

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

August 5, 2020, 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, MN Green Corps Member, RPBCWD
Claire Bleser, RPBCWD Administrator
Zach Dickhausen, Water Resources Technician II
Terry Jeffery, Watershed Planning Manager
B Lauer, Education and Outreach Assistant
Josh Maxwell, Water Resources Coordinator
Louis Smith, Attorney, Smith Partners
Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: Elizabeth Henley, Smith Partners
Sharon McCotter, CAC
Marilynn Torkelson, CAC

Note: this meeting was held remotely via meeting platform Zoom in abidance with state mandates in response to Covid-19.

1. Call to Order

- 1 President Ward called to order the Wednesday, August 5, 2020, Board of Managers Regular
- 2 Monthly Meeting at 7:00 p.m. The meeting was held remotely via meeting platform Zoom.
- 3

2. Approval of Agenda

- 4 Manager Koch requested removing from the Consent Agenda items 6a – Accept July Staff
- 5 Report, 6b – Accept July Engineer’s Report, 6c – Accept July Construction Report, 6d – Approve
- 6 Pay App #1 Duck Lake Rain Gardens, 6e – Approve Pay App #5 Lower Riley Creek
- 7 Stabilization, 6k – Approve Permit 2020-040 6605 Horseshoe Curve – Shoreline as presented in
- 8 the proposed Board action of the permit report, 6l – Authorize President to Execute Cooperative
- 9 Agreement with Bearpath Golf and Country Club for the Middle Riley Creek Stabilization

10 Project, 6m – Authorize Administrator to solicit Request for Proposals for Banking Services.
 11 Manager Koch requested adding 7f – UMN Study on the effects of wakes and item 8h to discuss
 12 scheduling a meeting with the District Administrator and Ms. Strandell regarding the District’s
 13 financials for the first half of 2020. President Ward removed items 7e – MAWD Resolutions,
 14 which will be discussed at the Board’s upcoming special meeting on Monday, August 17, and 8e
 15 – Schedule Budget Workshop, because the budget will be discussed at the Board’s August 17
 16 special meeting.

17 Manager Ziegler moved to approve the agenda as amended. Manager Pedersen seconded the
 18 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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3. Matters of General Public Interest

21 No matters of general public interest were raised.

4. Reading and Approval of Minutes

a. July 8, 2020, RPBCWD Board of Managers Monthly Meeting

22 Manager Ziegler had a correction on line 13, so the sentence reads “8a” in place of “7a.”
 23 Manager Koch had an edit on page 12 noting a correction was needed regarding the
 24 voting for permit 2020-029. He said the Board voted on two variances, including the vote
 25 on the variance about the fill, which was voted down, and the other variance, which was
 26 approved. Manager Koch added that there was a vote to approve the permit as well. Mr.
 27 Jeffrey agreed, saying there were two variances and the one for fill in the floodplain was
 28 not approved. Manager Koch asked the minutes to be revised to correctly reflect the three
 29 votes.
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31 Manager Ziegler moved to accept the minutes as amended. Manager Crafton seconded the
 32 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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5. CAC

35 Ms. Sharon McCotter summarized the motions, consensus items, and discussions items from the
 36 CAC’s most recent meeting. She reported the CAC would like to see the original rain garden
 37 owner’s manual designed for Duck Lake residents, and the CAC would like the manual to be
 38 finished and reach an expanded audience. Ms. McCotter said Ms. Lauer has shared that the
 39 manual has gone to Barr to be finished. Ms. McCotter said the CAC requested to receive the
 40 District’s proposed budget the day after the Board receives it. Ms. McCotter reported that the
 41 CAC members would like to be more involved in improving water quality, helping the managers
 42 with their work, and for the CAC members to continue expanding their knowledge about water
 43 issues. She brought up the fact that the CAC receives information after the Board has voted on
 44 actions, leading some CAC members to feel like observers rather than contributors and leaving
 45 many CAC members looking for more involvement. Ms. McCotter shared information she
 46 gathered from citizen advisors to the Nine Mile Creek Watershed District and offered a
 47 suggestion about bringing in a third party to help the District identify how District staff, CAC
 48 members, and Board members can work together to further the mission of the watershed district,
 49 explore a different operating system, and design a different communication process and flow. Ms.
 50 McCotter talked about the CAC’s subcommittees. Manager Pedersen provided comments and
 51 asked that the District work to find a better way to communicate with each other, so the District’s
 52 volunteers are utilized in a great way. Managers Ziegler and Koch provided their comments, and
 53 Manager Koch suggested holding periodic joint workshops, such as quarterly, with the Board and
 54 the CAC. Administrator Bleser said it seems a natural progression to periodically have systems
 55 that don’t effectively or efficiently work any longer, indicating it is time to address what’s not
 56 working. She said it seems like that it what is being identified here.

