

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

**April 20, 2023, Continuation of April 12, 2023 RPBCWD Board of Managers
Regular Monthly Meeting**

PRESENT:

Managers: Jill Crafton, Treasurer
Tom Duevel, Vice President
Larry Koch
Dorothy Pedersen, Secretary
David Ziegler, President

Staff: Amy Bakkum, Administrative Assistant
Liz Forbes, Communication Manager
Terry Jeffery, District Administrator
Josh Maxwell, Water Resources Coordinator
Louis Smith, Attorney, Smith Partners
Scott Sobiech, Engineer, Barr Engineering Company

Other Attendees: Ted Melby

Note: the Board meeting was held remotely via meeting platform Zoom because it was deemed not prudent to meet in person due to the COVID-19 pandemic.

1. Call to Order of the Continuation of the Board of Managers April Monthly Meeting

1 At 6:01 p.m. on Thursday, April 20, 2023, President Ziegler adjourned the continuation of the
2 April 12, 2023, Board of Managers Regular Meeting. Mr. Smith called roll for the Board of
3 Managers.

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

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8. Discussion Items

a. Covid Pandemic and District Meetings

6 Mr. Smith reminded the Board it directed him and Administrator Jeffery to explore a
7 hybrid approach to District meetings. He presented a draft declaration for President
8 Ziegler's consideration and explained the legal approach used in preparing the draft.
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10 Mr. Smith said his understanding is that President Ziegler is seeking input from the
11 managers regarding the draft declaration and the approach it proposes regarding, in sum,
12 the District determining it to be practical and prudent for some managers and
13 committees of the RPBCWD Board to convene in person in a public setting in
14 accordance with the Open Meeting Law and recognizing Covid-19 infections continue
15 to occur and members of the Board may have pandemic-related medical reasons or
16 chronic health conditions posing increased risks with Covid 19 and for such reasons are
17 not able to be in a public place based on advice from a health professional.

18 Mr. Smith said state statute 13D.021 is the pandemic provision for the Open Meeting
19 law and expressly recognizes that in pandemic conditions some Board members may be
20 able to be present at meetings while other members participate remotely by telephone or
21 interactive technology. Mr. Smith stated the draft declaration states that until further
22 notice, all meetings of the RPBCWD and its committees will be in person and open to
23 the public while also recognizing a Board manager may on advice of a health care
24 provider have a legitimate pandemic-related reason for not attending a meeting in
25 person at a public place for specific reasons including having the Covid-19 infection or
26 exposure or a chronic health condition posing increased risk from Covid 19 and in such
27 circumstances may participate in the meeting remotely by telephone or interactive
28 technology, and the RPBCWD will continue to provide for remote participation by the
29 public through telephone or other electronic means to be made available to the public at
30 no cost, meaning a link to the meeting on an online meeting platform.

31 Mr. Koch said his understanding of the state statute is that it gives the District president
32 the authority to decide if there is a pandemic. He said the governor terminated the state
33 of emergency but that does not mean there is not a pandemic. He said the World Health
34 Organization has stated it will not make a determination until later this year regarding
35 the status of the pandemic being over. Manager Koch said he thinks the District should
36 continue to hold remote-only meetings and not bifurcate the system until it knows the
37 status of the District's HVAC systems and knows more about the Covid 19 variant.

38 Mr. Smith said it is within the Board's discretion to continue to hold remote-only
39 meetings based on whatever information the Board thinks is relevant to that
40 determination.

41 Manager Pedersen commented she is in favor of the approach outlined by the
42 declaration. Manager Crafton stated she is in favor of the hybrid approach and the
43 declaration and is in favor of adopting it tonight.

44 Mr. Smith clarified that the Open Meeting Law requires all managers to be able to see
45 and hear each other during meetings except under pandemic conditions, under which
46 circumstances the pandemic provisions do not require it, although it is a good practice.

47 Administrator Jeffery reported based on his research it will cost approximately \$58,000
 48 to \$65,000 to equip the District office Board room with fully operational hybrid and
 49 social distancing meeting capability. He said the District budgeted \$50,000 in funds for
 50 costs related to enable a hybrid office and meeting capability. He said additional funds
 51 could come from the District’s reserve or office budget.

