

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

February 1, 2023, RPBCWD Board of Managers Regular Monthly Meeting

PRESENT:

Managers:

Jill Crafton, Treasurer
Tom Duevel, incoming Vice President
Larry Koch, outgoing Vice President
Dorothy Pedersen, Secretary
David Ziegler, President

Staff:

Amy Bakkum, Administrative Assistant
Liz Forbes, Communication Manager
Terry Jeffery, District Administrator
Eleanor Mahon, Education and Outreach Coordinator
Joshua Maxwell, Water Resources Coordinator
Mat Nicklay, Natural Resources Technician
Louis Smith, Attorney, Smith Partners
Scott Sobiech, Engineer, Barr Engineering Company

Other Attendees:

AP	Louise Ludford
Arne Bjork	Maya Santamaria
Rod Fisher	Marilynn Torkelson

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 Board of Managers Regular Monthly Meeting

1 President Ziegler called to order the Wednesday, February 1, 2023, Board of Managers Regular
2 Meeting at 7:01 p.m.

3

2. Approval of Agenda

4 Manager Pedersen moved to accept the agenda as amended. Manager Crafton seconded the
5 motion.

6 Manager Koch requested removing from the Consent Agenda items 6d – Accept January
7 Construction Inspection Report, 6g – Approve Lower Riley Creek Restoration Project Payment
8 Application #10, and 6h – Adopt Resolution 23-016 Approving Task Order #006J for Barr to
9 Perform WOMP Station Monitoring Services. Manager Koch asked if he could raise his questions

10 about the staff and engineer's reports during the Administrator's report – Agenda item 10. The
 11 Board agreed the staff and engineer's reports can be discussed during the Administrator's Report
 12 agenda item. Upon a roll call vote, the motion to adopt the agenda carried 5-0 as follows:

13

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

14

15 Manager Koch stated the meeting is being held remotely via meeting platform Zoom due to an
 16 abundance of caution in response to the continuing pandemic.

3. Matters of General Public Interest

17 President Ziegler presented the procedure for raising Matters of General Public Interest.

18 Ms. Marilyn Torkelson, who is an Eden Prairie resident, said with respect to the District's goals
 19 to preserve and enhance the quality, quantity, function, and value of the watersheds in the
 20 District, she is wondering what metrics are being used to measure the enhancement of habitat.
 21 She stated she believes the number of insects, insect species, birds, bird species, and soil health,
 22 particularly the ability of the soil to filtrate and infiltrate water, should be measured before and
 23 after restoration and then monitored. Ms. Torkelson stated she believes measurement should
 24 occur pre- and post-project and monitoring should continue for years post-project to gauge the
 25 success of the project.

26 Ms. Torkelson noted she has heard about the District's fish inventories but not about inventories
 27 of dragonfly species and lightening bug species and the like. Ms. Torkelson commented the CAC
 28 passed a unanimous motion last February, likely presented to the Board in March, to recommend
 29 the Board implement a study to list all ecologically valuable and/or fragile areas in the watershed
 30 for protection and preservation from development and education in general for developers,
 31 homeowners, and individuals. She asked for an update on the status of that report.

32 Administrator Jeffery said he is attending the upcoming CAC meeting and he can update the
 33 CAC at that meeting.

34 Mr. Rod Fisher, representing the Eden Prairie Duck Lake Association, said the group is trying to
 35 help organize with the City of Eden Prairie the opening of the new Duck Lake bridge. He said the
 36 group has not heard from the City about the bridge opening and ribbon cutting. Mr. Jeffery said
 37 he has some information from the City's Public Works Director and the City is planning an

38 opening event during the first or second week of June and is planning to invite the District’s
 39 Board of Managers as well as the Eden Prairie Duck Lake Association to be a part of that event.

40 Ms. Louise Ludford said she wears two hats, one as a RPBCWD CAC member and as a District
 41 resident in northern part of Purgatory Creek. She said she would like to bring to the District’s
 42 attention there is no buffer along her association to the Purgatory Creek watershed at the northern
 43 part. She said another item for the District’s attention is there are two properties along Highway
 44 101, one is CorTrust Bank and there is another property in the middle of the wetland. Ms.
 45 Ludford raised her concerns about structural issues with the CorTrust bank issue. Mr. Arne Bjork
 46 shared his concerns about what looks like the sinking of that building. Ms. Ludford said she
 47 wants to make sure District eyes are on those two properties and to make sure the property
 48 owners are aware the properties are in a wetland.

49 Administrator Jeffery explained the development pre-dates District rules and the Board denied the
 50 relatively recent permit application submitted by the property, due to floodplain issues. He said
 51 any development that goes on in that area would need to come to the Board for its review.

