

**MEETING MINUTES**

**Riley-Purgatory-Bluff Creek Watershed District**

**March 13, 2024, RPBCWD Board of Managers Regular Monthly Meeting**

**PRESENT:**

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

Staff: Amy Bakkum, Office Administrator  
 Zach Dickhausen\*, Natural Resources Coordinator  
 Andrew Hartmann\*, Water Resources Technician  
 Terry Jeffery, District Administrator  
 Josh Maxwell, Water Resources & Fisheries Manager  
 Dylan Monahan, Administrative Assistant  
 Alaina Portoghese\*, Communications Specialist  
 Louis Smith, Attorney, Smith Partners  
 Scott Sobiech, Barr Engineering Company

Other Attendees: Joe Bischoff Ted Melby  
 Dan Blake Bonnie Nelson  
 Tim Erhart Maya Santamaria  
 Andrew Hartmann\* Jeff Strate  
 Morgan Jacobs Mark Weber  
 Tom Lindquist Rachel Whittington

*\*Attended the meeting virtually.*

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

1 President Dorothy Pedersen called to order the Wednesday, March 13, 2024, Board of Managers  
 2 Regular Meeting at 7:02 p.m. at the District Office, 18681 Lake Drive East, Chanhassen,  
 3 Hennepin County, Minnesota.

4 President Pedersen stated this meeting is being held in person in public while the District  
 5 recognizes a manager may, based on advice from a healthcare professional, have a legitimate  
 6 reason for not attending a meeting in a public place in person, such as Covid-19 exposure or  
 7 infection, and in such circumstances may participate in the meeting remotely.

8 Louis Smith called attendance for the Board of Managers as follows:

9

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

10

## 2. Approval of Agenda

11 Manager Ziegler moved to accept the agenda as written. Manager Duevel seconded the  
 12 motion.

13 Manager Larry Koch requested removing Consent Agenda items 8e – Approve Permit  
 14 2023-074 TH 101 Culvert Replacement and 8f – Approve Permit 2024-004 Clear Springs  
 15 Elementary Parking Lot. The managers consented to Manager Koch’s change to the motion.

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

17

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

18

## 3. Matters of General Public Interest

19 President Pedersen explained the procedures for raising matters of public interest.

20 Tom Lindquist of 16570 Baywood Terrace, on the east side of Duck Lake, commented he  
 21 and most of the members of the Duck Lake Homeowners Association strongly support  
 22 Resolution 24-017. He said the resolution is intended to approve Task Order 46 to analyze  
 23 the effects of potential modifications to the outlet. Mr. Lindquist said the Duck Lake  
 24 Homeowners Association strongly favors changes that will bring the average water level of  
 25 Duck Lake back to historic levels from 1970 until the outlet was modified. He explained

26 how after the outlet was modified in 2014, the actual average water level was about one foot  
 27 lower than before the outlet modification. Mr. Lindquist said the Duck Lake Homeowners  
 28 Association is concerned about the impact of the lower water level, such as winterkill and  
 29 reduced recreation activities. He said he was concerned about the proposed implementation  
 30 schedule for the outlet because he was afraid it would interfere with the restocking of the  
 31 lake. Mr. Lindquist said those fears have been alleviated. He reported he had a discussion  
 32 today with Daryl Ellison of the West Metro Fisheries, and currently Duck Lake is on the  
 33 docket for restocking this spring with bass, sunfish, and crappies. Mr. Lindquist said there  
 34 are still the long-term issues to address and we still need to get the outlet back to where it  
 35 used to be, but at least it is one step forward.

36

#### 4. Erhart Farms Trail Alignment

37 Administrator Terry Jeffery said Dan Blake is present tonight to represent Mr. Erhart of  
 38 Erhart Farms. Administrator Jeffery explained that Mr. Black and Mr. Erhart have been in  
 39 discussions with the City of Chanhassen regarding potential alignment of the trail through  
 40 the area around the Fox Woods nature preserve area dedicated to the City and the existing  
 41 first part of the Erhart Farms development, or Foxwood, as well as the second part of that  
 42 development, or Foxwood Two, which is coming forward in Chanhassen. Administrator  
 43 Jeffery explained Mr. Blake has asked to speak to the Board tonight to gauge the level of the  
 44 Board's reception of the idea of aligning the trail in that area.

