

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

March 9, 2021, RPBCWD Board of Managers Special Meeting

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

Dick Ward, President

David Ziegler, Secretary

Staff: Amy Bakkum, Administrative Assistant

Claire Bleser, RPBCWD Administrator

Zach Dickhausen, Water Resources Technician II

Terry Jeffery, Watershed Planning Manager

B Lauer, Education and Outreach Coordinator

Josh Maxwell, Water Resources Coordinator

Louis Smith, Attorney, Smith Partners

Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: Andrew Aller Bill Satterness

Leah Gifford Laurie Susla

Note: this meeting was held remotely via meeting platform Zoom in abidance with state mandates in response to Covid-19.

1. Call to Order

- 1 President Ward called to order the Tuesday, March 9, 2021, Board of Managers Special Monthly
2 Meeting at 10:00 a.m. The meeting was held remotely via meeting platform Zoom.
- 3 President Ward reminded the Board that at a previous Board meeting, the Board directed
4 Attorney Smith to review the District recordings of two closed meetings for Administrator
5 Bleser's performance review.
- 6 Manager Koch stated he believes holding today's special meeting violates Minnesota Statute
7 103D.315 Subdivision 10 because written notice was not provided as required by statute. He
8 described communications he had with staff and legal counsel regarding the statute. Manager
9 Koch noted his difference of opinion compared to Attorney Smith's opinion on the matter.
- 10 Manager Koch detailed his interpretation of state statute, again noted his communication to Dr.
11 Bleser through email, and he asked that his email to Dr. Bleser be included in the record. He said
12 the subject matter of tonight's meeting is way too important for him not to participate, so he will
13 waive his objection so the Board can take care of the appointment of an administrator, which is an

14 important issue. He stated he expects the District to comply with state statute going forward.
 15 President Ward responded duly noted.

16 President Ward summarized the February 18, 2021, Board of Managers special meeting, stating
 17 the Board held a duly noticed special meeting on February 18, 2021, and went into closed session
 18 to evaluate the performance of the District Administrator. President Ward stated that in the
 19 session, the Board of Managers identified areas of the Administrator’s successful performance
 20 and presented an initial work plan for developing, improving, and expanding the District
 21 Administrator’s role and functions in the following areas: staff development, leadership and
 22 support of the Board of Managers, local government partnerships, financial management, and
 23 reporting workplan modifications and opportunities. The Board of Managers did not finalize the
 24 conclusions of this performance evaluation or make a change in the District Administrator’s
 25 salary because the District Administrator resigned on February 19, 2021, before the performance
 26 evaluation process was concluded.

27 Attorney Smith noted that the February 4, 2021, Board of Managers special meeting was not a
 28 closed meeting, as the meeting was called to order and there was a motion to close the meeting,
 29 followed by a lengthy discussion about the agenda, and the meeting concluded without a vote on
 30 closing the meeting. He said for purposes of the Open Meeting Law, the February 4, 2021,
 31 meeting was not a closed meeting. Attorney Smith said minutes of the February 4th meeting
 32 should be on the agenda for an upcoming Board meeting.

33 Manager Koch stated he disagrees with the summary of the February 18th meeting because it
 34 omitted important information about Board’s discussion and a vote in closed session. Manager
 35 Koch said in his opinion meeting summaries should accurately reflect what actually occurred at
 36 the meetings.

2. Approval of Agenda

37 Manager Ziegler moved to approve the agenda. Manager Koch seconded the motion. Upon a roll
 38 call vote, the motion carried 5-0 as follows:

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

39

3. Resignation of Claire Bleser as District Administrator

40 President Ward said the Board needs to acknowledge and accept the resignation submitted by Dr.
 41 Bleser. Manager Koch said he forwarded to Dr. Bleser a series of resolutions and asked her to
 42 share the resolutions on the meeting screen. He moved to adopt the following resolution: Be it
 43 hereby resolved, that the resignation of Claire Bleser as the District’s Administrator is hereby
 44 accepted effective upon acceptance of appointment of an interim Administrator or 5:00 pm on
 45 March 15, 2021 whichever is earlier; that Claire Bleser’s employment by the District shall
 46 terminate effective as of 5:00 pm on March 15, 2021. Manager Ziegler seconded the motion.

