

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

July 13, 2022, RPBCWD Board of Managers Work Session & Regular Monthly Meeting

PRESENT:

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

Staff: Amy Bakkum, Administrative Assistant*
Liz Forbes, Grant Program Coordinator*
Terry Jeffery, District Administrator*
Eleanor Mahon, Education and Outreach Coordinator
Joshua Maxwell, Water Resources Coordinator*
Mat Niklay, Natural Resources Technician
Louis Smith, Attorney, Smith Partners
Scott Sobiech, Engineer, Barr Engineering Company*

Other Attendees: Andrew Aller, CAC Jill Karsten
Rodey Batiza Melissa
Greg Hawks Marilyn Torkleson, CAC
Terry Jorgenson Jessica Willey

**Indicates attendance at both the workshop and the monthly meeting*

Note: the Board 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. 5:00 p.m. Work Session

President Ziegler called the Board work session to order at 5:02 p.m.

a. Preliminary Draft Budget

Administrator Jeffery displayed the Excel spreadsheet with the preliminary draft 2023 District budget staff developed and shared with the managers. Administrator Jeffery said the proposed 2023 levy amount is \$3,854,426, compared to the adopted 2022 levy amount \$3,640,581. He said the proposed 2023 District budget is \$7,163,814 compared to the adopted 2022 budget of 7,394,572. He listed grants staff plans to apply for later this year for 2023.

10 Administrator Jeffery went through the proposed 2023 budget line by line, explaining the
11 rationale for the numbers.

12 Manager Koch said regarding the Groundwater Conservation and Opportunity Project
13 line items, he is not in favor of adding funds to these projects as they will probably end
14 up being more costly than what the District is estimating. He said he thought the
15 Minneapolis Construction Index was factored in, and he would like to see it more
16 explicitly factored in. Manager Koch said he is in favor of soil health but he isn't sure
17 2023 is the year for such projects. He said he thinks 5.9% increase will be a sticker shock
18 for a lot of the watershed's residents, and the District needs to take this into account.
19 Manager Koch commented he isn't sure it's appropriate to put a negative number in a
20 proposed levy and instead it would be zero.

21 Manager Pedersen said she would like Administrator Jeffery to include the proposed
22 dollar amount increase to the average District taxpayer, to provide the managers context
23 to the proposed 5.9% increase.

24 Manager Koch asked Administrator Jeffery to provide the preliminary draft 2023 budget
25 to the CAC as well as the link to this work session because Manager Koch is interested in
26 the CAC's feedback. Manager Koch said he needs to see a comprehensive schedule going
27 over the next several years to have a better handle on the next five years in regard to the
28 District's 10-Year Plan. He said he would like to see more detail on the compensation
29 level and see the increases and make sure staff is treated fairly. Manager Koch asked staff
30 to go back and make sure where the 2022 budget is starting from is where 2021 final
31 numbers ended up, because he is concerned that this year the Board didn't take action to
32 true up the 2021 budget. Manager Koch noted his concern about inflation and is
33 concerned the District is scheduling too much for 2023 because he thinks with inflation
34 the costs will be greater than the project estimates. He said all there needs to be a
35 comprehensive look at all the multi-year projects. Administrator Jeffery noted the
36 Board's ability to delay some of the planned projects by a year if needed and it makes
37 sense to see what happens in the bidding cycle.

38 Manager Crafton said she is in favor of the District moving forward with project, for
39 example the work on the hydraulic and hydrologic model won't do the cities any good if
40 there aren't going to be mitigation projects. She said she foresees a lot of cutting edge
41 opportunities the District could leverage especially regarding climate action plans and
42 natural resources. Manager Crafton said she thinks there needs to be direction on how to
43 incorporate ecosystem services and about the metrics the District is collecting.

44 Manager Pedersen raised the topic of IT services. Administrator Jeffery noted the
45 contract with the current provider extends to the end of this year. He said an RFP for IT
46 services subsequent to the end of that contract can be drafted to include the IT services
47 the District needs.

48 President Ziegler said he agrees with the comments raised by the other managers, and he
49 doesn't think the District can delay soil health initiatives. He said the Board and staff
50 need to find budget for the soil health program so the District can get on a better track
51 toward alleviating climate change issues in a more environmentally friendly manner.

52 Manager Koch said there need to be Board workshops sooner rather than later to make
53 decisions about what the District is going to do and hold some meaty meetings and
54 discuss how to value certain projects and discuss bang for bucks.

