

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

### February 3, 2021, RPBCWD Board of Managers Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer  
Larry Koch  
Dorothy Pedersen, Vice President  
Dick Ward, President  
David Ziegler, Secretary

Staff: Amy Bakkum, Administrative Assistant  
B. Lauer, Education and Outreach Coordinator  
Claire Bleser, RPBCWD Administrator  
Zach Dickhausen, Water Resources Technician II  
Terry Jeffery, Watershed Planning Manager  
Josh Maxwell, Water Resources Coordinator  
Louis Smith, Attorney, Smith Partners  
Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: Andrew Aller                      Mary Krause  
Leah Gilford                                      Rod Rue  
Greg Hawks                                        Marilyn Torkelson  
Elizabeth Henley                                Jeff Weiss

*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, February 3, 2021, 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 Ziegler moved to approve the agenda. Manager Pedersen seconded the motion. Manager  
5            Crafton requested moving item 9a – Discuss Release of Soil Plan Amendment for Public  
6            Comment – ahead in the agenda to follow item 8l – Stewardship Grant Program Modification.  
7            Manager Pedersen requested removing item 9bi1 – DEI Language. Manager Koch requested  
8            moving item 8g – MPCA Grant Execution and Task Order 35 Eden Prairie Resiliency Project and

9 item 8j – Approve TO 6h Purgatory Creek Monitoring Station Services to the Consent Agenda  
 10 and moving Consent Agenda item 7i – Release RFPs for Professional Services (Auditor,  
 11 Accountant, District Engineer, Engineering Pool, Human Resources, Information Technology,  
 12 Banking Services, Legal) to item 8a – Pulled Consent Items. President Ward added agenda item  
 13 8w - Data Request. Attorney Smith clarified that the managers indicated approval of the changes  
 14 to the agenda by unanimous consent. The managers confirmed. Upon a roll call vote, the motion  
 15 carried 5-0 as follows:

16

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

17

**3. Summary of Closed Personnel Meeting**

18 Manager Pedersen reported the Administrator’s review has been completed and will be discussed  
 19 with the Administrator and there will be an update provided at the Board’s March monthly  
 20 meeting.

**4. Matters of General Public Interest**

21 No matters of general public interest were raised.

**5. Reading and Approval of Meeting Minutes**

22 **a. December 9, 2020, RPBCWD Board of Managers Workshop and Monthly Meeting**  
 23 Manager Ziegler noted an edit on line 89 to remove the word “of” and an edit on line 121  
 24 to change the word “approve” to “accept.” Manager Crafton added that on lines 66 and 67  
 25 the word “remains” should be changed to “remain.” Manager Pedersen moved to accept  
 26 the minutes as amended. Manager Crafton seconded the motion. Upon a roll call vote, the  
 27 motion carried 5-0 as follows:

28

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

29

30

**b. January 6, 2021, RPBCWD Board of Managers Monthly Meeting**

31

Manager Crafton moved to accept the January 6, 2021, meeting minutes. Manager Ziegler seconded the motion. Manager Koch stated lines 40, 41, 49, and 50 don't capture the concerns he shared at the meeting, so he would like the recorder to listen to the recording and add his comments to the minutes. Manager Crafton and Ziegler noted on line 78 Manager Ziegler's name should be deleted and Manager Crafton's name added as the manager who seconded the motion. Manager Pedersen said on line 100 the word "don't" should be changed to "doesn't." Upon a roll call vote, the motion carried 5-0 as follows:

32

33

34

35

36

37

38

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

39

**6. CAC**

40

**a. CAC Report**

41

Ms. Marilyn Torkelson reported the CAC voted unanimously for the soil health amendment. She said other key discussion items at the CAC's most recent meeting included the Lotus Lake vegetation management plan, adding the CAC was unclear on why Lotus Lake seems to be prioritized and why the project timeline includes certain vegetation work in March. Ms. Torkelson said the CAC talked about changing its

42

43

44

45

46 meeting schedule to a different week in the month. Regarding the size of the  
 47 Committee, Ms. Torkelson said the Committee is happy with an involved group of 12  
 48 members, and due to potential attrition, 14 is a good number of members to be  
 49 appointed to the CAC.

