

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

March 13, 2024, RPBCWD Board of Managers Regular Monthly Meeting

PRESENT:

Managers:

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

Staff:

Amy Bakkum, Office Administrator
Zach Dickhausen*, Natural Resources Coordinator
Andrew Hartmann*, Water Resources Technician
Terry Jeffery, District Administrator
Josh Maxwell, Water Resources & Fisheries Manager
Dylan Monahan, Administrative Assistant
Alaina Portoghese*, Communications Specialist
Louis Smith, Attorney, Smith Partners
Scott Sobiech, Barr Engineering Company

Other Attendees:

Joe Bischoff Ted Melby
Dan Blake Bonnie Nelson
Tim Erhart Maya Santamaria
Andrew Hartmann* Jeff Strate
Morgan Jacobs Mark Weber
Tom Lindquist Rachel Whittington

**Attended the meeting virtually.*

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

- 1 President Dorothy Pedersen called to order the Wednesday, March 13, 2024, Board of Managers
- 2 Regular Meeting at 7:02 p.m. at the District Office, 18681 Lake Drive East, Chanhassen,
- 3 Hennepin County, Minnesota.
- 4 President Pedersen stated this meeting is being held in person in public while the District
- 5 recognizes a manager may, based on advice from a healthcare professional, have a legitimate
- 6 reason for not attending a meeting in a public place in person, such as Covid-19 exposure or
- 7 infection, and in such circumstances may participate in the meeting remotely.

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

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

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11 **2. Approval of Agenda**

12 Manager Ziegler moved to accept the agenda as written. Manager Duevel seconded the motion.

13 Manager Larry Koch requested removing Consent Agenda items 8e – Approve Permit
 14 2023-074 TH 101 Culvert Replacement and 8f – Approve Permit 2024-004 Clear Springs
 15 Elementary Parking Lot. The managers consented to Manager Koch’s change to the motion.

16 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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19 **3. Matters of General Public Interest**

20 President Pedersen explained the procedures for raising matters of public interest.

21 Tom Lindquist of 16570 Baywood Terrace, on the east side of Duck Lake, commented he
 22 and most of the members of the Duck Lake Homeowners Association strongly support
 23 Resolution 24-017. He said the resolution is intended to approve Task Order 46 to analyze
 the effects of potential modifications to the outlet. Mr. Lindquist said the Duck Lake

24 Homeowners Association strongly favors changes that will bring the average water level of
25 Duck Lake back to historic levels from 1970 until the outlet was modified. He explained
26 how after the outlet was modified in 2014, the actual average water level was about one foot
27 lower than before the outlet modification. Mr. Lindquist said the Duck Lake Homeowners
28 Association is concerned about the impact of the lower water level, such as winterkill and
29 reduced recreation activities. He said he was concerned about the proposed implementation
30 schedule for the outlet because he was afraid it would interfere with the restocking of the
31 lake. Mr. Lindquist said those fears have been alleviated. He reported he had a discussion
32 today with Daryl Ellison of the West Metro Fisheries, and currently Duck Lake is on the
33 docket for restocking this spring with bass, sunfish, and crappies. Mr. Lindquist said there
34 are still the long-term issues to address and we still need to get the outlet back to where it
35 used to be, but at least it is one step forward.

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4. Erhart Farms Trail Alignment

37 Administrator Terry Jeffery said Dan Blake is present tonight to represent Mr. Erhart of
38 Erhart Farms. Administrator Jeffery explained that Mr. Black and Mr. Erhart have been in
39 discussions with the City of Chanhassen regarding potential alignment of the trail through
40 the area around the Fox Woods nature preserve area dedicated to the City and the existing
41 first part of the Erhart Farms development, or Foxwood, as well as the second part of that
42 development, or Foxwood Two, which is coming forward in Chanhassen. Administrator
43 Jeffery explained Mr. Blake has asked to speak to the Board tonight to gauge the level of the
44 Board's reception of the idea of aligning the trail in that area.