55 Manager Crafton said Administrator Jeffery said the planning isn't expensive. She said
56 the District has expert resources such as Joe Bischoff at Barr Engineering, and she would
57 like those resources to draft a framework and a workplan. She said the Board needs to be
58 informed but she doesn't think there needs to be a lot of workshops with the managers
59 talking and the Board needs to use the expertise of its staff and consultants.

60 Manager Pedersen commented that in the landscaping industry this year projects are
61 running 15% to 30% higher due to the economy and factors such as supply chain and
62 labor costs.

63 The managers agreed it was time to move to the next item on the workshop agenda.

64
65 **b. CAC/ BOM Communications**

66 Administrator Jeffery introduced CAC Chair Andrew Aller. Mr. Aller noted the CAC
67 minutes summarize the discussion about CAC-Board of Managers (BOM)
68 communication processes that the CAC had at its most recent meeting. He said points
69 raised were about having more or better communication to the CAC from the Board in
70 order to facilitate the CAC helping the Board do its job better.

71 Mr. Aller referred to the displayed PowerPoint presentation "BOM-CAC Communication
72 Flow Chart, Board of Managers Workshop, July 13, 2022." He went through the
73 presentation, highlighting the CAC's communication concerns, and potential solutions,
74 including:

- 75 • Process to dismiss CAC member is undefined
- 76 • Timing of flow of info/topics from BOM to CAC
- 77 • Lack of defined leadership process

78 The managers and staff shared their ideas about potential solutions, including about the
79 timing and process for distributing draft BOM minutes and inviting the CAC chair to the
80 Board workshop and meeting agenda setting sessions.

81 Mr. Aller went through a flow chart illustrating the BOM-CAC communication process.
82 Manager Koch commented he thinks the Board should be required to take action on each
83 CAC motion, so the CAC gets immediate feedback.

84 President Ziegler asked Administrator Jeffery to make a note to invite the CAC chair or
85 vice chair to the next session for setting the draft Board meeting agenda.

86 Manager Pedersen moved to adjourn the workshop. Manager Crafton seconded the
87 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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The workshop adjourned at 6:28 p.m.

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2. Call to Order of Regular Monthly Meeting

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President Ziegler called to order the Wednesday, July 13, 2022, Board of Managers Regular Meeting at 7:00 p.m. The meeting was held remotely via meeting platform Zoom.

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3. Managers Oath of Office

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Attorney Smith led David Ziegler and Tom Duevel through the Oath of Office of the Office of Manager of the Riley Purgatory Bluff Creek Watershed District.

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4. Approval of Agenda

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

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Manager Crafton requested to add an agenda item about directing staff to develop an ecosystem services framework along with goals, objectives, and strategy as well as a workplan and a draft Plan amendment to include ecosystem services in the District's 10-Year Plan.

100

Manager Koch asked to move off the Consent Agenda items 8b – Accept June Staff Report, 8c – Accept June Engineer Report, 8f – Approve Permit 2022-010 Suite Living of Eden Prairie, 8g – Modification for Permit 2022-017 Oak Point Elementary Access Revision, 8k – Approve Permit 2022-051 Awes Shoreline Restoration, and move to consent 9e – Adopt Resolution 2022-054 Authorizing Task Order 39 for Barr Engineering to Conduct the Preliminary Engineering Study for the Lotus Lake Watershed Water Quality Improvement Project, and add action items regarding the rules violation on Lotus Lake, directing staff to prepare the letter to the City of Chanhassen about wake boats, and considering directing staff to prepare a letter to the City of Chanhassen about the maintenance of gutters along 78th Street. Manager Koch requested asking staff to put together a grant application to BWSR for developing and implementing a plan to develop improving working relationships between managers and staff. Manager Koch asked to add an agenda item for staff to consider proposed request to engage an HR consultant.

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Manager Crafton and Manager Pedersen accepted Manager Crafton and Manager Koch's requests as a friendly amendment. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

5. Matters of General Public Interest

President Ziegler presented the procedure for raising Matters of General Public Interest. Ms. Marilynn Torkelson, Eden Prairie resident and CAC member, said she was approached by a resident about concerns about the pedestrian bridges across Purgatory Creek near Highway 62. Ms. Torkelson said the resident noticed debris and wanted to know who makes sure the bridges are safe, not causing erosion, and are above the creek's high water level. Administrator Jeffery said those answers can be provided to the resident if the resident wants to provide contact information. President Ziegler asked Administrator Jeffery to get back to the resident.