50 **b. CAC/Board Communication Process Approval**

51 Ms. B. Lauer explained the CAC is seeking Board clarification on what the Board is  
 52 requesting from the CAC regarding meeting packet review. Ms. Lauer reminded the  
 53 Board it identified the types of items it plans to send to the CAC for review and  
 54 feedback. Manager Koch said the CAC has specific statutory obligations such as  
 55 commenting on policies and plans. He commented he'd like the CAC to review as much  
 56 of each Board meeting's packet as possible. Manager Koch summarized he doesn't  
 57 want the items identified by the Board to limit what the CAC reviews and he wants the  
 58 CAC to meet its statutory requirements. He encouraged the CAC members to view the  
 59 Board meetings.

60 Ms. Lauer said she's hearing the Board wants the CAC to review as much of the Board  
 61 packet as possible with a focus on the items the Board identified by consensus as  
 62 needing the CAC's attention as well as the CAC's statutory obligations. Ms. Torkelson  
 63 said the CAC will review the CAC bylaws as well. Mr. Jeffery commented about the  
 64 time period requirements under which the District is required to perform permit and  
 65 variance request reviews. Manager Koch said the CAC should receive the Board packet  
 66 at the same time as the Board, if not earlier.

67 **c. Appointment of New CAC Members**

68 Ms. Lauer reported the District received six applications to serve a two-year term on the  
 69 CAC, noting copies of the applications are in the meeting packet. The managers  
 70 discussed geographic representation of the Committee membership, and Manager  
 71 Pedersen commented that having three members of the CAC from the Lotus Lake area  
 72 seems like a lot. Manager Crafton agreed.

73 Manager Crafton moved to appoint Andrew Aller, Rodney Batiza, Samuel Griffin, Jeff  
 74 Weiss, and Jessica Wiley. Manager Pedersen seconded the motion. Upon a roll call  
 75 vote, the motion carried 5-0 as follows:

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

- 76 **d. February CAC Meeting Board Representative**
- 77 Manager Pedersen volunteered to be the Board representative at the CAC’s February
- 78 meeting.

79

**7. Consent Agenda**

80 Manager Koch moved to approve the Consent Agenda [as amended in agenda item 2] with the  
 81 resolutions as set forth in the staff report. Manager Pedersen seconded the motion. The Consent  
 82 Agenda included items 7a – Accept January Staff Report, 7b – Accept January Engineer’s Report,  
 83 7c – Accept January Construction Inspection Report, 7d – Approve Pay App 6 Bluff Creek  
 84 Tributary, 7e – Approve Pay App 6 Lower Riley Creek, 7f - Approve permit application #2020-  
 85 067, Conifer Trail Outlet as Presented in the Proposed Board Action of the Permit Report, 7g –  
 86 Approve Permit Application #2020-068, Minnetonka High School Einer Anderson Field  
 87 Improvements as Presented in the Proposed Board Action of the Permit Report, 7h – Approve  
 88 Permit Application #2020-072, Erhart Wetland Alteration as presented in the Proposed Board  
 89 Action of the Permit Report, 7j – Approve Survey Work for Pioneer Trail Project, 8g – MPCA  
 90 Grant Execution and TO 35 Eden Prairie Resiliency Project, and 8j – Approve TO 6h - Purgatory  
 91 Creek Monitoring Station Services

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

93

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

94

**8. Action Items**

- 95 **a. Items Pulled from Consent Agenda**
- 96 **i. Release RFPS for Professional Services (Auditor, Accountant,**
- 97 **District Engineer, Engineering Pool, Human Resources, Information**
- 98 **Technology, Banking Services, Legal)**

99 Manager Koch said he asked to pull this item from the Consent Agenda because  
 100 of the Auditor, Engineering Pool, and Legal Services RFPs. He commented the

101 RFPs aren't sufficiently detailed to give a prospective bidders enough initial  
102 information to decide whether to submit a proposal. Manager Koch  
103 recommended the District Administrator revise those three RFPs with  
104 additional information such as the details included in the RFPs for the other  
105 District services. He said he needs to know how the District will go about  
106 circulating these RFPs. Manager Koch remarked circulating these RFPs in local  
107 newspapers are not sufficient for professional services and circulation should be  
108 broader than the southwest corner of the metro area. He recommended  
109 contacting professional associations and publishing them in broader-based  
110 newspapers. Administrator Bleser talked about the District's typical  
111 methodology of distributing the RFPs. Attorney Smith noted that the District is  
112 required to solicit for professional services every two years. He stated his sense  
113 is that many of the engineering firms that work with watersheds track the  
114 watershed websites. Attorney Smith said he believes some watersheds publish  
115 RFPs in Finance & Commerce and The State Register and that the League of  
116 Minnesota Cities has an outlet for publishing RFPs.

