

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

#### September 1, 2021, RPBCWD Board of Managers Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

David Ziegler, Secretary

Staff: Amy Bakkum, Administrative Assistant

Zach Dickhausen, Water Resources Technician II

Liz Forbes, Grant Coordinator

Terry Jeffery, Interim District Administrator and Watershed Planning Manager

Eleanor Mahon, Education and Outreach Coordinator

Josh Maxwell, Water Resources Coordinator

Louis Smith, Attorney, Smith Partners

Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: Robert Erickson

Ray Newman

Elizabeth Henley

Gretchen Schroder

Eleanor Mahon

Jeff Weiss

*Note: this workshop and meeting were held remotely via meeting platform Zoom in abidance with the District's procedures in response to state COVID-19 actions, mandates, and guidance.*

#### 1. Call to Order of the Regular Meeting of the RPBCWD Board of Managers

- 1 Vice President Pedersen called to order the Wednesday, September 1, 2021, Board of  
2 Managers Regular Meeting at 7:00 p.m. The meeting was held remotely via meeting  
3 platform Zoom.
- 4 Manager Koch commented on the order of proceeding. He said the Board should adopt  
5 the agenda prior to the swearing in of managers Koch and Crafton. There was a response  
6 by Attorney Smith on why the District ordered its agenda as presented and noted the  
7 Board can act to revise its agenda. The managers discussed the points raised. Manager  
8 Ziegler moved to proceed with the swearing in of managers Crafton and Koch prior to the  
9 approval of the agenda. Manager Crafton seconded the motion. Upon a roll call vote, the  
10 motion carried 3-1 as follows:

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

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**2. Swearing in of Managers Crafton and Koch**

14 Attorney Smith led Larry Koch and Jill Crafton through the oath of office of manager of the Riley  
 15 Purgatory Bluff Creek Watershed District. Vice President Pedersen congratulated managers  
 16 Crafton and Koch on their reappointment to the Board.

17

**3. Approval of Agenda**

18 Manager Ziegler moved to approve the agenda as written. Manager Crafton seconded the motion.

19 Manager Koch requested removing Consent Agenda items 7a-7g, and 7i, moving 9a to become  
 20 8f, moving 9c1 to 8g, moving 9c3 to 8h, 9d1 to 8i, and 9d3 to 8j.

21 Manager Crafton moved to amend the motion. Manager Koch seconded the motion. Upon a roll  
 22 call vote, the motion failed 2-2 as follows:

23

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

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25 There was discussion to clarify the items removed from the Consent Agenda included 7a-7g and  
 26 7i to become action items 8ai.

27 Upon a roll call vote, the motion to approve the agenda carried 3-1 as follows:

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

29

#### 4. Matters of General Public Interest

30 Mr. Robert Erickson said he is speaking as a representative of Megan Doyle, resident on Dell  
 31 Road. He said he had a conversation with Interim Administrator Jeffery and Engineer Sobiech  
 32 regarding a culvert crossing, noting this crossing lacks a public easement. Mr. Erickson stated the  
 33 condition of the culvert has been evaluated by Barr Engineering, and he is pursuing resolution on  
 34 behalf of property owner Megan Doyle regarding the conditions and possible construction. He  
 35 said the property owner is willing to provide permanent easements at no cost for the Riley Creek  
 36 Watershed District and which would require participation by the City of Eden Prairie. Mr.  
 37 Erickson pointed out the City of Eden Prairie has ownership but not an easement. He said the  
 38 culvert work could possibly be included in the City’s project for Dell Road in 2022 or 2023. Mr.  
 39 Erickson expressed gratitude for the cooperation of the District staff thus far.

40 Manager Koch asked the Board to direct Interim Administrator Jeffery to bring him up to speed  
 41 on communications with Mr. Erickson and asked Interim Administrator Jeffery if he needs  
 42 direction from the Board. Interim Administrator Jeffery recommended putting this topic on the  
 43 agenda for the Board’s next meeting. The Board agreed by consensus for staff to report on this  
 44 issue at the Board’s next meeting.