6. Reading and Approval of Meeting Minutes

a. Minutes of the June 1, 2022, RPBCWD Board of Managers Regular Monthly Meeting

Manager Pedersen moved to approve the minutes of the June 1, 2022, RPBCWD Board of Managers Regular Monthly Meeting. Manager Crafton seconded the motion. Manager Crafton noted a correction on line 14 and other lines to correct the spelling of aquifers. She said on line 82 to insert the word "abstraction" after 1.1 inch. Manager Crafton said on line 93 to update the word "talk" to talking. She said on line 94 replace tying with talking. Manager Crafton noted on line 200 to update the minutes to reflect the summer tour will be held in August not June. On line 268-69 replace "has" with "have."

Manager Koch asked to update line 240 to state "...asked if we are proposing to amend" instead of "proposed to amend". He said on line 329 to strike the numbers.

President Ziegler left the meeting. Vice President Koch assumed the role of leading the meeting. Upon a roll call vote, the motion carried 3-0 with one abstention and one absence as follows:

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

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**b. Minutes of the June 2, 2022, RPBCWD Board of Managers Special Meeting
with June 8, 2022, Meeting Continuance**

Manager Koch said he recently received the recording and said he feels there are several gratuitous opinions in the minutes by the drafter of the minutes as to what happened or didn't happen. Manager Koch said he would like to lay over the minutes to give him a chance to review the recordings. Manager Koch moved to lay over the minutes to the next Board of Managers meeting. Manager Crafton seconded the motion. When President Ziegler rejoined the meeting, he reassumed leading the meeting, and the roll call vote resumed. Upon a roll call vote, the motion failed 2-2 with one abstention:

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

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President Ziegler asked Manager Koch to repeat his statements regarding the minutes, as President Ziegler was experiencing technical issues and was not present to hear Manager Koch's request or comments. Manager Koch said in reading the minutes, in his view there are gratuitous opinions as to what was done or not done, for example, interruptions or not. He said he is asking the Board to lay over the minutes until he reviews the recording so he can see if he agrees with that interpretation or not.

Manager Pedersen moved to accept the minutes as written. Manager Crafton seconded the motion. Manager Koch moved again to lay the minutes over to the next meeting for the

reasons he previously stated. The motion died due to lack of a second. Upon a roll call vote, the motion carries 3-1 with one abstention:

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

7. CAC

a. Report and Accept CAC Minutes

Manager Crafton moved to accept the CAC minutes. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 3-0 with one abstention and one absence as follows:

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

President Ziegler introduced CAC Chair Andrew Aller to provide the CAC report. Mr. Aller summarized the CAC's discussion about the requirements of a CAC member and the presentation shared earlier at the Board workshop. He thanked the Board for listening the CAC's comments and concerns.

b. Confirm Board Representative for July 18th CAC Meeting

President Ziegler volunteered to be the Board representative at the CAC's July 18th meeting.

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8. Consent Agenda

181 President Ziegler read aloud the items on the Consent Agenda. Manager Pedersen moved to
 182 accept the Consent Agenda. Manager Crafton seconded the motion. Manager Koch moved to
 183 amend the motion to adopt Resolution 22-051 with the items we just read and that those items be
 184 specifically incorporated into the resolution to be signed by the Secretary. Managers Crafton and
 185 Pedersen accepted Manager Koch's amendment as a friendly amendment. Upon a roll call vote,
 186 the motion carried 4-0 with one abstention as follows:

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

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189 The Consent Agenda included items 8a – Adopt Resolution 22-051 to Approve Consent Agenda,
 190 8d – Accept June Construction Inspection Memo, 8e – Approve Permit 2021-062 The Ellie
 191 Development as Presented in the Proposed Board Action Section of the Permit Review Report,
 192 8h – Approve Modification for Permit 2022-026 Chapel Hill, 8i – Approve Permit 2022-039
 193 Taco Bell Redevelopment as Presented in the Proposed Board Action Section of the Permit
 194 review Report, 8j – Approve Permit 2022-044 Staring Lake Corporate Center as Presented in the
 195 Proposed Board Action Section of the Permit Review Report, 8l – Adopt Resolution 2022-052
 196 Authorizing Payment on Pay Application #3 for Rice Marsh Lake Water Quality Improvement
 197 Project, and 9e – Adopt Resolution 2022-054 Authorizing Task Order 39 for Barr Engineering to
 198 Conduct the Preliminary Engineering Study for the Lotus Lake Watershed Water Quality
 199 Improvement Project.

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9. Action Items

201 a. Items Pulled from Consent Agenda

202 i. Accept June Staff Report

203 Manager Koch moved to accept the June Staff report. Manager Pedersen
 204 seconded the motion.

Manager Koch said he doesn't have a problem voting on accepting the report if he hasn't found anything wrong, but he would like to have an opportunity to discuss it, and if he has that opportunity, then he doesn't have a problem accepting the report.

