### **MEETING MINUTES**

### Riley-Purgatory-Bluff Creek Watershed District

## November 4, 2020, RPBCWD Board of Managers Monthly Meeting and CAC Workshop

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

Dick Ward, President

David Ziegler, Secretary

Staff: Amy Bakkum, Administrative Assistant

Claire Bleser, RPBCWD Administrator

Zach Dickhausen, Water Resources Technician II

Terry Jeffery, Watershed Planning Manager

B Lauer, Groundwater and Stewardship Program Coordinator

Josh Maxwell, Water Resources Coordinator

Louis Smith, Attorney, Smith Partners

Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: Kim Behrens Sharon McCotter

Elizabeth Henley Marilynn Torkelson

Jen Koehler

Note: this meeting was held remotely via meeting platform Zoom in abidance with state mandates

in response to Covid-19.

#### 1. Call to Order

President Ward called to order the Wednesday, November 4, 2020, Board of Managers Regular
Monthly Meeting at 5:00 p.m. The meeting was held remotely via meeting platform Zoom.

### 2. CAC Workshop

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President Ward opened the CAC workshop. Manager Koch objected to the Board holding the workshop because it is a special meeting that was not noticed per statutory requirements. He said he will leave the workshop and will join the Board at its 7:00 p.m. monthly meeting. Ms. B Lauer said the purpose of the workshop is for the Board to discuss how it would like to move forward with gaining input and feedback from the CAC. Ms. Lauer noted that CAC President Sharon McCotter elected not to attend this workshop. There was discussion about whether the Board wanted input from CAC members during this workshop and whether CAC members were supposed to attend this workshop or not. Ms. Lauer said the CAC members are welcome to participate, but the purpose of the workshop is to provide opportunity for manager discussion.

Administrator Bleser went through the workshop agenda, explaining the workshop will include presentation of background information and context and will include polls and discussion. Administrator Bleser reminded the Board of the CAC's motion in July requesting regular work direction from the Board about specific items on which the Board would like the CAC's input. She asked the Board to consider when it is most helpful to have input from the CAC.

Ms. Kim Behrens talked about the types of tasks the CAC engages in and how the tasks are directed. She let the Board know the CAC is interested in taking on a more active role in the work of the RPBCWD as stakeholders in projects, education and outreach strategies, grants, and new initiatives. Ms. Behrens shared that the CAC is asking that its unique knowledge is used and asked for to ensure community input is heard on decisions that impact the RPBCWD. President Ward noted that previous discussions centered around process and how it could better allow for the CAC to have the opportunity to make comments and recommendations to the Board before it acts on items.

The Board weighed in about topics it would like the CAC to advise the Board on. The managers discussed topics as well as formats the Board would like to receive input from the CAC and at what point in the decision-making process the Board would like to receive input from the CAC.

Administrator Bleser suggested she send the managers a link to this information for the managers to take time to consider the information and for the District to discuss these topics again. She recommended the District hold a 5:00 p.m. workshop on December 9<sup>th</sup>, prior to the Board's 7:00 p.m. monthly meeting on December 9<sup>th</sup>. The managers indicated consent to staff setting up and noticing a workshop for 5:00 p.m. on December 9<sup>th</sup>.

The workshop concluded at 5:46 p.m.

### 3. Approval of Agenda

 President Ward continued the Board of Managers Monthly Meeting at 7:00 p.m.

Manager Crafton moved to approve the agenda. Manager Pedersen seconded the motion.

Manager Koch objected to the agenda and the holding of this meeting. He said he thought this meeting was to be a regular meeting starting at 7:00 p.m.. He stated that the meeting should not be a continuation of a special meeting. Manager Koch explained his objection to the special meeting is because he didn't believe the District met its requirement to provide eight days written notice of a special meeting. He noted that the meeting agenda created confusion by stating the meeting starts at 7:00 p.m., but then listing that one of the agenda items is a workshop starting at 5:00 p.m.

Manager Koch requested removing all items off the Consent Agenda and moving the items to 9a, including items, 8a – Accept October Staff Report, 8b – Accept October Engineer's Report, 8c – Accept October Construction Inspection Report, 8d – Approve Pay App #10 Scenic Heights, 8e – Approve Permit 2020-054 Lake Minnetonka Care Center as Presented in the Proposed Board Action of the Permit Report, and 8f – Approve Cooperative Agreement with St. Hubert Catholic Community. Manager Koch requested reversing the order of items 10a – Managers' Report – and 10b – Administrator's Report – and adding to item 11c – Upcoming Board Topics – other – the

topics of 11ci – Budget, 11cii – 2020 Work Plan, 11ciii – Annual Review of the Administrator,
 and 11civ - IT consultant that was previously approved by the Board.