45 Dan Blake of Black Cherry Development said his and Mr. Erhart's objective is to get a bike
46 trail from Bandimere park to Foxwoods Preserve, in order to get people in to experience the
47 preserve. Mr. Blake said the proposed paved trail in the preserve is a city project, but the
48 City challenged Mr. Blake and Mr. Erhart, as the property owners, to figure out how to
49 move forward with the project. He said his goal tonight is to get the District interested
50 enough in the idea to direct District staff to work with the City of Chanhassen and Black
51 Cherry Development to figure out how the bike trail and trail alignment could work. Mr.
52 Blake said if the Board thinks this idea could not work, then he wants to hear that feedback.

53 Mr. Blake said the City put the trail on a plan but seems to have dropped it as a priority.

54 Mr. Blake displayed maps and described several possible trail alignment routes. He asked
55 for Board feedback about the options.

56 President Pedersen asked what the most ecological option is out of the options presented.
57 Administrator Jeffery said it depends on a number of variables. He said the wetland in this
58 area is a medium-value wetland. Administrator Jeffery said if the proposed project can meet
59 the 20-foot-minimum buffer on-average on the other side, it could be an ecologically sound
60 way to proceed. He said a boardwalk is another idea that Mr. Blake mentioned and could
61 meet the District's buffer requirements. Administrator Jeffery said an impervious surface
62 immediately adjacent to the wetland would not be ideal if there are other alternatives.

63 Manager Koch said he does not believe a watershed district should be in the park business.
64 He said this project is for the property owner and it is incumbent for the land owner to get
65 the City on board first. Manager Koch said he does not think the District should support any
66 type of impervious bike trails. He said this is a developer and City of Chanhassen issue.
67 Manager Koch said the District would comment on and respond to this type of project in a
68 permit application review as it relates to the District's rules.

69 Manager Ziegler said he would like to hear from staff.

70 Manager Crafton commented the context of decision making is shifting because of climate
71 change and considerations of impacts to hydrology. She said she worries about any
72 alterations to hydrology. Manager Crafton said she wants the District to look at this in the
73 context of hydrology and recharging of streams and enhancing wetlands. She commented on
74 drought, the lack of precipitation in this area this winter, and the unknown conditions of the
75 upcoming summer. Manager Crafton remarked she would want to hear from the District's
76 engineer on what the District is looking at.

77 Administrator Jeffery said he is hearing from the managers that Black Cherry Development
78 should put together concept plans to discuss with the District Engineer and Administrator.

79 Manager Duvel reminded the Board that the context of Mr. Blake's request is to get the
80 District's feedback earlier in the process.

81 Administrator Jeffery said he thinks the Board would not be in favor of a proposed design
82 that includes a variance request from the minimum buffer. President Pedersen agreed and
83 commented she would not be in favor of a bituminous path.

84 Manager Koch said the property owner can explore options to fund the proposed project but
85 should not be looking to the District for project funding.

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5. Presentation on Lotus Lake Internal Load – Alum Treatment

87 Joe Bischoff of Barr Engineering displayed a PowerPoint presentation "Lotus Lake Alum
88 Treatment." He reminded the Board the half dose of the alum treatment was applied to
89 Lotus Lake in 2018 to address internal phosphorous loading as documented in the District's
90 2017 Use Attainability Analysis (UAA).

91 Mr. Bischoff reported water quality data shows the surface water phosphorous
92 concentrations dropped significantly after the 2018 alum treatment. He said post-treatment
93 the lake has met the state standards for phosphorous. Mr. Bischoff said data shows some
94 phosphorous release is still happening from the bottom sediments in the lake, which is not
95 unexpected. He said phosphorous has been suppressed significantly, which has improved
96 water quality, but to remember the District has only completed half of the dose. Mr.
97 Bischoff reminded the Board that the second half of the dose of Lake Riley successfully
98 suppressed phosphorous.

