

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

July 10, 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:

Zach Dickhausen*, Natural Resources Coordinator

Liz Forbes*, Communication Manager

Terry Jeffery, District Administrator

Eleanor Mahon*, Community Engagement Coordinator

Josh Maxwell*, Water Resources & Fisheries Manager

Dylan Monahan, Administrative Assistant

Alaina Portoghese*, Communications Specialist

Louis Smith, Attorney, Smith Partners

Scott Sobiech, Barr Engineering Company

Rachel Whittington, MN GreenCorps*

Other Attendees:

Amy Bakkum

Bonnie Nelson

Aidan Forbes

Alaina Portoghese

Andrew Hartmann

Marilyn Torkleson

**Attended the meeting virtually.*

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

1 President Dorothy Pedersen called to order the Wednesday, July 10, 2024, Board of
2 Managers Regular Meeting at 7:00 p.m. at the District Office, 18681 Lake Drive East,
3 Chanhassen, Hennepin County, Minnesota.

4 President Pedersen stated that by declaration of the president this meeting is being held in
5 person in public and hybrid while the District recognizes a manager may, based on advice
6 from a healthcare professional, have a legitimate reason for not attending a meeting in a
7 public place in person, such as Covid-19 exposure or infection, and in such circumstances
8 may participate in the meeting remotely.

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

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

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2. Approval of Agenda

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

13 Administrator Jeffery said he and Scott Sobiech met on Monday with the Minnesota Board
 14 of Water and Soil Resources (BWSR) to talk about grant availability. Administrator Jeffery
 15 reported BWSR recommended the District apply through the Minnesota Pollution Control
 16 Agency for the Public Finance Assistance Grant. He said the grant deadline is July 31.
 17 Administrator Jeffery requested adding a Consent Agenda item to adopt the resolution for
 18 applying to the grant program.

19 Manager Larry Koch requested moving to the Consent Agenda item 7f – Adopt Resolution
 20 24-045 Authorizing the Administrator to Notice a Public Hearing to be Held September 11,
 21 2024, for the Purpose of Setting the Preliminary 2025 Budget and Levy, and item 7g –
 22 Adopt Resolution 24-046 Authorizing the Administrator with the Advice of Counsel and
 23 Engineer to Solicit Bids for the Lotus Lake Alum Treatment. Manager Koch asked to move
 24 from the Consent Agenda to New Business item 6b – Approve Permit 2024-027 Hyland
 25 Lake Boat Launch Improvements as Presented in the Proposed Board Action Section of the
 26 Permit Review Report, and item 6d – Approve Payment Application #1 in the Amount of
 27 \$73,952.04 to Peterson Companies Inc. for the Lake Susan Park Pond Reuse Intake
 28 Modification.

29 Manager Ziegler and Manager Duevel consented to the change to the motion.

30 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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3. Matters of General Public Interest

33 President Pedersen called for public comment on matters of general public interest. No
 34 comments were made.

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4. Reading and Approval of Meeting Minutes

36 **a. Approve Minutes of the June 5, 2024, Regular Meeting of the RPBCWD Board of**
 37 **Managers**

38 Manager Ziegler moved to approve the minutes of the June 5, 2024, Regular Meeting of
 39 the RPBCWD Board of Managers. Manager Duevel seconded the motion.

40 Manager Crafton noted the following edits: on line 125 replace “that” with “than,” on line
 41 202, replace “it” with “is,” and on line 282 delete “as.” Manager Ziegler and Manager
 42 Duevel consented to the change to the motion.

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

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

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5. Committee Reports

46 **a. Adopt Resolution 2024-041 Receiving the Following Committee Reports.**

47 **• Receive Personnel Committee Report**

48 Manager Koch said he does not think the District should award the contract for a
 49 salary and benefits survey without the Personnel Committee presenting written
 50 proposals to consider and compare. Manager Pedersen explained the Personnel

51 Committee’s recommendation, noting the process the Committee went through to
 52 solicit and review the proposals and to develop the recommendation to the Board.
 53 Manager Koch said he does not think the Committee’s approach used best
 54 practices and does not think the Committee’s presentation of the information to
 55 the Board follows best practices.