Administrator Bleser requested adding to the agenda Action Item 9e - hire an administrative assistant.

.<u>Upon a roll call vote, the motion carried 4-0</u> as follows:

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	No
Ziegler	Aye

## 4. Kerber Pond Ravine Feasibility Presentation

Mr. Jeffery described the project's history and introduced Ms. Jen Koehler of Barr Engineering to present the Kerber Pond Ravine feasibility study.

Ms. Koehler reminded the Board that Lotus Lake is impaired for excess sediments, and she reported that the proposed Kerber Pond Ravine project scored 34 using the District's prioritization tool. She displayed photos of the project area and talked about the subwatershed and its water flow patterns. She presented the two concepts explored in the feasibility study, including:

Concept 1: Channel Stabilization; and,

Concept 2: Low Flow Channel, High-Flow Storm Sewer.

She displayed a table comparing the two concepts, pointing out the estimated annual total phosphorous reduction for both concepts is 2.9 pounds per year, and the Engineer's opinion of estimated annual cost per pound of phosphorous removed for Concept 1 is \$6,200 (with the +/- range of \$3,400-\$32,400) and for Concept 2 \$10,700 (with the +/- range of \$5,800-\$55,100). She noted that Concept 1 is the more cost effective solultion. She presented the Engineer's opinion of total probable cost: Concept 1 was \$395,000 (\$280,000-\$590,000) and Concept 2 was \$678,000 (\$470,000-\$1,020,000).

Ms. Koehler reported the proposed project would achieve approximately 50% of the erosion source load reduction required by the Lotus Lake TMDL, and the District will want to monitor pollutant loading through the ravine under existing conditions and after implementation to

monitor the project impacts. She explained the City of Chanhassen communicated it has a potential street reconstruction project coming up on Frontier Trail, and if the Kerber Pond Ravine project moves forward, the City would like it to coincide with the timing of the Fronter Trail street reconstruction project, which could potentially occur in 2023-2025. Ms. Koehler noted the entire project area is on private property, so coordination between the District and the City is vital to make sure all necessary access is secured.

Mr. Jeffery stated staff recommends the District return the feasibility study to the City for the City to take the lead on any project, and the District could participate through some type of cost share. He and Ms. Koehler responded to manager questions, and Mr. Jeffery discussed in more detail Wetland Conservation Act and Army Corps of Engineers implications.

Administrator Bleser said she will distribute the feasibility study to the managers.

#### 5. Matters of General Public Interest

No matters of general public interest were raised.

### 6. Reading and Approval of Minutes

## a. October 7, 2020, RPBCWD Board of Managers Budget Workshop

Manager Pedersen noted on line 168, the word "approved" should be corrected to "approve," the words "to act" should be deleted on line 176, and the word "to" should be added to line 342. Manager Ziegler moved to accept the minutes as amended. Manager Crafton seconded the motion. <u>Upon a roll call vote, the motion carried 5-0 as follows:</u>

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

# b. October 14, 2020, RPBCWD Board of Managers Continuation of October 7<sup>th</sup> Regular Monthly Meeting

Manager Ziegler moved to accept the minutes as presented. Manager Pedersen seconded the motion.

Manager Koch moved to amend the motion to strike the minutes and deem the meeting null and void. He explained his objection to the Board holding the meeting is due to the lack of adequate meeting notice. The motion died due to lack of a second. Attorney Smith stated it was determined that the October 14<sup>th</sup> meeting was duly noticed.

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

Manager	Action
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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### **7. CAC**

President Ward noted the CAC did not hold a meeting in October and there are no CAC meeting minutes.

## 8. Consent Agenda

All Consent Agenda items were moved to Agenda Item 9a.

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## 9. Action Items

### a. Pulled Consent Agenda Items

## i. Accept October Staff Report

Manager Koch said as far as he knows, the District doesn't have a full set of internal controls and measure. He has asked for them and hasn't received them. He said no one has shown him where they have been adopted and where they are, and so he doesn't see how the Board can review reports based on internal controls and measures if the District doesn't have them.

Manager Koch asked for more information on the discussion about Chanhassen taking over permitting authority over the District's rules. Mr. Jeffery responded that the City's plan is to adopt the District's rules by reference, so the City's rules would be equally protective. Manager Koch provided his opinion about the City's

inability to enforce rules, and he would like the Board to discuss the issue further.