99 Mr. Bischoff said the second half dose of Lotus Lake remains to be done. He said the
100 District needs to decide if it wants to repeat the treatment it did in the first half dose or do

101 some additional areas of alum treatment in the lake. He recommended dosage treatment
 102 Alternative 3, which reduces the deep water phosphorous treatment area to depths greater
 103 than 15 feet in zones 1 and 2a and moves the alum previously designated for the 10-15 foot
 104 depth contours to the two parts of the lake that had higher concentrations of phosphorous
 105 release. Mr. Bischoff said the cost of this approach would be \$250,000 in 2024 to complete
 106 the dose in two of the original zones treated in 2018 plus doing a half dose in the zones 1
 107 and 2a. He said the second half-dose of zones 1 and 2a could be done two to four years later
 108 for an estimated cost of \$110,000.

109 Manager Koch said there has been significant wake boat traffic in Lotus Lake. He said the
 110 studies he is aware of show wake boats have significant impact on the bottom of lakes in 25-
 111 feet of depth and less. Manager Koch said his concern is the District spending money on
 112 treatment in shallower depths only to have the treatment disturbed by wake boat action. He
 113 said there is a significant risk of wasting a significant amount of money. Manager Koch
 114 proposed moving forward in a controlled approach by doing testing in one of the Lotus Lake
 115 locations, either location 10 or 40, by applying in one location and monitoring it.

116 Mr. Bischoff stated the information he has seen indicate that the energy really dissipates at
 117 depths of more than 15 feet. He said if the treatment is below 15 feet, there should not be
 118 really any energy from wake boats, wind, or boats to resuspend those sediments. Mr.
 119 Bischoff added that once the phosphorous is bound, it is inactivated and is no longer
 120 available for algae. Mr. Bischoff said he believes it would be valuable for the District to do
 121 the alum treatment in the areas he recommended.

122 Manager Crafton commented she supports what Mr. Bischoff has proposed. Manager
 123 Ziegler said there is always more data coming and he thinks the District should at least
 124 finish the second half dose. Manager Duevel said he thinks the District should proceed with
 125 the plan and make further determinations down the line as the District has more information.
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6. Reading and Approval of Meeting Minutes

- a. **Approve Minutes of the February 7, 2024, Regular Meeting of the RPBCWD Board of Managers**

129 Manager Ziegler moved to approve the minutes of the February 7, 2024, Regular Meeting
 130 of the RPBCWD Board of Managers as written. Manager Duevel seconded the motion.

131 Upon a roll call vote, the motion carried 4-0 as follows:

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

Pedersen	Yes
Ziegler	Yes

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7. Committee Reports

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a. Adopt Resolution 2024-019 Receiving Committee Reports.

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i. Receive Governance Committee Report

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Administrator Jeffery reported that the Committee hopes to bring the Governance Manual to the Board for review and discussion at the Board’s April workshop.

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ii. Receive Audit and Finance Committee Report

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Manager Crafton reported the Committee has been reviewing the policies and making comments.

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iii. Receive Citizen Advisory Committee’s Report and Minutes

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Bonnie Nelson reported the CAC has no new motions. She said at the most recent CAC meeting District staff member Zach Dickhausen presented to the Committee about the wetland program. Ms. Nelson reported the Committee had a lot of discussion and questions on the topic. She said the presentation and meeting was recorded and is posted on the District’s YouTube channel. Ms. Nelson said it would be helpful to the CAC to have a flow chart about which entity has authority for what.

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Ms. Nelson reported the CAC keeps a motions list on the CAC’s Google Drive. She said the CAC discussed how the Committee needs to do a better job identifying issues from that list and making it easier for the Board to find.

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She reported the next CAC meeting will include a presentation by District staff members Josh Maxwell and Andrew Hartmann on water quality. She said the CAC will review and discuss at its next meeting the CAC members guidance document.

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Manager Duevel moved to adopt Resolution 2024-019 Receiving Committee Reports. 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	Yes
Duevel	Yes

Koch	Yes
Pedersen	Yes
Ziegler	Yes

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b. Confirm Board Representative for March 18, 2024, CAC Meeting

Manager Duevel volunteered to be the Board representative at the March 18th CAC meeting.

