

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

### December 11, 2024, RPBCWD Board of Managers Regular Monthly Meeting

PRESENT:

Managers:

Jill Crafton, Treasurer  
Tom Duevel, Secretary  
Bonnie Nelson

Dorothy Pedersen, President  
David Ziegler, Vice President

Staff:

Liz Forbes, Communication Manager  
Terry Jeffery, District Administrator  
Josh Maxwell, Water Resources & Fisheries Manager  
Dylan Monahan, Office Administrator  
Louis Smith, Attorney, Smith Partners  
Scott Sobiech, Barr Engineering Company

Other Attendees:

Terry Jorgensen, CAC  
Larry Koch\*  
Steve Sabraski, Landform  
Mark Nordland, Nordland  
Partners  
*\*Attended the meeting virtually.*

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

1 President Pedersen called to order the Wednesday, December 11, 2024, Board of Managers  
2 Regular Meeting at 7:01 p.m. at the District Office, 18681 Lake Drive East, Chanhassen,  
3 Hennepin County, Minnesota.

## 2. Approval of Agenda

4 Manager Ziegler moved to approve the agenda with a change to pull the approval of permit  
5 #2024-091 off the Consent Agenda and add it as an Action Item. Manager Duevel seconded  
6 the motion. Administrator Jeffery clarified item 7j is to consider an extension of the review  
7 period for permit 2024-078 Avienda Regional Stormwater Management and item 7e –  
8 Adopt Resolution 24-069 Approving the Cooperative Agreement between RPBCWD and  
9 City of Chanhassen - should be removed from the agenda.

10 The motion carried with no managers opposing.

### 3. Matters of General Public Interest

11 President Pedersen opened the floor for comments on matters of general public interest.  
12 Larry Koch objected to the holding of this meeting and shared his view that no action  
13 pursuant to the meeting is legal or binding to the District. Mr. Koch commented that when  
14 he printed out the meeting agenda, there were agenda items for which documents were not  
15 available. He raised a point about the District’s current policy on retainage and whether the  
16 payment applications on tonight’s agenda predate the current policy.  
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### 4. Reading and Approval of Meeting Minutes

18 **a. Approve Minutes of the October 2, 2024, RPBCWD Board of Managers**  
19 **Workshop**

20 Manager Crafton moved to approve the minutes of the October 2, 2024, RPBCWD Board  
21 of Managers Workshop with one edit on line 7 to replace “Izaak” with “Izaak”. Manager  
22 Duevel seconded the motion. The motion carried with no managers opposing.

23 **b. Approve Minutes of the November 6, 2024, Board of Managers Workshop**

24 Manager Ziegler moved to approve the minutes of the November 6, 2024, RPBCWD  
25 Board of Managers Workshop. Manager Crafton seconded the motion with one edit on  
26 line 24 to replace “begging” with “beginning.” The motion carried with no managers  
27 opposing.

28 **c. Approve Minutes of the November 6, 2024, Board of Managers Regular**  
29 **Meeting.**

30 Manager Ziegler moved to approve the minutes of the November 6, 2024, Regular  
31 Meeting. Manager Crafton seconded the motion with one edit on line 256 to replace  
32 “Robinson” with “Robertson.”

33 The motion carried with no managers opposing.  
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### 5. Reports

35 **a. Receive Citizen Advisory Committee Report**

36 Jeff Jorgenson reported the CAC would like to bring to the Board’s attention again the  
37 CAC motion about the definition of steep slopes. Administrator Jeffery said this topic will  
38 be part of the rules revision and the CAC will be asked to provide input.

39 Manager Nelson moved to direct the Administrator to make a list, for the Board and CAC,  
40 of information staff has in-house on steep slope ordinances from other cities for future  
41 benchmarking the CAC could help with. Manager Crafton seconded the motion.

42 Manager Ziegler moved to amend the motion to make a list of potential rule changes. The  
43 motion to amend died due to lack of a second.