47 There was manager discussion of the resolutions.

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

49

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

50

51 Manager Pedersen moved to accept Dr. Bleser’s resignation as she submitted to the District.
 52 Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

53

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

4. Interim District Administrator, Responsible Authority, and Other Appropriate Delegations

54 President Ward summarized the issues to discuss, including an interim District Administrator,
55 the authority to grant the interim District Administrator, and any other appropriate delegations
56 to designate to the interim District Administrator.

57 Manager Koch said in his opinion it's pretty clear that the person with the most information
58 about the District is Mr. Jeffery, and Mr. Jeffery is the logical candidate. Manager Koch said
59 he understands that Mr. Jeffery would be willing to accept the appointment in the interim, and
60 then the District would need to send out requests for hiring in that position. Manager Koch
61 provided his rationale for his recommendation.

62 Manager Pedersen commented there is an opportunity here for the Board to look at how the
63 administrator role functions. She raised her concerns about adding the function of running the
64 District onto staff since the District is short staffed already. Manager Pedersen spoke in favor
65 of the Board finding a well-qualified interim administrator and spending time considering the
66 functions of the administrator.

67 Manager Ziegler remarked Engineer Sobiech has resources at Barr Engineering and could
68 serve as interim administrator and transfer his engineering duties to professionals experienced
69 in that capacity, providing time for the Board to conduct a proper search for an administrator.

70 Manager Koch responded that to be frank that idea is crazy because Dr. Bleser's last day is
71 March 15th, only six days away. He said going outside the District when Mr. Jeffery is
72 available is quite frankly crazy.

73 There was discussion about the amount of work Engineer Sobiech and Barr Engineering do to
74 support the District's projects and the level of experience he has in developing and managing
75 the District's projects. Managers talked about the different functions of the Administrator,
76 including managing District projects as well as managing District staff and District operations.
77 The Board talked about the option of Mr. Jeffery in the role of interim administrator and the
78 option of Engineer Sobiech in the role.

79 President Ward summarized a conversation he had with Attorney Smith about possible ways
80 the Board could proceed. President Ward described Attorney Smith's ideas, including
81 considering contacting Mr. Jeff Spartz, who had previously served as an interim administrator
82 for another watershed organization. President Ward provided background on Mr. Spartz'
83 experience and summarized communications President Ward has had with Mr. Spartz.
84 President Ward added that Dr. Bleser may be willing to consider helping the District in some
85 capacity during the transition period.

86 Managers weighed in on the various ideas presented.

87 Manager Koch moved to appoint Terry Jeffery as interim administrator. The motion died due
88 to a lack of a second.

89 There was discussion about Barr Engineering's experience acting in the capacity of watershed
90 administration, Mr. Jeffery's willingness to serve as interim administrator, the opportunity for
91 bringing in an outside person to make recommendations on the District's organizational
92 structure and effectiveness, and the idea of bringing in an outside person as a consultant instead
93 of the interim administrator.

94 Manager Pedersen moved to appoint Engineer Sobiech as interim administrator until the Board
 95 could interview Mr. Jeff Spartz. Manager Ziegler seconded the motion with the friendly
 96 amendment that the Board consider hiring Dr. Bleser as a consultant for up to six months.
 97 Manager Pedersen agreed to the friendly amendment. Manager Koch moved to amend the
 98 motion to appoint Mr. Jeffery as interim administrator, extend a solicitation to Barr
 99 Engineering to come back with a contract and authorization for Mr. Sobiech to serve as District
 100 Administrator, to compensate Dr. Bleser on an hourly basis for the next 30 days, and request a
 101 proposal from Mr. Spartz. He noted the Board can't hire anyone without a contract. The
 102 motion died due to lack of a second. Manager Ziegler withdrew the portion of his friendly
 103 amendment that specified six months. Manager Koch made a motion to amend that the
 104 solicitation or hiring of Mr. Sobiech be tabled until the Board receive a proposal and
 105 authorization from Barr Engineering authorizing him to take on that position. The motion to
 106 amend died due to lack of a second. President Ward made a motion to amend to propose that
 107 he and Attorney Smith negotiate with Barr Engineering a proposal for this Board to hire
 108 Engineer Sobiech as interim administrator for the District and he and Attorney Smith will bring
 109 that proposal back to the Board for its consideration. Manager Koch seconded the motion.
 110 President Ward said the Board will need to hold a special meeting on or by March 15th for the
 111 Board to consider the proposal. There was discussion about continuing this meeting, meaning
 112 the agenda would be confined to the agenda items for this meeting, on or by March 15 instead
 113 of ordering a special meeting. Manager Koch asked for a clarification of the motion. He said
 114 his understanding of President Ward's amendment to the motion is that Barr Engineering's
 115 proposal of Engineer Sobiech serving as interim administrator would be brought to the Board
 116 at the continuation of this meeting for the Board to consider and vote on. President Ward said
 117 yes, that is the case. Manager Koch said if the vote to appoint Engineer Sobiech as District
 118 Administrator is coming before the Board at the meeting continuation, then Manager Koch
 119 votes yes to President Ward's motion to amend, and otherwise Manager Koch votes no.

