

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

September 21, 2023, Continuation of the September 13, 2023, 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, Office Administrator
Terry Jeffery, District Administrator
Louis Smith, Attorney, Smith Partners
Scott Sobiech, Barr Engineering Company

Other Attendees: Michael Pressman
Alex Selke

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

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

1 President Ziegler called to order the Thursday, September 21, 2023, continuation of the
2 September 13, 2023, Board of Managers Regular Meeting at 6:00 p.m. He stated the Board is
3 conducting this meeting via Zoom out of an abundance of caution regarding COVID.

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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9. New Business

7 h. **Discussion of the Potential Acquisition of the Property Located at 9955 and**
8 **9875 Spring Rd., Eden Prairie, MN and PID 2811622320005. Board May go**
9 **into Closed Session.**

10 The Board moved this item to later in the meeting to provide time for Mr. Pressman to
11 join the meeting.

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13 i. **Adopt Resolution 23-058 to Authorize Change Order #2 for Conservation**
14 **Solutions**

15 Administrator Jeffery said Mr. Pressman of Conservation Solutions has requested the
16 final \$10,000 of the total estimated amount of \$30,0000 for Conservation Solutions
17 services. Administrator Jeffery said he will be notified by Mr. Pressman when
18 expenditures reach 50% and 70% expended.

19 Manger Crafton moved to adopt Resolution 23-058 to Authorize Change Order #2 for
20 Conservation Solutions. Manager Duevel seconded the motion.

21 Manager Koch said the resolution was not in the meeting packet when he printed it.
22 Manager Crafton said it was in the packet when she printed it. Administrator Jeffery
23 said the meeting packet posted on a Friday and the Resolution was included on the
24 following Monday. Manager Koch said he would like the staff and Governance
25 Committee to keep in mind that changes to the meeting packet should be indicated on
26 the website.

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

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

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10. Discussion Items

29 a. **Minnesota Watersheds Resolutions**

30 Administrator Jeffery said the meeting packet include the memo from Minnesota
31 Watersheds and the resolutions. He pointed out changes made to Resolution 22-06, the
32 resolution to limit wake boat activities. Administrator Jeffery said Manager Crafton

33 would like language included in the soil health resolution, so the Board could authorize
34 him to work with Manager Crafton on incorporating her suggestions, if the Board so
35 wishes, or the Board could decide to leave the resolution as written. He said the District
36 would need to get revised resolutions to Minnesota Watersheds by October 1.

37 Administrator Jeffery reported Manager Koch has suggested the District put forward a
38 resolution requesting the state provide funds for conservation acquisition of properties.

39 Manager Koch stated his suggestion is for Minnesota Watersheds to support the funding
40 of the acquisition of the properties the Board will be discussing later in this meeting. He
41 said he does not think taxpayers should be carrying the burden of the proposal and if the
42 District wants to do an acquisition then the District should seek funding from the state
43 legislature.

44 Manager Koch moved to revise the soil health language resolution and to add a new
45 resolution as he suggested regarding acquisition funding.

46 Manager Crafton asked if Manager Koch's proposed resolution is specific to the
47 District's acquisition or more general. Manager Koch said specifically the District's
48 acquisition of the properties the Board will be discussing later in this meeting. Manager
49 Crafton asked if there is precedent for this type of resolution. Mr. Smith said it is not
50 unprecedented. He said from time to time he has seen watersheds from Red River
51 Valley bring forward resolutions supporting flood damage reduction funding, generally
52 for projects but specifically noting the need for that funding. He said occasionally there
53 are resolutions in which individual watershed districts want support of the Association
54 for local watershed district projects.

55 Manager Duevel commented he thinks Manager Koch's proposal sounds like it would
56 postpone the Board making a decision about the property acquisition.

57 Manager Koch clarified his motion is to ask Minnesota Watersheds to support state
58 funding of the District's acquisition of the three parcels, assuming an agreement is
59 reached to acquire the parcels.

60 Mr. Smith said the language as currently written in the proposed resolution for
61 Minnesota Watersheds specifies a request for support of partial funding of a
62 conservation easement and it sounds like Manager Koch is recommended asking for
63 support for full fundings. Mr. Smith noted the proposed resolution also has a resolving
64 clause adding support for additional appropriations for similar undertakings by other
65 watershed districts.

66 Manager Koch recommended the resolution language be revised to "NOW,
67 THEREFORE, BE IT RESOLVED ...a legislative appropriation to BWSR or other
68 entities for the purpose of acquiring the Spring Road Conservation Project via
69 conservation easement or otherwise."

70 Manager Crafton said she prefers the original language because it lends itself better to
71 what the state has been doing. She said BWSR supports the initiatives watershed
72 districts do with lots of partners and emphasizes partnerships.

73 Manager Pedersen agreed with Manager Crafton. Manager Pedersen said she thinks it is
74 a necessity that the resolution includes extending the support to all watersheds. She
75 added that the District’s scenario is different than the scenario of the Red River Valley.

76 Manager Koch asked why the Board would want to limit the District and he thinks the
77 Board should move forward with the modified language he proposed.

78 President Ziegler suggested the Board act on the proposed Minnesota Watersheds
79 resolutions separately. Mr. Smith said if the Board wants to act on the resolutions
80 separately, a manager could move to amend the motion by deleting the Conservation
81 resolution and only including the soil health resolution and then make a separate motion
82 to deal with the other resolution.

83 Manager Crafton said she would like to review the soil health resolution with
84 Administrator Jeffery.

85 Manager Koch suggested laying over this item until next week to give Manager Crafton
86 an opportunity to propose changes to the soil health resolution and the managers time to
87 review the language of the resolution about legislative appropriation for acquisition of
88 properties.

