

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

February 1, 2023, RPBCWD Board of Managers Regular Monthly Meeting

PRESENT:

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

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

Other Attendees: AP Louise Ludford
Arne Bjork Maya Santamaria
Rod Fisher Marilynn Torkelson

Note: the Board meeting was held remotely via meeting platform Zoom because it was deemed not prudent to meet in person due to the COVID-19 pandemic.

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

1 President Ziegler called to order the Wednesday, February 1, 2023, Board of Managers Regular
2 Meeting at 7:01 p.m.

3

2. Approval of Agenda

4 Manager Pedersen moved to accept the agenda as amended. Manager Crafton seconded the
5 motion.

6 Manager Koch requested removing from the Consent Agenda items 6d – Accept January
7 Construction Inspection Report, 6g – Approve Lower Riley Creek Restoration Project Payment
8 Application #10, and 6h – Adopt Resolution 23-016 Approving Task Order #006J for Barr to
9 Perform WOMP Station Monitoring Services. Manager Koch asked if he could raise his questions

10 about the staff and engineer’s reports during the Administrator’s report – Agenda item 10. The
 11 Board agreed the staff and engineer’s reports ca be discussed during the Administrator’s Report
 12 agenda item. Upon a roll call vote, the motion to adopt the agenda carried 5-0 as follows:

13

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

14

15 Manager Koch stated the meeting is being held remotely via meeting platform Zoom due to an
 16 abundance of caution in response to the continuing pandemic.

3. Matters of General Public Interest

17 President Ziegler presented the procedure for raising Matters of General Public Interest.

18 Ms. Marilyn Torkelson, who is an Eden Prairie resident, said with respect to the District’s goals
 19 to preserve and enhance the quality, quantity, function, and value of the watersheds in the
 20 District, she is wondering what metrics are being used to measure the enhancement of habitat.
 21 She stated she believes the number of insects, insect species, birds, bird species, and soil health,
 22 particularly the ability of the soil to filtrate and infiltrate water, should be measured before and
 23 after restoration and then monitored. Ms. Torkelson stated she believes measurement should
 24 occur pre- and post-project and monitoring should continue for years post-project to gauge the
 25 success of the project.

26 Ms. Torkelson noted she has heard about the District’s fish inventories but not about inventories
 27 of dragonfly species and lightening bug species and the like. Ms. Torkelson commented the CAC
 28 passed a unanimous motion last February, likely presented to the Board in March, to recommend
 29 the Board implement a study to list all ecologically valuable and/or fragile areas in the watershed
 30 for protection and preservation from development and education in general for developers,
 31 homeowners, and individuals. She asked for an update on the status of that report.

32 Administrator Jeffery said he is attending the upcoming CAC meeting and he can update the
 33 CAC at that meeting.

34 Mr. Rod Fisher, representing the Eden Prairie Duck Lake Association, said the group is trying to
 35 help organize with the City of Eden Prairie the opening of the new Duck Lake bridge. He said the
 36 group has not heard from the City about the bridge opening and ribbon cutting. Administrator
 37 Jeffery said he has some information from the City’s Public Works Director and the City is
 38 planning an opening event during the first or second week of June and is planning to invite the

39 District’s Board of Managers as well as the Eden Prairie Duck Lake Association to be a part of
 40 that event.

41 Ms. Louise Ludford said she wears two hats, one as a RPBCWD CAC member and as a District
 42 resident in northern part of Purgatory Creek. She said she would like to bring to the District’s
 43 attention there is no buffer along her association to the Purgatory Creek watershed at the northern
 44 part. She said another item for the District’s attention is there are two properties along Highway
 45 101, one is CorTrust Bank and there is another property in the middle of the wetland. Ms.
 46 Ludford raised her concerns about structural issues with the CorTrust bank issue. Mr. Arne Bjork
 47 shared his concerns about what looks like the sinking of that building. Ms. Ludford said she
 48 wants to make sure District eyes are on those two properties and to make sure the property
 49 owners are aware the properties are in a wetland.

50 Administrator Jeffery explained the development pre-dates District rules and the Board denied the
 51 relatively recent permit application submitted by the property, due to floodplain issues. He said
 52 any development that goes on in that area would need to come to the Board for its review.

53 President Ziegler said it sounds like these properties could be added to the list of properties that
 54 the CAC requested regarding properties that could be better used in a different way.

55 Manager Koch moved to have the District Administrator to spend time to review if there are any
 56 District rule violations to be aware of and can be addressed within the District’s jurisdiction.