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

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

121 President Ward asked for the roll call vote on the amended motion. Manager Koch stated the
 122 motion the Board just voted on supplants the original motion and asked for the motion to be
 123 reiterated. Manager Pedersen said the motion is that the Board is appointing Engineer Sobiech
 124 as the temporary interim Administrator. Manager Koch clarified that the Board is requesting
 125 Engineer Sobiech to serve as temporary interim Administrator. Manager Koch moved to table

126 this until the meeting continuation. Manager Ziegler stated there is a motion on the floor.
 127 Manager Koch said it appears to him if the Board approves the amended motion, it would be
 128 overriding what the Board just approved in its motion to amend.

129 Attorney Smith stated the motion on the table as amended would provide there would be an
 130 invitation to Barr Engineering for serving as interim administrator, that President Ward and
 131 Attorney Smith are authorized to work through a proposal with Barr Engineering to bring back
 132 to the Board for its consideration at a future Board meeting, and the Board will extend an
 133 invitation for Mr. Spartz to provide information as an interim administrator, and Dr. Bleser
 134 would be available as a consultant on an hourly basis. Manager Crafton stated this motion isn't
 135 what she though the Board was voting on. She clarified that the vote isn't to appoint Scott
 136 Sobiech as interim administrator. Manager Pedersen and President Ward said that is what the
 137 Board is voting on. Manager Koch said no that is not what Attorney Smith said. Manager Koch
 138 said the Board is voting on solicitating a proposal from Barr Engineering and Mr. Spartz for
 139 interim administrator services and a proposal from Dr. Bleser about consulting with the District
 140 on an hourly basis. Attorney Smith confirmed Manager Koch's clarification of the motion on
 141 the table.

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

143

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

144

5. Solicitation of Applications for District Administrator

145 Manager Koch suggested the Board direct staff to prepare a solicitation for applications for the
 146 Board to review at and discuss the same time the Board review proposals from Barr
 147 Engineering and Mr. Spartz for the position of interim administrator. The motion died due to
 148 lack of a second.

149 Manager Pedersen moved to table the solicitation of applications for the District Administrator.
 150 Manager Crafton seconded the motion. Manager Koch stated his motion directed staff to draft
 151 a solicitation for the Board's review, and then the Board will have something to review.

152 Upon a roll call vote, the motion made by Manager Pedersen, seconded by Manager Crafton
 153 carried 4-1 as follows:

154

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

155

6. Transition Plan Regarding End of Employment of Claire Bleser

156 President Ward moved to hire Dr. Bleser as a part-time employee at her existing hourly rate for
 157 a period of up to 30 days. Manager Crafton seconded the motion. The Board discussed the
 158 motion on the table. Manager Koch moved to amend the motion to appoint Mr. Jeffery as
 159 interim administrator until the Board appoints someone different. The motion died due to lack
 160 of a second.

161 There was further discussion about transitioning the District Administrator’s authority and
 162 continuing Dr. Bleser’s authority as a part-time employee. Attorney Smith said the important
 163 thing to be clear about in this motion is that Dr. Bleser would, after March 15, continue with
 164 the authority of the District Administrator until such time as the Board appoints a District
 165 Administrator. Administrator Bleser said her understanding has been that the Board might be
 166 interested in retaining her as a consultant after March 15 to help with the transition and be
 167 available for questions and she had not been aware that the Board would suggest she become a
 168 part-time employee after March 15. She said she would need to think about this proposal. Dr.
 169 Bleser clarified she would prefer to be a consultant to the District and be available as needed.
 170 Manager Crafton withdrew her motion. President Ward withdrew his motion.