8. Consent Agenda

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a. Adopt Resolution 24-013 to Approve Consent Agenda

President Pedersen listed the items remaining on the Consent Agenda: 8a – Adopt Resolution 24-020 to Approve Consent Agenda, 8b – Receive February Staff Report, 8c – Receive February Engineer’s Report, 8d – Receive February Regulatory Report, 8g – Approve Permit 2024-005 Lake Ann Preserve Trail System as Presented in the Proposed Board Action Segment of the Permit Review Report; 8h – Adopt Resolution 24-021 Authorizing Distribution of 2023 Annual Report.

Manager Crafton moved to adopt Resolution 24-013 to Approve Consent Agenda. Manager Duevel seconded the motion.

Upon a roll call vote, the motion carried 4-0 as follows:

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

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9. Old Business

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a. Adopt Resolution 24-016 Authorizing Barr Task Order #45 to Develop a District Groundwater Monitoring Network

180 Manager Ziegler moved to adopt Resolution 24-016 Authorizing Barr Task Order #45 to
 181 Develop a District Groundwater Monitoring Network. Manager Crafton seconded the
 182 motion.

183 Manager Koch repeated his concerns about moving forward with this groundwater
 184 monitoring. He said if the District were to do anything on this, he thinks it should be done
 185 in segments. Manager Koch said the first segment should be a summary of the prior
 186 monitoring. He said he has not heard of a problem the District needs to address and unless
 187 there is one, he does not think the District should be searching for a solution for a problem
 188 that does not exist.

189 Manager Koch noted the second page of the resolution has a notation about 2023, which
 190 should be corrected to 2024.

191 Manager Koch moved to table this item and have staff come back with a more ordered
 192 break down of tasks to be accomplished, with the first one being a summary of what was
 193 done, why it was stopped, and what we propose to discover with a groundwater
 194 monitoring process. The motion died due to lack of a second.

195 Manager Ziegler said there are several important things we need to know. He said we
 196 know from historical information from the cities that the groundwater levels vary with the
 197 season and has been trending down for many years. He said we know that there is some
 198 salt pollution already in the groundwater. Manager Ziegler said it seems the District needs
 199 to know what it does not know and that is why we need this program. Manager Duevel
 200 and Manager Crafton and President Pedersen concurred with Manager Ziegler's
 201 comments.

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

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

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205 **b. Adopt Resolution 24-017 Authorizing Barr Task Order #46 to Analyze**
 206 **Potential Duck Lake Outlet Modification**

207 Scott Sobiech said the Task Order is for additional surface water modeling of Duck Lake
 208 to try to recreate outlet conditions that would mimic historic conditions. He explained the
 209 goal is to try to design an outlet configuration that would mimic the historic conditions, in

210 which the lake level was about a foot to a foot and a half higher than the lake level after
 211 the outlet was modified. Mr. Sobiech noted the control elevation would need to be kept
 212 the same because the Department of Natural Resources (DNR) is adamant the control
 213 elevation cannot change unless 100% of the riparian owners support a petition and the
 214 City supports the petition.

215 Mr. Sobiech noted a complicating factor is the outlet sits on railroad company property.
 216 He said historically it is difficult to get permission from a railroad to access and work on
 217 their property.

218 Manager Ziegler moved to adopt Resolution 24-017 Authorizing Barr Task Order #46 to
 219 Analyze Potential Duck Lake Outlet Modification. Manager Duevel seconded the motion.

220 Manager Koch objected to this artificial means of trying to do something. Manager Koch
 221 said the right way to do this is to approach the riparian owners and get their permission.
 222 He said the proposed approach is not an honest way and he is not in favor of going
 223 forward in this manner.

224 Manager Crafton remarked the fact the DNR said it will be fine with this if the property
 225 owners and the City sign off on this tells her the DNR could be fine with this.

226 Manager Ziegler said the DNR has agreed to stock Duck Lake this year with fish in
 227 anticipation of a better lake level. He said that tells him the DNR is in favor of it. Manager
 228 Ziegler said he does not know why the District would not do the engineering and present
 229 something that the City, DNR, and residents could agree to.