117 Manager Koch moved to direct that the RFPs for the auditor, legal services, and  
118 engineering pool be expanded substantially by the District Administrator to  
119 follow suit of the RFPs for the HR, District Engineer, and Accountant RFPs  
120 and direct the District Administrator to look for appropriate places to publish  
121 the RFPs and report back to the Board at the Board's next meeting. The motion  
122 died due to lack of a second.

123 Manager Pedersen recommended the District include experience in employment  
124 law as one of the criteria for HR services. Manager Koch moved to direct the  
125 managers to submit their proposed changes to the RFPs to the Administrator  
126 and direct the Administrator to research possible channels for distributing the  
127 RFPs and to report back about the revised RFPs and distribution channels at the  
128 Board's next meeting. The motion died due to lack of a second. There was  
129 discussion about the RFPs' content. Manager Crafton said she has questions  
130 about the responsibilities of the HR services provider.

131 Manager Crafton moved to authorize staff to release all the RFPs except for the  
132 HR services RFP. Manager Pedersen seconded the motion. Manager Ziegler  
133 suggested the District distribute the RFPs through the League of Minnesota  
134 Cities and said staff can look into that possibility as well as other possible  
135 channels of distributing the RFPs and make the decision on which channels to  
136 use in addition to the District's official publications, if any. Manager Crafton  
137 called the question on the motion on the table. President Ward called for the roll  
138 call vote. There was discussion about the procedure for calling the question.  
139 Manager Crafton withdrew her motion to call the question. Manager Koch  
140 moved to amend the motion to add the HR RFP to the motion. The motion to  
141 amend the motion failed due to lack of a second.

142

143  
144  
145

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

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

146

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

147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163

Manager Crafton stated the report has been reviewed in accordance with internal controls and procedures and she moved to accept the December Treasurer’s Report. Manager Ziegler seconded the motion. Manager Koch said he would like a discussion of each of the 2020 budget items that were over budget, starting with accounting and auditing. Manager Koch said the District’s contracts should have not-to-exceed amounts and there is no excuse for going over any of these budget items and certainly not without being brought to the Board’s attention and getting approval. He commented it appears to him the District is just allowing the accountants to charge any amount they want. Manager Koch said on that point he thinks the District way overpays for the services the District receives from the accountants to do a simple compilation process that can be accomplished for a lot less money by a third party that solely enters data and generates monthly and quarterly payments. He said the District needs to get a handle on its auditing and accounting. Manager Crafton talked about the accounting costs to the District as reflected in the December Treasurer’s Report. Manager Koch said the \$31,000 the District has budgeted for accounting services for 2021 is too much and should be looked into.

164  
165  
166  
167  
168  
169  
170

Manager Koch asked for information on why the District’s 2020 Legal Services budget was 22% overbudget and specifically asked Attorney Smith to comment. Attorney Smith summarized three areas of legal services work for the District in 2020 that were the main reasons for the budget overrun: personnel/human resources, governance/governing documents, and data practices requests. Manager Koch asked Attorney Smith to provide the Board with more details and information so the Board can address the issues.

171  
172

Manager Koch asked for details about the 2020 expenditures for permit review and inspections. He talked about 2020 permit revenue and said the calculations he

173 performed indicate the District came in slightly underbudget for permit review and  
 174 inspections. Manager Koch asked for a project status update on the Bluff Creek  
 175 Tributary project. Engineer Sobiech stated remaining tasks include this spring’s  
 176 vegetation management work, production and installation of buffer signage , and the  
 177 release of the remaining retainage. Manager Crafton asked for details about the transfer  
 178 request amount for this project. Administrator Bleser said the transfer will be a  
 179 carryover into 2021.

180 Manager Koch asked for a project status update on the Lake Riley restoration/Lake  
 181 Riley. Administrator Bleser provided an update, talking about the funding contribution  
 182 received in the amount of \$253,148 from the City of Eden Prairie, explaining the  
 183 contribution isn’t reflected in the beginning number in the Treasurer’s Report.

184 Manager Koch asked staff to explain the negative numbers on page three, the multi-year  
 185 performance report and said he wants to know if the negative numbers mean the items  
 186 went over budget. Administrator Bleser said yes, and she provided information about  
 187 the wet and challenging site issues for Lake Riley and the Board-approved change order  
 188 in 2020.