57 President Ward asked Ms. McCotter if she would share her notes with Administrator Bleser to
 58 distribute to the managers.

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6. Consent Agenda

60 Manager Ziegler moved to approve the Consent Agenda. Manager Crafton seconded the motion.
 61 The Consent Agenda included item 6f – Approve Modification to Permit 2018-028 Oak Point
 62 Elementary Parking Lot as Presented in the Proposed Board Action of the Permit Report, 6g-
 63 Approve Permit 2019-051 Berrospid Addition as Presented in the Proposed Board Action of the
 64 Permit Report, 6h – Approve Permit 2020-021 Purgatory Park Emergency Pipe Replacement as
 65 Presented in the Proposed Board Action of the Permit Report, 6i - Approve Permit 2020-030
 66 Vine Hill Road Crossing as Presented in the Proposed Board Action of the Permit Report, and 6j
 67 – Approve Permit 2020-031 Prairie Heights Addition as Presented in the Proposed Board Action
 68 of the Permit Report. 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. Pulled Consent Agenda items

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i. Accept July Staff Report

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Manager Koch asked about Ms. Bakkum’s role regarding the District’s financials.

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Administrator Bleser responded. Manager Koch asked for details about the Zebra

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mussel veliger sampling. Mr. Maxwell said staff sent the samples in to the lab this

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week, and last Friday’s visual scan at Lotus Lake didn’t reveal zebra mussels.

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Manager Koch asked for more information on the two shoreline restorations that

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received grants. Ms. Lauer provided more details. Mr. Jeffery added that the two

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projects were buffer projects and not shoreline stabilization projects. Manager

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Koch asked if staff has given thought about providing more YouTube videos to

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provide educational information for students. Administrator Bleser and Ms. Lauer

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responded, mentioning the tree nursery video already created and listing ideas

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staff has come up with regarding potential education video topics. Manager Koch

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asked for an update of the Scenic Heights project. Engineer Sobiech responded.

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Manager Koch moved to accept the July staff report as presented. Manager

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Crafton seconded the motion. Manger Pedersen noted that some cost share

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applicants have let her know that they haven’t heard back from the District.

88 President Ward asked Ms. Lauer and Manager Pedersen to touch base about the
 89 status of these applications. Upon a roll call vote, the motion carried 5-0 as
 90 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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94 ii. **Accept July Engineer’s Report**

95 Manager Koch asked about the process of tracking time regarding discussions
 96 before a permit application comes in to the District. Engineer Sobiech described
 97 the process. Manager Koch said he would like the Board to discuss a better way to
 98 track time and ensure the costs get assigned to the permittee. Engineer Sobiech
 99 fielded several other questions from Manager Koch.

100 Manager Koch moved to accept the July Engineer’s Report. Manager Ziegler
 101 seconded the motion. Manager Ziegler asked about a meeting between
 102 Administrator Bleser, Mr. Jeffery, and Manager Koch, and he commented he
 103 would have liked that meeting to have been announced so he could have had an
 104 opportunity to attend. 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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- iii. **Accept July Construction Inspection Report**
 Manager Koch commented it would be useful for the report to indicate if the projects passed or failed inspection and what the problems were, if any. Manager Koch moved to accept the July 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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- iv. **Approve Pay App #1 Duck Lake Rain Gardens**
 Manager Koch said according to his calculations, with the project the District spent \$29,000+ on one property and \$17,000+ on the other. Engineer Sobiech said correct. Manager Koch said on one, the District is spending \$17,000 on a pervious driveway. Manager Koch shared his dislike about spending that amount of money on private property. He said he didn't want this type of project on private property to occur in the future without the managers being notified in advance of the work. He said he doesn't think this is the right way to spend money. Manager Ziegler moved to approve Pay App #1 Duck Lake Rain Gardens. Manager Crafton seconded the motion. Manager Ziegler commented that the Board approved the project, and it was a good one, but he, too, was surprised that the District spent that much on one property. Manager Koch said his other concern is that the District needs to make sure the process is fair and equitable for everybody. Upon a roll call vote, the motion carried 4-1 as follows:

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

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v. **Approve Pay App #5 Lower Riley Creek Stabilization**

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Manager Koch asked if this is the final pay app for this project. Engineer Sobiech said the project is 99% complete, and he estimates the District will receive one more pay app before the ongoing maintenance begins. Manager Koch said he has concerns about these types of contracts allowing these types of changes. He said he is always concerned about people trying to make money on changes, because that is usually where the money is made. Manager Ziegler moved to approve Pay App #5 Lower Riley Creek Stabilization. Manager Crafton seconded the motion.

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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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142 vi. **Approve Permit 2020-040 - 6605 Horseshoe Curve – Shoreline as**
 143 **Presented in the Proposed Board Action of the Permit Report**
 144 Manager Koch said he did not see the on the drawings the required parallel line
 145 data. Engineer Sobiech said the parallel line is not shown on the submitted
 146 drawings. He explained that he worked with the District’s legal counsel to
 147 interpret the language in the rules, and it was determined that the parallel line is
 148 required when a rip rap project is proposed but not a bioengineering solution as is
 149 the case with this permit application.

150 Manager Ziegler moved to approve Permit 2020-040. Manager Crafton seconded
 151 the motion. Manger Ziegler made the friendly amendment to include the
 152 Engineer’s recommendations as part of the approval. Manager Crafton accepted
 153 the friendly amendment.

154 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

156 vii. **Authorize President to Execute Cooperative Agreement with Bearpath**
 157 **Golf and Country Club for the Middle Riley Creek Stabilization**
 158 **Project**

160 Manager Koch said he has provided comments to Dr. Bleser, but he is not sure
 161 she forwarded those comments to the District’s legal counsel. Manager Koch said
 162 he is not comfortable approving an incomplete agreement, meaning without
 163 appropriate drawings that specify exactly what Bearpath will do and exactly what
 164 the District will do. Manager Koch said without those drawings, the language
 165 could be slippery for forcing the commitment by Bearpath to do it. He
 166 recommended tabling this item until the agreement is complete with drawings.
 167 Engineer Sobiech provided an update on the status of the process, saying the goal
 168 is to go out for bids in October. Manager Koch asked if drawings to at least the
 169 60% design phase could be provided to the Board. Engineer Sobiech said yes,
 170 60% drawings could be provided.

171 President Ward asked why this cooperative agreement is in front of the Board at

172 this point in the design process. Administrator Bleser responded that in the past
 173 the Board has requested the Cooperative Agreement come in front of the Board
 174 earlier and before the design is complete, but staff can bring cooperative
 175 agreements in front of the Board at the end of design if the Board so wishes.
 176 Engineer Sobiech said a reason for bringing this to the Board at this stage is to
 177 gather feedback that could be addressed while the design phase is still in process
 178 and the design can still be modified.

179 Attorney Smith said the cooperative agreement is crafted because District is
 180 commencing a design process, and even though the District has a commitment
 181 letter from Bearpath, it's in the District's best interest for the parties to agree at
 182 this point, the 60% design, and then commence further. Attorney Smith explained
 183 the agreement was developed because the watershed typically wouldn't want to
 184 start a project without knowing there is site access and project commitment before
 185 proceeding further. President Ward noted that there should be language in the
 186 agreement that it is subject to review of the 60% plans, and the 60% plans should
 187 become part and parcel of this agreement. Attorney Smith responded yes, there is
 188 such language. President Ward asked if the cooperative agreement's item 6g,
 189 could name the attorney. Attorney Smith said it is not something the District has
 190 done, but it could be added. President Ward requested it be added. Manager Koch
 191 provided comments on additional information he would like to see included in the
 192 cooperative agreement.