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

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

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233 **c. Adopt Resolution 24-024 Amending the Order of the Upper Bluff Creek**
 234 **Restoration & Stabilization Project**

235 Administrator Jeffery explained the modification to that resolution is to clearly spell out
 236 the monies that will be spent and that the culvert is part of the project. Manager Duevel
 237 moved to adopt Resolution 24-024 Amending the Order of the Upper Bluff Creek
 238 Restoration & Stabilization Project. Manager Crafton seconded the motion.

239 Manager Koch said this is a material change to a previously approved process. He said
 240 this is not a minor matter and is something that will costs hundreds of thousands of
 241 dollars, which is 30% to 40% of the original cost. Manager Koch stated it is his opinion
 242 this update is not subject to an amendment without going through the appropriate plan
 243 amendment process.

244 Mr. Smith said the legal notion here is this is a clarification and is based on the record that
 245 was made and this is not a material change that affects the participating parties in the
 246 project.

247 Administrator Jeffery said it is included within the resolution that was drafted. He said
 248 when staff came to the Board in December about the Upper Bluff Creek Restoration and
 249 Stabilization project, staff described the culvert as part of the project in partnership with
 250 the City of Chanhassen. Administrator Jeffery said legal counsel Michael Welch, upon
 251 reviewing the December resolution, thought the resolution was not clear the culvert was
 252 part of the project, which is the reason for this amendment to clarify it.

253 Manager Koch stated he disagrees with Mr. Smith’s characterization. Manager Koch said
 254 he thinks this is part of an ongoing effort to try to come up with some different definition
 255 of “material.” He said this does not comply with the 10-year plan process and
 256 requirements and he hopes we do not have to end up in the same places as we are with
 257 certain other proposed plan amendments. Manager Koch said it is a matter of the process.
 258 He said he cannot imagine anybody in any stretch of the imagination would all the sudden
 259 say this is something we just forgot about or an oversight or an oversight to the tune of
 260 hundreds of thousands of dollars. He said it just does not add up or cut it, so why do we
 261 not just do it the right way and come up with the amendment to the plan for this project
 262 and go through the requisite procedure, instead of constantly trying to come up with
 263 excuses for not following the rules.

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

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

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10. New Business

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a. Items Removed from Consent Agenda

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i. Approve Permit 2023-074 TH 101 Culvert Replacement as Presented in the Proposed Board Action Section of the Permit Review Report.

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Manager Koch asked if the capacity for this culvert has been adjusted based on anticipated maximum rainfall events and does the project include any type of water retention or slowing and is the concrete treated on the interior and exterior to maximize its lifespan.

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Mr. Sobiech responded the applicant is proposing to replace only the upstream portion of the pipe and the far downstream portion. He explained the applicant is proposing to replace and extend the downstream end with reinforced concrete and is not proposing to replace the main portion, or the steel pipe, under the roadway. Mr. Sobiech said the main portion will remain unchanged. He said the applicant is not proposing any new water retention or detention and the applicant is not required to do so to meet the District's rules. Mr. Sobiech said there is no new water entering this pipe. Mr. Sobiech said the lifespan of reinforced concrete is 50 to 100 years, which is more than adequate.

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Manager Koch wondered if the District should be proposing improvements that could provide erosion reduction or proposing any additional work in connection with this culvert project.

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Mr. Sobiech said in terms of additional work the District could do, perhaps there is minor streambank stabilization that could be done downstream of the culvert project. He said the project already includes some of that, so additional work would mean extending work beyond the project's reach. Mr. Sobiech said regarding replacing the pipe under the roadway, the Department of Transportation was clear it does not want to replace it because it does not want to shut down the roadway. He reminded the Board the DOT did a video inspection of the pipe and determined through an assessment that the steel pipe under the roadway is in adequate condition.

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Manager Ziegler moved to approve permit 2023-074 Culvert Replacement as Presented in the Proposed Board Action Section of the Permit Review Report. Manager Duevel 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	Yes
Duevel	Yes

Koch	Yes
Pedersen	Yes
Ziegler	Yes

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ii. Approve Permit 2024-004 Clear Springs Elementary Parking Lot as Presented in the Proposed Board Action Section of the Permit Review Report

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Manager Koch asked what the District could do regarding large parking lots and salt to clean up salt and minimize the amount of salt, which could run off the lot and into wetlands and lakes. He asked if the District has the ability to require shopping center owners, if they are going to do parking lots, to adopt some procedures to minimize situations of excess salt.