52 President Ziegler said it sounds like these properties could be added to the list of properties that
 53 the CAC requested regarding properties that could be better used in a different way.

54 Manager Koch moved to have the District Administrator to spend time to review if there are any
 55 District rule violations to be aware of and can be addressed within the District’s jurisdiction.

56 President Ziegler seconded the motion. Manager Crafton asked about the timeframe.

57 Administrator Jeffery said staff could report back at one of the Board’s March or April meeting.

58 Manager Koch amended his motion to direct staff to report back to the Board at one of its March
 59 or April meetings. Manager Ziegler accepted Manager Koch’s friendly amendment. Upon a roll
 60 call vote, the motion carried 5-0 as follows:

61

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

62

4. Reading and Approval of Meeting Minutes

63 a. Approve Minutes of the January 4, 2023, Regular Monthly Meeting of the
 64 **RPBCWD Board of Managers**

65 Manager Crafton moved to approve the minutes of the January 4, 2023, regular monthly
 66 meeting of the RPBCWD Board of Managers. Manager Pedersen seconded the motion.

67 Manager Crafton requested an edit to update the staff position titles for Zach Dickhausen
 68 and Liz Forbes.

69 Manager Crafton noted a change to line 99 to replace the word “though” with “thought”.
 70 She noted a change to line 106 to replace the word “will” to “with” and an edit to line 727
 71 to delete the extra word “he”. She noted an edit on line 760 line to replace the word “the”
 72 with “there.” Manager Crafton and Manager Pedersen accepted the changes as friendly
 73 amendments. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

74

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

75

76 **b. Approve Minutes of the January 19, 2023, Work Session of the RPBCWD**
 77 **Board of Managers**

78 Manager Pedersen moved to approve the minutes of the January 19, 2023, work session of
 79 the RPBCWD Board of Managers. Manager Crafton seconded the motion. Upon a roll
 80 call vote, the motion carried 4-0 with one abstention as follows:

81

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

82

5. Committee Report

83 **a. Acceptance of the Citizens Advisory Committee Report and Minutes**

84 Ms. Ludford reported the CAC has no motions and no key discussion items for the Board

85 from the CAC’s January 16th meeting. She pointed out the District website listed the
 86 meeting link as January 16, 2022. Ms. Ludford reported the CAC had a lot of new
 87 members and a majority of the meeting was spent discussing the Committee’s bylaws, a
 88 welcome presentation, the low salt-no salt program, and a lot of other great information
 89 for the new members. She reported there were nominations of officers and scheduling of
 90 upcoming meetings as well as discussion encouraging the CAC members to attend the
 91 Board meetings.

92 Manager Koch moved to accept the Citizens Advisory Committee report and minutes.
 93 President Ziegler seconded the motion. Upon a roll call vote, the motion carried 5-0 as
 94 follows:

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

95
 96 **b. Confirm Board Representative for February 20, 2023, CAC Meeting**

97 Manager Crafton volunteered to be the Board representative at the CAC’s January 20th
 98 meeting.

99 Manager Koch suggested recording the CAC meetings and asked the CAC to consider
 100 that. Mr. Jeffery said presentations and guest speakers are recorded. Mr. Smith said the
 101 CAC has its own bylaws and if the Board has a preference about recording meetings, the
 102 Board should communicate it to the CAC for the Committee’s consideration.

103
 104 **c. Accept Personnel Committee Report and Minutes [no meeting held]**

105 [No discussion.]

106
 107 **d. Accept Governance Committee Report and Minutes**

108 Administrator Jeffery stated the Governance Committee meeting minutes have not been
 109 completed yet and can be put on the workshop agenda or the next regular Board meeting
 110 agenda for acceptance. President Ziegler agreed the minutes should be on the Board’s next
 111 regular meeting agenda.

112 Manager Koch said it is his understanding there was no recording of the meeting of the
 113 Governance Committee. He said he thinks it is a good idea to record the Committee

114 meetings so the managers and constituents can know what is going on at the meetings.
 115 Manager Koch said he heard part of the meeting and there was some discussion about the
 116 drafts of proposed revisions to the Governance Manual and something about discussions
 117 offline or in some theme. He asked if the Committee could elucidate on those comments.
 118 President Ziegler said he did not realize the meeting was not recorded but it seems like a
 119 good idea to at least make drafting the minutes easier. He said the general
 120 accomplishment of the meeting was to prepare for a workshop in which the managers can
 121 review the proposed changes and have legal review them ahead of time to know if there is
 122 any legal reason to change or not change. Mr. Smith noted the review is still in process.
 123

6. Consent Agenda

124 President Ziegler listed the items remaining on the Consent Agenda, including 6a – Adopt
 125 Resolution 23-015 to Approve Consent Agenda; 6b – Accept January Staff Report; 6c –
 126 Accept January Engineer’s Report; 6e – Approve Permit #2022-076 Tricam Addition as
 127 Presented in the Proposed Board Action Section of the Permit Review Report, and 6f –
 128 Approve Pioneer Wetland Restoration Project Payment Application.