189 Manager Koch asked for details about grants funds the District has received.  
 190 Administrator Bleser talked about grants for which the District has received 50% of the  
 191 funds. Manager Koch said it would be helpful to him if the Treasurer’s Report would  
 192 include a column showing the remaining grants in order to provide an idea of the  
 193 remaining obligation of the District . Manager Koch had several other questions for  
 194 Administrator Bleser about grant money received, total capital available for operations,  
 195 how much money the District is obligated to pay in the future for projects, and he said  
 196 he would like to be able to see this information in the Treasurer’s Report. Manager  
 197 Koch commented that he has spoken with several accountants and reporting  
 198 expenditures as Visa activities is not generally accepted accounting practices. He said if  
 199 the District accountant disagrees, he would like to have something in writing from them  
 200 on that basis. Manager Koch asked about the expenditures to the City of Eden Prairie  
 201 and the City of Chanhassen listed in the December Treasurer’s Report, and  
 202 Administrator Bleser provided information about the expenditures.

203 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           |



204

205

**c. Paying of Bills**

206

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

207

208

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

209

210

**d. Approve Fund Transfers**

211

Manager Ziegler moved to approve the fund transfers as listed by staff. Manager Crafton seconded the motion. Manager Koch asked about the amount of the fund transfer request for Bluff Creek and the additions for Riley Creek. Administrator Bleser provided details. Manager Koch moved to amend the motion to modify the transfer amount for Bluff Creek to \$11,130.01. Managers Ziegler and Crafton accepted Manager Koch’s motion as a friendly amendment.

212

213

214

215

216

217

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

218

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

219

220

221 **e. Approve Duck Lake Cooperative Agreement**

222 Attorney Smith said the meeting packet contains a document worked on by District staff  
223 and the District Engineer and the Eden Prairie City Engineer and City Attorney. Attorney  
224 Smith shared on the meeting screen the most recent version of the Cooperative  
225 Agreement, describing additional revisions being requested by the City of Eden Prairie.  
226 He explained the City would like the review and approval of the project design confined  
227 to issues within the District’s permit jurisdiction and everything else to be review and  
228 comment. Attorney Smith stated that configuration of review and approval and review  
229 and comment is not the language the District and its legal counsel have proposed based  
230 on the understanding that the District’s interest in the project design is still very focused  
231 on water resources issues, but there are water resources aspects of the project beyond the  
232 scope of the District’s regulatory authority and about which the District is interested in by  
233 virtue of the financial contribution the District is making to the project.

234 Attorney Smith talked about the review and approval of the 90% design as addressed in  
235 the draft cooperative agreement. He recommended, based on discussion with Engineer  
236 Sobiech, the District retain approval of the other hydraulic and shoreline design aspects  
237 that are not part of the District’s permitting authority. Engineer Sobiech said he concurs  
238 with Attorney Smith’s comments. Manager Koch suggested a phased agreement.  
239 Engineer Sobiech summarized the current status of the design and talked about the design  
240 process. Manager Crafton asked the City to comment.

241 Mr. Rod Rue said there are a lot of elements of the project outside the scope of the  
242 District’s permitting requirements. He said the City is willing to allow the District to  
243 provide any comments and approvals on the issues related to the permits. He said the City  
244 is willing to provide a 60% plan, which should be available in the next few weeks, for the  
245 District’s administrative review and approval.

246 Manager Koch moved to table this item with direction to staff to bring it back to the  
247 Board when 60% design drawings are available and to direct staff and legal counsel to  
248 look into funding with triggers and conditions to payments and direct staff and legal to  
249 review section 2d regarding maintenance and bring information back to the Board about  
250 who is responsible for maintenance. The motion died due to a lack of a second.

251 Manager Crafton asked for more information from staff about the implications if the  
252 District accepts entering into this cooperative agreement. Engineer Sobiech said the  
253 District wants to make sure it gets what it is paying for in terms of habitat restoration and  
254 not just items tied to the watershed permit. He said his understanding is the funds are  
255 being used to restore the lakebed and the District wants to make sure it has the  
256 opportunity to review and approve all the habitat restoration pieces.

257 Manager Ziegler moved to approve the Cooperative Agreement with the changes  
258 recommended by Engineer Sobiech. Manager Pedersen seconded the motion. Attorney  
259 Smith stated he takes the intent of the motion to be to reject the City’s proposed changes  
260 to section 2a so that the District’s review of the 90% design is not confined to only the  
261 issues in the permit but addresses the issues in the design that relate to the habitat and  
262 other benefits that are the basis for the District’s financial contribution.