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57 • **Receive Audit and Finance Committee Report**

58 Manager Koch stated his concerns about Mr. Nilson’s responses to the District
 59 regarding why the 2023 year-end balance from the District’s accountant Redpath
 60 was different than the audit amount and regarding the one legal compliance
 61 finding about timely payment of claims. Manager Koch said he did not think the
 62 responses were very professional and they reinforce Manager Koch’s concerns
 63 about Mr. Nilson’s abilities to deal with clients. Manager Koch said he is
 64 astonished Mr. Nielson was made a partner based upon his previous track record
 65 and response. Manager Koch said the District has a policy about payment of
 66 claims and he believes the District has complied with it. He said he thinks Mr.
 67 Nilson’s response is completely unacceptable.

68 Manager Koch said he thinks the District should send a letter to the audit firm
 69 expressing the District’s dissatisfaction with the way this process was handled.
 70 Manager Koch said he thinks the firm’s management needs to know about it.
 71 Manager Koch said it is not the way to do business. He said he wants to know if
 72 the District will do something about this and if not, he will.

73 Administrator Jeffery said the auditor is one of two consultants that report to the
 74 Board. He said it is up to the Board of Managers about what action, if any, the
 75 Board wants to take.

76 Manager Duevel moved to direct Administrator Jeffery to draft a letter regarding
 77 the District’s audit for the Board’s review and approval. Manager Koch seconded
 78 the motion. 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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- **Receive Citizen Advisory Committee's Report and Minutes**

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Marilyn Torkelson reported the CAC met and had a presentation by Rachel Whittington on the soil health project. Ms. Torkelson said the CAC discussed water conservation and discussed water appropriation for non-essential use. She noted lawn watering is defined as a non-essential use but watering to establish shoreline restoration is not listed as non-essential, so that use seems to be a gray area in the appropriation rules. Ms. Torkelson reported the CAC discussed the idea of implementing or partnering with District member cities to support a water conservation audit program. She said the program could include a component modeled after the Smart Salt training program to certify businesses on water conservation measures.

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Louis Smith remarked watershed districts have always had the authority to regulate, conserve, and control the use of water within the watershed district and also to conserve groundwater. He said there is no absence of watershed district authority. Mr. Smith explained the cities are the water utilities, so addressing water use calls for a partnership with the cities. Manager Koch said he would like it if Mr. Smith would definitively outline the District's abilities regarding water authority. Manager Koch said he thinks the District should consider including in its rules a discussion and possibly provisions that would assist in the conservation of water resources.

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- **Receive June Staff Report**

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Manager Koch said he thinks staff should make available an annual report about the data collected each year, so the Board can determine whether to continue collecting the data. Administrator Jeffery said the District accumulates a lot of data each year. He said a lot of the data are posted in the District's annual report and in the water reports linked in the annual report. Josh Maxwell said staff is working to make more of the data, like the Score your Shore tool and data on carp as well as aquatic plants, available through the District's website.

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- **Receive June Engineer's Report**

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Manager Koch asked about high-resolution imagery referenced in the report. Administrator Jeffery said some of the data is in the public-facing map and some of the data the District does not own and is not included in the District's public-facing map.

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- **Receive June Regulatory Report**

Manager Koch asked if costs are being applied to the applicant for the after-the-fact permit so the District can recoup its costs. Administrator Jeffery responded yes. Manager Koch raised a point about the City failing to get permits for work south of Lake Lucy Road.

Manager Crafton moved to adopt Resolution 24-041 Receiving Committee Reports. Manager Duevel seconded the motion. Upon a roll call vote the motion carried 5-0 as follows:

<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 CAC Meeting**

Manager Duevel volunteered to be the Board representative at the July 15th CAC meeting.