52 Manager Koch moved to table this item until the Board receives a firm response from
 53 staff as to the cost for equipping the District office and the status of the HVAC system.
 54 The motion died due to lack of a second.

55 Administrator Jeffery reminded the Board he is authorized up to \$5,000 of discretionary
 56 spending, so the Board will need to consider its timeline for achieving hybrid meeting
 57 capability and provide authorization to staff.

58 Manager Pedersen moved to accept the declaration as written and prepared by Mr.
 59 Smith and to authorize Administrator Jeffery to spend up to \$60,000 to equip the
 60 District office for hybrid meetings. Manager Crafton seconded the motion.

61 Manager Koch commented this action to authorize spending money is ill-advised and
 62 irresponsible as the Board does not know yet what the equipment looks like and what is
 63 being proposed. He said if we do this, we do not deserve to sit on this Board because it
 64 is irresponsible. Manager Koch suggested giving Administrator Jeffery the opportunity
 65 to make a presentation on the proposed work to equip the office.

66 Manager Crafton stated as a point of order she thinks it is disrespectful for a manager to
 67 say that another manager should not be on the Board and she thinks that is in violation
 68 of the District’s governance policy.

69 Manager Koch said the managers have not seen any proposals and if the managers want
 70 to talk about malfeasance or misfeasance then that is the case.

71 President Ziegler and Manager Koch raised points about meeting procedure and
 72 Robert’s Rules of Order. Manager Koch stated the manner and tone in which President
 73 Ziegler addressed him was unprofessional and people can hang both him and President
 74 Ziegler at the same time for expressing their opinions.

75 Upon a roll call vote, the motion made by Manager Pedersen, seconded by Manager
 76 Crafton carried 5-0 as follows:

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

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Manager Koch said he has not received a status update and information on the District office’s HVAC system. Administrator Jeffery said he has put in a call to the appropriate party and hopes to have information for the Board at its May 3rd meeting. Manager Koch noted he has raised his request for the HVAC information for several meetings and the Board still does not have the information and the Board voted to take action without the information and he finds it unacceptable to proceed in this manner.

c. Closed Session to Discuss the Potential for Acquisition of Property Located at 9955 and 9875 Spring Road, Eden Prairie, MN [PID 281162232005]

Manager Koch moved to enter closed session for the purposes of discussing the possible acquisition of property located at 9955 and 9875 Spring Road, Eden Prairie, MN. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

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

The Board moved into closed session at 6:33 p.m.
At **p.m.** the Board moved out of closed session, which was held for the purpose of the Board discussing of the possible acquisition of property located at 9955 and 9875 Spring Road, Eden Prairie, MN [PID281162232005, and the Board reconvened the public regular monthly Board meeting.

Manager Koch moved to recess this meeting until 7:00 p.m. Tuesday, April 25 to reconvene to hold a closed session and to hold a public meeting to discuss any agenda item not yet addressed. Manager Pedersen seconded the motion.

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

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

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9. Manager Reports

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[Item continued to the April 25th Board meeting continuation.]

10. Administrator Reports

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[Item continued to the April 25th Board meeting continuation.]

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11. Legal Counsel Reports

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[Item continued to the April 25th Board meeting continuation.]

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12. Upcoming Board Topics

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[Item continued to the April 25th Board meeting continuation.]

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13. Upcoming Events

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[Item continued to the April 25th Board meeting continuation.]

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- Turf Maintenance Workshop – April 13, 2023

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- RPBCWD Board Workshop – April 20, 2023

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- Cedar Ridge Elementary Science Night – April 20, 2023

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- Eden Prairie Eco Expo – April 22, 2023

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- Resilient Shoreline Workshop with NMCWD, Eden Prairie and Blue Thumb – April 26, 2023

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- Arbor Day Walk and Green Fair with Eden Prairie, NMCWD, and LMRWD

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14. Adjournment

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[Item continued to the April 25th Board meeting continuation.]

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Respectfully submitted,

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Dorothy Pedersen, Secretary