Manager Koch asked for more details about AIS monitoring and the pike netting. Mr. Maxwell described the District's fish monitoring schedule and said there was no netting on Lotus Lake this year. Manager Koch asked if the District knows when the University of Minnesota will be providing the District with a report on the iron-enhanced sand filings project. Administrator Bleser said the University is still doing analysis, but there may be an update coming out in January or February. Manager Koch asked for more information about the wetland services project, and Mr. Jeffery provided details. Manger Koch commented he is wondering if the District could take a lead in a lidar project to monitor the wetlands and how they expand and shrink. Mr. Jeffery responded that staff is looking at lidar technology in relation to the District's work.

Manager Ziegler moved to approve the October staff report. Manager Pedersen seconded the motion. Manager Koch made the friendly amendment that the Board accept the staff report rather than approve it. Managers Ziegler and Pedersen agreed to the friendly amendment. <u>Upon a roll call vote</u>, the motion carried 5-0 as follows:

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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### ii. Accept October Engineer's Report

Manager Koch asked about the report's reference to a meeting about ASTM standards for products, and he asked if there is a timeline for standards being adopted. Engineer Sobiech said the committee is in the initial stages of being set up and there is no timeframe set for delivering a set of standards around manufactured treatment devices. He added that the Minnesota Pollution Control Agency has a working group formed to set up some type of standardization to incorporate into the Minnesota Stormwater Manual by early to mid-2021.

Manager Koch asked for more details about staff tracking time spent on preapplication calls and communications, and Engineer Sobiech provided information. Manager Crafton moved to accept the October Engineer's report. Manager Ziegler seconded the motion.. <u>Upon a roll call vote</u>, the motion carried 5-0 as follows:

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

## iii. Accept October Construction Inspection Report

Manager Koch moved to accept the October Construction Inspection Report.

Manager Ziegler seconded the motion. <u>Upon a roll call vote</u>, the motion carried 5<u>0 as follows:</u>

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

## iv. Approve Pay App #10 – Scenic Heights

Manager Koch asked for an explanation about the basis for the limitation on the retainage. Engineer Sobiech explained the limitation has been the standard language since the state made a revision. Manager Koch said he would like the District to remove that limitation. Attorney Smith said the language is written in to the specs at the front of the process, and the District is free to adjust it. Manager Koch requested that next time staff provide options on the retainage for the Board to consider. Attorney Smith suggested that he and Engineer Sobiech

prepare information on the matter to provide to the Board for its review and discussion at a future Board meeting. The Board indicated consent to direct legal counsel and the engineer to prepare the information to provide to the Board.

Manager Koch moved to approve Pay App #10 Scenic Heights. Manager Ziegler seconded the motion. <u>Upon a roll call vote</u>, the motion carried 5-0 as follows:

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

# v. Approve Permit 2020-054 Lake Minnetonka Care Center as Presented in the Proposed Board Action of the Permit Report

Manager Koch asked if there are concerns about capturing pollutants or biohazards in underground storage and if the District has requirements to address the issue. Engineer Sobiech said that as a private developer, the developer is required to enter into a maintenance declaration and have it recorded on the property. He talked further about the required maintenance, noting groundwater monitoring is not required. Manager Koch said he thinks it is worth the District discussing whether it should require groundwater monitoring.

Manager Koch moved to approve Permit 2020-054 Lake Minnetonka Care Center with the Engineer's recommendations and conditions presented in the Engineer's memo. Manager Ziegler seconded the motion. <u>Upon a roll call vote, the motion</u> carried 5-0 as follows:

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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## vi. Approve Cooperative Agreement with St. Hubert Catholic Community

Manager Koch said there were inconsistencies within the Cooperative Agreement and terms missing, and he recommended adding to the agreement construction area controls. He recommended referring the agreement back to legal counsel for review and consideration of the comments he has made. The motion died due to lack of second.

Manager Ziegler moved to approve the Cooperative Agreement with St. Hubert Catholic Community subject to the review of the District's legal counsel and engineer and with their non-substantive changes. Manager Pedersen seconded the motion. Manager Koch remarked he will vote no not because he is against the project but because he feels there is room in the Cooperative Agreement for significant improvement and feels it is an inadequate agreement under these circumstances Upon a roll call vote, the motion carried 4-1 as follows:

Manager	Action
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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### b. Accept September Treasurer's Report

Manager Crafton moved to accept the September Treasurer's Report. Manager Ziegler seconded the motion. Manager Koch commented he has an issue with the District cutting checks before the Board approves payment, and he asked if the procedure of issuing checks prior to their approval is documented in the District's financial policies.