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

45 **a. August 4, 2021, RPBCWD Board of Managers Workshop and Regular Meeting,**  
 46 **Including August 12<sup>th</sup> Continuance**

47 Manager Ziegler moved to approve the minutes of the August 4<sup>th</sup> Board of Managers  
 48 Workshop and Regular Meeting including the August 12<sup>th</sup> meeting continuance. Manager  
 49 Crafton seconded the motion. Manager Ziegler requested the following edits: line 238  
 50 revise to state “forwarded,” line 338 remove the s and the word “to,” line 529 to indicate  
 51 Manager Koch voted against the amended motion, line 78 to “Manager Ziegler agreed to  
 52 the changes recommended by Legal Counsel” and “Manager Pedersen seconded the  
 53 motion.” Manager Crafton requested line 95 to be revised to remove the repeated words  
 54 “study to allow”, line 160 delete the word “along,” and on line 238 to insert the word  
 55 “asked,” Manager Koch stated on page 8, line 230, the word pursuing should be corrected  
 56 to “pursued.” Attorney Smith said the meeting reference on line 301 should state the June  
 57 meeting. Manager Crafton requested the word “even” be inserted into the sentence on  
 58 lines 512-513. Managers Ziegler and Crafton accepted the friendly amendments.

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

60

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

61

**6. CAC**

62 Mr. Jeff Weiss reported on the CAC’s August 16<sup>th</sup> meeting, noting the CAC passed a resolution  
 63 requesting Interim Administrator Jeffery present to the CAC about the District’s permit  
 64 application and review processes and the District’s rules. Mr. Weiss described the ways the CAC  
 65 would like to be involved in future watershed activities. The Board agreed by consensus that  
 66 Interim Administrator Jeffery should conduct the presentation to the CAC as the CAC requested  
 67 in its motion. Manager Ziegler said he will attend the CAC’s next meeting, which is September  
 68 20<sup>th</sup>, as the Board representative.

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**7. Consent Agenda**

70 Manager Crafton moved to accept the Consent Agenda as amended earlier in the meeting.  
 71 Manager Ziegler seconded the motion. The Consent Agenda included item 7h - Approve Permit  
 72 2021-061 Goddard School Redevelopment as Presented in the Proposed Board Action Section of  
 73 the Permit Review Report.

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

75

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

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**8. Action Items**

**a. Items Pulled from Consent Agenda**

**i. Accept August Staff Report**

Manager Koch raised many points, including asking staff to ensure the District calendar meets all requirements of state statute, that the minutes of the August 4<sup>th</sup> Personnel Committee get disseminated, asking for more information about the conversation with North Risk Partners and asked staff to provide more information at the Board’s next meeting about the services they provide, asked if MAWD has made its annual call for resolutions, noting he would be in favor of proposing a resolution that watersheds could continue to hold Zoom meetings, and asked for more information about the Carver County process ED & A on Lotus Lake . He brought up many other issues such as lake vegetation plans, mapping wetlands, and using drones to measure impacts. Staff provided information and indicated when additional information will be provided to Manager Koch and presented to the Board.

Manager Koch moved to accept the staff report. Manager Ziegler seconded the motion.

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

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

**ii. Accept August Engineer Report**

Manager Koch asked if staff time is being tracked and being billed back to applicants. Engineer Sobiech said from the engineering side, yes. He described the process. Manager Koch moved to accept the Engineer’s Report. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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

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**iii. Accept August Construction Inspection Report**

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Manager Koch requested staff put this report on its own page, and he asked the report to include a list of actions taken, which will help build a record of non-compliant parties. Manager Koch raised his concerns about his neighbor’s rip rap and other projects he has noticed around Lotus Lake including a sand blanket.