263 Attorney Smith raised a separate issue regarding the amount of the District’s  
 264 contribution totaling \$1,175,000, which was based on the proposed project cost of  
 265 \$4,700,000. He said the District proposed language in the Cooperative Agreement  
 266 documenting that if the total project cost ends up less than the proposed cost, the  
 267 District’s contribution would be reduced proportionately. Attorney Smith pointed out the  
 268 City is requesting that if the District’s contribution is reduced, that it be deducted in the  
 269 fifth and final payment. He said it is a cash flow point. Attorney Smith noted that the  
 270 District’s understanding is that the estimated total project cost is \$4,700,00, and the  
 271 qualifier the City’s language addresses is that if the amount of the contract awarded by  
 272 the City for the construction of the project is more than 5% lower than the estimate, then  
 273 the District’s funding portion would be reduced proportionately. He said he has heard that  
 274 calculations can be cumbersome, and he asked Engineer Sobiech to comment.

275 Engineer Sobiech concurred with Attorney Smith regarding the District wanting to have  
 276 any cost reduction based on the total project cost rather than the construction cost. He  
 277 said he hasn’t seen an updated construction cost estimate to know what a 5% reduction  
 278 from construction costs might be, so he suggests using the total project cost. He said he  
 279 knows it can be cumbersome to go through all the records and come up with the total  
 280 project cost, but it is doable.

281 The managers discussed the points raised by Attorney Smith and Engineer Sobiech.  
 282 Manager Koch commented it would be ill-advised for any private sector to enter into an  
 283 agreement such as this because it is not an adequate agreement. Manager Pedersen made  
 284 the friendly amendment to the motion on the table to reject the proposed redline changes  
 285 to section 3b but keep the variation on section 3a and clarify the District’s position that  
 286 the payment reduction can be made in the fifth and final payment. Manager Ziegler and  
 287 Manager Pedersen accepted the friendly amendment.

288 Attorney Smith went through the proposed redline changes in section 6a – publicity and  
 289 endorsement. Manager Pedersen commented that she wants to make sure the District will  
 290 be part of any publicity around the project. Attorney Smith said he believes that is the  
 291 way this agreement reads. Upon a roll call vote, the motion carried 4-1 as follows:

292

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

293

294 **f. Approve Task Order 34 – Lake Vegetation Management Plan for Lotus Lake**  
 295 Administrator Bleser explained this task order is for the lake vegetation management  
 296 plan for Lotus Lake and formalizes how to proceed with management such as for  
 297 curlyleaf pondweed. Engineer Sobiech added that the work in this task order sets the  
 298 framework regarding what types of management activities may be required moving  
 299 forward and when to move forward in terms of implementation and aquatic plant  
 300 management.

301 Manager Crafton moved to approve Task Order 34 – Lotus Lake - Lake Vegetation  
 302 Management Plan in agreement with the engineering services. Manager Ziegler  
 303 seconded the motion.

304 Manager Pedersen asked why the cost of this task order is more expensive than other  
 305 lake vegetation plans recently done by the District. Engineer Sobiech said the previous  
 306 vegetation management plans were done by Wenck, and he doesn't have Wenck's task  
 307 order and the detail contained in it, so he is not sure about differences in scope. He said  
 308 the two lakes that have had the lake vegetation management plans, Red Rock and  
 309 Mitchell lakes, are adjacent to each other and there are cost efficiencies with doing  
 310 some of the activities together. Administrator Bleser added that the work with Wenck  
 311 was performed in partnership with the City of Eden Prairie and the BMPs were done  
 312 through the District's research grants through Dr. Ray Newman. There was discussion  
 313 about why the District is doing a lake vegetation management plan for Lotus Lake.

314 Manager Pedersen asked if the District has approached the City of Chanhassen about  
 315 putting in dollars for this work. Administrator Bleser responded no, but she can ask the  
 316 City if it wants to partner. Manger Pedersen said she would like the District to ask the  
 317 City to participate in the cost of this task order.

318 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           |

319  
 320 [\*Prior to voting Manager Koch commented that he lives on Lotus Lake].

321 **g. MPCA Grant Execution and TO 35 Eden Prairie Resiliency Project**  
 322 [Item moved to Consent Agenda. See Item 7.]