Administrator Bleser responded she will review the District's escrow agreements and the Districts policies and will report back at the Board's December meeting. Manager Koch asked for more details about what services the District received for the invoice from Redpath and Company, and he provided comments about items that should be included in the District's budget and how the District should be eliminating redundancies and inefficiencies and should be saving money. Manager Koch provided additional comments about the balance sheet and stated the District needs to make sure it has certification that the District's money market account funds are all covered under FDIC. Manager Koch

said it is not proper accounting to report Visa as a vendor and the charges should be reported by vendor and the amount of the Visa charge should be listed as the amount the District owes the vendor. He recommended Administrator Bleser bring this item up to the accountant and the auditor.

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

Manager	Action
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

## c. Approve Paying of the Bills

Manager Crafton moved to pay the bills. Manager Ziegler seconded the motion. Manager Koch said he has a hard time approving paying bills for items for which the District doesn't have a budget, particularly the professional services. <u>Upon a roll call vote, the motion carried 4-1.</u>

Manager	Action
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

### d. Elect Two MAWD Delegates and an Alternate and MAWD Participation

Administrator Bleser requested the managers let her know if they are planning to attend the MAWD annual meeting. Manager Pedersen moved to elect Manager Crafton and Manager Ziegler as the Board's delegates. Manager Koch seconded the motion.

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

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

Manager Koch moved to elect President Ward as the alternate delegate. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

### e. Administrative Assistant

Administrator Bleser asked the Board to approve the District moving forward to hire an administrative assistant. Manager Crafton stated she submitted her comments on the role's job description to Administrator Bleser and reported that because the Personnel Committee meeting wasn't noticed, the Committee hasn't met to discuss the job description and responsibilities.

Manager Koch moved to lay this item over until the Board's December meeting, direct the Personnel Committee to meet to discuss and finalize the job description, and direct Administrator Bleser to update the table of anticipated positions and salaries. Manager Crafton seconded the motion. There was a lengthy discussion about the job description, the urgency for hiring an administrative assistant, methods of budgeting for employee

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costs that managers have seen in other areas of their careers, and the level of detail managers should receive regarding each employee's benefits. <u>Upon a roll call vote, the motion failed 2-3 as follows:</u>

Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	No
Ward	No
Ziegler	No

Manager Pedersen moved to authorize hiring an administrative assistant with the salary range provided by Administrator Bleser and the Personnel Committee finalizing the position description to provide to the Board at the December meeting. Manager Ziegler seconded the motion. Manager Koch said he thinks the process should move forward as he described. <u>Upon a roll call vote</u>, the motion carried 4-1.

Manager	Action
Crafton	Aye
Koch	No
Pedersen	Aye
Ward	Aye
Ziegler	Aye

## 10. Discussion Items

## a. Administrator Report

Administrator Bleser noted the dates Sharon Klump is available for conducting the Administrator review. The Board agreed to hold the Administrator review on November 16, 2020, at 9:00 a.m.

Administrator Bleser talked about the air purifiers now in place in the District office. She provided an update on the wrapping up of the District's field season. Administrator Bleser reported the District is coordinating a viewing of Kiss the Ground in collaboration with the City of Minnetonka and the Nine Mile Creek Watershed District. She said the viewing will likely be scheduled for December.

### b. Manager Reports

Manager Koch asked if the District has looked for an IT consultant. Administrator Bleser talked about the IT services the City of Eden Prairie is open to sharing with the District. Manager Koch stated the District should not be relying on the City of Eden Prairie and needs to hire an outside IT consultant with a wide range of experience and advise the District on its systems, software, and security. He raised his concerns about the District missing meeting some of its statutory requirements such as timely responses to Data Practices Act requests.

### c. Rice Marsh Lake Update

Engineer Sobiech displayed a PowerPoint presentation and reminded the Board that earlier this year staff presented the Rice Marsh Lake feasibility study to the Board. He provided background on Rice Marsh Lake, explaining the lake is impaired for excess nutrients and talking about the reductions needed to meet the water quality standard criteria. Engineer Sobiech talked about the data collected from RPBCWD monitoring, and he explained the ways in which the watershed model was modified to improve phosphorous load estimates. He described the alternatives reviewed in the feasibility study and the metrics examined. Engineer Sobiech summarized the scoring system staff applied to the metrics and reported that the alternative that scored at the top was a proprietary device by Bio Clean Environmental called the Kraken, a stormwater chamber with filtration cartridges for the water to filter through. He talked about the investigation staff undertook to evaluate the Kraken as a BMP and described the findings.