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Manager Koch moved to accept the August Construction Report. Manager Ziegler seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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

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**iv. Authorize Interim Administrator Jeffery to Draft Job Description and Announcement for the District Administrator Position, Bring to Personnel Committee for Review and Approval, and Advertise for Position**

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Manager Koch moved that Mr. Jeffery work with staff and the Personnel Committee to come up with a job description for the District Administrator and a proposed advertisement and to bring to the managers for consideration and approval and that Mr. Jeffery continue as Interim Administrator until such time as he would resign, or the Board appoints his replacement. Manager Ziegler seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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

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**v. Approve Permit 2018-066 Castle Ridge Modifications as Presented in the Proposed Action Section of the Permit Review Report**

Engineer Sobiech displayed slides about the permit modification, noting it is a complicated permit modification request. He provided history about the District’s October 2019 conditional approval of permit 2018-066. Engineer Sobiech went through the request and the District Engineer’s review in detail. He went through the compliance summary, and he called out two stipulations, including the maintenance declaration would need to be revised and additional financial assurance would need to be provided .

The managers discussed the project, the permit modification request, the District’s rules, and their concerns about infiltration and the increase in impervious surface area and runoff. Attorney Smith reminded the Board it needs to apply the District’s rules to the judgement in front of it, and the District Engineer’s recommendation is this project complies with the District’s rules, so the Board has no basis on which to deny the permit. Manager Crafton wondered if the District’s rules are strong enough.

Manager Koch moved to accept the Engineer’s report and adopt the resolution set forth in that report. Manager Ziegler seconded the motion. The managers agreed by consensus it needs to revisit the District’s rules. Attorney Smith asked for clarification on the date through which the permit is being extended. Engineer Sobiech said the permit was set to expire in 2022, and the applicant requested a two-year extension, so the two-year extension will be through 2024. Attorney Smith asked Engineer Sobiech if both condition 2E and 2F are required as listed on page 14 of the Engineer’s Report. Engineer Sobiech said 2E can be removed because 2F covers it. Manager Koch said he prefers 2E, and Engineer Sobiech said its fine to remove 2F. Manager Koch moved to amend his motion to adopt the Engineer’s recommendations except not agreeing to item 2F. Manager Ziegler agreed to the friendly amendment.

Upon a roll call vote, the motion carried 3-0 as follows:

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

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**vi. Approve Permit 2021-049 Foxford Shoreline Maintenance as Presented in the Proposed Board Action Section of the Permit Review Report**

Manager Koch asked Engineer Sobiech to review the permit review and to describe the diagram indicating where the rip rap and the sand blanket will go. Interim Administrator Jeffery and Engineer Sobiech responded to Manager Koch’s questions about slope, pitch, and BMPs to minimize erosion of the sand blanket.

Manager Koch moved to accept the Engineer’s Report and adopt the resolution set forth in the Engineer’s report. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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

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**vii. Approve Permit 2021-054 Morimoto City Homes as Presented in the Proposed Board Action Section of the Permit Review Report.**

Manager Koch asked for an overview of the proposed project and permit review and asked for information about the rate controls and how reductions in total suspended solids and total phosphorus are calculated. Engineer Sobiech provided the information. Manager Koch moved to accept the Engineer’s Report and adopt the resolution set forth in the Engineer’s report. Manager Crafton seconded the motion.

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



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

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185 **viii. Approve Contract with Smith Partners and Authorize President**  
 186 **Ward to Sign**

187 Manager Koch said he would like to see the contract or some acknowledgement  
 188 that the District has 60 days from the date of presentation to pay the Smith  
 189 Partners invoices, that Smith Partners will track its time by matter so the time  
 190 can be appropriately charged back to the appropriate permit, and that an  
 191 explanation of the travel details be footnoted. Attorney Smith accepted Manager  
 192 Koch’s recommendations.