45 Dan Blake of Black Cherry Development said his and Mr. Erhart's objective is to get a bike  
 46 trail from Bandimere park to Foxwoods Preserve, in order to get people in to experience the  
 47 preserve. Mr. Blake said the proposed paved trail in the preserve is a city project, but the  
 48 City challenged Mr. Blake and Mr. Erhart, as the property owners, to figure out how to  
 49 move forward with the project. He said his goal tonight is to get the District interested  
 50 enough in the idea to direct District staff to work with the City of Chanhassen and Black  
 51 Cherry Development to figure out how the bike trail and trail alignment could work. Mr.  
 52 Blake said if the Board thinks this idea could not work, then he wants to hear that feedback.

53 Mr. Blake said the City put the trail on a plan but seems to have dropped it as a priority.

54 Mr. Blake displayed maps and described several possible trail alignment routes. He asked  
 55 for Board feedback about the options.

56 President Pedersen asked what the most ecological option is out of the options presented.  
 57 Administrator Jeffery said it depends on a number of variables. He said the wetland in this  
 58 area is a medium-value wetland. Administrator Jeffery said if the proposed project can meet  
 59 the 20-foot-minimum buffer on-average on the other side, it could be an ecologically sound  
 60 way to proceed. He said a boardwalk is another idea that Mr. Blake mentioned and could  
 61 meet the District's buffer requirements. Administrator Jeffery said an impervious surface  
 62 immediately adjacent to the wetland would not be ideal if there are other alternatives.

63 Manager Koch said he does not believe a watershed district should be in the park business.  
 64 He said this project is for the property owner and it is incumbent for the land owner to get  
 65 the City on board first. Manager Koch said he does not think the District should support any  
 66 type of impervious bike trails. He said this is a developer and City of Chanhassen issue.

67 Manager Koch said the District would comment on and respond to this type of project in a  
68 permit application review as it relates to the District’s rules.

69 Manager Ziegler said he would like to hear from staff.

70 Manager Crafton commented the context of decision making is shifting because of climate  
71 change and considerations of impacts to hydrology. She said she worries about any  
72 alterations to hydrology. Manager Crafton said she wants the District to look at this in the  
73 context of hydrology and recharging of streams and enhancing wetlands. She commented on  
74 drought, the lack of precipitation in this area this winter, and the unknown conditions of the  
75 upcoming summer. Manager Crafton remarked she would want to hear from the District’s  
76 engineer on what the District is looking at.

77 Administrator Jeffery said he is hearing from the managers that Black Cherry Development  
78 should put together concept plans to discuss with the District Engineer and Administrator.

79 Manager Duvel reminded the Board that the context of Mr. Blake’s request is to get the  
80 District’s feedback earlier in the process.

81 Administrator Jeffery said he thinks the Board would not be in favor of a proposed design  
82 that includes a variance request from the minimum buffer. President Pedersen agreed and  
83 commented she would not be in favor of a bituminous path.

84 Manager Koch said the property owner can explore options to fund the proposed project but  
85 should not be looking to the District for project funding.

86

## 5. Presentation on Lotus Lake Internal Load – Alum Treatment

87 Joe Bischoff of Barr Engineering displayed a PowerPoint presentation “Lotus Lake Alum  
88 Treatment.” He reminded the Board the half dose of the alum treatment was applied to  
89 Lotus Lake in 2018 to address internal phosphorous loading as documented in the District’s  
90 2017 Use Attainability Analysis (UAA).