6. Consent Agenda

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- a. Adopt Resolution 24-042 to Approve Consent Agenda**

President Pedersen listed the items remaining on the Consent Agenda: 6a – Adopt Resolution 24-042 to Approve Consent Agenda, 6c – Approve Permit 2024-038 Lunds & Byerlys Food Service Building Improvements as Presented in the Proposed Board Action Section of the Permit Review Report, 6e – Approve Resolution 24-047 Authorizing Administrator to Submit a Point Source Implementation Grant Application to the MN Public Facilities Authority and to Execute the Grant Agreement on Behalf of RPBCWD – off the Consent Agenda to New Business, 7f – Adopt Resolution 24-045 Authorizing the

142 Administrator to Notice a Public Hearing to be Held September 11, 2024, for the Purpose
 143 of Setting the Preliminary 2025 Budget and Levy, and 7g - Adopt Resolution 24-046
 144 Authorizing the Administrator with the Advice of Counsel and Engineer to Solicit Bids
 145 for Lotus Lake Alum Treatment.

146 Manager Ziegler moved to adopt Resolution 24-042 to Approve Consent Agenda.
 147 Manager Duevel seconded the motion. Upon a roll call vote, the motion carried 5-0 as
 148 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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7. New Business

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a. Items Removed from Consent Agenda

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**i. Approve Permit 2024-027 Hyland Lake Boat Launch Improvements
 as Presented in the Proposed Board Action Section of the Permit
 Review Report**

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Manager Koch asked for more details about the location of the compensatory storage. Mr. Sobiech displayed a schematic view and a profile view of the project area. He explained the locations where there will be fill and excavation, including the compensatory storage area to the south of the boat ramp.

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Manager Koch moved to adopt the proposed resolution set forth in the staff report regarding permit 2024-027 Hyland Lake Boat Launch Improvements as Presented in the Proposed Board Action Section of the Permit Review Report. Manager Ziegler 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 Payment Application #1 in the Amount of \$73,952.04 to Peterson Companies Inc. for the Lake Susan Park Pond Reuse Intake Modification

Manager Koch said he is not sure the footnote language regarding the rate of releasing the District’s retainage matches the policy the Board adopted. He said if it does not match, he suggests changing the language to make clear what the District will hold and for how long.

Manager Crafton moved to approve payment application #1 in the Amount of \$73,952.04 to Peterson Companies. Manager Duevel seconded the motion.

Manager Koch moved to modify the motion to correct footnote number 1 to comply with the District’s duly adopted process and procedure for retainage.

Manager Crafton and Manager Duevel consented to the change to the motion.

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

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

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b. Accept June Treasurer’s Report

Manager Duevel moved to accept the June Treasurer’s report. Manager Crafton seconded the motion.

Manager Koch reiterated his previous objections and concerns regarding the use of the Visa activity schedule, meaning the failure to itemize in the District’s financials the actual vendors because a credit card is a lending facility and to characterize it otherwise is not consistent with accepted accounting procedures. He said he does not see how an auditor

190 could give a clean audit without conducting testing, which still would not be consistent
 191 with best management practices because it would make it too difficult to determine how
 192 much the District is spending with any particular vendor for services or materials.

193 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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196 **c. Adopt Resolution 24-043 Approving Payment of the Bills**

197 Manager Crafton moved to adopt Resolution 24-043 Approving Paying of the Bills.
 198 Manager Ziegler seconded the motion. Upon a roll call vote, the motion carried 4-0 as
 199 follows:

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

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202 **d. Approve Permit Modification 2016-017 Southwest Light Rail Transit –**
 203 **Traction Power Substation Site Modification as Presented in the Proposed**
 204 **Board Action Section of the Permit Review Report**

205 Mr. Sobiech explained the District received a request from the Metropolitan Council to
 206 reinstate permit 2016-017 because it expired in December 2021. He said the work was
 207 maintained and has been compliant throughout the entire period. Mr. Sobiech said the
 208 permit modification is for a change to the proposed finish ground surface from the
 209 approved pervious pavement to 1.5-inch crushed granite, which is pervious and will allow

210 water to infiltrate to the ground, and to add to the project a regular bituminous parking pad
 211 at each substation.