57 President Ziegler seconded the motion. Manager Crafton asked about the timeframe.

58 Administrator Jeffery said staff could report back at one of the Board’s March or April meeting.

59 Manager Koch amended his motion to direct staff to report back to the Board at one of its March
 60 or April meetings. Manager Ziegler accepted Manager Koch’s friendly amendment. Upon a roll
 61 call vote, the motion carried 5-0 as follows:

62

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

63

4. Reading and Approval of Meeting Minutes

64 a. Approve Minutes of the January 4, 2023, Regular Monthly Meeting of the
 65 **RPBCWD Board of Managers**

66 Manager Crafton moved to approve the minutes of the January 4, 2023, regular monthly
 67 meeting of the RPBCWD Board of Managers. Manager Pedersen seconded the motion.

68 Manager Crafton requested an edit to update the staff position titles for Zach Dickhausen
 69 and Liz Forbes.

70 Manager Crafton noted a change to line 99 to replace the word “though” with “thought”.
 71 She noted a change to line 106 to replace the word “will” to “with” and an edit to line 727
 72 to delete the extra word “he”. She noted an edit on line 760 line to replace the word “the”
 73 with “there.” Manager Crafton and Manager Pedersen accepted the changes as friendly
 74 amendments. Upon a roll call vote, the motion carried 4-0 with one abstention as follows:

75

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

76

77 **b. Approve Minutes of the January 19, 2023, Work Session of the RPBCWD**
 78 **Board of Managers**

79 Manager Pedersen moved to approve the minutes of the January 19, 2023, work session of
 80 the RPBCWD Board of Managers. Manager Crafton seconded the motion. Upon a roll
 81 call vote, the motion carried 4-0 with one abstention as follows:

82

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

83

5. Committee Report

84 **a. Acceptance of the Citizens Advisory Committee Report and Minutes**

85 Ms. Ludford reported the CAC has no motions and no key discussion items for the Board

86 from the CAC’s January 16th meeting. She pointed out the District website listed the
 87 meeting link as January 16, 2022. Ms. Ludford reported the CAC had a lot of new
 88 members and a majority of the meeting was spent discussing the Committee’s bylaws, a
 89 welcome presentation, the low salt-no salt program, and a lot of other great information
 90 for the new members. She reported there were nominations of officers and scheduling of
 91 upcoming meetings as well as discussion encouraging the CAC members to attend the
 92 Board meetings.

93 Manager Koch moved to accept the Citizens Advisory Committee report and minutes.
 94 President Ziegler seconded the motion. Upon a roll call vote, the motion carried 5-0 as
 95 follows:

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

96
 97 **b. Confirm Board Representative for February 20, 2023, CAC Meeting**

98 Manager Crafton volunteered to be the Board representative at the CAC’s February 20th
 99 meeting.

100 Manager Koch suggested recording the CAC meetings and asked the CAC to consider
 101 that. Administrator Jeffery said presentations and guest speakers are recorded. Mr. Smith
 102 said the CAC has its own bylaws and if the Board has a preference about recording
 103 meetings, the Board should communicate it to the CAC for the Committee’s
 104 consideration.

105
 106 **c. Accept Personnel Committee Report and Minutes [no meeting held]**

107 [No discussion.]

108
 109 **d. Accept Governance Committee Report and Minutes**

110 Administrator Jeffery stated the Governance Committee meeting minutes have not been
 111 completed yet and can be put on the workshop agenda or the next regular Board meeting
 112 agenda for acceptance. President Ziegler agreed the minutes should be on the Board’s next
 113 regular meeting agenda.

114 Manager Koch said it is his understanding there was no recording of the meeting of the
 115 Governance Committee. He said he thinks it is a good idea to record the Committee
 116 meetings so the managers and constituents can know what is going on at the meetings.
 117 Manager Koch said he heard part of the meeting and there was some discussion about the
 118 drafts of proposed revisions to the Governance Manual and something about discussions
 119 offline or in some theme. He asked if the Committee could elucidate on those comments.

120 President Ziegler said he did not realize the meeting was not recorded but it seems like a
 121 good idea to at least make drafting the minutes easier. He said the general
 122 accomplishment of the meeting was to prepare for a workshop in which the managers can
 123 review the proposed changes and have legal review them ahead of time to know if there is
 124 any legal reason to change or not change. Mr. Smith noted the review is still in process.

125

6. Consent Agenda

126 President Ziegler listed the items remaining on the Consent Agenda, including 6a – Adopt
 127 Resolution 23-015 to Approve Consent Agenda; 6b – Accept January Staff Report; 6c –
 128 Accept January Engineer’s Report; 6e – Approve Permit #2022-076 Tricam Addition as
 129 Presented in the Proposed Board Action Section of the Permit Review Report, and 6f –
 130 Approve Pioneer Wetland Restoration Project Payment Application.

