

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

August 17, 2023, Continuation of August 2nd RPBCWD Board of Managers Regular Monthly Meeting

PRESENT:

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

Staff: Amy Bakkum, Administrative Assistant
Terry Jeffery, District Administrator
Scott Sobiech, Barr Engineering Company
Michael Welch, Attorney, Smith Partners

Other Attendees: Mark Weber

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 risk to high-risk managers.

1. Continuation of the August 2, 2023, Board of Managers Regular Monthly Meeting

1 At 6:32 p.m. President Ziegler welcomed the group to the continuation of the Board's August 2,
2 2023, Board of Managers Regular Meeting. He stated the Board is conducting this meeting via
3 Zoom per the Board's procedure due to concern about Covid risk for high-risk managers.

4 Administrator Jeffery called attendance for the Board of Managers as follows:
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<i>Manager</i>	<i>Action</i>
Crafton	Present
Duevel	Present
Koch	Present
Pedersen	Present
Ziegler	Present

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10. Member Reports

7 a. Manager Reports

8 No reports.

10 b. Administrator Reports

11 No reports.

13 c. Legal Counsel Reports

14 i. Adopt Resolution 23-050 Adjusting Delegation of Authority to the 15 Administrator to Approve Certain Regulatory Application

16 Administrator Jeffery reported Michael Welch drafted, per Board direction at its
17 previous meeting, a resolution that comprises all previously approved
18 resolutions delegating to the Administrator authority regarding regulatory
19 applications.

20 Mr. Welch said Resolution 23-050 takes all prior delegations of authority that
21 the managers have adopted and rescinds them and puts those delegations all in
22 this one resolution to provide a comprehensive statement regarding delegation
23 of authority as well as restrictions on that authority.

24 Mr. Welch highlighted that the administrator cannot deny the approval of a
25 permit and the Administrator only has the authority to approve or conditionally
26 approve a permit.

27 Mr. Welch clarified the Resolution states that if the land-disturbing activities
28 proposed or already conducted differ from the original proposed activities in a
29 manner material to the determination of compliance with the RPBCWD rules,
30 the administrator cannot approve the permit. He pointed out that the Resolution
31 also states the administrator cannot approve a permit if the administrator
32 determines that the application involves a technical, policy, or legal issue or
33 raises public comment that warrants review of the application by the board of
34 managers or if anyone requests consideration of the application by the board of
35 managers. Mr. Welch said he thinks it is very generous of the Board to include
36 this last provision, and it allows a permit that raises concern by an individual or
37 group to bring a permit in front of the Board, but it also provides a way for an
38 individual who is trying to be troublesome to delay the permit process because
39 the Board has put no standards in place regarding the provision. He asked if the
40 Board wants to consider putting some type of standard in place to the provision
41 such as including language that the request must be a good faith request.

42 Mr. Welch said he does not recommend the Board place the authority delegated
43 by this resolution into the Governance Manual because the authority does not
44 regulate the Board's conduct or how the Board conducts its business but rather
45 how the District operates its regulatory program. Mr. Welch said any time a
46 policy statement is put in two different places there is a potential for the two to

47 get out of synch and be in conflict with each other and also it would be that
 48 much extra work to make a change. He said, however, if the managers want to
 49 put the content of the resolution into the Governance Manual, staff will find a
 50 way to do so, but he recommends the Board note in its Governance Manual that
 51 there is delegated regulatory authority by resolution.

52 Mr. Welch suggested the administrator utilize the monthly staff report to keep a
 53 running document of the permit activities.

54 President Ziegler moved to approve Resolution 23-050 with the changes
 55 recommended by Counsel. Manager Koch said the meeting agenda lists this
 56 item as a discussion item, and he heard several substantial issues that the Board
 57 needs to discuss. Manager Koch moved to table this item to the Board’s next
 58 meeting. Manager Koch’s motion died due to lack of a second.

59 Manager Pedersen seconded President Ziegler’s motion.

60 Manager Koch moved to table this until the Board has received a copy of the
 61 Resolution with the language updated to reflect the revisions. President Ziegler
 62 seconded the motion.

63 Mr. Welch asked for direction from the Board regarding the provision “if
 64 anyone requests consideration of the application by the board of managers.”
 65 President Ziegler said his motion did not include any changes to that provision.

66 Upon a roll call vote, the motion to table this item fails 1-4 as follows:

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

68
 69 President Ziegler said the motion on the table to adopt Resolution 23-050 with
 70 the changes as follows:

71
 72 BE IT FINALLY RESOLVED that ~~the authority delegated here will be stated~~
 73 ~~in the RPBCWD Governance Manual, and~~ the administrator will maintain a log
 74 of permit applications, WCA approvals and other requests approved pursuant to
 75 this resolution and will present the log of permitting activity conducted pursuant

76 to this resolution to the board at the ~~January and August~~ monthly regular
 77 meetings of the managers each year.

78 Upon a roll call vote, the motion to adopt Resolution 23-050 as revised carries
 79 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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11. Upcoming Board Topics

82 Administrator Jeffery reminded the Board it is holding a public hearing on the draft 2024
 83 budget at the Board’s September 13th regular meeting.

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12. Upcoming Events

85 Administrator Jeffery said the District is holding its Cycle the Creek during “Creek Week” at
 86 the end of August. He asked managers to send him their availability for the last week of
 87 October so staff can schedule the fall tour. Administrator Jeffery noted upcoming events
 88 including the Minnesota Water Resources Conference and the Climate Resiliency conference
 89 happening in Duluth.

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13. Adjournment

91 Manager Pedersen moved to adjourn the meeting. Manager Duevel seconded the motion.
 92 Upon a roll call vote, the motion carried 5-0.

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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 6:59 p.m.

Respectfully submitted,

Dorothy Pedersen, Secretary