

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

August 7, 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:** Zach Dickhausen*, Natural Resources Coordinator
Liz Forbes*, Communication Manager
Terry Jeffery, District Administrator
Josh Maxwell*, Water Resources & Fisheries Manager
Dylan Monahan, Office Administrator
Alaina Portoghese*, Communications Specialist
Louis Smith, Attorney, Smith Partners
Scott Sobiech, Barr Engineering Company
Rachel Whittington, MN GreenCorps*
- Other Attendees:** Dave Paulson, CAC
**Attended the meeting virtually.*

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

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

4 President Pedersen stated that by declaration of the president this meeting is being held in
5 person in public and hybrid while the District recognizes a manager may, based on advice
6 from a healthcare professional, have a legitimate reason for not attending a meeting in a
7 public place in person, such as Covid-19 exposure or infection, and in such circumstances
8 may participate in the meeting remotely.

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

<i>Manager</i>	<i>Action</i>
Crafton	Present

Duevel	Present
Nelson	Present
Pedersen	Present
Ziegler	Present

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2. Approval of Agenda

11 Manager Ziegler moved to approve the agenda as written. Manager Duevel seconded the
12 motion. Upon a roll call vote, the motion carried 5-0 as follows:

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

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3. Matters of General Public Interest

15 President Pedersen called for public comment on matters of general public interest.

16 Larry Koch of 471 Bighorn Drive, Chanhassen, commented he objects to this meeting and
17 he read his comments, submitted in writing to Terry Jeffery and the Board of Managers of
18 the Riley Purgatory Bluff Creek Watershed District, into the record as follows:

19 I am here tonight to inform the public of what I believe are two serious violations of
20 Minnesota law by Hennepin County and Carver County for which I have commenced a
21 lawsuit in Hennepin County. First and foremost, is Carver County's and indirectly,
22 Hennepin County's violation of my right to be appointed as a manager of the watershed
23 district under the veterans preference granted me under Minnesota law. Despite having
24 informed Carver County that I have the right as a veteran under Minnesota law to be
25 appointed as a manager of this District, the Carver County Commissioners failed to
26 reappoint me as a manager. I raise this violation of law not so much for myself, but for
27 every other veteran out there so that they are aware that there are government agencies
28 refusing to give us veterans the rights that we have been granted by the Minnesota
29 legislature because of our service to this great country. It is a travesty that, I have been

30 forced to start a lawsuit to protect the rights of veterans granted to them under Minnesota
31 law. Consequently, I ask each and every veteran to contact me, this District, your city,
32 county and state officials and legislators about this violation so that we can join together to
33 stop these outrageous violations of our rights that we gained by serving our country and tell
34 them that you expect that all government entities to uphold our rights as veterans because as
35 we all know, but for our veterans, this country would not exist. You can contact me at
36 lakpa471@gmail.com.

37 Secondly, I want to bring to everyone's attention that Minnesota law requires that the
38 managers of the District be appointed so as to fairly represent the hydrologic areas. So the
39 public knows, the District has three watersheds, Purgatory, Riley and Bluff Creeks. Each
40 watershed is by definition as a hydrologic area. Despite this requirement, all 5 of you live
41 within one watershed, Purgatory Creek watershed. That leave two watersheds, Riley and
42 Bluff without any representation on this board of managers of this District. This is a clear
43 and unequivocal failure to abide by Minnesota law. I note that this is not because there were
44 not applicants from the other creek watersheds. Consequently, this board is not duly
45 constituted and as a result does not have the authority to take any actions as managers of this
46 district. Each of you should resign and cease to act as a manager so that Carver and
47 Hennepin county may efficiently appoint managers in compliance with both the Minnesota
48 law regarding the rights of veterans as well as the requirement that the managers fairly
49 represent the hydrologic areas of the District. Finally, I ask that each and every resident of
50 the District contact you, their cities and counties and state officials and legislators and
51 demand that you receive the representation on this board that you are entitled to under
52 Minnesota law. Again, you can contact me at lakpa471@gmail.com.

53 Louis Smith noted for the record Judge Joseph Kline in Hennepin County District Court
54 issued an order yesterday stating managers Nelson and Crafton are currently the serving
55 managers and he rejected the request for injunctive relief to halt their taking positions based
56 on his judgement that Mr. Koch's claims were at best doubtful in terms of success on the
57 merits.