131 Manager Koch moved to adopt Resolution 23-015 to Adopt the Consent Agenda with the
 132 change that the Board accepts the January staff report and the January engineer’s report and
 133 approve Permit #2022-076 and the proposed resolution set forth in the engineer’s report and
 134 the Board approves the payment application for the restoration as set forth in the report by
 135 Barr Engineering. Manager Pedersen seconded the motion. Upon a roll call vote, the motion
 136 carried 5-0 as follows:

137

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

138

7. Action Items

139 **a. Items Pulled from Consent Agenda**

140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176

i. Approve January Construction Memo

Manager Koch asked if the Board could get a report with respect to the alleged permit violations on Lotus Lake. He said he has suggested previously that staff look into means of reducing staff time in reviewing sites by coming up with a process and procedure for permit applicants to take pictures from designated locations for staff to determine if they need to go on site to conduct an in-person inspection. He said these are the two reasons he pulled this agenda item from the Consent Agenda.

Administrator Jeffery said the remaining violation on Lotus Lake is the Frontier Trail house new construction. He reported a letter went out with a January deadline to submit the permit application to the District. Administrator Jeffery said the District received the permit fee and an application, which does not contain everything the District needs. He said the District needs a financial assurance from the applicant. Administrator Jeffery said the District sent a letter to the applicant and explained next steps, including staff will bring this item to the Board at its March meeting.

Administrator Jeffery reported there is the Red Rock violation where an individual homeowner has rip rapped his shoreline. He said the DNR, the City of Eden Prairie, and the District have each issued a restoration order. Administrator Jeffery said he can bring an update about this to the Board at its next regular meeting.

Administrator Jeffery said there is a new violation on Lake Lucy Lane in Chanhassen where new owners have excavated an existing ditch that goes through a wetland. He reported a notice of probable violation has been issued, and the owners’ attorney and appropriate agencies were copied on it. He said a stop work order has been issued by the Minnesota DNR, and the City of Chanhassen has issued a restoration order. Administrator Jeffery explained the owners changed legal counsel and were granted a 15-day extension by the technical evaluation panel to give the owners time with their new legal counsel. He stated the owners have been notified they need an application for the work already done and an additional permit when they restore that area to prior conditions. He said both the City of Eden Prairie and the City of Chanhassen have been very responsive and good to work with on these violations.

Manager Koch moved to accept the January construction inspection memo. 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

177

178

ii. Approve Lower Riley Creek Stabilization Project Payment Application #10

179

180

Manager Koch asked about the dead trees and if there is a warranty and if the subcontractor is responsible and if the District has any retainage left to cover the trees.

181

182

183

Engineer Sobiech said regarding the 20 dead trees, an additional site review has to happen to determine if the trees are covered under warranty or not, depending on the type of damage done. He said for pay app the Engineer recommends releasing part of retainage but holding back \$5,000 to cover the cost of the tree replacements should the subcontractor not do the work.

184

185

186

187

188

Manager Koch moved to approve the Lower Riley Creek Stabilization Pay Application #10. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 5-0 as follows:

189

190

191

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

192

193

iii. Adopt Resolution 23-016 Approving Task Order #006J for Barr to Perform WOMP Station Monitoring Services

194

195

Manager Koch asked what work is being changed from previous similar work and what is the change in cost of doing the same services for upcoming year versus last year.

196

197

198

Administrator Jeffery displayed a table and explained the costs over the past few years, noting cost have decreased as the District has taken on more of the

199

200 tasks. Mr. Maxwell noted maintenance is needed on one of the stations to
 201 replace the heater.

202 Manager Koch said his understanding is the total cost \$29,900. Administrator
 203 Jeffery said yes, \$29,900 is the total task order cost, which includes data
 204 collection. Manager Koch asked if costs include any rate increases. Engineer
 205 Sobiech said the costs reflect approximately a \$5 per hour increase for the staff
 206 conducting the work. Manager Koch asked what percentage of increase that is.
 207 Engineer Sobiech said less than a 5% increase.

208 Manager Koch moved to adopt Resolution 23-016. Manager Crafton seconded
 209 the motion. Upon a roll call vote, the motion carried 5-0 as follows:

210

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

211

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

213 Manager Crafton moved to accept the December Treasurer’s Report. Manager Pedersen
 214 seconded the motion.

215 Manager Koch said he is confused about the information under cash disbursements
 216 about five Visas paid in December and asked when the Board approved payment of
 217 those amounts. Administrator Jeffery explained the charges, some of which included
 218 MAWD hotel charges, annual saw maintenance, and software renewals, as listed in the
 219 Treasurer’s Report.