193 Manager Koch moved to approve the legal services agreement between the  
 194 District and Smith Partners with the change that Smith Partners will track  
 195 permit time on a permit by permit basis and will provide the District 60 days to  
 196 pay the Smith Partner invoices. Manager Crafton seconded the motion.  
 197 Manager Ziegler made the friendly amendment to authorize President Ward to  
 198 sign the contract. Managers Koch and Crafton accepted the friendly  
 199 amendment.

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

201

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

202

203 **b. Accept July Treasurer’s Report**

204 Manager Crafton stated the report has been reviewed in accordance with internal  
 205 controls and procedures. She moved to accept the Treasurer’s Report. Manager Ziegler  
 206 seconded the motion. Manager Koch stated he has an issue with recording items as the

207 vendor being the credit card as opposed to the actual vendor because he doesn't think it  
 208 is an appropriate accounting practice. He called out the late charge listed on the credit  
 209 card bill, and Interim Administrator Jeffery explained the routing number error.  
 210 Manager Koch said in the internal report, sometimes staff are specifically allocated to  
 211 line items but not in the budget. He asked if this could be addressed in the budget  
 212 discussion. Manager Koch asked if there are any line items with potential overages.  
 213 Interim Administrator Jeffery said not as of today, but staff will be coming back in  
 214 October with account transfer recommendations for projects including Middle Riley  
 215 Creek and St. Hubert. Manager Koch asked that the information be ready by September  
 216 14<sup>th</sup>.

217 Upon a roll call vote, the motion carried 4-0 as follows:  
 218

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

219  
 220 **c. Approve Paying of Bills**  
 221 Manager Crafton moved to pay the bills. Manager Ziegler seconded the motion.  
 222 Manager Koch asked about the Pulte Homes disbursement. Interim Administrator  
 223 Jeffery said it was an escrow release for its projects in Chanhassen. Upon a roll call  
 224 vote, the motion carried 4-0 as follows:  
 225

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

226  
 227 **d. Consider Professor Ray Newman's Request for District Funding on Aquatic**  
 228 **Vegetation Management**  
 229 Interim Administrator Jeffery introduced Professor Ray Newman from the University of  
 230 Minnesota, noting the District has received a proposal from him, and he will present  
 231 about past work and the proposal.

232 Professor Newman shared slides and presented about the proposed continuation of work  
 233 on the restoration and maintenance of native macrophytes in lakes in the RPBCWD  
 234 watershed, highlighting the importance of macrophytes to water clarity. He presented  
 235 results of work completed and discussed the proposed university involvement. Professor  
 236 Newman responded to the managers' questions.

237 Vice President Pedersen said the Board's consensus is that it would like to receive a  
 238 more detailed proposal, and the Board will discuss the proposal and will communicate  
 239 back with Professor Newman.

240

241 **e. Consider Budget Modification Request for Barr Construction Management**  
 242 **Services for Pioneer Wetland Restoration**

243 Interim Administrator Jeffery and Engineer Sobiech described the reason behind the  
 244 budget modification request . Manager Crafton moved to approve the budget  
 245 modification request for Barr Engineering construction management services for the  
 246 Pioneer Wetland Restoration project. Manager Ziegler seconded the motion.

247 Manager Koch asked how much of the \$22,000 will be needed to perform the post-  
 248 construction work. Engineer Sobiech said \$6,000, which is \$2,000 per year for three  
 249 years. Manager Koch expressed his concerns with projects exceeding estimates, and he  
 250 emphasized the District's need for good estimates.

251 Manager Koch moved to approve \$16,000 for this task order and to come up with a new  
 252 task order for post-construction services at an amount not to exceed \$6,000 and to  
 253 authorize Interim Administrator Jeffery with advice of Legal Counsel to review and  
 254 execute it. The motion died due to lack of a second.