Attorney Smith said previously the agenda had included staff report also under discussion items, so managers and staff could discuss any items in the report as needed.

Manager Koch moved to adopt the proposed Board resolution set forth in the report on . Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

ii. **Accept June Engineer's Report**

Manager Koch moved to accept the June Engineer's report with the reservation to ask questions later on regarding the report. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

iii. **Approve Permit 2022-010 Suite Living of Eden Prairie as Presented in the Proposed Board Action Section of the Permit Review Report**

Manager Koch asked for information about the proprietary system proposed to be installed in this location, such as has the District used this system previously. Engineer Sobiech responded the reference to the proprietary systems is for the underground chamber system to store water, but it is not a filtration system. He described the typical recommended maintenance of cleaning out sediment.

Manager Koch moved to adopt the proposed resolution set forth in the report on Permit 2022-010 and have those resolutions* incorporated into the minutes as the Secretary deems appropriate. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

[*Resolutions under Proposed Board Action incorporated below as referenced in motion and sourced from memo “Riley Purgatory Bluff Creek Watershed District Permit Application Review, Permit No. 2022-010” included in the Board meeting packet for the RPBCWD Board of Managers Regular Meeting, July 13, 2022]

Proposed Board Action

Manager _____ moved and Manager _____ seconded adoption of the following resolutions based on the permit report that follows and the presentation of the matter at the July 13, 2022 meeting of the managers:

Resolved that the application for Permit 2022-010 is approved, subject to the conditions and stipulations set forth in the Recommendations section of the attached report;

Resolved that on determination by the RPBCWD administrator that the conditions of approval have been met, the RPBCWD president or administrator is authorized and directed to sign and deliver Permit 2022-010 to the applicant on behalf of RPBCWD.

Upon vote, the resolutions were adopted, _____ [VOTE TALLY].

iv. **Approve Modification for Permit 2022-017 Oak Point Elementary Access Revision as Presented in the Proposed Board Action Section of the Permit Review Report**

Manager Koch asked for clarification on the reason for the modification. Engineer Sobiech provided clarification. Manager Koch asked if there is an existing maintenance agreement that was part of the original permit. Engineer Sobiech said it was part of the original conditional approval of the permit. Administrator Jeffery noted the maintenance agreement also needs to be specific to that device.

Manager Koch moved to adopt the proposed resolution set forth on the first page of the report regarding Permit 2022-017 Approving the Modification of the Permit with the additional requirement that any maintenance agreement be approved by Counsel, Staff, and the Engineer as they deem necessary. Manager Pedersen seconded the motion.

Manager Koch provided suggestions about the format of permit review reports. Administrator Jeffery suggested holding a Board workshop to walk the managers through the review process and learn about where legal counsel is involved and what templates are being used. Manager Koch said he is in favor of anything that can make reviewing and approving these efficient.

Manager Crafton said this is already part of the conditional approval, so adding it again seems redundant. She said she is worried about building in redundancy but is fine if staff. Manager Pedersen agreed with Manager Crafton's comments. Manager Koch said he would really appreciate following Robert's Rules of Order and for people to be addressed before speaking. Manager Koch said regarding Manager Crafton and Manager Pedersen's comments, trust is earned, and he doesn't care if the District has been doing it for 1,000 years, people make mistakes, and he isn't going to approve anything that he doesn't know what's happening and making sure the "i"s are dotted and the "t"s are crossed. Administrator Jeffery said he thinks a Board work session on how these approvals are made will be helpful to the managers in understanding the process. Manager Crafton suggested inviting the CAC to such a work session, or if it's recorded, the CAC could watch it.

Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

Koch	Yes
Pedersen	Yes
Ziegler	Yes

v. Approve Permit 2022-051 Awes Shoreline Restoration as Presented in the Proposed Board Action Section of the Permit Review Report

Manager Koch stated he pulled this item from the Consent Agenda because he thinks it an example of perhaps an area we need to reconsider the rules regarding the shoreline, etcetera. He said he believes it's in the rule that the idea is to try to have some BMP to try to impede the immediate flow of surface water into the lake.

Engineer Sobiech provided historical information about previous discussion and action about shoreline buffers and BMPs. He informed the Board that the District doesn't require BMPs or stormwater management of the upland area when there's a shoreline-only project. Engineer Sobiech said he and Administrator Jeffery have this topic in their notes of items to bring up and discuss with the Board during the District's rulemaking process.