220 Manager Koch said the District made cash disbursements but the Board did not approve
 221 them. He said his understanding is the District does not make payments without
 222 approvals and if that is the case, this situation is troubling because it is contrary to
 223 longstanding policies and authority. Manager Koch said the District needs to either
 224 increase its credit limit or change its policies and procedures to allow for extensions or
 225 exceptions. Administrator Jeffery said the Board approved the MAWD hotel expenses
 226 and as District Administrator he has discretion to pay up to \$5,000. He said he does not
 227 disagree with reviewing the policies and procedures. Manager Koch said these
 228 expenditures are way more than \$5,000.

229 Manager Koch said he has had communications with Administrator Jeffery about a per
 230 diem claim form Manager Koch filed at the beginning of December and to his

231 knowledge has not been processed. He asked if staff has reviewed his per diem claim as
232 it has now been over 60 days. Administrator Jeffery said he will look into this as he
233 thought all of Manager Koch's per diem claims had been processed.

234 Manager Koch said with respect to his per diem claim for \$740 that he filed on January
235 5th, he had put down for two per diems because he spent two days reviewing the
236 District's website pursuant to the statements made at the September Board meeting and
237 provided extensive comments on the website. Manager Koch said it was President
238 Ziegler who specifically said if anybody had any comments they could submit them, so
239 Manager Koch did that and that was basically two per diems not included in his
240 payment and that he believes he should be compensated for.

241 Manager Koch said the other three items in his submittal were for his time making
242 changes to the Governance Manual, including incorporating a CAC member's
243 comments, Administrator Jeffery's comments, and finalizing the Governance Manual
244 for submission to the Governance Committee. Manager Koch stated he thinks he is
245 entitled to compensation per diem for those efforts for an additional \$625.

246 Manager Koch said perhaps it would be best if Administrator Jeffery discuss these per
247 diems with Treasurer Crafton and then, if necessary, take them to the Accounting and
248 Finance Committee for review and approval.

249 President Ziegler said he thought the District's Governance Manual approved one per
250 diem for reviewing the Board packet. He said he does not recall any discussion about
251 per diems for other activity other than meetings approved by the Board. President
252 Ziegler said maybe one of the things to do is to review the existing Bylaws and see
253 where the District sits on that issue. Manager Koch said the District has several laws on
254 the books providing for payments and that is why he suggested the process.

255 Manager Crafton said the Audit and Finance Committee can look into this but her
256 understanding is exactly what President Ziegler stated that the managers are approved
257 one per diem for meeting prep and per diems for approved meetings.

258 Administrator Jeffery said the Feb 13th Audit and Finance Committee has a meeting
259 scheduled for February 13th and the Committee can add this topic to the meeting agenda.

260 Manager Koch asked if there will be a Board workshop to go through the final 2022
261 budget numbers and their impact on the 2023 budget. Administrator Jeffery said the
262 intent is for a Board workshop to bring forward the District's final expenses for 2022
263 and any implications on the District's 2023 budget.

264 Manager Koch asked if a discussion of the multi-year performance analysis can be part
265 of that workshop. Administrator Jeffery said he will be prepared to speak on that topic.

266 Manager Koch repeated his recurring comment that it is his understanding through
267 talking to other accountants that recording in the District's books and records that the
268 credit card is a payee is not appropriate accounting and the credit card is simply a
269 financing mechanism. He said he would like to cover this topic in the workshop.

270 Administrator Jeffery said that is added to the workshop topics.

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

272

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

273

274 **c. Adopt Resolution 23-017 to Approve Paying of the Bills**

275 Manager Crafton moved to Adopt Resolution 23-017 to Approve Paying of the Bills.

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

278

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

279

280 **d. Adopt Resolution 23-018 Waiving Smith Partners Conflict of Interest to**
 281 **Work with NMCWD and RPBCWD to Draft Agreement for Shared Office**
 282 **Assistant**

283 Manager Pederson moved to adopt Resolution 23-018 Waiving Smith Partners Conflict
 284 of Interest to Work with NMCWD and RPBCWD to Draft Agreement for Shared Office
 285 Assistant. Manager Crafton seconded the motion.

286 Manager Koch said he is concerned that this conflict may not be waivable under the
 287 Minnesota Rules of Ethics. He said he does not believe it is appropriate for having the
 288 same lawyer representing both parties on some type of agreement where their interests
 289 may not be aligned. Manager Koch said it is a no-win situation and he recommends the

290 Board vote against this resolution. He said the Board does not know the extent at which
291 a conflict may exist.

292 Manager Crafton spoke in support of the resolution as the Minnesota Board of Water
293 and Soil Resources is promoting counties and water management organizations and soil
294 and water conservation districts working together. Manager Pedersen concurred.

