

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

May 10, 2021, 8:30 a.m. RPBCWD Board of Managers Continuation of May 5, 2021,
Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer
Larry Koch
Dorothy Pedersen, Vice President
Dick Ward, President
David Ziegler, Secretary

Staff: Amy Bakkum, Administrative Assistant
Terry Jeffery, Interim District Administrator and Watershed Planning Manager

Note: this meeting was held remotely via meeting platform Zoom in abidance with state mandates in response to Covid-19.

9d. Approve Contract with SRF for Design and Construction Administration Services for the St. Hubert Opportunity Project

- 1 Interim Administrator Jeffery stated an addendum to the District's contract with SRF would be
2 needed to address the revisions to scope of services as discussed by the Board two meetings ago.
3 He said to additions include educational services, water reuse tasks, final design tasks and
4 construction services.
- 5 Manager Koch asked for more clarification about the services revisions. Interim Administrator
6 Jeffery provided more detail about certain services that were included in SRF's original scope's
7 not to exceed amount, but now the District has capacity to do some of those services in-house.
8 Manager Koch said there is a written resolution as required by the recorded revision by the
9 District's bylaws to adopt this. He said he won't approve anything retroactively and he won't
10 approve anything with blanks in it. He recommended SRF go back and do their work.
- 11 Interim Administrator Jeffery explained why the contract includes services that were already
12 completed and what services remained to be completed. Manager Koch asked if Administrator
13 Bleser had the authority to approve the contact. Attorney Smith said the governance manual
14 provides the Administrator delegated authority by the Board to spend up to \$10,000 for change
15 orders. He said his best guess is the former Administrator understood that authority to cover this
16 additional scope for professional services. Attorney Smith say it is legal counsel's view that the
17 term change order is a term in construction agreements and further that the District's Governance
18 Manual provides that when the Administrator does issue such change orders, the Administrator
19 informs the Board.

20 Manager Koch asked for more details on what this contract states the District will pay for and
21 what it isn't paying for, and he remarked that this is bad contract administration. Interim
22 Administrator Jeffery said the total upcharge for the three additional scopes is \$18,399. He said
23 that amount will be reduced by \$5,000 because the educational graphics can now be done in
24 house by District staff.

25 Manager Pedersen moved to approve the administrative contract with SRF up to \$18,399 for the
26 St. Hubert Opportunity Project. Manager Crafton seconded the motion. Attorney Smith said staff
27 and legal counsel's recommendation is that the Board authorize the District Administrator to
28 execute the agreement.

29 Manager Koch said he is not going to approve what he considers to be a bad job of presenting a
30 contract amendment. He said there should be a spreadsheet and a resolution instead of wasting
31 time debating. Manager Pedersen said she sees this as one of those items that is a result of the
32 transition between the former District Administrator and Interim District Administrator. She said
33 the District's legal counsel has reviewed the contract, and staff and legal counsel recommend this
34 action. Upon a roll call vote, the motion carried 4-1 as follows:

35

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

36

9e. Approve Cooperative Agreement with St. Hubert

37 Interim Administrator Jeffery provided background about the cooperative agreement, noting
38 the biggest change from the previous draft is that now the playground equipment is outside
39 the scope and some indemnification language was added to agree the District would ensure
40 any consultant or contractor working on behalf of the District indemnifies St. Hubert.

41 Manager Crafton moved to approve the Cooperative Agreement. Manager Pedersen
42 seconded the motion. Manager Koch commented this agreement is one of the more poorly
43 drafted agreements he has had the occasion to review, because it is redundant, inconsistent,
44 not complete, includes no exhibits, and includes is an indemnification provision on page 7.
45 He commented on the termination language and said there's a host of items that need to be
46 reviewed and revised in this contract. Manager Koch asked why maintenance is being
47 capped and said he's not in favor of maintenance caps. He noted the bids are \$50,000 over
48 estimate.

49 Attorney Smith said the cap on maintenance is consistent with the Scenic Heights
50 Elementary school reforestation project since there was apprehension about the maintenance
51 exposure. He noted that from a practical aspect, it's his understanding that it's best for the
52 maintenance plan to be developed and agreed to after the project is constructed.