129 Manager Koch moved to adopt Resolution 23-015 to Adopt the Consent Agenda with the
 130 change that the Board accepts the January staff report and the January engineer’s report and
 131 approve Permit #2022-076 and the proposed resolution set forth in the engineer’s report and
 132 the Board approves the payment application for the restoration as set forth in the report by
 133 Barr Engineering. Manager Pedersen seconded the motion. Upon a roll call vote, the motion
 134 carried 5-0 as follows:

135

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

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7. Action Items

137 **a. Items Pulled from Consent Agenda**

138 **i. Approve January Construction Memo**

139 Manager Koch asked if the Board could get a report with respect to the alleged
 140 permit violations on Lotus Lake. He said he has suggested previously that staff
 141 look into means of reducing staff time in reviewing sites by coming up with a
 142 process and procedure for permit applicants to take pictures from designated
 143 locations for staff to determine if they need to go on site to conduct an in-person
 144 inspection. He said these are the two reasons he pulled this agenda item from
 145 the Consent Agenda.

146 Administrator Jeffery said the remaining violation on Lotus Lake is the Frontier
 147 Trail house new construction. He reported a letter went out with a January
 148 deadline to submit the permit application to the District. Administrator Jeffery
 149 said the District received the permit fee and an application, which does not
 150 contain everything the District needs. He said the District needs a financial
 151 assurance from the applicant. Administrator Jeffery said the District sent a letter
 152 to the applicant and explained next steps, including staff will bring this item to
 153 the Board at its March meeting.

154 Administrator Jeffery reported there is the Red Rock violation where an
 155 individual homeowner has rip rapped his shoreline. He said the DNR, the City
 156 of Eden Prairie, and the District have each issued a restoration order.
 157 Administrator Jeffery said he can bring an update about this to the Board at its
 158 next regular meeting.

159 Administrator Jeffery said there is a new violation on Lake Lucy Lane in
 160 Chanhassen where new owners have excavated an existing ditch that goes
 161 through a wetland. He reported a notice of probable violation has been issued,
 162 and the owners' attorney and appropriate agencies were copied on it. He said a
 163 stop work order has been issued by the Minnesota DNR, and the City of
 164 Chanhassen has issued a restoration order. Administrator Jeffery explained the
 165 owners changed legal counsel and were granted a 15-day extension by the
 166 technical evaluation panel to give the owners time with their new legal counsel.
 167 He stated the owners have been notified they need an application for the work
 168 already done and an additional permit when they restore that area to prior
 169 conditions. He said both the City of Eden Prairie and the City of Chanhassen
 170 have been very responsive and good to work with on these violations.

171 Manager Koch moved to accept the January construction inspection memo.
 172 Manager Pedersen seconded the motion. Upon a roll call vote, the motion
 173 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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ii. Approve Lower Riley Creek Stabilization Project Payment Application #10

Manager Koch asked about the dead trees and if there is a warranty and if the subcontractor is responsible and if the District has any retainage left to cover the trees.

Engineer Sobiech said regarding the 20 dead trees, an additional site review has to happen to determine if the trees are covered under warranty or not, depending on the type of damage done. He said for pay app the Engineer recommends releasing part of retainage but holding back \$5,000 to cover the cost of the tree replacements should the subcontractor not do the work.

Manager Koch moved to approve the Lower Riley Creek Stabilization Pay Application #10. 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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iii. Adopt Resolution 23-016 Approving Task Order #006J for Barr to Perform WOMP Station Monitoring Services

Manager Koch asked what work is being changed from previous similar work and what is the change in cost of doing the same services for upcoming year versus last year.

Mr. Jeffery displayed a table and explained the costs over the past few years, noting cost have decreased as the District has taken on more of the tasks. Mr. Maxwell noted maintenance is needed on one of the stations to replace the heater.

200 Manager Koch said his understanding is the total cost \$29,900. Administrator
 201 Jeffery said yes, \$29,900 is the total task order cost, which includes data
 202 collection. Manager Koch asked if costs include any rate increases. Engineer
 203 Sobiech said the costs reflect approximately a \$5 per hour increase for the staff
 204 conducting the work. Manager Koch asked what percentage of increase that is.
 205 Engineer Sobiech said less than a 5% increase.