89 Manager Koch moved to continue this item to Wednesday, September 27 at 7:00 p.m.

90 Manager Crafton said she is fine with the original language on the conservation
91 easement funding resolution. President Ziegler said he is fine with customizing the
92 resolutions.

93 Manager Koch revised his motion to continue this item to September 27 at 7:00 p.m. to
94 provide for Manager Crafton to review and propose updates to the resolution on the soil
95 health and Manager Koch to review and update the resolution asking for support for
96 funding for the acquisition or otherwise of the properties the Board will be discussing
97 tonight. President Ziegler seconded the motion.

98 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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11. Member Reports

101 **a. Manager Reports**

102 Manager Koch commented he is concerned the District is not following requirements on
103 rules having to do with permitting and specifically the rule requiring adoption of rules
104 pertaining to permits. Manager Koch said he believes the District's delegation of
105 authority regarding permits is basically ineffective.

106 Manager Koch said regarding the Open Meeting Law he notes that other than the
107 District's Governance Committee, the District's Committees are not making available to
108 the public materials the committees discuss. He encouraged the District's legal counsel
109 and committees to work on coming up with processes and procedures that do not violate
110 the Open Meeting Law.

111 Manager Koch said regarding IT, he thinks it is prudent for the District to look into
112 developing a policy and procedure regarding the use of AI. He said he believes the
113 District needs an IT consultant to advise the District on security and use of AI.

114 Manager Koch said the District's website is in dire need of work. He said he thinks an
115 IT consultant would make sure the District's website at least complies with BWSR's
116 rules.

117 Manager Koch said he believes the District needs an HR consultant to at minimum
118 review the District's policies and procedures and make recommendations.

119 Manager Koch said he has concerns that the published guidance by the IRS is not being
120 followed by the District. He noted there are Federal Minimum Wage laws that the
121 District does not follow. He said he believes District Board managers are District
122 employees. He said wage theft law requires payment every 30 days and contractors are
123 required to be paid every 45 days. Manager Koch said the District should make sure it is
124 compliant with those applicable laws.

125 Manager Koch said regarding the Data Practices Act he has made a number of requests
126 and he has either not received the data or received the information only after what he
127 believes is too long of a response period. Manager Koch said something needs to be
128 done, such as either changing the person in charge of the District's compliance with the
129 Data Practice Act or making sure District complies with the law.

130 Manager Koch said he is concerned that the District had none of the auditors available
131 to discuss the audit and answer the managers' questions. He said he thinks the District
132 needs to look for other auditors to work with on the District's annual audit.

133 Manager Koch said he concludes 103D.241 having to do with levies and budgets is not
134 being complied with by the District. He urged legal counsel and the Audit and Finance
135 Committee to review state statute and processes and procedures, particularly the
136 requirement of a separate fund and account. Manager Koch said he believes the District
137 is failing to follow that rule.

138 President Ziegler said he understands the District's furniture and equipment should be in
139 place to enable hybrid meetings starting with the District's October 4th Board of
140 Managers meeting.

141 Manager Koch recommended holding the October meeting via Zoom and to schedule
142 times for the managers to come in and look at the design set up and then look to holding

143 the Board's first in-person meeting in November. Manager Koch said there is a new
144 variant of Covid. President Ziegler suggested the Board hold its first hybrid meeting
145 with the Board's October work session.

146 Manager Crafton said she is in favor of holding the October 4, 2023, meeting hybrid/in-
147 person. Manager Pedersen recommended waiting to the Board's October work session
148 so staff has time to get all the technology running correctly. Manager Duevel suggested
149 starting using the technology with the Committee meetings and then holding hybrid
150 Board meetings as soon as the technology is set up.

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152 **b. Administrator Reports**

153 Administrator Jeffery reported he will be at the Minnesota Watersheds/SWCD
154 conference next week.

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156 **c. Legal Counsel Reports**

157 Mr. Smith said he has one matter to report on that is appropriate for closed session and
158 he will add this item to the ones to discuss in closed session.

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12. Upcoming Board Topics

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- EHAP Workshop
 - Governance Manual Updates (December)
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13. Upcoming Events

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- Fall Tour, September 26, 2023
 - Soil Health Workshop, September 28, 2023
 - Build a Rain Barrel, October 3, 2023
 - Gravel Bed Tree Giveaway, October 5, 2023
 - Soil Health Walk-shop, October 7, 2023
 - Cycle the Creek, October 7, 2023
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9. New Business

170 h. **Discussion of the Potential Acquisition of the Property Located at 9955 and**
171 **9875 Spring Rd., Eden Prairie, MN and PID 2811622320005. Board May go**
172 **into Closed Session.**

173 Manager Pedersen moved to go into closed session. Manager Crafton seconded the
174 motion. Mr. Smith recommended the Board move into closed session to discuss
175 confidential legal advice on the matter of a lawsuit filed by Spring Valley Friends
176 against the District and Rachel Contracting and to discuss the potential acquisition of
177 property located at 9955 and 9875 Eden Prairie and PID 2811622320005. Manager
178 Crafton and Manager Pedersen agreed to the proposed amendments to the motion.

179 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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182 The Board moved into closed session at 7:05 p.m.

183 The Board reconvened the public meeting at 8:16 p.m.

184 President Ziegler moved to continue the meeting to September 27, 2023, at 7:00 p.m.
185 Manager Pedersen seconded the motion. Up a roll call vote, the motion carried 5-0 as
186 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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At 8:17 p.m. the Board continued the meeting to 7:00 p.m. on Wednesday, September 27, 2023.

Respectfully submitted,

Dorothy Pedersen, Secretary