

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

October 6, 2021, RPBCWD Board of Managers 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

Terry Jeffery, Interim District Administrator and Watershed Planning Manager

Eleanor Mahon, Education and Outreach Coordinator

Josh Maxwell, Water Resources Coordinator

Louis Smith, Attorney, Smith Partners

Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: Dan Blake

Seth Loken

Robert Erickson

Mark Rausch

Greg Hawks

Gretchen Schroder

Michelle Frost

Patrick Sejkora

Note: this meeting was held remotely via meeting platform Zoom in abidance with the District's procedures in response to state COVID-19 actions, mandates, and guidance.

1. Call to Order

1 President Ward called to order the Wednesday, October 6, 2021, Board of Managers Regular
2 Meeting at 7:00 p.m. The meeting was held remotely via meeting platform Zoom.

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2. Approval of Agenda

4 Manager Ziegler moved to approve the agenda as written. Manager Pedersen seconded the
5 motion.

6 Administrator Jeffery requested removing agenda item 6d – Authorize Interim Administrator
7 Jeffery to work with the Personnel Committee to Solicit Candidates for the Position of District

8 Administrator – and directing the matter to the Personnel Committee to discuss along with
 9 comments from Manager Koch. Manager Ziegler requested removing item 6b – Accept
 10 September Engineer’s Report – from the Consent Agenda. Manager Koch requested removing
 11 items 6a – Accept September Staff Report – and 6c – Accept September Construction Report.
 12 Managers Ziegler and Pedersen accepted the friendly amendments.

13 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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3. Matters of General Public Interest

17 Mr. Robert Erickson said he would like to participate in the discussion of agenda item 71 –
 18 Consider Request for Partnership with Private Property Owners for Repair of Culvert Under
 19 Private Drive. The Board agreed he could.

4. Reading and Approval of Meeting Minutes

20 **a. September 1, 2021, RPBCWD Board of Managers Regular Meeting, Including**
 21 **September 14th Continuance**
 22 Manager Crafton moved to approve the minutes of the September 1st Board of Managers
 23 Regular Meeting Including September 14th Continuance. Manager Ziegler seconded the
 24 motion. Manager Ziegler commented that in the September 14th meetings, line 1 should
 25 note the meeting continuation was a special meeting, and on line 52, the word “into”
 26 should be inserted before “the District’s Reserve Fund.” He said that in the September 1st
 27 minutes, line 25 should identify the items moved from the Consent Agenda to Action item
 28 8a. He commented that on line 36, the word “culvert” should be replaced with “Watershed
 29 District.” Manager Pedersen noted the word “at” should be removed on line 293 in the
 30 September 1st minutes.

31 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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5. CAC

34 Ms. Michelle Frost reported on the CAC’s September 20, 2021, meeting. She described the
 35 CAC’s discussion about the District’s permit rules and how the rules are the same or different
 36 from other watershed districts. Ms. Frost said the CAC would like information about other
 37 District’s permit rules to be able to ascertain if the District is up-to-date with its rules and
 38 regulations.

39 Ms. Forbes noted the next CAC meeting will be held in November. President Ward said once the
 40 meeting is set, the managers will figure out who will attend as the Board representative.

41 There was discussion about information staff could provide to the CAC about other watersheds’
 42 rules and regulations. Administrator Jeffery said there is a spreadsheet of the different watershed
 43 management entities and municipalities and their rules and regulations. He said it needs updating,
 44 but it wouldn’t take too much work to do so. The Board directed staff to update the spreadsheet
 45 and to provide the updated information to the managers and the CAC.

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6. Consent Agenda

47 Manager Ziegler moved to accept the Consent Agenda as amended earlier in the meeting.
 48 Manager Pedersen seconded the motion. Manager Koch made the friendly amendment that the
 49 adoption of the Consent Agenda is adoption of those proposals with respect to the permits.
 50 Managers Ziegler and Pedersen accepted the friendly amendment. The Consent Agenda included
 51 item 6e - Approve Permit 2021-046 Crossroads of Chanhassen as Presented in the Proposed
 52 Board Action Section of the Permit Review Report, 6f – Approve Permit 2021-051- Eagle Bluff
 53 as Presented in the Board Action Section of the Permit Review Report, and 6g – Approve
 54 Payment Application #3 for the Duck Lake Watershed Rain Garden Construction Project.

55 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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7. Action Items

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a. Items Pulled from Consent Agenda

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i. Accept September Staff Report

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Manager Koch asked staff questions such as the status of the Redpath contract, if there is a summary of the administratively approved permits, if there is a report available about cost-shares that have been approved and their status, what service learners/community engagement learners are, District rain measurements, status of the St. Hubert’s project, and what Project WET certification means. Staff responded to Manager Koch’s questions.