206 Manager Koch moved to adopt Resolution 23-016. Manager Crafton seconded
 207 the motion. Upon a roll call vote, the motion carried 5-0 as follows:

208

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

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210 **b. Accept December Treasurer’s Report**

211 Manager Crafton moved to accept the December Treasurer’s Report. Manager Pedersen
 212 seconded the motion.

213 Manager Koch said he is confused about the information under cash disbursements
 214 about five Visas paid in December and asked when the Board approved payment of
 215 those amounts. Mr. Jeffery explained the charges, some of which included MAWD
 216 hotel charges, annual saw maintenance, and software renewals, as listed in the
 217 Treasurer’s Report.

218 Manager Koch said the District made cash disbursements but the Board did not approve
 219 them. He said his understanding is the District does not make payments without
 220 approvals and if that is the case, this situation is troubling because it is contrary to
 221 longstanding policies and authority. Manager Koch said the District needs to either
 222 increase its credit limit or change its policies and procedures to allow for extensions or
 223 exceptions. Administrator Jeffery said the Board approved the MAWD hotel expenses
 224 and as District Administrator he has discretion to pay up to \$5,000. He said he does not
 225 disagree with reviewing the policies and procedures. Manager Koch said these
 226 expenditures are way more than \$5,000.

227 Manager Koch said he has had communications with Administrator Jeffery about a per
 228 diem claim form Manager Koch filed at the beginning of December and to his
 229 knowledge has not been processed. He asked if staff has reviewed his per diem claim as

230 it has now been over 60 days. Administrator Jeffery said he will look into this as he
231 thought all of Manager Koch's per diem claims had been processed.

232 Manager Koch said with respect to his per diem claim for \$740 that he filed on January
233 5th, he had put down for two per diems because he spent two days reviewing the
234 District's website pursuant to the statements made at the September Board meeting and
235 provided extensive comments on the website. Manager Koch said it was President
236 Ziegler who specifically said if anybody had any comments they could submit them, so
237 Manager Koch did that and that was basically two per diems not included in his
238 payment and that he believes he should be compensated for.

239 Manager Koch said the other three items in his submittal were for his time making
240 changes to the Governance Manual, including incorporating a CAC member's
241 comments, Administrator Jeffery's comments, and finalizing the Governance Manual
242 for submission to the Governance Committee. Manager Koch stated he thinks he is
243 entitled to compensation per diem for those efforts for an additional \$625.

244 Manager Koch said perhaps it would be best if Administrator Jeffery discuss these per
245 diems with Treasurer Crafton and then, if necessary, take them to the Accounting and
246 Finance Committee for review and approval.

247 President Ziegler said he thought the District's Governance Manual approved one per
248 diem for reviewing the Board packet. He said he does not recall any discussion about
249 per diems for other activity other than meetings approved by the Board. President
250 Ziegler said maybe one of the things to do is to review the existing Bylaws and see
251 where the District sits on that issue. Manager Koch said the District has several laws on
252 the books providing for payments and that is why he suggested the process.

253 Manager Crafton said the Audit and Finance Committee can look into this but her
254 understanding is exactly what President Ziegler stated that the managers are approved
255 one per diem for meeting prep and per diems for approved meetings.

256 Mr. Jeffery said the Feb 13th Audit and Finance Committee has a meeting scheduled for
257 February 13th and the Committee can add this topic to the meeting agenda.

258 Manager Koch asked if there will be a Board workshop to go through the final 2022
259 budget numbers and their impact on the 2023 budget. Mr. Jeffery said the intent is for a
260 Board workshop to bring forward the District's final expenses for 2022 and any
261 implications on the District's 2023 budget.

262 Manager Koch asked if a discussion of the multi-year performance analysis can be part
263 of that workshop. Mr. Jeffery said he will be prepared to speak on that topic.

264 Manager Koch repeated his recurring comment that it is his understanding through
265 talking to other accountants that recording in the District's books and records that the
266 credit card is a payee is not appropriate accounting and the credit card is simply a
267 financing mechanism. He said he would like to cover this topic in the workshop.
268 Administrator Jeffery said that is added to the workshop topics.

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

270

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

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272

c. Adopt Resolution 23-017 to Approve Paying of the Bills

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Manager Crafton moved to Adopt Resolution 23-017 to Approve Paying of the Bills.

274

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	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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278

d. Adopt Resolution 23-018 Waiving Smith Partners Conflict of Interest to Work with NMCWD and RPBCWD to Draft Agreement for Shared Office Assistant

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Manager Pederson moved to adopt Resolution 23-018 Waiving Smith Partners Conflict of Interest to Work with NMCWD and RPBCWD to Draft Agreement for Shared Office Assistant. Manager Crafton seconded the motion.