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Manager Ziegler moved to approve Permit 2024-004 Clear Springs Elementary Parking Lot as presented in the proposed Board action section of the permit review report. Manager Duevel 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	Yes
Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

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b. Accept February Treasurer’s Report

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Manager Crafton said the February Treasurer’s Report has been reviewed in compliance with our internal controls and practices. She moved to accept the February Treasurer’s Report. Manager Duevel seconded the motion.

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Manager Koch asked if our balance sheets and income statements are based on cash or accruals or a combination of both. He asked the Audit and Finance Committee to look at that issue. He commented on two payments reflected in the report, the payments to Chanhassen and Eden Prairie, which are noted as 2023 items, and he said they should be

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326 receipts and disbursements, not income and expenses. He asked if those two items are
 327 reflected in the 2023 financials, even though we pay them now. Manager Koch said his
 328 understanding is the District accrues expenses rather than booking them on the basis of
 329 paying them.

330 Administrator Jeffery said today Redpath sent him a final 2023 report, which includes
 331 the two expenses Manager Koch is referencing.

332 Manager Koch stated he does not believe it is proper accounting to utilize the credit
 333 card as the vendor because the vendor is the actual person or company. He said the
 334 credit card company is just a financing arrangement. He said an alternative is acquiring
 335 purchasing cards. He said putting it down as the credit card is the vendor is misleading
 336 and makes it more difficult to determine if there are any issues or funny business or
 337 fraud with our accounting procedures.

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

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

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341 **c. Adopt Resolution 24-022 Approving Payment of the Bills**

342 Manager Crafton moved to adopt Resolution 24-022 Approving Payment of the Bills.
 343 Manager Duevel seconded the motion. Upon a roll call vote, the motion carried 5-0 as
 344 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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d. Adopt Resolution 24-023 Authorizing the Administrator with Advice of Counsel to Enter into Agreement for Lake Vegetation Management

Manager Ziegler moved to adopt Resolution 24-023 Authorizing the Administrator with Advice of Counsel to Enter into Agreement for Lake Vegetation Management. Manager Duevel seconded the motion.

Administrator Jeffery reported the District received bids from five entities, but not all five were able to do all of the lakes or all of the treatments. He said Mr. Maxwell applied for grants for the project and the District was awarded three.

Upon a roll call vote, the motion carried 4-0 as follows:

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

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11. Discussion Items

a. Update on Lawsuit Larry Koch v. RPBCWD and Terry Jeffery (the Board may go into closed session)

Mr. Smith recommended the Board adopt a motion to go into closed session for the purpose of receiving confidential legal advice concerning litigation strategy in the matter of Koch v. Riley Purgatory Bluff Creek Watershed District and Terry Jeffery.

Manager Ziegler moved to go into closed session for the purpose of receiving confidential legal advice concerning litigation strategy in the matter of Koch v. Riley Purgatory Bluff Creek Watershed District and Terry Jeffery. Manager Duevel seconded the motion.

Manager Koch asked for assurances that this closed session is going to be limited to legal advice and will not contain information that is not legal advice. He said he does not consider the status of the litigation to be legal advice.

Mr. Smith said the motion was to receive confidential legal advice concerning litigation strategy and that may well include the status of litigation in order to understand the litigation strategy.

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

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

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376 The Board moved into closed session 8:56 p.m.

377 The Board reconvened the public meeting at 9:22 p.m.

378 President Pedersen reported that in closed session Manager Ziegler made a motion,
379 seconded by Manager Duevel to come out of closed session and the motion carried 4-0.

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**b. Acquisition of 9955 Spring Road, 9875 Spring Road, and PID 281162230005
(the Board may go into closed session)**

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383 Mr. Smith recommended the Board adopt a motion to go into closed session to discuss
384 the development of terms for the potential acquisition of 9955 Spring Road, 9875
385 Spring Road, and the parcel PID 2811622320005 in Eden Prairie.