295 Mr. Smith commented Manager Koch is familiar with Rule 1.7 of rules of professional
296 conduct. Mr. Smith reviewed the rule with the Board, explaining it is the rule Legal
297 Counsel reviewed to determine if Smith Partners could competently address this conflict
298 and prepare this contract on behalf of both parties.

299 Mr. Smith stated the rule says in Part B notwithstanding the existence of a concurrent
300 conflict of interest, a lawyer may represent a client if the lawyer reasonably believes the
301 lawyer will be able to provide competent and diligent representation to each client.

302 Mr. Smith stated the representation is not prohibited by law. He explained each affected
303 client gives informed consent in writing. Mr. Smith said Legal Counsel's understanding
304 has been there was a mutual desire to share an office assistant and the administrators
305 arrived at terms amendable. He said if there is any reasonable expectation of
306 disagreement about these terms or materially different terms, Legal Counsel would not
307 want to represent both of the watershed districts. Mr. Smith said he would look for
308 affirmation from Administrator Jeffery and the Board, but Legal Counsel's judgement
309 has been that Legal Counsel can competently and diligently prepare the agreement in a
310 way that meets the interests of both of the parties.

311 Administrator Jeffery said he and Mr. Anhorn met at MAWD and discussed the idea of
312 a shared position. Administrator Jeffery talked about the development of the position
313 description, salary range, and 60%-40% split, and arrangement for the position being an
314 employee of the RPBCWD and RPBCWD would invoice the Nine Mile Creek
315 Watershed District (NMCWD). Administrator Jeffery reported the NMCWD has
316 waived the conflict of interest.

317 Manager Koch moved to table this item until the Board is presented terms of the sharing
318 arrangement. He said he thinks there are better options for doing this position split. He
319 highly suggested one speak to employment counsel first for recommendations on such
320 an arrangement. The motion died due to lack of a second.

321 Manger Koch said there is an old adage that you can only serve one master. He
322 commented there is no way to intelligently waive a conflict when the details of the
323 structure are not known. Manager Koch encouraged the managers to vote no until there
324 is a better understanding of the business terms.

325 Administrator Jeffery said next steps would be for Smith Partners to prepare an
326 agreement, which would go to the NMCWD board and the RPBCWD board for review
327 and approval.

328 Manager Koch said he does not know why all the information was not set forth in a
 329 memorandum and provided to the managers. He said the Board should receive
 330 information in writing in advance so managers can make educated decisions.

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

332

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

333

334 **e. Adopt Resolution 23-019 Approving Task Order 43 for Barr to Develop an**
 335 **Ecosystems Health Action Plan**

336 Manager Crafton moved to adopt Resolution 23-019 Approving Task Order 43 for Barr
 337 to Develop and Ecosystems Health Action Plan. Manager Pedersen seconded the
 338 motion.

339 Manager Koch asked where the money would come from. Administrator Jeffery said
 340 the money would come from the 10-Year Planning fund. He explained that as
 341 documented in the memo in the meeting packet there is \$135,000 allocated for that fund
 342 for fiscal year 2023. He said the proposal put forward is \$158,800 of which \$73,400
 343 would need to be committed for this year. Administrator Jeffery said he sees this as the
 344 initial step in the District’s 10-Year Plan update.

345 Manager Koch said this work proposes to do something without looking at the entire
 346 10-Year Plan first. He said he does not think adding items piecemeal is a proper
 347 planning process. Manager Koch said he does not see why the Board would agree to
 348 spend this type of money at this time before knowing how it fits into the 10-Year Plan.
 349 He said this is way premature, not part of a proper planning process, and should be
 350 included in the review of the 10-Year Plan. Manager Koch said he does not believe the
 351 money allocated for the 10-Year Plan was intended for this work. He said the budget
 352 includes \$50,000 for soil health.

353 Manger Koch moved to amend the motion to send this back to staff to come back with a
 354 plan that fits in the \$50,000 soil health budget, involving coming up with how this
 355 whole concept fits in the District’s 10-Year Plan, and then the District can go through
 356 and make the appropriate changes in the 2024 plan and make this part of the 10-Year
 357 Plan review. The motion died due to lack of a second.

358 Administrator Jeffery said this proposed document is intended to be a scoping document
 359 of the 10-Year Plan and would allow the District to have the technical committees to
 360 engage partner communities to gather input as the District considers how to make its 10-
 361 Year Plan work for everyone in the District.