193 Manager Koch moved to layover this agenda item until the Board's September
 194 meeting. Manager Crafton seconded the motion. There was discussion about the
 195 impacts of delaying this by a month. Manager Koch amended his motion to
 196 provide for this item to be addressed at the earliest next meeting of the managers
 197 after the Board receives the scope of work and 60% drawings. Manager Crafton
 198 agreed to that friendly amendment. The managers discussed that the Board is
 199 scheduling one and maybe two special meetings of the Board prior to the Board's
 200 September monthly meeting. Upon a roll call vote, the motion carried 5-0 as
 201 follows:

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

203 viii. **Authorize Administrator to Solicit Request for Proposals for Banking**
 204 **Services**

205 Manager Koch stated there is additional information that should be included in the
 206 RFPs, and he has sent Dr. Bleser his comments regarding such information. He
 207 moved to lay this item over until a future Board meeting to allow Dr. Bleser time
 208 to review his comments. Manger Crafton seconded the motion. Upon a roll call
 209 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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211 **b. Accept June Treasurer’s Report**

212 Treasurer Crafton communicated that the report has been reviewed in accordance with
 213 the District’s internal controls and procedures. She moved to accept the June Treasurer’s
 214 Report as submitted. Manager Ziegler seconded the motion. Manager Koch asked about
 215 an invoice from ABDO. Administrator Bleser responded it is the final payment for the
 216 audit. He asked Administrator Bleser to check to ensure the District isn’t overpaying
 217 compared to the amount agreed upon in the contract. Manager Koch asked several other
 218 detailed questions about invoices listed in the June report. Manager Koch reiterated he is
 219 uncomfortable with the District not listing the Visa charges per vendor and requested the
 220 District ask the accountant to provide the District with a communication stating the way
 221 the Visa charges are being accounted for is consistent with generally accepted accounting
 222 principles. 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

223 **c. Approve Paying of the Bills**
 224 Manager Crafton moved to approve paying of the bills. Manager Pedersen seconded the
 225 motion. Manager Koch asked if the District owes interest on the May accounts
 226 receivables and asked if the District paid the invoices within 45 days. Manager Crafton
 227 said she will verify that they were paid within 45 days. Upon a roll call vote, the motion
 228 carried 4-1.

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

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231 **d. Consider Permit 2020-041 7420 Chanhassen Road – Shoreline as Presented**
 232 **in the Permit Review Report**

233 Mr. Jeffery provided project background and said he and Engineer Sobiech will be
 234 looking to the Board to provide guidance on how to handle after the fact permits. Mr.
 235 Jeffery explained that he and Engineer Sobiech will present the technical review of the
 236 project but will not be making a recommendation. Mr. Jeffery stated that staff will rely on
 237 the Board to decide how to handle this after the fact permit, recognizing that without a
 238 policy in place, every decision sets precedence.

239 Engineer Sobiech went through the technical review, and he noted staff didn't receive a
 240 an engineer-certified plan until July 29. He pointed out the installation did not reduce the
 241 flood storage volume of Lotus Lake, based on the cross-section drawing provided.

242 Engineer Sobiech said the meat of this discussion is around the District's shoreline
 243 stabilization rule. He reported that Mr. Jeffery had provided the applicant a draft erosion
 244 intensity worksheet in February 2020. Engineer Sobiech said it is the applicant's
 245 responsibility to provide the worksheet for the District's review. Engineer Sobiech said
 246 he went through the worksheet and had a slight variation compared to Mr. Jefferey's
 247 worksheet, due to the fetch, and the variation altered the score from 47 to a 48-49.

248 Engineer Sobiech explained that an intensity score of 47 means bioengineering, and a
 249 score above 47 means a combination of bioengineering and vegetated rip rap. He
 250 explained the applicant proposes to leave the rip rap as is and install native vegetation
 251 above the rip rap. Engineer Sobiech said staff would like the applicant to confirm the
 252 erosion intensity and revise their drawing to include pseudo vegetated rip rap such as live
 253 stakes or native plugs in the gaps in addition to providing vegetation above the rip rap.