Manager Koch moved to adopt the resolutions proposed on page 1 of the report on Permit 2022-051. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

b. Accept May Treasurers' Report

Manager Crafton moved to accept the May Treasurer's Report. Manager Pedersen seconded the motion. Manager Crafton stated the report has been reviewed in accordance with the District's internal controls and policies and procedures.

Manager Koch commented about the permit review budget status and asked about budget status of the community resiliency line item. Administrator Jeffery provided that information. Administrator Jeffery suggested Barr Engineering provide an update to the

Board in late summer or early fall about the community resiliency modeling. Manager Koch shared his concerns about the Duck Lake partnership and reiterated his concerns about the failure to report the obligation to make the payment on the Duck Lake partnership as liabilities. He said he thinks it is a significant and material misstatement, notwithstanding the auditor's report. Manager Koch objected to failure to use the Visa card in doing our reporting. He said regarding reporting Visa payments as being the vendor, he doesn't believe that is an acceptable accounting practice. Manager Koch said if we are going to do it that way, at the end of the year, we should get a consolidated report so we know which vendor we paid how much, which is the only way we have a chance of determining whether or not, it may not be fraud but it may be directing or purchasing in the wrong places. He asked the Audit and Finance Committee to consider his points.

Manager Crafton commented the Visa charges are thoroughly vetted by staff Bakkum and herself and she has discussed the process with the accountant. Manager Pedersen remarked her husband is a CPA and has been the CFO of a number of large medical associations and clinics and his opinion as well as the District's process is fine, with two people already reviewing the Visa charges, which are notated. Manager Koch said if Manager Pedersen's husband was the District's CFO, he would give it more weight. Manager Koch said he knows many, many CFOs and he can tell everyone that Cargill and all the major companies track these specifically by vendor. He said the last time he checked with them, which was this year, nothing is listed as a Visa charge. Manager Koch said this is a difference of opinion, and if the accountants want to give him a letter to that effect, then he'd certainly take it into consideration.

Manager Crafton commented she thinks that it being a little dismissive of what she is trying to do by following the District's internal controls. She described her accounting experience and said she is well aware of what has to be checked. Manager Koch said this is not a question about checking it out, it's a matter of accumulating it, compiling it, and knowing who your vendors are and where you are spending your money. He said it's not a matter of was the receipt checked, it's a matter of knowing what you're spending, because you can't control what you don't know.

Upon a roll call vote, the motion carried 3-1 with one abstention as follows:

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

c. Approve Paying the Bills

Manager Crafton moved to pay the bills. Manager Pedersen seconded the motion. Manager Koch said Administrator Jeffery circulated Manager Koch's resolution. Manager Koch moved to amend the motion to be consistent. Manager Crafton and Manager Pedersen accepted Manager Koch's amendment as a friendly amendment. Manager Koch read aloud from his resolution:

Now therefore be it resolved the Board of Managers hereby approve paying of the bills set forth in the Treasurer's Report for the July 13, 2022, meeting of the Board of Managers.

Manager Crafton and Manager Pedersen accepted Manager Koch's amendment as a friendly amendment. Manager Koch asked about his per diem reimbursement acknowledged on June 3 or 4. He said he hasn't gotten a response from Administrator Jeffery and wondering if there is a glitch in the process. Administrator Jeffery apologized and said he hadn't forwarded the request to Staff Bakkum but will do so in time to be included in the bills for Board action at the August Board of Managers meeting. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

d. Adopt Resolution 2022-053 Awarding Silver Lake Water Quality Project Restoration to Prairie Restoration, Inc.

Manager Pedersen moved to adopt Resolution 2022-053 Awarding Silver Lake Water Quality Project Restoration to Prairie Restoration, Inc. Manager Crafton seconded the motion. Engineer Sobiech clarified that this restoration work is to finish the work that Molnau Trucking was unable to complete as part of their contract. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

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- e. **Adopt Resolution 2022-054 Authorizing Task Order 39 for Barr Engineering to Conduct the Preliminary Engineering Study for the Lotus Lake Watershed Water Quality Improvement Project**

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[As part of Board action in Agenda Item 4, this item was moved to the Consent Agenda].

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- f. **Adopt Resolution 2022-055 Accepting Upper Bluff Creek Feasibility Study and Call a Public Hearing at the August 3, 2022, Regular Meeting of the Board of Managers to Order Design**

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Manager Crafton moved to adopt Resolution 2022-055. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

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- g. **Schedule Special Meeting of the Board of Managers Concerning Hostile workplace Investigation**

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Attorney Smith stated Legal Counsel prepared and circulated a memo and he can get that memo to Manager Duevel. Attorney Smith said if the Board wants to simply discuss the mechanics of the special meeting, that is in order now, and if the Board wished to have a more substantive discussion about the underlying issues, then he recommends the Board go into closed session.