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Manager Koch moved to accept the staff report. Manager Pedersen 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. Accept September Engineer’s Report

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Manager Ziegler requested clarification about the comment on the Duck Lake Road project and the reason for not changing the outlet elevation. Interim Administrator Jeffery reported the DNR’s position is that if a water level has been in existence for a period of time, it is considered the new normal water

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elevation. Manager Ziegler pointed out the elevation level was changed by the City in a project four years ago, and the DNR had been notified at that time. Interim Administrator Jeffery said he can bring this information to Jack Gleason at the DNR for a response. Manager Ziegler moved to accept the Engineer’s Report as written. Manager Pedersen seconded the motion.

Manager Koch asked about a manufactured device guidance document referred to in the report. Interim Administrator Jeffery said Barr Engineering prepared that document. Engineer Sobiech provided more details about the 60-70 page document of frequently asked questions and answers, which is available on the District website. Manager Koch asked about the status of the cooperative agreement with Bearpath, and Interim Administrator Jeffery gave an update. Manager Koch asked for more information about the pond dredging mentioned in the report, and Interim Administrator Jeffery responded.

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

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

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iii. Accept September Construction Inspection Report

Manager Koch moved to accept the September Construction Inspection Report. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

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

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b. Accept August Treasurer’s Report

Manager Crafton stated the report has been reviewed in accordance with internal controls and procedures. She moved to accept the Treasurer’s Report. Manager Ziegler seconded the motion. Manager Koch said he has a copy from Interim Administrator Jeffery of the internal report, and he asked about reference to July accounts payable. Manager Crafton said it means the payments haven’t yet cleared through the bank. Manager Koch stated he will vote against accepting the report because he has an issue with recording items as the vendor being the credit card as opposed to the actual vendor because he doesn’t think it is an appropriate accounting practice.

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

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

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c. Approve Paying of Bills

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

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

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d. Consider Variance Request from Provision of Compensatory Storage +/- One-Foot of Elevation for Permit 2020-073 Welter’s Way Streambank Stabilization.

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Engineer Sobiech shared a presentation about the permit review for 2020-073 Welter’s Way Streambank Stabilization. He described the site and summarized the proposed

120 project to restore approximately 160-feet of streambank along Purgatory Creek.
 121 Engineer Sobiech presented the permit compliance summary. He talked about the
 122 variance request from the District’s Rule B, subsection 3.2, from providing the
 123 compensatory storage +/- one foot in elevation relative to fill. Engineer Sobiech went
 124 through his review of the variance request, criteria, and the analysis summary. He stated
 125 the engineer finds there is an adequate technical basis for the managers to rely on to
 126 grant the requested variance from the compensatory storage requirement.

127 Manager Ziegler moved to approve the variance request for permit 2020-073 Welter’s
 128 Way Streambank Stabilization based on staff review and recommendation. Manager
 129 Pedersen seconded the motion. Manager Crafton commented that the fescues and any
 130 other proposed vegetation should be deep-rooted vegetation. Manager Koch had
 131 questions about the project’s selected location and water flow velocity, and Mr. Sejkora
 132 and Engineer Sobiech responded.

133 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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137 **e. Consider Permit 2020-073 Welter’s Way Streambank Stabilization as**
 138 **Presented in the Proposed Board Action Section of the Permit Review**
 139 **Report.**

140 Manager Koch moved to adopt the proposed Board resolution set forth in the permit
 141 review report, as set forth on page 1, to approve Permit 2020-073 Welter’s Way
 142 Streambank Stabilization. Manager Ziegler seconded the motion. Upon a roll call vote,
 143 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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f. Consider Variance Request from Minimum Buffer Width for Permit 2020-068 Erhart Farm

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Manager Ziegler moved to approve the variance request for Permit 2020-068 based on staff review and recommendation. Manager Pedersen seconded the motion. Manager Koch asked clarifying questions about the buffer and the plan to fill in the wetland. Manager Crafton said she hopes the design will include robust vegetation. Engineer Sobiech said that is what he is seeing from the design plans. Manager Crafton asked for more details about the conservation easement. Engineer Sobiech said the wetland buffer will be recorded on the property and will be maintained as natural vegetation into perpetuity. He provided details about the proposed conservation easement in a certain portion of the project.

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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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g. Consider Permit 2020-068 Erhart Farm as Presented in the Proposed Board Action Section of the Permit Review Report

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Manager Ziegler moved to approve Permit 2002-068 as presented. Manager Crafton seconded the motion. Manager Koch offered the friendly amendment to adopt the proposed resolutions as set forth on page 1 of the Engineer's report on this permit. Managers Ziegler and Crafton accepted the friendly amendment. 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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h. Consider Silver Lake Contract with Molnau Trucking

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Interim Administrator Jeffery summarized the background and current situation with Molnau Trucking on the Silver Lake project. Attorney Smith addressed the legal agreement between the District and Molnau Trucking and actions the Board can consider taking. He said the proposed resolution included in the Board packet would authorize and direct Interim Administrator Jeffery with assistance of legal counsel to begin the process of issuing the notice to declare default. Attorney Smith said the Board could delegate Interim Administrator Jeffery to make the judgement of if and when to begin the process of issuing the notice to declare default. Attorney Smith said the District gave Molnau Trucking the notice to proceed on May 21st and to date no equipment has touched the site, so the contractor has had fair opportunity to perform.

