

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

#### February 9, 2022, RPBCWD Board of Managers Continuation of February 2, 2022, Regular Monthly Meeting

PRESENT:

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

Staff: Amy Bakkum, Administrative Assistant  
Zach Dickhausen, Water Resources Technician II  
Liz Forbes, Grant Program Coordinator  
Eleanor Mahon, Education and Outreach Coordinator  
Joshua Maxwell, Water Resources Coordinator  
Louis Smith, Attorney, Smith Partners  
Scott Sobiech, Engineer, Barr Engineering Company

### 2. Call to Order of the Continuation of the February 2, 2022, Regular Monthly Meeting

1 President Ziegler called to order the Wednesday, February 9, 2022, Continuation of the February  
2 2<sup>nd</sup> Board of Managers Regular Meeting at 11:03 a.m. The meeting was held remotely via  
3 meeting platform Zoom.  
4

### 3. Approval of Agenda

5 President Ziegler proposed the Board amend the meeting agenda to make the Silver Lake-Molnau  
6 Trucking item an action item. Manager Pedersen requested adding an action item about the search  
7 for an HR consultant. Manager Koch moved to amend the agenda to add an action item on the  
8 Silver Lake-Molnau Company and an action item on the recruiter for the position of District  
9 Administrator. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried  
10 4-0 as follows:  
11

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

Pedersen	Aye
Ziegler	Aye

12

**3b. Silver Lake Project – Molnau Trucking**

13 Manager Koch moved to authorize President Ziegler to sign a letter addressed to Molnau, with  
 14 the letter being substantially in the form proposed by District Legal Counsel subject to  
 15 nonsubstantive changes to be discussed between President Ziegler, himself, and Legal Counsel.  
 16 Manager Pedersen seconded the motion.

17 There was discussion about what details of the letter Manager Koch means by nonsubstantive  
 18 changes. Manager Koch listed the details he would like added to the letter to make it a good clean  
 19 letter that’s extremely clear, including attaching to the letter a spreadsheet formatted like a pay  
 20 application, in order to make clear what had been completed.

21 Attorney Smith commented Molnau Trucking was notified of this meeting and had advance  
 22 notice of the draft version of the letter, so they were aware of their opportunity to appear today  
 23 and comment. Attorney Smith said he received Manager Koch’s comments on the draft letter and  
 24 believes those revisions are workable, even if more detail than the District’s Legal Counsel  
 25 thought necessary, but they can be addressed.

26 Attorney Smith said typically when a Board authorizes a letter to be approved and executed  
 27 subject to nonsubstantive changes, it’s pursuant to review by Legal Counsel. He said it is within  
 28 the Board’s discretion to involve the Board President and other managers, but here all of the  
 29 changes Manager Koch outlined make sense and will be implemented, so Legal Counsel believes  
 30 we are in good shape.

31 Manager Crafton asked if a friendly amendment would be accepted to have the final review done  
 32 by Legal Counsel. Manager Koch said his motion was to have Legal Counsel, himself, and  
 33 President Ziegler do the final review to make sure the letter is in acceptable form. Attorney Smith  
 34 said in the event that Manager Koch, President Ziegler, and the District’s Legal Counsel can’t  
 35 agree on the final language of the letter, what is the Board’s intent as to who makes the final  
 36 decision. Manager Koch made the friendly amendment to the motion to add if two of the three out  
 37 of himself, President Ziegler, and Legal Counsel agree on the letter, President Ziegler will sign  
 38 the letter. Manager Koch said he is the one who raised the clarifications to the letter, and he wants  
 39 input on those clarifications being added to the letter. Manager Crafton said she would be fine  
 40 with adding the supplemental schedule to the letter, but she thinks the letter is fine as it stands, so  
 41 she will vote no to the motion as it is worded.

42 Upon a roll call vote, the motion carried 3-1 as follows:

43

<i>Manager</i>	<i>Action</i>
Crafton	No

Koch	Aye
Pedersen	Aye
Ziegler	Aye

44

**8. Action Items**

45

**a. Items Pulled from Consent Agenda**

46

**i. Accept January Staff Report**

47

Manager Koch moved to lay over any items laid over at the Board’s February 2<sup>nd</sup> meeting to the Board’s March Regular Meeting. Manager Crafton seconded the motion. . Upon a roll call vote, the motion carried 4-0 as follows:

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

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53

**d. Accept 2021 Scoresheet**

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Item laid over to the Board’s March Regular meeting.

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56

**e. Approve Final Reconciliation**

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Item laid over to the Board’s March Regular meeting..