255 Upon a roll call vote, the motion on the table carried 3-0 as follows:

256

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

257

**9. Discussion Items**

258 **a. 2022 Preliminary Budget**

259 Interim Administrator Jeffery announced the proposed levy for 2022 is a 1.8% increase  
 260 over the District's 2021 levy. He went through changes to the proposed budget compared

261 to the last time the budget was presented and talked about proposed fund transfers.  
262 Interim Administrator Jeffery said transfers include moving \$113,000 from the repair and  
263 maintenance fund to be applied to the berm work at the Purgatory Rec area in Eden  
264 Prairie – which will be a 50-50 match with the City, and he noted the proposal to move  
265 \$217,000 from the opportunity fund to Middle Riley Creek. He noted a couple of other  
266 proposed transfers.

267 There was discussion about anticipated 2022 permit fees and grant income. Manager  
268 Koch said he needs more information on staffing costs and asked Interim Administrator  
269 Jeffery to use the methodology Manger Koch provided. Manager Koch talked about how  
270 the budget and the audit need to be consistent with each other. He said he wants to make  
271 sure the estimates for the projects are good numbers and to make sure there is enough  
272 budget to pay for those projects. Manager Koch provided his recommendations on how to  
273 present the costs per line item.

274 Vice President Pedersen said she is hearing that the managers are fine with the 1.8% levy  
275 increase. The managers indicated consent with her statement.

276 **b. Attorney Report**

277 Attorney Smith said regarding MAWD resolutions, other watersheds are talking about the  
278 Open Meeting Law and virtual meetings, and the District could collaborate with other  
279 watersheds and will want to address this before October 4<sup>th</sup>. Attorney Smith said he could  
280 talk with Manager Koch about this topic as a possible MAWD resolution. Manager  
281 Crafton asked Interim Administrator Jeffery to find out what other watersheds are  
282 discussing regarding this topic.

283 **c. Administrator Report**

284 **1. Regulatory Program**

285 **i. Potential Revisions**

286 Interim Administrator Jeffery recommended a District workshop on the  
287 District’s rule program and permits. The Board directed Interim  
288 Administrator Jeffery to send out an email to the Board to collect ideas  
289 about rules changes.

290 **ii. After the Fact Permits**

291 Manager Koch said he would like staff to follow through on the four  
292 permit issues he previously discussed. Interim Administrator Jeffery said  
293 he will provide an update next month.

294 **2. Data Collection**

295 Interim Administrator Jeffery said he addressed this topic during the budget  
296 discussion.

297

298 **3. COVID Policy**

299 Interim Administrator Jeffery said staff is working to update the District's  
300 COVID policy. Manager Koch asked staff to bring this topic back to the Board at  
301 its next meeting.

302 **4. Riley Creek Erosion at Frederick Miller Spring**

303 Interim Administrator Jeffery said there has been discussion about how to  
304 mitigate foot traffic and address the erosion in that area. Manager Crafton asked if  
305 there would be a benefit to adding bank pins. Interim Administrator Jeffery said  
306 yes. Manager Koch said he would like staff to bring recommendations to the  
307 Board. The Board indicated consensus with Manager Koch's request to staff.

308

309 **d. Managers' Report**

310 **1. Data Practices Requirements**

311 Manager Koch said he has made a number of data requests, some of which date  
312 back many months. He said the District doesn't have the policies on data  
313 practices, and this is a serious issue because the District needs to make sure it  
314 follows the law. He asked to be provided the District's policies or asked the  
315 District to draft them.

316 **2. Greater MN Checklist from BWSR**

317 Manager Koch said the District is supposed to do a report card each year, and the  
318 District should either do its own report card or the Greater MN check list.

319

**10. Upcoming Board Topics**

320 Vice President Pedersen stated the upcoming Board topics are listed on the meeting  
321 agenda.

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**11. Upcoming Events**

323 Vice President Pedersen noted the upcoming events are listed on the meeting agenda.

324

**12. Adjournment**

325 Manager Crafton moved to adjourn the meeting. Manager Ziegler seconded the motion.  
326 Upon a roll call vote, the motion carried 4-0 as follows:

327

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

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The meeting adjourned at 10:22 p.m.

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Respectfully submitted,

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David Ziegler, Secretary