91 Mr. Bischoff reported water quality data shows the surface water phosphorous  
92 concentrations dropped significantly after the 2018 alum treatment. He said post-treatment  
93 the lake has met the state standards for phosphorous. Mr. Bischoff said data shows some  
94 phosphorous release is still happening from the bottom sediments in the lake, which is not  
95 unexpected. He said phosphorous has been suppressed significantly, which has improved  
96 water quality, but to remember the District has only completed half of the dose. Mr.  
97 Bischoff reminded the Board that the second half of the dose of Lake Riley successfully  
98 suppressed phosphorous.

99 Mr. Bischoff said the second half dose of Lotus Lake remains to be done. He said the  
100 District needs to decide if it wants to repeat the treatment it did in the first half dose or do  
101 some additional areas of alum treatment in the lake. He recommended dosage treatment  
102 Alternative 3, which reduces the deep water phosphorous treatment area to depths greater  
103 than 15 feet in zones 1 and 2a and moves the alum previously designated for the 10-15 foot  
104 depth contours to the two parts of the lake that had higher concentrations of phosphorous  
105 release. Mr. Bischoff said the cost of this approach would be \$250,000 in 2024 to complete

106 the dose in two of the original zones treated in 2018 plus doing a half dose in the zones 1  
 107 and 2a. He said the second half-dose of zones 1 and 2a could be done two to four years later  
 108 for an estimated cost of \$110,000.

109 Manager Koch said there has been significant wake boat traffic in Lotus Lake. He said the  
 110 studies he is aware of show wake boats have significant impact on the bottom of lakes in 25-  
 111 feet of depth and less. Manager Koch said his concern is the District spending money on  
 112 treatment in shallower depths only to have the treatment disturbed by wake boat action. He  
 113 said there is a significant risk of wasting a significant amount of money. Manager Koch  
 114 proposed moving forward in a controlled approach by doing testing in one of the Lotus Lake  
 115 locations, either location 10 or 40, by applying in one location and monitoring it.

116 Mr. Bischoff stated the information he has seen indicate that the energy really dissipates at  
 117 depths of more than 15 feet. He said if the treatment is below 15 feet, there should not be  
 118 really any energy from wake boats, wind, or boats to resuspend those sediments. Mr.  
 119 Bischoff added that once the phosphorous is bound, it is inactivated and is no longer  
 120 available for algae. Mr. Bischoff said he believes it would be valuable for the District to do  
 121 the alum treatment in the areas he recommended.

122 Manager Crafton commented she supports what Mr. Bischoff has proposed. Manager  
 123 Ziegler said there is always more data coming and he thinks the District should at least  
 124 finish the second half dose. Manager Duevel said he thinks the District should proceed with  
 125 the plan and make further determinations down the line as the District has more information.

126

**6. Reading and Approval of Meeting Minutes**

127 **a. Approve Minutes of the February 7, 2024, Regular Meeting of the RPBCWD Board**  
 128 **of Managers**

129 Manager Ziegler moved to approve the minutes of the February 7, 2024, Regular Meeting  
 130 of the RPBCWD Board of Managers as written. Manager Duevel seconded the motion.

131 Upon a roll call vote, the motion carried 4-0 as follows:

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

133

**7. Committee Reports**

134 **a. Adopt Resolution 2024-019 Receiving Committee Reports.**

135 **i. Receive Governance Committee Report**

136 Administrator Jeffery reported that the Committee hopes to bring the Governance  
137 Manual to the Board for review and discussion at the Board’s April workshop.

138 **ii. Receive Audit and Finance Committee Report**

139 Manager Crafton reported the Committee has been reviewing the policies and  
140 making comments.

141 **iii. Receive Citizen Advisory Committee’s Report and Minutes**

142 Bonnie Nelson reported the CAC has no new motions. She said at the most recent  
143 CAC meeting District staff member Zach Dickhausen presented to the Committee  
144 about the wetland program. Ms. Nelson reported the Committee had a lot of  
145 discussion and questions on the topic. She said the presentation and meeting was  
146 recorded and is posted on the District’s YouTube channel. Ms. Nelson said it  
147 would be helpful to the CAC to have a flow chart about which entity has authority  
148 for what.