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Manager Koch said he is concerned that this conflict may not be waivable under the Minnesota Rules of Ethics. He said he does not believe it is appropriate for having the same lawyer representing both parties on some type of agreement where their interests may not be aligned. Manager Koch said it is a no-win situation and he recommends the Board vote against this resolution. He said the Board does not know the extent at which a conflict may exist.

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290 Manager Crafton spoke in support of the resolution as the Minnesota Board of Water
291 and Soil Resources is promoting counties and water management organizations and soil
292 and water conservation districts working together. Manager Pedersen concurred.

293 Mr. Smith commented Manager Koch is familiar with Rule 1.7 of rules of professional
294 conduct. Mr. Smith reviewed the rule with the Board, explaining it is the rule Legal
295 Counsel reviewed to determine if Smith Partners could competently address this conflict
296 and prepare this contract on behalf of both parties.

297 Mr. Smith stated the rule says in Part B notwithstanding the existence of a concurrent
298 conflict of interest, a lawyer may represent a client if the lawyer reasonably believes the
299 lawyer will be able to provide competent and diligent representation to each client.

300 Mr. Smith stated the representation is not prohibited by law. He explained each affected
301 client gives informed consent in writing. Mr. Smith said Legal Counsel's understanding
302 has been there was a mutual desire to share an office assistant and the administrators
303 arrived at terms amendable. He said if there is any reasonable expectation of
304 disagreement about these terms or materially different terms, Legal Counsel would not
305 want to represent both of the watershed districts. Mr. Smith said he would look for
306 affirmation from Mr. Jeffery and the Board, but Legal Counsel's judgement has been
307 that Legal Counsel can competently and diligently prepare the agreement in a way that
308 meets the interests of both of the parties.

309 Administrator Jeffery said he and Mr. Anhorn met at MAWD and discussed the idea of
310 a shared position. Administrator Jeffery talked about the development of the position
311 description, salary range, and 60%-40% split, and arrangement for the position being an
312 employee of the RPBCWD and RPBCWD would invoice the Nine Mile Creek
313 Watershed District (NMCWD). Administrator Jeffery reported the NMCWD has
314 waived the conflict of interest.

315 Manager Koch moved to table this item until the Board is presented terms of the sharing
316 arrangement. He said he thinks there are better options for doing this position split. He
317 highly suggested one speak to employment counsel first for recommendations on such
318 an arrangement. The motion died due to lack of a second.

319 Manger Koch said there is an old adage that you can only serve one master. He
320 commented there is no way to intelligently waive a conflict when the details of the
321 structure are not known. Manager Koch encouraged the managers to vote no until there
322 is a better understanding of the business terms.

323 Mr. Jeffery said next steps would be for Smith Partners to prepare an agreement, which
324 would go to the NMCWD board and the RPBCWD board for review and approval.

325 Manager Koch said he does not know why all the information was not set forth in a
326 memorandum and provided to the managers. He said the Board should receive
327 information in writing in advance so managers can make educated decisions.

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

329

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

330

331 **e. Adopt Resolution 23-019 Approving Task Order 43 for Barr to Develop an**
 332 **Ecosystems Health Action Plan**

333 Manager Crafton moved to adopt Resolution 23-019 Approving Task Order 43 for Barr
 334 to Develop and Ecosystems Health Action Plan. Manager Pedersen seconded the
 335 motion.

336 Manager Koch asked where the money would come from. Administrator Jeffery said
 337 the money would come from the 10-Year Planning fund. He explained that as
 338 documented in the memo in the meeting packet there is \$135,000 allocated for that fund
 339 for fiscal year 2023. He said the proposal put forward is \$158,800 of which \$73,400
 340 would need to be committed for this year. Mr. Jeffery said he sees this as the initial step
 341 in the District's 10-Year Plan update.

342 Manager Koch said this work proposes to do something without looking at the entire
 343 10-Year Plan first. He said he does not think adding items piecemeal is a proper
 344 planning process. Manager Koch said he does not see why the Board would agree to
 345 spend this type of money at this time before knowing how it fits into the 10-Year Plan.
 346 He said this is way premature, not part of a proper planning process, and should be
 347 included in the review of the 10-Year Plan. Manager Koch said he does not believe the
 348 money allocated for the 10-Year Plan was intended for this work. He said the budget
 349 includes \$50,000 for soil health.

350 Manger Koch moved to amend the motion to send this back to staff to come back with a
 351 plan that fits in the \$50,000 soil health budget, involving coming up with how this
 352 whole concept fits in the District's 10-Year Plan, and then the District can go through
 353 and make the appropriate changes in the 2024 plan and make this part of the 10-Year
 354 Plan review. The motion died due to lack of a second.

355 Mr. Jeffery said this proposed document is intended to be a scoping document of the 10-
 356 Year Plan and would allow the District to have the technical committees to engage
 357 partner communities to gather input as the District considers how to make its 10-Year
 358 Plan work for everyone in the District.