362 Manger Koch said the proposal goes beyond scoping out a 10-Year Plan, so he has to
 363 discount what he just heard. He said the proposal goes to implementation as opposed to
 364 a plan. Manager Koch stated there needs to be a better skeleton and discussion as to
 365 how this work fits into the 10-Year Plan.

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

367

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

368

369

370 **f. Adopt Resolution 23-020 Approving Task Order 44 for Barr to Design New**
 371 **Inlet Configuration for Lake Susan Park Pond Reuse Project**

372 Manager Crafton moved to adopt Resolution 23-020 Approving Task Order 44 for Barr
 373 to Design New Inlet Configuration for Lake Susan Park Pond Reuse Project. Manager
 374 Pedersen seconded the motion.

375 Manager Koch commented this work involves more than planning. He said there is a
 376 \$6,460 item on bottom of page 6 of the proposed task order, and it seems to him the
 377 District should be troubleshooting options to figure out exactly what is happening or
 378 pumping the water out. Manager Koch asked if there is even a ballpark cost of
 379 construction, and if not why would the Board approve something without even having a
 380 number for the ballpark cost.

381 Mr. Sobiech said the optional task is in because with any type of project there is no
 382 assurance the proposed solution will fix the problem. He explained the challenge with
 383 the optional task at this time is that it is winter condition. Mr. Sobiech said the intake is
 384 not in the pond right now and there is no way to operate the system without the intake.
 385 Mr. Sobiech described the optional task in further detail, explaining the troubleshooting
 386 to make sure the piping system is not leaking and the valves are not causing the loss of

387 prime. He said the District Engineer is fairly certain the intake is causing the loss of
 388 prime and some modifications to the inlet would remedy the problem.

389 Mr. Sobiech said regarding an estimated cost of construction, it has not been evaluated
 390 yet as to what it would take to modify the inlet and that is one of the tasks included in
 391 the initial design.

392 Manager Koch moved to amend the motion to break this into three phases and only
 393 approve the optional troubleshooting phase because he has his doubts to the degree as to
 394 which to rely on any part as and the District should be having Barr doing the testing and
 395 then come back and confirm it is a design problem, then come back with a design and
 396 then the Board approves the money to go forward.

397 Administrator Jeffery said germane to this discussion is the point that the District’s
 398 partners are unable to use the irrigation system. He said breaking the process into phases
 399 would extend the work through another growing season. He said the delay would mean
 400 the partners would not have access to irrigation, as partners disconnected from the
 401 potable water supply, and also the District would not achieve water infiltration.

402 Mr. Sobiech said the City has expressed frustration with not being able to use the
 403 irrigation, strongly communicating its desire for the system to be functional this spring
 404 as early as possible, to the extent of disconnecting from the reuse system and
 405 reconnecting to potable water.

406 Manager Koch commented there is a methodology for working these problems, and if
 407 Chanhassen wants to reconnect to potable water, it can do so. He said the District should
 408 know the extent of the problem and a reasonable idea of the cost to fix it. Manager Koch
 409 said as he recalls this project was funded fully from the District’s money and was the
 410 District’s idea, so he finds it a little difficult that the City should have its complaints. He
 411 noted not having water on a ballfield is not the worst thing in the world.

412 Manager Crafton said she has full confidence in Engineer Sobiech as Barr is thinking
 413 through this design and that Barr will figure out what needs to be done and where to go
 414 from here. She said it is important for Barr to have the time to do this design before
 415 going into other phases. Manager Crafton said she supports this task order.

416 Manager Koch said that kind of proposal does not work and does not hold water. He
 417 said he has been in the construction business for a long period of time and it is taken
 418 step by step. Manager Koch said there will not be any more delay by taking a short
 419 period of time to find out what is the issue, and Barr is the District’s expert.

420 Manager Duevel called the question. Mr. Smith said moving to close debate requires a
 421 second. Manager Pedersen seconded the motion to close debate. Upon a roll call vote,
 422 the motion to close debate carried 5-0 as follows:

423

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

Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

424
425
426

Upon a roll call vote, the motion to adopt Resolution 23-020 carried 4-1 as follows:

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

427

8. Discussion Items

428
429

[No items].

9. Manager Reports

430
431
432
433
434
435
436
437
438
439
440
441
442

Manager Koch said he is concerned with the process the District is following regarding Administrator Jeffery’s review. He said the agenda was provided the day of the meeting and no copies of the individual reviews were provided to managers. Manager Koch stated he found the process to be inadequate. He said he thinks Mr. Jeffery deserves a better process.