149 Ms. Nelson reported the CAC keeps a motions list on the CAC’s Google Drive.  
150 She said the CAC discussed how the Committee needs to do a better job  
151 identifying issues from that list and making it easier for the Board to find.

152 She reported the next CAC meeting will include a presentation by District staff  
153 members Josh Maxwell and Andrew Hartmann on water quality. She said the  
154 CAC will review and discuss at its next meeting the CAC members guidance  
155 document.

156 Manager Duevel moved to adopt Resolution 2024-019 Receiving Committee Reports.  
157 Manager Crafton seconded the motion.

158 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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161 **b. Confirm Board Representative for March 18, 2024, CAC Meeting**

162 Manager Duevel volunteered to be the Board representative at the March 18<sup>th</sup> CAC  
 163 meeting.

164

**8. Consent Agenda**

**a. Adopt Resolution 24-013 to Approve Consent Agenda**

166 President Pedersen listed the items remaining on the Consent Agenda: 8a – Adopt  
 167 Resolution 24-020 to Approve Consent Agenda, 8b – Receive February Staff Report, 8c –  
 168 Receive February Engineer’s Report, 8d – Receive February Regulatory Report, 8g –  
 169 Approve Permit 2024-005 Lake Ann Preserve Trail System as Presented in the Proposed  
 170 Board Action Segment of the Permit Review Report; 8h – Adopt Resolution 24-021  
 171 Authorizing Distribution of 2023 Annual Report.

172  
 173 Manager Crafton moved to adopt Resolution 24-013 to Approve Consent Agenda.  
 174 Manager Duevel seconded the motion.

175 Upon a roll call vote, the motion carried 4-0 as follows:

176

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

177

**9. Old Business**

**a. Adopt Resolution 24-016 Authorizing Barr Task Order #45 to Develop a District Groundwater Monitoring Network**

180 Manager Ziegler moved to adopt Resolution 24-016 Authorizing Barr Task Order #45 to  
 181 Develop a District Groundwater Monitoring Network. Manager Crafton seconded the  
 182 motion.

183 Manager Koch repeated his concerns about moving forward with this groundwater  
 184 monitoring. He said if the District were to do anything on this, he thinks it should be done  
 185 in segments. Manager Koch said the first segment should be a summary of the prior  
 186 monitoring. He said he has not heard of a problem the District needs to address and unless  
 187 there is one, he does not think the District should be searching for a solution for a problem  
 188 that does not exist.

189 Manager Koch noted the second page of the resolution has a notation about 2023, which  
 190 should be corrected to 2024.

191 Manager Koch moved to table this item and have staff come back with a more ordered  
 192 break down of tasks to be accomplished, with the first one being a summary of what was  
 193 done, why it was stopped, and what we propose to discover with a groundwater  
 194 monitoring process. The motion died due to lack of a second.

195 Manager Ziegler said there are several important things we need to know. He said we  
 196 know from historical information from the cities that the groundwater levels vary with the  
 197 season and has been trending down for many years. He said we know that there is some  
 198 salt pollution already in the groundwater. Manager Ziegler said it seems the District needs  
 199 to know what it does not know and that is why we need this program. Manager Duevel  
 200 and Manager Crafton and President Pedersen concurred with Manager Ziegler’s  
 201 comments.

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

203

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

204

205 **b. Adopt Resolution 24-017 Authorizing Barr Task Order #46 to Analyze**  
 206 **Potential Duck Lake Outlet Modification**

207 Scott Sobiech said the Task Order is for additional surface water modeling of Duck Lake  
 208 to try to recreate outlet conditions that would mimic historic conditions. He explained the  
 209 goal is to try to design an outlet configuration that would mimic the historic conditions, in  
 210 which the lake level was about a foot to a foot and a half higher than the lake level after  
 211 the outlet was modified. Mr. Sobiech noted the control elevation would need to be kept  
 212 the same because the Department of Natural Resources (DNR) is adamant the control  
 213 elevation cannot change unless 100% of the riparian owners support a petition and the  
 214 City supports the petition.

215 Mr. Sobiech noted a complicating factor is the outlet sits on railroad company property.  
 216 He said historically it is difficult to get permission from a railroad to access and work on  
 217 their property.