323 **h. Saint Hubert Reuse System Updated and Reuse System Opportunity**  
 324 Administrator Bleser reported an opportunity is in front of the Board regarding adding  
 325 water reuse as a design component to this project. She said the water could be captured  
 326 and reused in irrigation. Administrator Bleser and Ms. Leah Gilford described the  
 327 benefits and estimated cost of the reuse component, noting the details contained in the  
 328 memo in the Board’s meeting packet. Ms. Gilford said that at this point in the design, it  
 329 is necessary to know if the Board would commit to adding a reuse system to this  
 330 project. She explained if the Board doesn’t want to add the reuse system, that  
 331 component and its associated cost of \$55,000 would be removed from the design.

332 Manager Pedersen asked if she is reading the information correctly and the school is  
 333 looking for another \$168,000. Ms. Gilford said yes.

334 Manager Koch said he is concerned about putting a lot of money into a religious  
 335 institution. He said he would like to receive the information, which he didn’t see  
 336 included in the electronic meeting packet, and stated that without reviewing all the  
 337 information he isn’t ready to vote.

338 Manager Koch moved to direct staff to take into consideration different costs and  
 339 systems in order to have data for comparison to consider how much money the District  
 340 may want to put toward a project and then bring the alternatives back to the Board.  
 341 Manager Ziegler seconded the motion with the friendly amendment to send this item to  
 342 the CAC for review and feedback to the Board. Manager Koch accepted the friendly  
 343 amendment. Administrator Bleser and the managers talked about the different types of  
 344 alternatives the Board is interested in considering regarding improving or saving  
 345 groundwater as part of this project.

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

347

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

348 Administrator Bleser clarified the Board agrees project design work can continue  
 349 without looking at the reuse component and staff should bring this item back at the  
 350 Board’s March or April monthly meeting. The Board indicated agreement.  
 351  
 352

353 **i. Approve Task Order 36A – Bluff Creek Reach 5 Stabilization Feasibility**  
 354 **Study**

355 Administrator Bleser said she and Engineer Sobiech walked the creek last October and  
 356 identified this reach as needing stabilization as included in the District’s 10-year plan.  
 357 She said this task order is the first step in the restoration of this reach. She stated the  
 358 feasibility study would be presented to the Board and the CAC.

359  
 360 Manager Pedersen moved to approve Task Order 36A for the Bluff Creek Reach 5  
 361 Feasibility Study. Manager Crafton seconded the motion. Upon a roll call vote, the  
 362 motion carried 5-0 as follows:  
 363

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

364  
 365 **j. Approve Task Order 6h – Purgatory Creek Monitoring Station Services**  
 366 [Item moved to Consent Agenda. See Item 7.]

367  
 368 **k. Approve Release of Shoreline Rules Amendment for Public Comment**

369 Mr. Jeffery stated the amendment to the shoreline rules is meant to address the  
 370 situations in which rip rap already exists but needs maintenance and in the decayed state  
 371 is introducing sediment into the water column. He said it is not meant to provide for  
 372 expanding the rip rap but to provide for installing it per specification. Mr. Jeffery  
 373 referenced the memo included in the meeting packet.

374 Manager Koch said he’s not sure if the erosion intensity scoresheet the District uses  
 375 reflects the current status of the industry and said the District needs to look at intensity  
 376 and the scoresheet. Mr. Jeffery said the scoresheet could be addressed separately from  
 377 the rules. He talked about information he and Engineer Sobiech have been gathering  
 378 about erosion intensity and said he would like erosion intensity to be handled separately.

379 Manger Ziegler moved to direct staff to release the shoreline rules for public comment.  
 380 Manager Pedersen seconded the motion.

381

382  
383

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           |

384

**I. Stewardship Grant Program Modification (Inclusion of Maintenance for Eligible Expenses)**

385  
386

Ms. Lauer said staff recommends the District amend its watershed stewardship grant policies to add to the list of eligible costs maintenance costs during the establishment period of three years for non-profit and residential applicants. She stated additional recommendations are to raise the total funding monetary limits by 30% for residential and non-profit applicants who provide proof of a professional maintenance plan and contract at the time of application. She noted a typo in the memo and clarified that funding would be up to 75% of eligible maintenance costs. She responded to manager questions.

387  
388  
389  
390  
391  
392  
393  
394

Manager Koch moved to approve the proposed changes to the watershed stewardship grant program as set forth in the memo presented and included in the meeting packet with the caveat that the payment for the costs for maintenance be treated as other costs and on a reimbursement basis and that the typo noted by Ms. Lauer be corrected.

