Interim Administrator per the District
627 Engineer’s recommendation. Manager Ziegler seconded the motion. Manger Koch said
628 he thinks this project is premature based on old data and not sufficient data to evaluate
629 the District’s work on the pond or Lake Susan.

630 Upon a roll call vote, the motion carried 4-1.

631

<i>Manager</i>	<i>Action</i>
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Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

632
633 President Ward recommended the Board continue the meeting to August 12th at 3 p.m.
634 Manager Koch moved to continue the meeting until August 12th at 3 p.m. Manager
635 Pedersen seconded the motion. Upon a roll call vote, the motion carried 5-0.

636

<i>Manager</i>	<i>Action</i>
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

637
638 At 10:55 p.m., the Board continued the meeting until August 12th at 3:00 p.m.

639
640 **h. Consider Approval of Award for Information Technology Consulting**
641 **Services and Authorize Smith Partners to Draft Contract and Interim**
642 **Administrator Jeffery to Sign the Contract**

643 Item continued until the Board’s August 12th meeting.
644

645 **i. Consider Approval of License with Bearpath Homeowners’ Association and**
646 **Authorize President Ward to Sign.**

647 Item continued until the Board’s August 12th meeting.
648

649 **j. Consider Approval of Resolution 2021-005 Authorizing Solicitation of Bids**
650 **for Middle Riley Creek Stabilization Project**

651 Item continued until the Board’s August 12th meeting.
652

- 653 **k. Consider Approval of Cooperative Agreement with City of Chanhasen for**
654 **the Rice Marsh Lake Water Quality Treatment Project and Authorize**
655 **President Ward to Sign.**

656 Item continued until the Board's August 12th meeting.

- 657
- 658 **l. Consider Approval of Resolution 2021-006 Authorizing Solicitation of Bids**
659 **for Rice Marsh Lake Water Quality Treatment Project.**

660 Item continued until the Board's August 12th meeting.

9. Discussion Items

- 661 **a. Attorney Report**

662 Item continued until the Board's August 12th meeting.

- 663 **b. Administrator Report**

664 Item continued until the Board's August 12th meeting.

- 665 **c. Managers' Report**

666 Item continued until the Board's August 12th meeting.

667

10. Upcoming Board Topics

- 668 **a. Preliminary 2022 Budget.**

669

11. Upcoming Events

- 670 • August 13, 2021, Personnel Committee Meeting, 10 a.m., virtual
- 671 • August 16, 2021, CAC Meeting, 6 p.m., virtual
- 672 • September 1, 2021, Board Work Session, 5 p.m. and Regular Monthly Meeting, 7 p.m.

673

12. Adjournment

674 Item continued until the Board's August 12th meeting.