Manager Koch said regarding the budget, he has raised his objection because in his opinion the budget was not adequately summarized in the newspaper as required by Minnesota statutes. He commented the City of Victoria had a budget in the paper and the budget was way more than two lines. Manager Koch stated he could not find any reference in the statute where it said that as long as the budget was available somewhere that is adequate to meet statutory requirements. He said he repeats his objection to the District’s entire budget process and he does not believe the District complied with the statutes.

Manager Koch said he noticed in the Chanhassen paper a solicitation, reported to be from the District, for photos. He said he has never seen agreements for submitters to sign giving

443 permission to use the photos. He said copyright laws exist and the District does not have
444 appropriate documentation and the District is breaching copyright law every time it publishes
445 any of those photographs and when anybody views them, as far as that goes. Manager Koch
446 said he believes it is appropriate at the next Board meeting to bring forward a proposed
447 licensing agreement for the submitters to sign, allowing the District to appropriately use the
448 photographs.

449 Manager Koch said he does not believe the District is complying with the Open Meeting Law
450 because the District is not making copies of all documents available for the public to review.
451 He said in his opinion having the documents flash up on the screen is not compliant with
452 statutes and the District needs to make sure copies of all documents to be reviewed by the
453 Board are available on the website at the time of the meeting.

454 Manager Koch commented he thinks and President Ziegler agrees that the District needs to
455 have recorded meetings of District committees so members of the public can review them at
456 their leisure as most of the meetings are held during the day when it is impossible for them to
457 attend and participate. Manager Koch encouraged the CAC to record its meetings so the
458 public have an idea of the various discussions that go on.

459 Manager Koch commented the review process of Administrator Jeffery proves the District
460 needs an HR professional to guide the District through the process. Manager Koch said in his
461 opinion the District keeps making new mistakes on having an appropriate review process. He
462 said the process should be reviewed and agreed to in advance by the Board of Managers and
463 at least have an opportunity to discuss that process.

464 Manager Koch said the District needs to have an IT review. He said statues require the
465 District to update its security procedures and also provides for the Board to have a closed
466 session to review security procedures. Manager Koch called on staff to schedule this topic for
467 one of the Board's meetings so the District gets a handle on who is doing what as far as IT
468 and the degree to which District's systems are secure.

469 Manager Koch said he is having difficulty finding copies of signed minutes and he believes
470 the rules adopted by the Minnesota Board of Water and Soil Resources (BWSR) require the
471 District to have minutes on its website.

472 Manager Koch said thinks the references in meeting minutes to resolutions should link to the
473 resolution documents. He said it is a really easy thing to do and hopefully the new
474 administrative person hired will be doing that.

475 Manager Koch said he would like to see the list of duties for administrative person and he
476 thinks the District could use an administrative person seven days a week for several months
477 just to get the District's house in order.

478 Manager Koch asked what time the District's Audit and Finance Committee meeting on
479 February 13th. Administrator Jeffery said 9:30 a.m.

480 Manager Crafton noted a St. Anthony Falls person may be contacting Mr. Maxwell about
481 some testing St. Anthony Falls is doing about wake boats.

482 President Ziegler reported about an announcement from President Biden that the pandemic is
 483 coming to an end on May 1. President Ziegler said it seems the District should have a plan for
 484 getting the District office ready for social distancing and providing for presenters and public
 485 to participate remotely. Manager Koch said his understanding is it is unclear now but certain
 486 things may be terminated as of May 1st but the World Health Organization is taking it three
 487 months at a time in making its decisions. Manager Koch said it is his understanding the
 488 ultimate determination of whether or not there is a risk with the pandemic lies with the Board
 489 president or Mr. Smith. Manager Koch said he would like staff to provide a report at one of
 490 the upcoming work sessions regarding arrangements of the District office and the extent to
 491 which the HVAC system has been upgraded if at all to the particular level of filtration
 492 recommended by buildings and required for a number of industries.

493 Mr. Smith said at some point in the meeting a summary should be provided about
 494 Administrator Jeffery’s performance evaluation.

495 President Ziegler said this is an appropriate time for the summary and asked Mr. Smith to
 496 provide the summary drafted and sent to the managers.

497 Mr. Smith said the managers met in closed session on January 26th for the purpose of a
 498 performance evaluation of the administrator, Terry Jeffery, and the Board rated Mr. Jeffery’s
 499 performance satisfactory and voted to provide a 2% salary increase.

500 Manager Koch mentioned his concern over the process. He said the managers were not given
 501 an opportunity to discuss items with Mr. Jeffery. Manager Koch said he believes that process
 502 was not a best management practice, particularly since the managers did not have an
 503 opportunity to have a discussion with Mr. Jeffery or a discussion of various manager
 504 comments.