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Manager Koch moved to schedule a closed session at the August meeting to discuss the report regarding the hostile workplace investigation. Manager Pedersen voiced her

concern about the amount of time the Board may need for the topic and whether that would extend the monthly meeting. Manager Koch said he has had communications with Mr. Smith regarding information, documentation, availability of persons, and based on those, he is not sure it will take that long. Manager Koch said he thinks it would be prudent to have a closed session on August 3rd regarding the report, and from there decide if the Board needs more time. He said there is no less than 10 hours of interviews and minimum 6 hours of meetings that he thinks need to be reviewed, so if you think it's going to be that long, then he will need at least until the middle of August, the same period or longer than it took to prepare this report.

Manager Ziegler suggested putting it on the agenda for the August meeting as a closed session. Administrator Jeffery said the Board has a work session scheduled that evening for the topics of draft 2023 budget and District plan review. President Ziegler seconded the motion to hold a closed session on this topic at the Board's Regular August meeting.

Manager Pedersen asked for Legal Counsel to comment on whether the Board scheduling the discussion of this topic for August 3rd and then possibly at that meeting scheduling a subsequent discussion, if it looks like the Board is giving this topic the importance it needs based on what is involved in this topic. Attorney Smith said this would be a timely response given all the considerations and having the discussion at the August 3rd meeting would be responsive and timely. Manager Koch said he is reconsidering his motion because he would probably be ok with the 3rd if he receives all the information he has requested and that hasn't happened, so until he receives all that information, he will need at least two weeks to evaluate all that information.

Manager Koch withdrew his motion. Manager Koch moved to set a special meeting for August 10th at 7 p.m. conditioned upon his receipt yet this week of all the information he has requested. President Ziegler asked Attorney Smith to comment. Attorney Smith said he thinks he can follow up separately on the information requests, which are some of them which are quite extensive. He said he thinks he can provide an update to all the managers, including Manager Koch. Attorney Smith said he thinks all of the information that is reasonably necessary to prepare for the meeting will definitely be available this week and he also believes that August 10th would not be a date that reflects undue delay, so it is within a reasonable amount of time to have this matter addressed. Manager Pedersen 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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h. Adopt Resolution 2022-056 Authorizing Change Order and Amendment of Cooperative Agreement with Bear Path Golf and Country Club

Manager Crafton moved adoption of Resolution 2022-056 Authorizing Change Order and Amendment of Cooperative Agreement with Bear Path Golf and Country Club. Manager Pedersen seconded the motion.

Manager Koch said with respect to the proposed amendment, on page 2, paragraph 1, letter B, he believes the words “at its sole cost and expense” should be added to the end of that paragraph to be consistent with item D. Manager Koch asked for details on how the proposed revision to \$35,154 was arrived at. Administrator Jeffery responded that regarding his suggested edit for 1B, it will not be at their sole cost and expense, as that cost will fall to the District. Engineer Sobiech provided details about the proposed revision and the specific items totaling the \$35,154.

Manager Koch recommended the amendment have a very specific schedule saying notwithstanding anything else, here is what each party is going to pay and that to avoid disputes, we include those items in C: i-iv to the extent we know them or wait until we know them, so we have a fixed number. He said we should be nailing down every dollar, who pays what and who receives what. Administrator Jeffery said the District could put it in a tabular form, but the amendment itemizes it. Manager Koch moved to amend the motion to have staff and Legal Counsel coordinate revisions of the proposed amendment to make clear exactly who is paying what with the view toward having this amendment settle the amount to be paid by whatever party to the other party so that it’s clear and concise. Managers Crafton and Pedersen agreed to the friendly amendment. Attorney Smith requested adding to the resolution a condition that there is proof of proper recordation of the easement as a condition to the President’s execution of the amendment. Engineer Sobiech reported the District received proof of recordation of the declaration but not the easements. Manager Koch moved to amend the motion to insert as Legal Counsel and staff deem appropriate in the amendment that will ensure that proof of recordation of the easements is provided as a condition to any further payments for the amendment, using such language as Legal Counsel deems necessary and appropriate. Managers Crafton and Pedersen accepted Manager Koch’s friendly amendment. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

Koch	Yes
Pedersen	Yes
Ziegler	Yes

i. Authorize Legal Counsel and Staff to Prepare Resolutions to be Submitted and Considered by MAWD

President Ziegler proposed removing the resolution regarding carcinogenic materials being spread on lawns because MAWD seems spread thin and this topic should be a Minnesota Pollution Control Agency topic and possibly just going with the other resolutions.