359 Manger Koch said the proposal goes beyond scoping out a 10-Year Plan, so he has to
 360 discount what he just heard. He said the proposal goes to implementation as opposed to

361 a plan. Manager Koch stated there needs to be a better skeleton and discussion as to
 362 how this work fits into the 10-Year Plan.

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

364

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

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366

367 **f. Adopt Resolution 23-020 Approving Task Order 44 for Barr to Design New**
 368 **Inlet Configuration for Lake Susan Park Pond Reuse Project**

369 Manager Crafton moved to adopt Resolution 23-020 Approving Task Order 44 for Barr
 370 to Design New Inlet Configuration for Lake Susan Park Pond Reuse Project. Manager
 371 Pedersen seconded the motion.

372 Manager Koch commented this work involves more than planning. He said there is a
 373 \$6,460 item on bottom of page 6 of the proposed task order, and it seems to him the
 374 District should be troubleshooting options to figure out exactly what is happening or
 375 pumping the water out. Manager Koch asked if there is even a ballpark cost of
 376 construction, and if not why would the Board approve something without even having a
 377 number for the ballpark cost.

378 Mr. Sobiech said the optional task is in because with any type of project there is no
 379 assurance the proposed solution will fix the problem. He explained the challenge with
 380 the optional task at this time is that it is winter condition. Mr. Sobiech said the intake is
 381 not in the pond right now and there is no way to operate the system without the intake.
 382 Mr. Sobiech described the optional task in further detail, explaining the troubleshooting
 383 to make sure the piping system is not leaking and the valves are not causing the loss of
 384 prime. He said the District Engineer is fairly certain the intake is causing the loss of
 385 prime and some modifications to the inlet would remedy the problem.

386 Mr. Sobiech said regarding an estimated cost of construction, it has not been evaluated
 387 yet as to what it would take to modify the inlet and that is one of the tasks included in
 388 the initial design.

389 Manager Koch moved to amend the motion to break this into three phases and only
 390 approve the optional troubleshooting phase because he has his doubts to the degree as to

391 which to rely on any part as and the District should be having Barr doing the testing and
 392 then come back and confirm it is a design problem, then come back with a design and
 393 then the Board approves the money to go forward.

394 Mr. Jeffery said germane to this discussion is the point that the District’s partners are
 395 unable to use the irrigation system. He said breaking the process into phases would
 396 extend the work through another growing season. He said the delay would mean the
 397 partners would not have access to irrigation, as partners disconnected from the potable
 398 water supply, and also the District would not achieve water infiltration.

399 Mr. Sobiech said the City has expressed frustration with not being able to use the
 400 irrigation, strongly communicating its desire for the system to be functional this spring
 401 as early as possible, to the extent of disconnecting from the reuse system and
 402 reconnecting to potable water.

403 Manager Koch commented there is a methodology for working these problems, and if
 404 Chanhassen wants to reconnect to potable water, it can do so. He said the District should
 405 know the extent of the problem and a reasonable idea of the cost to fix it. Manager Koch
 406 said as he recalls this project was funded fully from the District’s money and was the
 407 District’s idea, so he finds it a little difficult that the City should have its complaints. He
 408 noted not having water on a ballfield is not the worst thing in the world.

409 Manager Crafton said she has full confidence in Engineer Sobiech as Barr is thinking
 410 through this design and that Barr will figure out what needs to be done and where to go
 411 from here. She said it is important for Barr to have the time to do this design before
 412 going into other phases. Manager Crafton said she supports this task order.

413 Manager Koch said that kind of proposal does not work and does not hold water. He
 414 said he has been in the construction business for a long period of time and it is taken
 415 step by step. Manager Koch said there will not be any more delay by taking a short
 416 period of time to find out what is the issue, and Barr is the District’s expert.

417 Manager Duevel called the question. Mr. Smith said moving to close debate requires a
 418 second. Manager Pedersen seconded the motion to close debate. Upon a roll call vote,
 419 the motion to close debate carried 5-0 as follows:

420

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

421

422 Upon a roll call vote, the motion to adopt Resolution 23-020 carried 4-1 as follows:
 423

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

424

8. Discussion Items

425 [No items].

426

9. Manager Reports

427 Manager Koch said he is concerned with the process the District is following regarding
 428 Administrator Jeffery’s review. He said the agenda was provided the day of the meeting and
 429 no copies of the individual reviews were provided to managers. Manager Koch stated he
 430 found the process to be inadequate. He said he thinks Mr. Jeffery deserves a better process.