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**f. Approve Fee Schedule**

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Item laid over to the Board’s March Regular meeting..

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62

**g. Lotus Lake Violations Report**

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Item laid over to the Board’s March Regular meeting.

64

**9. Informational Items**

65 **a. Duck Lake Outlet Elevation**  
66 Item laid over to the Board’s March Regular meeting.  
67

**10. Discussion Items**

68 **c. Administrator Report**  
69 Ms. Mahon displayed a presentation with photos and reported on the City of  
70 Chanhasen’s February Fest and the District’s activities there.  
71 Manager Koch said he would support the District getting some banners and flags for the  
72 District to use in its events displays. Manager Pedersen said she knows the City of  
73 Shorewood will be holding a park re-opening for Silverwood Park, and the City would  
74 welcome the District’s participation in that event. She suggested staff to call Julie Moore  
75 at the City of Shorewood regarding participating.  
76 Temporary Interim Administrator Sobiech asked the Board about its interest in pursuing a  
77 sponsorship of a Green Corps member this year, such as for assisting the District with its  
78 soil health initiative and/or water quality monitoring. The managers discussed the idea  
79 and their support of the idea.  
80 Manager Koch moved to amend the meeting agenda to make this an action item and  
81 moved to direct staff to pursue a plan to engage a Green Corps member to assist the  
82 District during the 2022 calendar year. Manager Pedersen seconded the motion.  
83 Manager Koch made the friendly amendment that staff comes back and recommends the  
84 number of Green Corps members to engage. Manager Pedersen agreed to the friendly  
85 amendment. Ms. Bakkum noted the deadline is March 22<sup>nd</sup>. Upon a roll call vote, the  
86 motion carried 4-0 as follows:

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

88  
89 President Ziegler asked staff for an update on the managers’ District email accounts.  
90 Temporary Interim Administrator Sobiech provided an update and asked managers for  
91 feedback on how they want to proceed. The managers each spoke on their email delivery

92 concerns and ideas on how to proceed. Manager Koch suggested Mr. Sobiech look into  
93 this with the District's IT consultant to discuss what can and can't be done. Temporary  
94 Interim Administrator Sobiech said the managers' feedback gives staff direction on that  
95 matter.

96 Temporary Interim Administrator Sobiech gave an update on the status of the District's  
97 annual report. He said staff will try to have a draft report ready for the managers before  
98 the March Board meeting.

99 Temporary Interim Administrator Sobiech reported Barr Engineering has been contacted  
100 by the City of Minnetonka seeking assistance with a streambank stabilization project  
101 along Purgatory Creek in Purgatory Park. He asked if the Board prefers Barr working on  
102 that project or sees it as a potential conflict of interest because Barr would also be doing  
103 the permit review. He provided more background on the project and its history.

104 Manager Koch said if the project is likely to involve a permit, his inclination is for Barr  
105 Engineering to decline the project as long as Barr Engineering is serving as the District's  
106 engineer and will be evaluating permit requests. Attorney Smith stated the most  
107 important thing is the Board have a discussion. He said this issue arises frequently in  
108 metro area watersheds. Attorney Smith said the conflict in serving in a permitting role  
109 and project design role and being the permit advocate can be a real one, and on the other  
110 hand some Districts look at this situation and feel like their interests are served by having  
111 an engineer they trust design a project dealing with water resources in the watershed. He  
112 said the permitting issue would still be there, and in that case, maybe the Board would  
113 refer the permit review to another engineering firm to conduct a permit review. Attorney  
114 Smith said the most important thing is the managers weigh in and provide direction.

115 Manager Crafton said she would like to move forward on the project, so if there is a way  
116 to subcontract out some of the permit review, she would be in favor of it. Manager  
117 Pedersen agreed with Manager Crafton's position and supported subbing out the permit  
118 review. Manager Koch asked if there is a way to approach this project as an exploration  
119 by the District as he isn't sure hiring another firm to review the permit application is a  
120 good business way to approach it.

121 Ms. Forbes noted several months ago she was contacted about the City possibly  
122 submitting a grant application for the project. Mr. Sobiech said if a cost share agreement  
123 were put in place, the District could possibly provide technical project support, such as  
124 design support, through a cost share agreement. Manager Crafton supported this idea of  
125 partnering with the City.

126 The managers by consensus agreed Mr. Sobiech would gather more information and  
127 bring this item back to the Board at its March meeting. The managers agreed by  
128 consensus to add to the March agenda a discussion about the Board's priorities to make  
129 sure Temporary Interim Administrator Sobiech understands the priorities.