395  
396  
397  
398

Manager Ziegler seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

399  
400

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

401 **m. Soil Health and Soil Health Plan Amendment**  
402 Mr. Jeffery reported the CAC was overwhelmingly in favor of the soil health plan  
403 amendment. He summarized the CAC’s discussion about the proposed plan amendment,  
404 including the recommendation to strengthen language about the total ecosystem. Mr.  
405 Jeffery said another recommendation is to add to the plan amendment language about  
406 the four or five regenerative soil health parameters. He suggested that staff rework the  
407 amendment based on the CAC’s comments and bring the revised amendment back to  
408 the CAC for comment and then bring the amendment to the Board. The Board indicated  
409 consensus with Mr. Jeffery moving forward with the actions he recommended.

410 **n. Variances**  
411 Manager Koch noted his memo is self-explanatory and commented he’s sure the District  
412 will receive more variances again in 2021. He said he is interested in making the  
413 variance process as efficient as possible. Manager Koch moved subject to approval by  
414 the District’s legal counsel to direct staff to use substantially the resolution set forth in  
415 his memorandum dated December 27, 2020, and include it in all requests for variances.  
416 The motion died due to lack of a second. Manager Koch responded so noted.

417 **o. Accounting Clerk**  
418 Manager Koch said his memorandum on this item is straightforward and he feels work  
419 and assistance is needed to deal with the accounting. He referenced a proposed internal  
420 procedure for dealing with District bills, remarking he extensively edited the proposal.  
421 Manager Koch stated the Board should approve looking for an administrative  
422 accounting clerk to speed things up. He said he thinks the District is spending way too  
423 much money on accounting data entry. Manager Koch moved the resolution set forth in  
424 his memo that the District inquire into the use of an accounting clerk and staff bring the  
425 information back to the Board. The motion died due to lack of a second.

426 **p. Audit and Risk Committee**  
427 Manager Koch said this item is self-explanatory and it is obvious the Board needs an  
428 audit and risk committee to deal with the District audits and financial reporting. He said  
429 he thought the last audit was totally unprofessional and inadequate and it takes more  
430 than one set of eyes to look over the audit and the audit processes. Manager Koch  
431 moved to appoint an audit committee consisting of two managers-the Treasurer and  
432 himself, the District Administrator, and the District auditor with the two managers  
433 having a vote for the purposes of reviewing the District’s auditing and reporting  
434 procedures and making recommended changes. The motion died due to lack of a  
435 second. Manager Koch remarked so noted.

436  
437 **q. Professional Coach**  
438 Manager Koch said the District has previously engaged a coach to assist Dr. Bleser, and  
439 he moved to look into hiring a coach for Dr. Bleser on the same terms as last year. The  
440 motion died due to lack of a second.

441



442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485

**r. Disaster Preparedness Plan**

Manager Koch referenced his memo on the topic and moved the resolution set forth in his memorandum. The motion died due to lack of a second.

**s. Internal Control Calendar**

Manager Koch said his memorandum on this topic is straightforward, and he believes there needs to be an internal calendar to make sure the District meets its deadlines. He noted that several deadlines have been missed. Manager Koch moved adoption of the resolution set forth in his memorandum. The motion died due to lack of a second. Manager Koch remarked duly noted.

**t. Legal Review of Operations**

Manager Koch said this memorandum refers to a legal review previously authorized by the Board but was not completed. Manager Koch noted that the Governance Manual still has not been completed in accordance with the law. Manager Koch moved to ratify the approval of Smith Partners to perform a legal review of the District’s operation at a cost not to exceed \$5,000. The motion died due to lack of a second. Manager Koch responded so noted.

**u. Minnesota Data Practices Act**

Manager Koch said the resolution is straightforward, and the District is required to have a Chief Administrative Officer and is required to keep official records and is required to have a chief clerical officer or responsible authority. He moved the adoption of the resolution, which calls for designating the District Administrator as the Chief Administrative Officer, the District Secretary as the Chief Clerical Officer and designates the District Secretary as the responsible authority to take actions necessary and appropriate for compliance with the requirements of Minnesota Statutes Chapter 13, and be the said responsible authority, and the District Secretary and Administrator draft and implement a procedure for processing data requests pursuant to Minnesota statutes Chapter 13, and directs the District Administrator to create and maintain a District minute book. The motion died due to lack of a second.

**v. Minute Book**

Manager Koch referenced MN statute about the District maintaining records and a journal of votes. He said at a minimum the District should have a minute book containing all the minutes. Manager Koch moved to adopt a physical if not electronic minute book that has the final minutes for all the District’s meetings. The motion died due to lack of a second.