431 Manager Koch said regarding the budget, he has raised his objection because in his opinion
 432 the budget was not adequately summarized in the newspaper as required by Minnesota
 433 statutes. He commented the City of Victoria had a budget in the paper and the budget was
 434 way more than two lines. Manager Koch stated he could not find any reference in the statue
 435 where it said that as long as the budget was available somewhere that is adequate to meet
 436 statutory requirements. He said he repeats his objection to the District’s entire budget process
 437 and he does not believe the District complied with the statues.

438 Manager Koch said he noticed in the Chanhassen paper a solicitation, reported to be from the
 439 District, for photos. He said he has never seen agreements for submitters to sign giving
 440 permission to use the photos. He said copyright laws exist and the District does not have
 441 appropriate documentation and the District is breaching copyright law every time it publishes
 442 any of those photographs and when anybody views them, as far as that goes. Manager Koch
 443 said he believes it is appropriate at the next Board meeting to bring forward a proposed
 444 licensing agreement for the submitters to sign, allowing the District to appropriately use the
 445 photographs.

446 Manager Koch said he does not believe the District is complying with the Open Meeting Law
 447 because the District is not making copies of all documents available for the public to review.

448 He said in his opinion having the documents flash up on the screen is not compliant with
449 statutes and the District needs to make sure copies of all documents to be reviewed by the
450 Board are available on the website at the time of the meeting.

451 Manager Koch commented he thinks and President Ziegler agrees that the District needs to
452 have recorded meetings of District committees so members of the public can review them at
453 their leisure as most of the meetings are held during the day when it is impossible for them to
454 attend and participate. Manager Koch encouraged the CAC to record its meetings so the
455 public have an idea of the various discussions that go on.

456 Manger Koch commented the review process of Administrator Jeffery proves the District
457 needs an HR professional to guide the District through the process. Manager Koch said in his
458 opinion the District keeps making new mistakes on having an appropriate review process. He
459 said the process should be reviewed and agreed to in advance by the Board of Managers and
460 at least have an opportunity to discuss that process.

461 Manager Koch said the District needs to have an IT review. He said statues require the
462 District to update its security procedures and also provides for the Board to have a closed
463 session to review security procedures. Manager Koch called on staff to schedule this topic for
464 one of the Board's meetings so the District gets a handle on who is doing what as far as IT
465 and the degree to which District's systems are secure.

466 Manager Koch said he is having difficulty finding copies of signed minutes and he believes
467 the rules adopted by the Minnesota Board of Water and Soil Resources (BWSR) require the
468 District to have minutes on its website.

469 Manager Koch said thinks the references in meeting minutes to resolutions should link to the
470 resolution documents. He said it is a really easy thing to do and hopefully the new
471 administrative person hired will be doing that.

472 Manager Koch said he would like to see the list of duties for administrative person and he
473 thinks the District could use an administrative person seven days a week for several months
474 just to get the District's house in order.

475 Manager Koch asked what time the District's Audit and Finance Committee meeting on
476 February 13th. Administrator Jeffery said 9:30 a.m.

477 Manager Crafton noted a St. Anthony Falls person may be contacting Mr. Maxwell about
478 some testing St. Anthony Falls is doing about wake boats.

479 President Ziegler reported about an announcement from President Biden that the pandemic is
480 coming to an end on May 1. President Ziegler said it seems the District should have a plan for
481 getting the District office ready for social distancing and providing for presenters and public
482 to participate remotely. Manager Koch said his understanding is it is unclear now but certain
483 things may be terminated as of May 1st but the World Health Organization is taking it three
484 months at a time in making its decisions. Manager Koch said it is his understanding the
485 ultimate determination of whether or not there is a risk with the pandemic lies with the Board
486 president or Mr. Smith. Manager Koch said he would like staff to provide a report at one of
487 the upcoming work sessions regarding arrangements of the District office and the extent to

488 which the HVAC system has been upgraded if at all to the particular level of filtration
489 recommended by buildings and required for a number of industries.

490 Mr. Smith said at some point in the meeting a summary should be provided about
491 Administrator Jeffery's performance evaluation.

492 President Ziegler said this is an appropriate time for the summary and asked Mr. Smith to
493 provide the summary drafted and sent to the managers.

494 Mr. Smith said the managers met in closed session on January 26th for the purpose of a
495 performance evaluation of the administrator, Terry Jeffery, and the Board rated Mr. Jeffery's
496 performance satisfactory and voted to provide a 2% salary increase.

497 Manager Koch mentioned his concern over the process. He said the managers were not given
498 an opportunity to discuss items with Mr. Jeffery. Manager Koch said he believes that process
499 was not a best management practice, particularly since the managers did not have an
500 opportunity to have a discussion with Mr. Jeffery or a discussion of various manager
501 comments.