44 The motion carried with President Pedersen opposing.

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46 **b. Receive November 27, 2024, Personnel Committee Report**

47 Administrator Jeffery reported the cost of health insurance for District staff is increasing,  
48 so insurance costs overall will increase \$10,000 over what was budgeted. President  
49 Pedersen added the Committee is in the process of gathering other plan estimates, which  
50 could potentially reduce the estimated increase.

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52 **c. Receive November Staff Report**

53 **d. Receive November Administrator's Report**

54 **e. Receive November Engineer's Report**

55 **f. Receive November Regulatory Report**

56 **g. Confirm Board Representative for December 16, 2024, CAC Meeting**

57 Manager Duevel volunteered to be the Board representative for the December 16<sup>th</sup> CAC  
58 meeting.

59 Manager Ziegler moved to receive all the reports listed. Manager Crafton seconded the  
60 motion. The motion carried with no managers opposing.

## 6. Consent Agenda

61 **a. Adopt Resolution 24-065 to Approve Consent Agenda**

62 Manager Ziegler moved to adopt Resolution 24-065 to Approve the Consent Agenda as  
63 listed. Manager Nelson seconded the motion. The motion carried with no managers  
64 opposing.

65 The Consent Agenda included:

- 66 • Approve Pay Application #1 for Lotus Lake Alum Application
- 67 • Approve Pay Application #8 for the Pioneer Trail Wetland 2024 Maintenance
- 68 • Approve Pay Application #8 for the Rice Marsh Lake 12A Water Quality Project.
- 69 • Approve Permit 2024-049 for Leona Road Redevelopment as Presented in the  
70 Recommended Board Action Section of the Permit Review Report.
- 71 • Approve Permit 2024-091as Presented in the Recommended Board Action  
72 Section of the Permit Review Report.

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74 Manager Ziegler moved to adopt resolution 24-064 to Approve the Consent  
75 Agenda as listed. Manager Crafton seconded the motion. The motion carried with  
76 no managers opposing.

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## 7. New Business

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### a. Items Removed from Consent Agenda

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#### i. Approve Permit 2024-091 as Presented in the Recommended Board Action Section of the Permit Review Report

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Manager Ziegler said he would like the District to consider, as part of its future consideration of the District's rules, that removing 100% of a site's trees and replacing none seems like something the District should have a rule against. He said the District's rules should consider how to minimize grading of forest and native prairies and if trees are removed, trees are replaced.

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Mr. Smith noted the City of Eden Prairie has a tree replacement ordinance, and Mr. Sobiech has included a detailed tree replacement plan in the information for this agenda item.

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Manager Ziegler moved to approve Permit 2024-091 as presented in the recommended Board Action section of the permit review report. Manager Duevel seconded the motion. The motion carried with no managers opposing.

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### b. Adopt Resolution 24-066 Accepting the November Treasurer's Report and Approving Payment of the Bills

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Manager Duevel moved to adopt Resolution 24-066 Accepting the November Treasurer's Report and approving payment of the bills. Manager Ziegler seconded the motion. The motion carried with no managers objecting.

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### c. Provide Opportunity for Comment and Adopt Resolution 24-067 Confirming Final Budget and Levy for 2025

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President Pedersen opened the floor for comments on the District's adopted budget and levy for 2025. No comments were made.

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### d. Consider Adoption of Resolution 24-068 Appointing of Members to the Citizens' Advisory Committee Meeting

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Manager Crafton moved to appoint three new members to the CAC: Bradford Ullery, Marcia Kolb and Hannah Peterson and to reappoint all returning CAC members: Andrew Aller, Jim Boettcher, Marilynn Torkelson, Michelle Frost, Sharon McCotter, Jeff Weiss, and Andrew Peterson. President Pedersen seconded the motion. The motion carried with no managers objecting.