53 Administrator Jeffery reported that St. Hubert is contributing to the project \$45,000 plus the
54 playground costs and the project has been awarded a Metropolitan Council grant in the
55 amount of \$75,000, and \$63,865 from Clean Water Legacy grant funds, and \$25,000 from
56 Carver County SWCD for engineering design costs.

57 Manager Koch said he doesn't think the agreement should include a cap and it has
58 redundancies that should be avoided. He also asked about how the contract addresses people
59 to access the property and educational signage. Administrator Jeffery said signage is part of
60 the project and if it's not addressed in the contract, he will make sure it's addressed in the
61 maintenance agreement. Manager Koch recommended the District develop a template for a
62 cooperative agreement and a template for a maintenance agreement. He added that he thinks
63 developing a maintenance agreement after project construction is bad practice and should be
64 part of the overall approval.

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

66

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

67

9k. Authorize Staff and Attorney to Prepare Contract Documents and Award the St. Hubert Opportunity Project to Apparent Low Bidder Upon Appropriate Vetting

68 Interim Administrator Jeffery reported bid opening was held May 5th and the low bidder is
69 Minger Construction Company. He noted the bid is for the entire project, not just the water
70 quality portion. He introduced Ms. Erin Hunker of St. Hubert.

71 Manager Pedersen moved to award the contract to Minger Construction in the amount of
72 \$270,644. Manager Crafton seconded the motion.

73 Manager Koch commented this isn't a good presentation on bids, and it strikes him as
74 inconsistent or at least ambiguous with the cooperative agreement. He said the Board shouldn't

75 be agreeing to a contract until it know exactly what St. Hubert will be paying. Ms. Hunker said
76 that of the base bid by Minger Construction Company, \$13,342.50 will be paid by St. Hubert.
77 She said St. Hubert will pay all six items in the bid alternate for a cost of \$111,356.00.

78 Administrator Jeffery clarified that St. Hubert has 10 days from when the District awards the
79 project to the apparent low bidder to approve any of the bid alternates or add-ons. Attorney Smith
80 said there has been a coordinated discussion, and St. Hubert is tracking each step of this process,
81 but before the District could share legally all this information with St. Hubert, the District needed
82 to wait for bid opening and have the Board authorize the contract, after which St. Hubert would
83 make their final decisions about what's included in the project, which would then be finalized
84 accordingly. Manager Koch said the District shouldn't award the bid without the contingencies
85 for acceptance of those items that St. Hubert would pay for. He said this is a calamity that needs
86 to be reworked.

87 Attorney Smith said he thinks the suggestion is well taken that the motion should include that the
88 total final contract amount is contingent on St. Hubert's communication of the acceptance of
89 those alternate pieces. Manager Pedersen amended her motion to include the language about the
90 total final contract amount being contingent on St. Hubert's communication of the acceptance of
91 those alternate pieces, as stated by Attorney Smith. Manger Crafton accepted the friendly
92 amendment. Attorney Smith reiterated that the motion on the table is to award the contract to
93 Minger Construction, authorize the Interim Administrator to sign the agreement in the amount of
94 270,644 contingent upon communication from St. Hubert on their acceptance of the alternate.
95 Manager Koch commented this doesn't make any sense.

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

97

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

98

99 Manager Koch remarked it wasn't clear to him what was being voted on, and he thought it was a
100 vote to amend the motion.

101 Manager Crafton moved to authorize the Interim District Administrator to sign the watershed-
102 based implementation funding grant agreement with the Minnesota Board and Water Resources
103 in the amount of \$63,865 to be applied to the St. Hubert project. Manager Pedersen seconded the
104 motion.

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

106

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

107

108

13. Adjournment

109

President Ward referenced comments provided by Manager Koch in previous Board meetings, and he stated that disrespectful and unprofessional comments will not be tolerated in the future.

110

111

112

President Ward adjourned the meeting and left the meeting.

113

Manager Koch noted the meeting is not adjourned because there needs to be a vote, and he asked if President Ward knows how to conduct a meeting. Manager Koch said he thinks the District should have BWSR listen to these dialogs and Hennepin County likely would be interested in these dialogs as well.

114

115

116

117

Vice President Pedersen moved to adjourn the meeting. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

118

119

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

120

121

The meeting adjourned at 9:12 a.m.

122

123

124

125

126

127

128

129

130

Respectfully submitted,



David Ziegler, Secretary