130

131 **d. Managers' Report**

132 **i. Manager Koch**

133 Manager Koch said he thinks it's a good policy to let the managers know about  
134 contacts he has had with constituents. He reported on a phone call he received  
135 from Ms. Bennett and Ms. Prochaska about Noble Hills and email he received  
136 from them with Dr. Strack's report. Manager Koch noted he received two  
137 documents via Dropbox, and he will forward them to President Ziegler. Manager  
138 Koch said he'd like to see the Board discuss the Riley Creek and Fredrick Miller  
139 Spring conditions and understand where that reach ranks in the District's CRAS.  
140 He said he'd like staff to give the Board an update on that reach of the creek and  
141 any recommendations they have. Manager Koch said he would like staff to  
142 review the University of Minnesota's wakeboard study report and report to the  
143 Board any recommendations. Manager Koch announced that every year the  
144 Minnesota Continuing Legal Education puts on a continuing legal education  
145 seminar series on data and privacy. He said he would appreciate getting a report  
146 from staff or the District's IT consultant as to whether or not they've been able to  
147 conduct an assessment of the security of the District's system and have a  
148 discussion at next month's meeting.

149  
150 **ii. Search Firms**

151 Manager Pedersen reminded the managers of the information the managers  
152 received about the two consultants. Manager Pedersen commented on watershed-  
153 specific experience of one of the consultants and on the cost difference between  
154 the two consultants and for those reasons, she is recommending DDA. Manager  
155 Pedersen commenting on negotiating the cost with DDA.

156 Manager Pedersen moved to approve moving forward with DDA. Manager  
157 Crafton seconded the motion.

158 Manager Koch moved to amend the motion to make it clear the Board requests a  
159 complete contract from DDA, and the Board receives the contract and submits  
160 the contract to legal for comment, and the contract and decision to hire DDA be  
161 made at the next meeting. Manager Koch said he is concerned about what he  
162 calls "your own backyard" because perhaps a broader search would be better. He  
163 said he worries DDA might be more siloed about their views regarding breadth  
164 of the search. Manager Pedersen said she has provided the contract to the  
165 District's Legal Counsel and said she would prefer to know the contract is being  
166 reviewed by legal and the Board can move on to the next step.

167 There was discussion about the possible geographic scope of the candidate  
168 search. Manager Koch said he prefers the search cast a wider net. He said he  
169 objects to four-days' notice of a review on an important thing. He said that is not  
170 the right process.

171 The motion to amend the motion died due to lack of a second.

172 Attorney Smith said the District and Legal Counsel have a standard template for  
173 a professional services agreement that includes a number of statutory  
174 requirements that must be in an agreement. He said for that reason Legal Counsel  
175 often finds for a consultant such as this, that what they develop is a document  
176 that is the scope of their work, which is attached as an exhibit to the agreement.  
177 Attorney Smith said the District’s Legal Counsel has a strong preference that the  
178 District’s template for professional services be used and for communication with  
179 the consultant to be consistent with that point.

180 Manager Pedersen amended her motion on moving forward with DDA as the  
181 District’s HR consultant to add that the contract needs to be reviewed and  
182 approved by Legal Counsel. Manager Crafton accepted the friendly amendment.

183 Manager Koch said he won’t vote for any motion on a contract where he hasn’t  
184 seen the final contract prior to the vote, and he thinks this should be brought back  
185 to the Board when the Board has a final contract.

186 Upon a roll call vote, the motion carried 3-1 as follows:

187

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

188

189 Manager Crafton moved that the District forward the wakeboard report to Metro MAWD  
190 to comment and ask to have it as a topic on the agenda at the next Metro MAWD  
191 meeting. Manager Pedersen seconded the motion.

192 Manager Koch said he supports this idea and thinks legislation on wakeboarding should  
193 be forwarded. Manager Koch made the friendly amendment that staff review the report  
194 and come back with recommendations. Manager Crafton and Manager Pederson accepted  
195 the friendly amendment. There was discussion about what questions Manager Crafton  
196 could raise to MAWD.

197 No vote was taken.

198

199 **e. Governance Committee Report**

200 President Ziegler said the Committee meets on Friday.

201

## 11. Upcoming Board Topics and Events

202 [Item continued to the Board’s March Regular Meeting.]

203

## 12. Adjournment

204 Manager Koch said he has a number of items he would like addressed at the Board’s next  
205 meeting, and he will forward the list to President Ziegler. Manager Koch reviewed the list.

206 Manager Pedersen moved to adjourn the meeting. Manager Crafton seconded the motion. Upon a  
207 roll call vote, the motion carried 4-0 as follows:

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

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Respectfully submitted,

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Dorothy Pedersen, Secretary