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112 **f. Adopt Resolution 24-070 Authorizing Solicitation of Bids for the Upper Riley**  
113 **Creek Ecological Enhancement Project and Authorizing the President to Sign**  
114 **the Agreement**

115 Administrator Jeffery recommended tabling this item until there is an agreement  
116 that the managers can review. Manager Duevel moved to table this item. Manager  
117 Ziegler seconded the motion. The motion carried with no managers objecting.

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119 **g. Adopt Resolution 24-071 Setting the 2025 Calendar**

120 Manager Zieger moved to adopt Resolution 24-071 Setting the 2025 Calendar.  
121 Manager Crafton seconded the motion with changes to set the December meeting  
122 for December 17<sup>th</sup>, the July meeting for July 7<sup>th</sup>, and for Committee meetings to be  
123 held at 2 p.m. Administrator Jeffery noted the calendar includes a 5 p.m. workshop  
124 ahead of each monthly regular meeting. The motion carried with no managers  
125 objecting.

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127 **h. Governance Manual Notice for Considering Amendments at December**  
128 **Meeting**

129 Manager Ziegler moved to adopt Resolution 24-072 Adopting the Revised Governance  
130 Manual. Manager Duevel seconded the motion.

131 Manager Nelson recommended a change to the Manual to reflect if at minimum two  
132 managers feel they did not receive supporting materials for agenda items in time for  
133 adequate review, agenda items could be tabled by the Board through a motion and a  
134 second, as opposing to approval by a majority of the Board.

135 Manager Nelson moved to amend the motion to include a modification to Robert's Rules  
136 of Order to allow if a manager moves to table an item and the motion is seconded, the  
137 item would be tabled. She read aloud her recommended Manual language update. Mr.  
138 Smith said the language seems very clear and straightforward and may be modified  
139 slightly to fit into the format of the Governance Manual. Manager Duevel seconded the  
140 motion. Upon a vote, the motion to amend failed with four managers opposing.

141 Mr. Smith highlighted one adjustment to the Manual amendments, in the financial  
142 management section: a technical correction on page 68 to delete line 1952.

143 Manager Ziegler and Manager Duevel agreed to the technical correction.

144 The motion carried with no managers objecting.

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**i. Adopt Resolution 24-073 Establishing Vendors that May be Paid via Automated Clearing House (ACH)**

Manager Ziegler moved to adopt Resolution 24-073 Establishing Vendors that may be Paid via Automated Clearing House (ACH). Manager Crafton seconded the motion. The motion carried with no managers objecting.

**j. Consider Extension of Permit 2024-078 Avienda Regional Stormwater Management**

Scott Sobiech reported the applicant is requesting two variances: one from the District’s requirement of compensatory storage within the same floodplain and one to allow abstraction to the maximum extent practicable on the restricted site rather than the full 1.1-inch abstraction. He summarized the engineer’s review to-date, reminding the Board that it will be looking at, going forward, a potential approval of a regional stormwater management plan.

Administrator Jeffery said staff is looking for Board guidance on whether the direction Mr. Sobiech presented is the direction to continue pursuing and for the Board to consider approving a motion to extend the permit review period.

Mr. Smith asked if there a timing risk of allowing the development to proceed based on the timing of a future stormwater treatment facility and the risk that it could be built or not. Mr. Sobiech responded that part of regional plan is an annual accounting of how much is available and how much has been used. He said that accounting cannot go into the negative, so BMPs need to be constructed prior to or in conjunction with development. They have to show they are meeting criteria as they are moving forward.

Administrator Jeffery asked the Board to act to extend the permit review timeline by 60 days to allow the District time to work with the applicant on revisions and to review and process the revised submittal materials.

Manager Duevel moved to extend the permit review period by 60 days to February 28, 2025, for Permit 2024-078 Regional Stormwater Management. Manager Crafton seconded the motion. The motion carried with no managers opposing.