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4. Reading and Approval of Meeting Minutes

59 **a. Approve Minutes of the July 10, 2024, Regular Meeting of the RPBCWD**
60 **Board of Managers**

61 Manager Duevel moved to approve the minutes of the July 10, 2024, Regular Meeting of
62 the RPBCWD Board of Managers as written. Manager Ziegler seconded the motion.

63 Manager Crafton noted the following edits: on lines 241 and 242 to replace Minnesota
64 Waters with Minnesota Watersheds and on line 316 to capitalize the business name.

65 Manager Duevel and Manager Ziegler consented to the changes.

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

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

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b. Approve Minutes of the July 18, 2024, RPBCWD Board of Manager Workshop

Manager Duevel moved to approve the minutes of the July 18, 2024, RPBCWD Board of Managers workshop. Manager Ziegler 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
Nelson	Yes
Pedersen	Yes
Ziegler	Yes

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5. Committee Reports

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a. Adopt Resolution 2024-048 Receiving the Following Committee Reports.

- **Receive Personnel Committee Report**
- **Receive July Staff Report**
- **Receive Citizen Advisory Committee’s Report and Minutes**

Manager Duevel moved to adopt Resolution 24-041 Receiving Committee Reports. Manager Ziegler 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
Nelson	Yes
Pedersen	Yes
Ziegler	Yes

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b. Confirm Board Representative for CAC Meeting

Manager Crafton volunteered to be the Board representative at the September 16th CAC meeting.

6. Consent Agenda

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a. Adopt Resolution 24-049 to Approve Consent Agenda

Manager Ziegler moved to adopt Resolution 24-049 to Approve the Consent Agenda. Manager Crafton 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
Nelson	Yes
Pedersen	Yes
Ziegler	Yes

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The Consent Agenda included:

- Accept July Treasurer’s Report
- Approve Payment of the bills
- Authorize Administrator to execute LMCIT waiver electing not to waive the monetary limits on tort liability.
- Authorize pay application #8 for Middle Riley Creek in the amount of \$4,875.

- Authorize the administrator to register Managers for the MN Water Resources Conference and authorizing the use of District funds for registration fees.

7. New Business

a. Items Removed from Consent Agenda

[No items were removed from the Consent Agenda.]

b. Adopt Resolution 24-050 Authorizing Administrator to Enter into an Agreement with Identisys to Install Access Control and Intrusion Detection System

Manager Ziegler moved to adopt Resolution 24-050 with the caveats Administrator Jeffery recommended regarding legal counsel advice. Manager Duevel 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
Nelson	Yes
Pedersen	Yes
Ziegler	Yes

c. Adopt Resolution 24-051 Amending the District Organizational Chart

Administrator Jeffery requested the Board adopt the proposed amended District organizational chart as presented. He said the budget to match the amended organizational chart is reflected in the draft proposed 2025 budget.

Manager Ziegler moved to adopt Resolution 24-051 Amending the District Organizational Chart. Manager Crafton 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
Nelson	Yes
Pedersen	Yes
Ziegler	Yes

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8. Discussion Items

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a. 2025 Budget and Levy

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Administrator Jeffery displayed the slide presentation titled, “RPBCWD 2025 Budget and Levy – Annual Reserves and Carryover Funds by year.” He summarized the proposed District 2025 budget and levy as follows and also as presented at the Board’s July 18th workshop:

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- Total levy amount 2025: \$4,249,905

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- Unspent Monies from 2024: \$4,013,812

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- Other Revenue: \$429,500

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- Total Assets for 2025: \$8,693,217

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- Total Expenditures in 2025: \$6,394,750

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- Reserves at end of 2025: \$2,298,467

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Administrator Jeffery reminded the Board one question it raised at the July workshop is whether the proposed level of reserves at the end of 2025 is consistent with what the District has had in years past. He shared his analysis based on looking back at the District’s audits and adopted budgets and levies since 2016. Administrator Jeffery said based on the analysis, the proposed approximately \$2,300,000 reserve at the end of 2025 is consistent with what the District has had in the past. He said that would represent a 5% levy increase. Administrator Jeffery said if the District were to carry forward \$2,200,000, that would be a 4.5% levy increase, and he encouraged Board to look at a 4.5% levy increase and then in future years build reserves back up.