171 Manager Ziegler moved to appoint Mr. Jeffery to take on the responsibilities of interim
 172 administrator in the event there is an interim period from Dr. Bleser’s last day as District
 173 Administrator until such time as other arrangements can be made for a more permanent interim
 174 administrator. Manager Koch seconded the motion. Upon a roll call vote, the motion carried 5-
 175 0 as follows:

<i>Manager</i>	<i>Action</i>
Crafton	Aye

Koch	Aye
Pedersen	Aye
Ward	Aye
Ziegler	Aye

176

7. Authorize Silver Lake Land Use Agreement

177 Mr. Jeffery reported staff is still working with the Kendrick family, who are the property owners,
 178 He said the Kendricks have not gotten back to Mr. Jeffery as to whether they approve the
 179 agreement. Mr. Jeffery said the agreement was drafted by Attorney Welch of Smith Partners. Mr.
 180 Jeffery said he believes the agreement protects the interests of the watershed as well as those of
 181 the Kendricks. He stated the project is not dependent upon that portion of the work, although it
 182 makes for cleaner bidding to not have to separate it out in the contract later.

183 Manager Koch asked if there is any reason this agreement must be authorized now as opposed to
 184 waiting until the Board’s April meeting. Mr. Jeffery said the District is set to go out for bid on
 185 March 29; however, staff wouldn’t authorize start of work until after the April meeting. Engineer
 186 Sobiech said waiting until the Board’s April meeting to act on the agreement would be acceptable
 187 in terms of construction impacts.

188 Manager Koch moved to table this item until the Board’s next regular meeting contingent on the
 189 Board being presented the agreement for review and approval. Manager Ziegler seconded the
 190 motion. Upon a roll call vote, the motion carried 5-0 as follows:

191

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

192

8. Authorize Solicitation of Bids for Saint Hubert Water Quality Project Pending Legal Approval

193 Attorney Smith reminded the Board it directed him to do a legal review regarding the question of
 194 retainage. He said legal counsel provided a memorandum to the Board and staff. Manager Koch
 195 said he missed the memo and asked Attorney Smith to summarize it.

196 Attorney Smith said the memo was delivered in an email from Michael Welch of Smith Partners.
 197 Attorney Smith summarized the memorandum.

198 Manager Koch said he received no memo from Mr. Welch. Manager Koch asked what the
 199 District’s contract states regarding retainage. Engineer Sobiech responded the language in the
 200 current contact states the District will retain 5% up until the 50% mark of construction. He said if
 201 the contractor is performing satisfactorily, the District would then stop holding additional
 202 retainage and the 5% of the 50% would be held until final completion of the project, unless the
 203 Board chooses to release part of it. Engineer Sobiech said the District has the option to require the
 204 5% all the way through the completion of the project.

205 Manager Koch said he thinks the District’s position should be to retain the discretion to keep the
 206 retainage all the way through and that when the Board comes to these points in projects, the
 207 Board can make a specific decision to release the retainage. Manager Koch moved that the
 208 District contracts contain a provision whereby the District has the authority to retain the retainage
 209 all the way through and at the District’s discretion release the retainage as it sees fit. The motion
 210 died due to lack of a second.

211 Manager Ziegler moved to authorize the solicitation of bids for Saint Hubert Water Quality
 212 Project with comments as provided. Manager Crafton seconded the motion.

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

214

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

215

216 President Ward asked Administrator Bleser to forward the memorandum from Attorney Welch to
 217 Manager Koch.

9. Meeting Continuation

218 Manager Pedersen moved to continue this meeting on Monday, March 15 at 10:00 a.m. Manager
 219 Ziegler seconded the motion. Manager Koch moved to amend the motion to continue the meeting

220 at 5:00 p.m. on Monday, March 15. Manager Pedersen and Manager Ziegler agreed to the
221 friendly amendment.

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

223

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

224

225 At 11:42 a.m., the meeting concluded, to be continued at 5:00 p.m. on Monday, March 15.

226

227

228

229


230

231

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233

Respectfully submitted,



David Ziegler, Secretary