212 Manager Koch moved to adopt Resolution permit modification 2016-017 with the change
 213 on first resolved statement so it reads, "...the application for reinstatement of Permit
 214 2016-017 and the proposed modification to Permit 2016-017 is approved..." Manager
 215 Ziegler seconded the motion.

216 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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219 **e. Adopt Resolution 24-044 Authorizing the Administrator, with Advice of**
 220 **Counsel, to Enter into an Agreement with David Drown Associates to**
 221 **Perform a Compensation and Benefits Study**

222 Administrator Jeffery said the District last conducted this type of salary survey in 2017 or
 223 2018.

224 Manager Duevel moved to adopt Resolution 24-044 Authorizing the Administrator, with
 225 advice of counsel, to Enter into an Agreement with David Drown Associates to Perform a
 226 Compensation and Benefits Study. Manager Ziegler seconded the motion.

227 Manager Koch objected to approving this resolution given the fact he did not see a
 228 comparison of proposals and he does not approve agreements he has not seen. He said he
 229 thinks the resolution should be changed to direct legal counsel to prepare an agreement
 230 for the Board’s review and approval. Manager Koch asked if Minnesota Watersheds
 231 would take on leading a salary and benefits survey every so often and getting member
 232 watershed districts to contribute to or to make the cost part of the membership fees.
 233 President Pedersen said she has asked Minnesota Watersheds, which has not responded
 234 indicating interest in the initiative. President Pedersen commented that within the Metro
 235 Watersheds only one other watershed was interested in having a benefits and salary
 236 survey undertaking.

237 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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8. Discussion Items

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a. Resolutions for Minnesota Waters 2025 Legislative Platform

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Administrator Jeffery said Minnesota Waters sent out its annual request for proposed resolutions.

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Manager Koch suggested the Board members and staff send proposed resolution topic ideas to Administrator Jeffery for the Board to discuss at the July workshop.

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Manager Crafton suggested putting forward a resolution that the District be an active and participating (voting) member of the Technical Evaluation Panel (TEP).

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Administrator Jeffery said he will find out which of the District’s resolutions are sunseting and which are not.

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Manager Crafton commented on the importance of building better relationships with the District’s legislators. She said she hopes the District can do an open house, perhaps with other watersheds like the Nine Mile Creek Watershed District, to bring the local legislators together. Administrator Jeffery agreed having a larger breadth would help get more traction with and attendance by the legislators.

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b. 2023 Final Audit Report

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i. Presentation

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ii. Executive Governance Summary

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Administrator Jeffery reported Abdo presented at the last Audit and Finance Committee meeting. Administrator Jeffery said there were two findings: the timely payment of invoices and the method of putting forward the earnest money for the Spring Hill property. He said he has asked Mr. Nilson of Abdo to present at the Board’s August meeting but has not heard back.

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265 Manager Koch said he has no confidence in this audit. He said the District is in dire
266 need of examining its auditors and its accountants.

267 Manager Crafton asked if the Board could expedite paying invoices by delegating the
268 review and payment to a committee. Mr. Smith said he appreciates the idea of a process
269 to expedite it, and although perhaps it is conceivable to come up with a way to delegate
270 such authority, he does not recommend it. He said he thinks it is important each Board
271 member exercises her or his fiduciary responsibility of reviewing the monthly expenses
272 of the District and understands the bills being paid, so there are five people reviewing
273 the finances to that level. Mr. Smith said he thinks that is good practice and he cannot
274 think of a watershed that delegates bill paying to a committee or a smaller group.