254 Engineer Sobiech responded to managers’ questions and comments. Manager Koch
 255 pointed out if the District requires it, then the District requires it. He moved to lay over
 256 this agenda item and to direct staff to collect the information discussed by him and
 257 Engineer Sobiech, require complete plans, and that this issue be brought back to the
 258 Board at a later time, and the information should include the amount of time staff has
 259 worked on this project to-date. Manger Ziegler made the friendly amendment that the
 260 Board is laying this application over because it is incomplete and therefore the time limit
 261 for Board action and automatic approval does not apply. Manager Koch accepted the
 262 friendly amendment. Manager Pedersen seconded the motion. Mr. Jeffery ask for a point
 263 of clarification, and President Ward said that clarification will need to wait until the
 264 application is complete and the Board has received and reviewed the complete
 265 information at a future meeting. 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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269 **e. St. Anthony Falls Research Opportunity: Boat Wake Impacts on MN Lakes**

270 Administrator Bleser said the District has a unique opportunity regarding crowd-fund-
 271 based research out of St. Anthony Falls Laboratory. She explained the research will
 272 collect information in the summer 2021 on impacts of wake boats and wave action on
 273 shorelines. Administrator Bleser stated she sent the managers more detailed information
 274 about this research yesterday. Manager Koch added there is also concern about the
 275 impacts of wake boats on lake bottoms. Manager Koch moved to authorize the District to
 276 contribute \$10,000 toward this project. Manager Crafton seconded the motion. Manager
 277 Ziegler asked what budget this would come from. Administrator Bleser recommended the
 278 funds come from the District’s data collection budget, and she said there are funds
 279 available. Manager Koch made the friendly amendment to specify that the \$10,000 will
 280 come from the District’s data collection budget. Manager Crafton accepted the friendly
 281 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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8. Discussion Items

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a. Manager Reports

Manager Pedersen said it is time to work on the Administrator’s review. She recommended the District use the same process it used last year and consider contracting with Barbara Strandell for the work. She said the cost would be less than \$5,000. She asked for Board feedback. Manager Koch said he thinks the Board should move forward. Manger Pedersen moved that the Board initiate the Administrator review process and work with Barbara Strandell at a cost not to exceed \$5,000, with work performed in August and the review in September. Manager Crafton seconded the motion. Manager Koch asked where the funds would come from. Administrator Bleser said last year the District used reserve funds. Manager Koch said ultimately the District will just have to balance out its funds. 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. Administrator Report

Administrator Bleser announced the District is being awarded a \$50,000 from the

300 Minnesota Pollution Control Agency for modeling in the Purgatory Creek watershed,
301 specifically focusing on Eden Prairie. She noted that Engineer Sobiech was a co-author
302 on the grant.

303 **c. Schedule Personnel Committee Meeting**

304 The Board and staff scheduled the meeting for Monday, August 17 at 9:00 a.m.

305 **d. Schedule Governance Committee Meeting**

306 The Board and staff scheduled the meeting for Friday, August 14 at 1:00 p.m.

307 **e. Shoreline Stabilization Regulations and Policies**

308 Mr. Jeffery reported he and Administrator Bleser recently received a letter from the Lotus
309 Lake Conservation Alliance president, and he will forward the letter to the managers. He
310 said he would like the managers to consider the letter and discuss it and shoreline
311 stabilization policies at a future Board meeting.

312 **f. Rice Marsh Lake Sediment Chemistry Post-Alum**

313 Administrator Bleser said this is a point of information and the report from Wenck has
314 been distributed to the Board. Manager Koch said the Board should consider if it will
315 order any additional filtration projects until there is more information about the results of
316 existing projects.

9. Upcoming Board Topics

317 President Ward noted upcoming Board topics and events are listed on the meeting
318 agenda.

10. Upcoming Events

- 319
- Governance Committee Meeting, August 14, 2020, 1:00 p.m., Zoom meeting
- 320
- Personnel Committee Meeting, August 17, 2020, 9:00 a.m., Zoom meeting
- 321
- Citizen Advisory Committee Meeting, August 17, 2020, 6:00 p.m., Zoom Meeting
- 322
- Board of Managers Budget Workshop, TBD, Zoom Meeting
- 323
- Board of Managers Public Hearing and Regular Meeting, September 2, 2020, 7:00 p.m., Zoom
- 324 Meeting

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11. Adjournment

328 Manager Crafton moved to adjourn the meeting. Manager Pedersen seconded the motion. Upon a
329 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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332 The meeting adjourned at 9:41 p.m.

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Respectfully submitted,

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David Ziegler, Secretary