386 Manager Ziegler moved to go into closed session for the purposes recited by Mr. Smith.
387 Manager Duevel seconded the motion.

388 Manager Koch said he is having difficulty hearing Mr. Smith. Manager Koch asked
389 about the purpose of the closed session.

390 Mr. Smith responded the purpose is to go into closed session for the purpose of
391 considering terms of the potential acquisition of the three parcels of property listed on
392 the agenda.

393 Manager Koch asked if we are talking about changing the price. He asked if we are
394 talking about a non-public appraisal. He asked if we are talking about offers or counter
395 offers.

396 Mr. Smith said we will discuss the potential terms of the acquisition and all of those
397 matters are appropriate for closed session.

398 Manager Koch said we have an agreement and the terms are known to everyone. He
399 said he does not know why we would go into closed session when we have an

400 agreement and no foundation laid for any of the reasons why you can go into closed
401 session.

402 Mr. Smith said he has nothing further to say.

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

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

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406 The Board moved into closed session at 9:34 p.m. to discuss the development of terms
407 for the potential acquisition of 9955 Spring Road, 9875 Spring Road, and the parcel PID
408 2811622320005 in Eden Prairie.

409 The Board reconvened the public meeting at 9:59 p.m.

410 The Board agreed by consensus to hold a special meeting of the Board on Tuesday,
411 March 26, 2024, at 10:00 a.m.

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12. Member Reports

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- **Manager Reports**

414 Manager Koch suggested the managers have laptops to better facilitate hybrid
415 meetings. He offered other suggestions for microphones and camera locations and
416 meeting room configurations.

417 Manager Koch asked if we are going to get some advice memo as to the
418 reinstatement of the official rules regarding employee-non-employee will affect the
419 organization. He said he would like to see a memo on what impact there is if any.

420 Manager Koch said he would like to see a memo calling into question using a 1099
421 versus a W-2.

422 Manager Koch commented on his prior written manager report regarding a need for a
423 human resources person. He said to his knowledge those items have not been
424 addressed and also to his knowledge none of us have that experience or those skills.

425 Manager Koch asked if efforts are being made to find state funding for the
426 acquisition of the Spring Valley parcels being discussed. Administrator Jeffery
427 responded no efforts beyond the original efforts.

428 Manager Ziegler commented he does not think the Board meeting space should be
429 configured in the current arrangement, which has visitors sitting behind the managers
430 and facing their backs.

431

432 • **Administrator Report**

433 No report.

434

435 • **Legal Counsel Report**

436 Mr. Smith reported on the status of the chloride legislation and efforts of getting
437 interested parties together to reach agreement over contents of a bill that could make
438 its way through the legislature. He said some parties believe the landscape
439 associations could certify salt applicators and other parties believe it should stay with
440 Minnesota Pollution Control Agency (MPCA). Mr. Smith said the organizations
441 signing the letter have the goal to have new legislation introduced that would provide
442 liability protection for just negligence, not gross negligence, and would maintain
443 certification of the salt applicators with the MPCA and would provide for that
444 certification to be good for at least three years.

445

13. Upcoming Board Topics

446 No upcoming topics were previewed.

447

14. Upcoming Events

- 448
- March 14, 2024 – Cedar Ridge Science Night
 - March 19, 2024 – Woodland Invaders Workshop
 - March 21, 2024 – Lake Association Summit
 - March 25, 205 – Metropolitan Regulators Meeting

452

15. Adjournment

453 Manager Ziegler moved to continue this meeting to Tuesday, March 26 at 10 a.m.

454 Manager Duevel seconded the motion.

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

456

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

457

458

At 10:13 p.m. the Board continued this meeting to Tuesday, March 26 at 10:00 a.m.

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461

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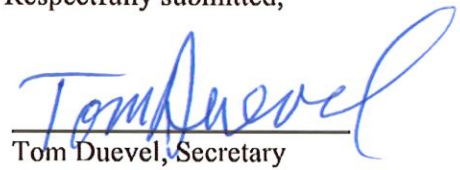
Respectfully submitted,

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Tom Duevel, Secretary