**k. Authorize Amendment to Task Order 036B for Barr Engineering to Conduct a Phase 2 Environmental Site Assessment**

Administrator Jeffery reminded the Board the site is the Bluff Creek channel. He said there is a promiscuous farm dump on the site and there is liability associated with the District taking action. He noted that the District does not own the property and therefore cannot enroll in the MPCA’s VIC (Voluntary Investigation and Cleanup) program. Mr. Smith said the only protection for the District is to work with the landowner and the landowner enrolling in the VIC program and the landowner, in exchange, indemnifying

185 the District. Mr. Smith recommended the Board consider conditioning its authorization on  
186 Board approval of a draft land-use agreement with the property owner that:

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- Describes and provides for authorization and the cost of the work;
  - 188 • Requires the owner to enroll the property in the MPCA volunteer clean-up  
189 programs to secure a letter of liability assurance ; and,
  - 190 • Indemnifies the District from liability from any pre-existing condition of the  
191 property including, but not limited to, contamination.

192 Manager Ziegler moved to authorize the Amendment to Task Order 036B based on the  
193 conditions presented by Mr. Smith that the Board review and approve a land-use  
194 agreement with the property owner that:

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- Describes and provides for authorization and the cost of the work;
  - 196 • Requires the owner to enroll the property in the MPCA volunteer clean-up  
197 programs to secure a letter of liability assurance; and,
  - 198 • Indemnifies the District from liability from any pre-existing condition of the  
199 property including, but not limited to, contamination.

200 Manager Crafton seconded the motion. The motion carried with no managers opposing.

## 8. Discussion Items

201 **a. Update LAK v. RPBCWD and Terrance Jeffery (the Board may go into**  
202 **closed session)**

203 Mr. Smith said regarding 8 a and b there is no news to present and no need to go into  
204 closed session.

205 **b. Update LAK v. Hennepin County, Carver County, RPBCWD, et all (the**  
206 **Board may go into closed session)**

207 [See item 8 a.]

## 9. Manager Reports

208 Manager Duevel reported on his take-aways from sessions he attended at the Minnesota  
209 Watersheds Conference, including the session on “New Tools to Support Stormwater  
210 Management in HOAs.” The group discussed soil health and the idea of soil management  
211 plans to address considerations such as how sites are graded, where soil is stockpiled, and  
212 how stockpiles are managed.

213 Mr. Sobiech commented that the current regulatory program has language about promoting  
214 endeavors like green infrastructure. He said the District could consider if there are ways to  
215 do more than just promote and get ahead such as with sequencing steps.

216 Manager Crafton commented about diverting water to wetlands and how to know the limit  
217 of the capacity beyond bounce and in terms of the entire functioning ecosystem. She asked  
218 if the District could expand its protection of wetlands beyond bounce.

219 Mr. Sobiech said these are discussions he is looking forward to having with the Board as  
220 part of its 10-Year Plan planning process.

221 Manager Nelson reported she attended the December 9<sup>th</sup> Chanhassen City Council Meeting  
222 workshop and said it was interesting to listen to the discussion.

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## 10. Upcoming Board Topics

224 a. December 19<sup>th</sup> – Strategic Planning Workshop, 12 p.m. – 3 p.m.

225 b. Notice of intent to modify 10-Year Plan

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## 11. Upcoming Events

227 a. February 19-20, 2025 – MNWa Legislative Event

228 b. June 24-26, 2025 – MNWa Summer Tour in Roseau Conference (6:30 p.m.)

229 c. December 4<sup>th</sup> – 6<sup>th</sup> Minnesota Waters Annual Conference

230 d. December 11<sup>th</sup> – Regular Meeting of RPBCWD Board of Managers

231 e. December 19<sup>th</sup> – Mission, Vision, and Values Workshop

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## 12. Adjourn

233 President Pedersen adjourned the meeting at 9:27 p.m.

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Respectfully submitted,

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Tom Duevel, Secretary