275 Mr. Smith said the process the District uses to receive invoices, the District's cut off
276 period for processing and preparing the financial reports, and authorizing payment is a
277 schedule the Board can adopt that meets the District's requirements. He said the District
278 has adopted the policy of extending payment obligation out to 45 days. Mr. Smith stated
279 the state statute is clear that payment obligation is 35 days unless otherwise provided by
280 contract. He said the District otherwise provides by contract a 45-day payment
281 obligation. He said the Board and District staff should be able to work within a schedule
282 that is workable with the accountants, book keeping, and meeting process that fits in
283 with the Board meeting schedule.

284 Manager Koch said he thinks the District probably still owes certain vendors interest for
285 not paying invoices on time. He said as he reads the statute, it is not up to the vendor
286 whether or not to collect the interest. Manager Koch said he thinks the District has the
287 affirmative obligation to pay interest unless the District falls within the exception in the
288 statute.

289 Manager Ziegler asked if there is any way to pay the bills electronically. Administrator
290 Jeffery said he is exploring that method and will bring the information to the Board.

291 Manager Koch asked if the District has explored using US Bank since it is associated
292 with 4M. Administrator Jeffery said he will talk with US Bank to see if it is possible for
293 US Bank to cut the checks.

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9. Member Reports

295 a. Manager Reports

296 Manager Koch said he reiterates his prior comments regarding the administration of the
297 District, particularly that the District needs a duly qualified HR consultant and a duly
298 qualified IT consultant. He said he believes the District is lacking in IT policies.

299 Manager Koch said he believes the District needs to move forward with consultants to
300 advise the District at least annually on the operation of the District's personnel system
301 and IT systems.

302 Manager Duevel commented on the tours he attended, including the June 20th tour of the
303 Preserve project and Minnesota Watersheds’ June 25th and 26th Summer Tour. He said it
304 was interesting to see the notion of collaboration that takes place with the metro-area
305 watersheds and communities. Manager Duevel mentioned the City of Edina’s
306 Morningside flood mitigation project and said it was an all-encompassing project and
307 dealing with watershed rules was a big part of the process. He also mentioned the tour
308 included seeing a project that included a parking lot with pervious asphalt.

309 Manager Ziegler said he was up at Forest Lake/ Comfort Lake at the Bone Lake
310 delisting ceremony. He suggested the District conduct a similar process regarding the
311 ceremony and involvement of partners in the ceremony when a District lake is delisted.

312 Manager Crafton said regarding downstream impacts, the Board recently voted on a
313 project in which the parcel of land had one house on it and is going to be redeveloped to
314 have 17 parcels/houses on it and will send water downstream. She said the District is
315 creating infrastructure. Manager Crafton said The Preserve is doing amazing work with
316 natural shores. She said it is water conservation as the water is absorbed in organic
317 matter in the landscaping. She said this is what the EHAP is about – water conservation,
318 habitat, and the water cycle.

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320 **b. Administrator Report**

321 Administrator Jeffery reported a call went out in February for cybersecurity grants. He
322 said the District has been accepted into the grant program, which will begin in October.
323 Administrator Jeffery said the District’s systems will be reviewed and recommendations
324 will be made and grants will be available for system upgrades.

325 Administrator Jeffery said the Minnesota Nonpoint Priority Funding Plan is out and the
326 Minnesota Association of Watershed Administrators are going through it and adding
327 comments. He said one comment so far is the plan seems to be very agriculturally
328 focused.

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330 **c. Legal Counsel Report**

331 Mr. Smith had no report.

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10. Upcoming Board Topics

334 **a. New Manager Orientation/On-boarding**

335 **b. Mission, Vision, and Values Statement**

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11. Upcoming Events

- 337 **a. Salt Symposium**
- 338 **b. July 18, 2024, Board Workshop on 2025 Budget and Levy and Legislative**
- 339 **Platform resolutions**
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12. Adjournment

341 Manager Ziegler moved to adjourn the meeting. Manager Crafton seconded the motion.

342 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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346 The meeting adjourned at 8:53 p.m.

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Respectfully submitted,

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Tom Duevel, Secretary