Manager Koch moved to authorize and direct staff and Legal Counsel to update and necessary and appropriate the resolutions the District forwarded to MAWD last year with the exception of the resolution on carcinogenics and that staff submit the resolutions to MAWD for timely consideration. Manager Pedersen seconded the motion. Administrator Jeffery asked for clarification about the managers input about updating the resolution about remote meetings. Manager Koch said the District's proposed resolution provided each District to decide how it wants to hold its meetings and conduct its business and he thinks the resolution covers everything on that basis. President Ziegler made the friendly amendment that staff will bring the updated resolutions to the managers at the next Board meeting. Managers Koch and Pedersen accepted the friendly amendment. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

j. Consider Directing Staff to Develop an Ecosystem Services Framework along with Goals, Objectives, and Strategy as well as a Workplan and a Draft Plan Amendment to include ecosystem services in the District's 10-Year Plan.

Manager Crafton moved to direct staff to develop an ecosystem services framework along with goals, objectives, and strategy as well as a workplan and a draft Plan amendment to

include ecosystem services in the District's 10-Year Plan. President Ziegler seconded the motion. Manager Koch moved to amend the motion to ask staff to come back with their idea on what they envision as a possible project and an estimate on what they think it would take in cost so we have something we could discuss. Manager Koch said staff have other things to do and there is a cost to it, so we should get staff's input so we know what they think about it, the time it will take, and how to develop it. Manager Crafton said this isn't about a project, it's about developing a framework and staff has the expertise. Manager Koch offered his suggestions on the approach the staff and Board could take.

Administrator Jeffery suggested bringing back to the Board a scope, schedule, and budget for the managers to react to at the September meeting at the latest. Manager Crafton supported that suggestion. Manager Koch amended the motion to proceed as Administrator Jeffery outlined and to direct Administrator Jeffery to put together a scope, schedule, and budget to bring back to the Board by the September meeting. Manager Crafton and President Ziegler accepted the Manager Koch's friendly amendment. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

k. Rules Violations on Lotus Lake

Manager Koch moved to authorize staff and Legal Counsel to prepare a response of proposed action regarding the rules violations on Lotus Lake for the Board's consideration at its next meeting. Manager Koch said there are three rules violations on Lotus Lake. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

Pedersen	Yes
Ziegler	Yes

1. Letter to City of Chanhassen about Wake Boats

Manager Koch moved to authorize staff along with Legal Counsel to draft a letter to the City of Chanhassen regarding our concerns about the effects of wake boats on our lakes and to provide it for the Board's consideration at its next Board of Managers meeting. He suggested basing it on the proposal the District drafted to MAWD or using that as a letter or cover letter to the studies by the University of Minnesota and by Wisconsin. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

m. Consider Directing Staff to Prepare a Letter to the City of Chanhassen about the Maintenance of Gutters along 78th Street

Manager Koch said he has sent several pictures to Administrator Jeffery of the hay-like grass cuttings along the gutter along 78th Street. Manager Koch said he has snapped a picture and sent it to the City per its SeeClickFix process and got basically a response that they aren't going to do anything. He said he sent an email to each member of the City Council and got no response. Manager Koch said the street sweeper could be run down the street to sweep up that hay, that would end up in the creek. Manager Koch moved to have staff prepare a letter for the Board's consideration urging Chanhassen to maintain the streets and gutters to avoid polluting the stream. Manager Crafton asked if the first step could be for Administrator Jeffery to reach out to the City. Administrator Jeffery said he could do so. Manager Koch's motion died due to lack of a second.

Manager Koch moved to authorize Administrator Jeffery to reach out to the City of Chanhassen to see why they won't maintain the gutters and to explain the consequences of not cleaning gutters. Manager Crafton seconded the motion but specified she wants the tone of the communication to be exploring the subject and not confrontational. Manager

Pedersen agreed with Manager Crafton's point. 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

n. Consider Preparing a Grant Application to BWSR for Developing and Implementing a Plan to Improve working relationships between managers and staff

Manager Koch moved to direct staff to draft an application for a grant from BWSR for funds to assist in developing and implementing a plan to improve the working relationship among the managers and staff and such application be considered by the Board at the next Board of Managers meeting. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 3-1 with one abstention as follows:

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

o. Consider Resolution to Engage Services of HR Consultant

Manager Koch moved to adopt the resolution he submitted in 2020 to solicit an HR consultant to engage to advise us on human resources issues. The motion died due to lack of a second.