**Reports on Multi-Year Projects**

Manager Koch referenced his memo on this item and said the current multi-year project table is confusing to him. He said it doesn’t easily show the remaining District’s share of remaining District costs on projects. Manager Koch moved to adopt his resolution to revise the multi-year project table to indicate what the District’s share is for the current

486 year and for future years. President Ward seconded the motion.  
 487 Upon a roll call vote, the motion carried 3-2 as follows:

488

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

489  
 490 **w. Data Practices Request**

491 Attorney Smith explained typically all data practices requests would go to the District  
 492 Administrator as the responsible authority. He said he has received a request from Dr.  
 493 Bleser as the Administrator. He explained the Board of Managers is the authority to  
 494 decide how to respond to the request. Attorney Smith described the request, discussed  
 495 the law, and outlined options for the Board’s consideration. He stated that Smith  
 496 Partners reviewed the law regarding access to the information requested and his legal  
 497 view is it’s private data on an individual and accessible to the subject of that data, in this  
 498 case Dr. Bleser.

499 Attorney Smith described his review of advisory opinions from the Minnesota  
 500 Department of Administration and stated he believes the Department would also be  
 501 supportive of the idea that the data is classified as private data on an individual and  
 502 accessible to the subject of the data. He said to his knowledge there is not an opinion  
 503 that directly addresses this data request. Attorney Smith said the Board has heard his  
 504 legal view and the Board has the option to seek another legal opinion and/or an opinion  
 505 from the Minnesota Office of the Attorney General.

506 Attorney Smith clarified that the conclusion of the District’s legal counsel is the  
 507 recordings are accessible and should be released. Manager Koch said his opinion is that  
 508 there is no option but to release them. Manager Pedersen asked for details about the  
 509 process of asking the Office of the Attorney General for an opinion. Attorney Smith  
 510 described the process, which includes the District’s legal counsel preparing a letter with  
 511 the question and sending it to the Attorney General’s office for review. Manager  
 512 Pedersen spoke in favor of getting an opinion from the Attorney General. Manager  
 513 Crafton and President Ward agreed with the idea of getting an opinion from the  
 514 Attorney General. Manager Koch said he doesn’t see the purpose behind the cost of the  
 515 work for getting an opinion from the Attorney General when the Board has received  
 516 Attorney Smith’s opinion.

517 Manager Pedersen moved to direct Smith Partners to proceed with this matter to get an  
 518 answer from the Attorney General’s Office. Manager Crafton seconded the motion. .

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

520

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

521

**9. Discussion Items**

522 **a. Manager Reports**

523 Manager Pedersen said a Personnel Committee meeting will be scheduled for the purpose  
 524 of discussing the personnel handbook.

525 **b. Administrator Report**

526 No items discussed.

527 **c. Other**

528 No items discussed.

529

**10. Upcoming Board Topics**

530 President Ward noted the Board workshop originally scheduled for this evening and  
 531 postponed will be rescheduled in the next few weeks. He said the soil amendment topic  
 532 likely will be covered at a Board workshop in March and the Board’s next monthly  
 533 meeting will be held March 3.

534 Manager Ziegler brought up the topic of bi-monthly meetings and asked if the Board  
 535 wants to consider the idea. President Ward suggested the Board consider a mid-month  
 536 meeting and directed staff to add this topic as an action item on the Board’s March  
 537 monthly meeting.

538 Manager Pedersen asked for an update on the hiring for the new District positions  
 539 approved by the Board. Administrator Bleser provided an update on the hiring for the  
 540 grants coordinator, noting the timing of the next interviews. She provided an update on

541 the new hire for the soil inspection and technician role.

### 11. Upcoming Events

- 542
- Shoreline Management Webinar, February 24, 6:00 p.m. – 7:30 p.m., virtual meeting
- 543
- Board of Managers Monthly Work Session, March 3, 2021, 5:00 p.m., virtual meeting
- 544
- Board of Managers Regular Meeting, March 3, 2021, 7:00 p.m., virtual
- 545

### 12. Adjournment

546 Manager Pedersen moved to adjourn the meeting. Manager Crafton seconded the motion. Upon a  
547 roll call vote, the motion carried 5-0 as follows:

548

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

549

550 The meeting adjourned at 10:25 p.m.

551

552

553

554

Respectfully submitted,

555

556

557

558

---

David Ziegler, Secretary