505

10. Administrator Reports

506 a. Audit Update

507 Administrator Jeffery reported the engagement agreement has been reviewed by District
 508 Legal Counsel and went over to ABDO this afternoon. Administrator Jeffery said April
 509 27th and 28th are scheduled to be ABDO’s field work days and the schedule is to be
 510 determined regarding in-person, remote, and/or hybrid schedule for the field work. He
 511 said this work will be discussed in more detail at the February 13th Audit and Finance
 512 Committee meeting.

513 b. WBIF (Watershed-Based Implementation Funding) Update

514 Administrator Jeffery reported the Watershed-based Implementation Funding process is
 515 underway. He said invitations have been sent to all of the District’s partners. He
 516 explained the criteria is that the project must be identified in either the Carver County
 517 Groundwater Plan or within the District’s 10-Year Plan.

518 Administrator Jeffery stated each of the entities will elect one or two representatives to
 519 come to the WBIF meeting, which is being facilitated by the District. He said the group

520 will meet to go over the potential projects and decide the projects to receive the
 521 Watershed-based Implementation Funding. He reminded the Board there is \$104,000 and
 522 change of available funding. Administrator Jeffery said he will provide more updates to
 523 the Board as the process goes along.

524 **c. Staff Report**

525 Manager Koch commented on the staff report note that accountant Nancy Martinson from
 526 Red Path is retiring. He said he would like the Board to have an introduction to the
 527 incoming accountant in order to know that person’s capabilities and experience.

528 Manager Koch said he has not received a copy of the job description of the shared
 529 administrative person. He said he would like to have a copy of it by the time of the
 530 workshop, so the Board can discuss it before the Board votes on it.

531 Manager Koch said he is assuming the Board will be talking about District office
 532 furniture configurations for going back to in-person meetings.

533 Manager Koch noted the 2025 expiration date of Chanhassen’s Local Surface Water
 534 Management Plan. He recommended the District immediately address the District’s rules
 535 so rules are in place before end of 2025 to address various issues including shoreline
 536 protection.

537 Manager Koch asked if any of the managers are able to attend Legislative Days.
 538 Administrator Jeffery said the Board can authorize managers to attend. He said there is a
 539 \$100 cost to attend. Administrator Jeffery reported he is attending portions of it and
 540 President Ziegler is attending. Manager Koch said he would like to attend Legislative
 541 Days and going forward would like to see information on this event on the agenda earlier
 542 so the Board can address it.

543 President Ziegler said he thinks there could be a motion made to approve managers
 544 attending and the District paying the registration fee and a per diem for managers who
 545 attend. Manager Koch made that motion. President Ziegler seconded the motion. Upon a
 546 roll call vote, the motion carried 4-0 as follows:

547

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

548

549 President Ziegler asked Administrator Jeffery to communicate with Manager Duevel
550 about the vote and to find out if Manager Duevel is planning to attend Legislative Days.

551 Manager Koch said regarding staff's mention in the staff report of a GIS database to
552 catalog soil data, he wants to encourage staff to make sure to take full advantage of data
553 that already exists. He said he believes NASA launched a new satellite that has extreme
554 capabilities of mapping waters, and he encouraged the District to look into that.

555 Manager Koch said he submitted a number of comments and suggestions to staff about
556 the District's website and he would appreciate a response.

557 Manager Koch asked if staff would present to the Board the draft 2023 Education and
558 Outreach Plan and if not, can they provide managers with a copy of it.

559 Manager Koch asked if the Hennepin County Chloride Initiative is done. Administrator
560 Jeffery said yes, Train the Trainer was held yesterday and there are a few more items to
561 fully implement, and HCCI has disbanded. He said staff could present to the Board about
562 it in a future work session.

563 Manager Koch asked if he could get a copy of the revised CRAS scores, or at least the
564 Bluff Creek one. Administrator Jeffery said yes.

565

11. Legal Counsel Reports

566 [No report.]

567

12. Upcoming Board Topics

568 a. Tentative Workshop Schedule

569

13. Upcoming Events

- 570
- RPBCWD – Lake Associations Summit – February 21, 2023
 - 571 ▪ President Ziegler asked staff to share the Lake Associations Summit presentation
 - 572 when it is available.
 - 573 • Riley Purgatory Summit – Date to be determined
 - 574 • PBCWD Volunteer Recognition Event – Postponed/ Date to be determined

575

14. Adjournment

576 Manager Koch moved to adjourn the meeting. Manager Pedersen seconded the motion. Upon a
577 roll call vote, the motion carried 5-0 as follows:

578

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

579

580

The meeting adjourned at 9:36 p.m.

581

582

583

Respectfully submitted,

584

585



586

Dorothy Pedersen, Secretary