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Manger Koch moved to adopt the recitals and the resolution provided by staff Jeffery and Legal Counsel with the change that line 2 of the resolution be changed to hereby authorizes the Interim Administrator, in order to provide staff Jeffery and legal counsel the option not to do anything if they feel Molnau Trucking will comply. Manager Pedersen seconded the motion. The Board and staff discussed that it should be made clear to the contractor that moving a piece of equipment onto the site and having it sit there is not acceptable.

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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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i. Consider COVID memo presented by Larry Koch

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Manager Koch provided comments about his memo proposing a policy of requiring District employees to be vaccinated, providing for medical exceptions, and he shared his opinion about vaccinations. Attorney Smith said it's in the Board's authority to adopt the policy, and it's not a requirement for the Board to adopt it, but it is within the Board's discretion to do so.

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Manager Koch moved to adopt the resolution set forth in his memorandum dated August 25, 2021, with two exceptions: in paragraph 4, both instances of September 15, 2021, being changed to October 15, 2021. Manager Pedersen seconded the motion.

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Manager Ziegler asked staff to provide the resolution number. Interim Administrator Jeffery responded this is Resolution 2021-111.

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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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j. Consider Legal Review memo presented by Larry Koch

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Manager Koch moved to adopt the resolution set forth in his December 25, 2020, memo asking Smith Partners to conduct a legal review for \$5,000 and with the changes to the date in items 2 and 5 to 2022. The motion died due to lack of a second.

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k. Consider MAWD Resolutions

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Interim Administrator Jeffery reported the deadline to submit resolutions to MAWD was October 4, but he informed MAWD the Board would be discussing resolutions at today's monthly meeting.

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Manager Koch moved to forward to MAWD the proposed resolution staff prepared regarding proposed legislative changes for interactive meetings and the resolutions this Board proposed last year, including the resolution about insecticides, the resolution about wake boats, and the resolution about soil health. Manager Ziegler seconded the motion. Manager Crafton made a friendly amendment to remove the resolution about soil health because it was adopted by MAWD last year. The amended motion was accepted by unanimous consent.

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

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

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I. Consider Request for Partnership with Private Property Owners for Repair of Culvert Under Private Drive

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Interim Administrator Jeffery displayed a map showing the Riley Purgatory Bluff Creek watershed boundary. He provided history about the concerns raised by resident Robert Erickson, on behalf of the property owner, about the condition of a culvert that crosses a private drive. Interim Administrator Jeffery summarized information the City of Eden Prairie provided Mr. Erickson and communications he, Interim Administrator Jeffery, has had with Mr. Erickson. Interim Administrator Jeffery talked about property owners and easements. He said that in this case the benefitting property owners are not within the Riley Purgatory Bluff Creek Watershed and the crossing itself is private, so he is wondering the what the managers think about the idea of the District participating in a project regarding the culvert. Interim Administrator Jeffery said a project would benefit the resource, Riley Creek, so he is wondering about the Board's opinion about this project as a grant project.

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Mr. Robert Erickson summarized his history with this culvert on the Doyle's property and actions he is requesting the District consider.

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Manager Koch remarked that this is a private road and putting money into private property without a clear need to do something with that portion of the creek makes it about impossible for him to agree to pursuing this project. He said the culvert is functioning and the report provided states there isn't obvious erosion on either side, and the location isn't identified in the District's CRAS. Manager Koch said it should be incumbent on the land owner to make the case for the District to be involved, and he added that the District has a grant program. Manager Koch said the District should do what it would need to do to include these properties in the watershed district. Manager Crafton said she could see the District meeting with the City of Eden Prairie and the property owner to discuss the City including the culvert into the City's road project if it would mean improvements for the creek.

250 The Board was in consensus that it wasn't going to act on this matter. Mr. Erickson
251 asked if the District would encourage the City of Eden Prairie and the DNR to use him
252 as a resource. Manager Pedersen recommended Mr. Erickson and the property owners
253 go directly to the City of Eden Prairie. Mr. Erickson said he will reach out to the City of
254 Eden Prairie and thanked the Board.

8. Discussion Items

255 a. **Attorney Report**

256 No attorney report.

257 b. **Administrator Report**

258 No administrator report.

259 c. **Manager Report**

260 Manager Koch asked for an update on staff follow ups about the three permitting issues
261 on Lotus Lake. He asked for a copy of the minutes of the Personnel Committee.

262 Administrator Jeffery provided an update for two of the three permitting issues and said
263 he will bring one of the items back in November.

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9. Upcoming Board Topics

265 President Ward went through upcoming Board agenda topics.

10. Upcoming Events

266 President Ward described upcoming District events as listed on the meeting agenda.

11. Adjournment

267 Manager Pedersen moved to adjourn the meeting. Manager Koch seconded the motion. Upon a
268 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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The meeting adjourned at 9:18 p.m.

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Respectfully submitted,

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David Ziegler

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David Ziegler, Secretary