502

10. Administrator Reports

503 a. Audit Update

504 Administrator Jeffery reported the engagement agreement has been reviewed by District
505 Legal Counsel and went over to ABDO this afternoon. Administrator Jeffery said April
506 27th and 28th are scheduled to be ABDO's field work days and the schedule is to be
507 determined regarding in-person, remote, and/or hybrid schedule for the field work. He
508 said this work will be discussed in more detail at the February 13th Audit and Finance
509 Committee meeting.

510 b. WBIF (Watershed-Based Implementation Funding) Update

511 Mr. Jeffery reported the Watershed-based Implementation Funding process is underway.
512 He said invitations have been sent to all of the District's partners. He explained the
513 criteria is that the project must be identified in either the Carver County Groundwater
514 Plan or within the District's 10-Year Plan.

515 Mr. Jeffery stated each of the entities will elect one or two representatives to come to the
516 WBIF meeting, which is being facilitated by the District. He said the group will meet to
517 go over the potential projects and decide the projects to receive the Watershed-based
518 Implementation Funding. He reminded the Board there is \$104,000 and change of
519 available funding. Administrator Jeffery said he will provide more updates to the Board
520 as the process goes along.

521 c. Staff Report

522 Manager Koch commented on the staff report note that accountant Nancy Martinson from
523 Red Path is retiring. He said he would like the Board to have an introduction to the
524 incoming accountant in order to know that person's capabilities and experience.

525 Manager Koch said he has not received a copy of the job description of the shared
 526 administrative person. He said he would like to have a copy of it by the time of the
 527 workshop, so the Board can discuss it before the Board votes on it.

528 Manager Koch said he is assuming the Board will be talking about District office
 529 furniture configurations for going back to in-person meetings.

530 Manager Koch noted the 2025 expiration date of Chanhassen’s Local Surface Water
 531 Management Plan. He recommended the District immediately address the District’s rules
 532 so rules are in place before end of 2025 to address various issues including shoreline
 533 protection.

534 Manager Koch asked if any of the managers are able to attend Legislative Days.
 535 Administrator Jeffery said the Board can authorize managers to attend. He said there is a
 536 \$100 cost to attend. Administrator Jeffery reported he is attending portions of it and
 537 President Ziegler is attending. Manager Koch said he would like to attend Legislative
 538 Days and going forward would like to see information on this event on the agenda earlier
 539 so the Board can address it.

540 President Ziegler said he thinks there could be a motion made to approve managers
 541 attending and the District paying the registration fee and a per diem for managers who
 542 attend. Manager Koch made that motion. President Ziegler seconded the motion. Upon a
 543 roll call vote, the motion carried 4-0 as follows:

544

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

545

546 President Ziegler asked Administrator Jeffery to communicate with Manager Duevel
 547 about the vote and to find out if Manager Duevel is planning to attend Legislative Days.

548 Manager Koch said regarding staff’s mention in the staff report of a GIS database to
 549 catalog soil data, he wants to encourage staff to make sure to take full advantage of data
 550 that already exists. He said he believes NASA launched a new satellite that has extreme
 551 capabilities of mapping waters, and he encouraged the District to look into that.

552 Manager Koch said he submitted a number of comments and suggestions to staff about
 553 the District’s website and he would appreciate a response.

554 Manager Koch asked if staff would present to the Board the draft 2023 Education and
 555 Outreach Plan and if not, can they provide managers with a copy of it.

556 Manager Koch asked if the Hennepin County Chloride Initiative is done. Administrator
 557 Jeffery said yes, Train the Trainer was held yesterday and there are a few more items to
 558 fully implement, and HCCI has disbanded. He said staff could present to the Board about
 559 it in a future work session.

560 Manager Koch asked if he could get a copy of the revised CRASS scores, or at least the
 561 Bluff Creek one. Administrator Jeffery said yes.

562

11. Legal Counsel Reports

563 [No report.]

564

12. Upcoming Board Topics

565 a. Tentative Workshop Schedule

566

13. Upcoming Events

- 567 • RPBCWD – Lake Associations Summit – February 21, 2023
 - 568 ▪ President Ziegler asked staff to share the Lake Associations Summit presentation
 - 569 when it is available.
- 570 • Riley Purgatory Summit – Date to be determined
- 571 • PBCWD Volunteer Recognition Event – Postponed/ Date to be determined

572

14. Adjournment

573 Manager Koch moved to adjourn the meeting. Manager Pedersen seconded the motion. Upon a
 574 roll call vote, the motion carried 5-0 with one abstention as follows:

575

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

Pedersen	Yes
Ziegler	Yes

576

577

The meeting adjourned at 9:36 p.m.

578

579

580

Respectfully submitted,

581

582

583

584

Dorothy Pedersen, Secretary