Engineer Sobiech said staff supports the recommendation provided in the feasibility study, which is to utilize a Kraken or similar proprietary device. He added that the City of Chanhassen is supportive of the project. Engineer Sobiech stated he suggests the Board hold a public hearing in December if the Board is interested in moving forward with the project. He explained that if the Board orders the project, the District will need a cooperative agreement with the City of Chanhassen and move forward to doing the detailed design of the project for constructing the project in late 2021, ideally.

Manager Koch asked several questions, and Engineer Sobiech and Administrator Bleser responded. Manager Koch remarked the District needs to get its arms around the data and nail it down. He said he would like to know if the City of Chanhassen should dredge the pond. He commented it seems the District doesn't have all the pieces of information to be able to evaluate. Manager Koch said he is leery about proprietary products and he thinks the District should wait for all the data before ordering the project. He added he is concerned about money due to the fall out of Covid-19, and he believes the District should see the economics of 2021 before ordering the project. He asked what the next steps are in getting all the information. Engineer Sobiech clarified the project process,

explaining the next step would be design and specifications, followed by getting bids, followed by awarding or not awarding the project. Administrator Bleser said the District would hold a public hearing in December to gather public comments on the proposed project. Manager Koch said the District should be gathering the data on the effectiveness of the alum treatment and see if the data justifies the project.

Manager Pedersen commented in support of moving forward with the project process. Mr. Jeffery remarked the District needs to address the external loading to Rice Marsh Lake.

Manager Pedersen moved to approve going forward with the design portion of the Pond RML 12 sediment plan. Manager Crafton seconded the motion. Manager Koch said this item is an informational item. Attorney Smith pointed out the Board will need to order the public hearing if it plans to hold one in December. He explained the public hearing is needed before ordering the project design. Manager Pedersen made the friendly amendment to her motion to direct staff to order the public hearing to be held at the Board's December monthly meeting. Manager Crafton agreed to the friendly amendment.

Manager Koch said the District needs more data. He clarified that the motion on the table is to approve holding a public hearing in December. President Ward said yes.

### Upon a roll call vote, the motion carried 4-0.

Manager	Action
Crafton	Aye
Koch	Abstain
Pedersen	Aye
Ward	Aye
Ziegler	Aye

## d. Plan Amendments: DEI, Rules, Soil,

Administrator Bleser summarized the proposed plan amendments included in the meeting packet. Ms. B Lauer presented on the proposed Diversity, Equity, and Inclusion (DEI) amendment. Managers provided feedback, and Manager Koch said he would like to hear the CAC's input. He said he finds the information in the proposed plan amendment a little vague, and he would like an opportunity for managers to have an interactive dialog and to engage the community in an interactive dialog.

Ms. Sharon McCotter said the CAC believes there should be a discussion about what constitutes equity and identify where opportunities are available. She said the CAC is interested in being involved in these efforts.

346 President Ward asked staff what next steps are being proposed regarding the District's 347 DEI. Administrator Bleser said she sees the next steps to be furthering the conversations about DEI by engaging the CAC in the discussion, engaging the Board in discussion, and 348 possibly touching base with the cities for conversation. She said she is hearing the Board 349 350 is in consensus with staff moving forward to engage about DEI at a broader level and then bringing the topic back to the Board. 351 352 e. Other 353 President Ward laid over any further plan amendment presentations to the Board's 354 December monthly meeting. He noted the managers will be participating in the MAWD Virtual Annual Conference December 1-4. 355 356 11. Upcoming Board Topics 357 President Ward noted that the upcoming Board topics and events were listed on the meeting agenda and amended under item 3 – Approval of the Agenda. Upcoming topics 358 and events include: 359 360 Public Hearing for Ordering Rice Marsh Lake Water Quality (December), Bloomington 361 Flood Mapping and Prioritization Tool, Public Hearing on Rice Marsh Lake, Budget, Annual Review of the Administrator, and IT consultant as previously approved by the 362 363 Board. 364 12. Upcoming Events Citizen Advisory Committee Meeting, November 16, 2020, 6:00 p.m., virtual meeting 365 366 Explore Your Waterway with the U.S. EPA, Webinar, November 17, 2020, 12:00 p.m., virtual MAWD Virtual Annual Conference, December 1-4, 2020, virtual 367 368 Board of Managers Public Hearing and Regular Meeting, December 9, 2020, 7:00 p.m., virtual 369 13. Adjournment

Manager Crafton moved adjourn the meeting. Manager Pedersen seconded the motion. Upon a

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

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Manager	Action
Crafton	Aye
Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

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375 The meeting adjourned at 10:22 p.m.
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David Ziegler, Secretary