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Manager Ziegler advocated for a 5% percent increase as he is not in favor of the District needing to have a big jump in the levy in future years.

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Manager Nelson recommended the District go with the smaller increase. She said Carver County and a lot of the cities have a lot of increases and additional levies and if the District cannot justify a need for additional money and the 4.5% covers all the District’s liabilities and program capital projects, she does not think in good conscience

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150 the Board should approve a higher levy. Administrator Jeffery noted the reserve does
 151 not cover the District’s capital projects but the budget does cover them.

152 Manager Crafton said she encourages a higher levy because the District is undertaking a
 153 new project with the acquisition and she wants to make sure the District has everything
 154 covered.

155 Manager Pedersen agreed with Manager Crafton and Manager Ziegler and said she
 156 supports the 5% increase.

157 Manager Duevel agreed with the comments in favor of the 5% increase in the levy.

158 Administrator Jeffery said no action is in front of the Board tonight and the District will
 159 hold a public hearing on September 11th to receive public comments on the proposed
 160 2025 budget and levy. He said the District we will receive public comments again in
 161 December. He noted the District could take action at that time to reduce its budget and
 162 levy request.

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164 **b. Discussion of Both of Larry Koch’s Pending Lawsuits Versus RPBCWD, et.**
 165 **al. – The Board may go into Closed Session)**

166 Mr. Smith recommended the Board go into closed session for the purpose of receiving
 167 confidential legal advice concerning litigation strategy regarding two active lawsuits in
 168 which the District is a defendant:

- 169 • Larry Koch vs. Riley Purgatory Bluff Creek Watershed District and Terry
 170 Jeffery that concerns the Spring Road conservation project; and,
- 171 • Larry Koch vs. Riley Purgatory Bluff Creek Watershed District, Carver County,
 172 Hennepin County, Bonnie Nelson, and Jill Crafton that concerns the two most
 173 recent appointments of the managers.

174 Manager Ziegler moved to go into closed session for the purpose of receiving
 175 confidential information as stated by Attorney Smith. Manager Crafton seconded the
 176 motion. Upon a roll call vote the motion carried 5-0 as follows:

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

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The Board moved into closed session at 7:33 p.m.
The Board reconvened the public meeting at 7:55 p.m.

9. Member Reports

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a. Manager Reports

Manager Duevel reported he recently attended a two-day Bolton & Menke salt symposium with a couple hundred people and representation from three countries. He said his take-aways include there is a lot of work being done regarding chloride, and salt is being contributed not only from roadways and snow and ice management but also from water softeners, which contribute about 50%. He said agriculture is also a contributor to chloride in the water system. Manager Duevel said he will share the presentations with Administrator Jeffery.

Manager Crafton mentioned that St. Louis Park and CenterPoint Energy are investigating if the pipes that bring natural gas to houses could be used to transfer geothermal heat. She said if there is any way to do that, perhaps there is a way to put it under roads, so less salt would need to be used.

Manager Nelson thanked the staff and managers for the warm welcome to the Board and she looks forward to working with everyone. She introduced CAC member Dave Paulson.

Mr. Paulson commented the CAC did not have quorum for its July meeting. He said the CAC is continuing to discuss water conservation scoring, the water conservation audit, and the concept of water for the common good.

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b. Administrator Report

Administrator Jeffery had no report.

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c. Legal Counsel Report

Mr. Smith had no report.

10. Upcoming Board Topics

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a. Board and Staff Retreat for Strategic Planning Purposes

- 209 **b. Public Hearing on 2025 Budget and Levy**
- 210 **c. Adoption of 2025 Budget and Levy**

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11. Upcoming Events

- 212 **a. August 26th MN Watersheds Meeting**
- 213 **b. December 4th-6th Annual Conference**

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12. Adjourn

215 Manager Duevel moved to adjourn the meeting. Manager Ziegler seconded the motion.
216 Upon a roll call vote, the motion carried 5-0 as follows:

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

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219 The meeting adjourned at 8:09 p.m.

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Respectfully submitted,

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Tom Duevel, Secretary