10. Committee Reports

a. Personnel Committee Report

Manager Pedersen reported the Committee did not meeting in the past month and the next meeting is scheduled for July 29th.

b. Governance Committee Report

President Ziegler noted Committee's draft meeting minutes were included and cover the Committee's report.

11. Discussion Items

a. Staff Report

Manager Koch asked about the status of set up with 4M and US Bank and status of account transfer. Administrator Jeffery provided a status update. Manager Koch asked Administrator Jeffery to elaborate on the issues with IT and Imagine IT. Administrator Jeffery described issues staff has had with Microsoft 365 and experiences with the service from Imagine IT. Manager Koch asked Administrator Jeffery to come back to the Board with a recommendation about how to proceed regarding IT services.

Manager Koch mentioned the issue with Carver County and the ditch issues on the west side of Powers Boulevard regarding significant erosion down the sides of the ditch. He asked if Administrator Jeffery has reached out to the County. Administrator Jeffery provided an update and noted Carver County has no permits in with the District but has had projects in the District. Manager Koch said he would like the District to consider what it is going to do to protect the wetland below that project area.

Manager Koch suggested treating Eurasian water milfoil earlier in the season as to not have the debris post-treatment ending up relocating and adding phosphorous. He asked if the District is doing a second Eurasian water milfoil treatment. Administrator Jeffery said not on Lotus Lake. Manager Koch suggested letting Lotus Lake residents know.

Manager Koch asked if the Lake Susan spent lime is working. Administrator Jeffery said it is working.

b. Engineer's Report

Manager Koch asked for an update on the Duck Lake issue. President Ziegler and Administrator Jeffery provided an update.

c. Scheduled Improvements of Dell Road and Opportunities

Administrator Jeffery reported the City of Eden Prairie is looking at improving Dell Road where the gravel road is, and it gives the District time to look at that reach and the culvert crossing as well as the private crossing the individual spoke to the Board about at a Board meeting.

d. Scheduled Improvements of Galpin Avenue

Administrator Jeffery said there could be an opportunity to coordinate any work on Bluff Creek reach 5 with the scheduled improvements of Galpin Avenue to realize some

efficiencies. He said the Galpin improvements are scheduled for 2023 but there could be more opportunity to look at regional treatment if the work is scheduled further out.

e. Spring Valley Friends Litigation (closed session)

Attorney Smith recommended the Board go into a closed session for the purpose of receiving confidential legal advice concerning the litigation with the Spring Valley Friends lawsuit. Manager Koch moved to go into closed session for the purposes stated by Mr. Smith, namely for advice regarding the pending litigation. Manager Crafton 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

The Board moved into closed session at 10:12 p.m.

The Board reconvened the public Board meeting at 10:33 p.m.

12. Manager Reports

Manager Koch said managers other than himself approved the audit report but what concerns him is we were not furnished a final audit report before voting on it. He wanted to bring attention to the District's website and the District's 50-year anniversary logo is out of date and Manager Duevel should be added on the website. Manager Koch said he has a 13-mile circuit he bikes and there is so much mowing going on that doesn't have to be done and he wonders if the District should be taking on and promoting and collaborating on putting in some habitat that's no mow. Manager Koch said he thinks we need to look at our 10-Year Plan. Manager Koch said Covid is still around, and he has diabetes, and he would like the District to look at an outdoor event and even get together with our cities and counties.

13. Administrative Reports

a. Regulatory Program

No report.

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14. Upcoming Board Topics

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a. MAWD Delegates

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Manager Koch moved to authorize staff to make reservations for any staff and managers that want to attend. President Ziegler said in the past the Board has authorized to register up to three CAC members. Manager Koch agreed to the friendly amendment. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

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Manager Crafton moved to appoint herself and President Ziegler as the MAWD delegates. President Ziegler seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

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Manager Koch moved to appoint Manager Duevel as the MAWD alternate delegate. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

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

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15. Upcoming Events

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a. TAC Meeting August 18, 2022

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b. MAWD Summer Tour – August 23, 2022

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c. MAWD Annual Conference 11/30/22 – 12/3/22

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16. Adjournment

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Manager Koch moved to adjourn the meeting. Manager Pedersen seconded the motion.

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now 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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The meeting adjourned at 10:47 p.m.

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Respectfully submitted,

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Dorothy Pedersen, Secretary