218 Manager Ziegler moved to adopt Resolution 24-017 Authorizing Barr Task Order #46 to  
 219 Analyze Potential Duck Lake Outlet Modification. Manager Duevel seconded the motion.



220 Manager Koch objected to this artificial means of trying to do something. Manager Koch  
 221 said the right way to do this is to approach the riparian owners and get their permission.  
 222 He said the proposed approach is not an honest way and he is not in favor of going  
 223 forward in this manner.

224 Manager Crafton remarked the fact the DNR said it will be fine with this if the property  
 225 owners and the City sign off on this tells her the DNR could be fine with this.

226 Manager Ziegler said the DNR has agreed to stock Duck Lake this year with fish in  
 227 anticipation of a better lake level. He said that tells him the DNR is in favor of it. Manager  
 228 Ziegler said he does not know why the District would not do the engineering and present  
 229 something that the City, DNR, and residents could agree to.

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

231

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

232

233 **c. Adopt Resolution 24-024 Amending the Order of the Upper Bluff Creek**  
 234 **Restoration & Stabilization Project**

235 Administrator Jeffery explained the modification to that resolution is to clearly spell out  
 236 the monies that will be spent and that the culvert is part of the project. Manager Duevel  
 237 moved to adopt Resolution 24-024 Amending the Order of the Upper Bluff Creek  
 238 Restoration & Stabilization Project. Manager Crafton seconded the motion.

239 Manager Koch said this is a material change to a previously approved process. He said  
 240 this is not a minor matter and is something that will costs hundreds of thousands of  
 241 dollars, which is 30% to 40% of the original cost. Manager Koch stated it is his opinion  
 242 this update is not subject to an amendment without going through the appropriate plan  
 243 amendment process.

244 Mr. Smith said the legal notion here is this is a clarification and is based on the record that  
 245 was made and this is not a material change that affects the participating parties in the  
 246 project.

247 Administrator Jeffery said it is included within the resolution that was drafted. He said  
 248 when staff came to the Board in December about the Upper Bluff Creek Restoration and  
 249 Stabilization project, staff described the culvert as part of the project in partnership with  
 250 the City of Chanhassen. Administrator Jeffery said legal counsel Michael Welch, upon

251 reviewing the December resolution, thought the resolution was not clear the culvert was  
 252 part of the project, which is the reason for this amendment to clarify it.

253 Manager Koch stated he disagrees with Mr. Smith’s characterization. Manager Koch said  
 254 he thinks this is part of an ongoing effort to try to come up with some different definition  
 255 of “material.” He said this does not comply with the 10-year plan process and  
 256 requirements and he hopes we do not have to end up in the same places as we are with  
 257 certain other proposed plan amendments. Manager Koch said it is a matter of the process.  
 258 He said he cannot imagine anybody in any stretch of the imagination would all the sudden  
 259 say this is something we just forgot about or an oversight or an oversight to the tune of  
 260 hundreds of thousands of dollars. He said it just does not add up or cut it, so why do we  
 261 not just do it the right way and come up with the amendment to the plan for this project  
 262 and go through the requisite procedure, instead of constantly trying to come up with  
 263 excuses for not following the rules.

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

265

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

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268

**10. New Business**

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**a. Items Removed from Consent Agenda**

270

**i. Approve Permit 2023-074 TH 101 Culvert Replacement as Presented in the Proposed Board Action Section of the Permit Review Report.**

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Manager Koch asked if the capacity for this culvert has been adjusted based on anticipated maximum rainfall events and does the project include any type of water retention or slowing and is the concrete treated on the interior and exterior to maximize its lifespan.

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Mr. Sobiech responded the applicant is proposing to replace only the upstream portion of the pipe and the far downstream portion. He explained the applicant is proposing to replace and extend the downstream end with reinforced concrete

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278

279 and is not proposing to replace the main portion, or the steel pipe, under the  
 280 roadway. Mr. Sobiech said the main portion will remain unchanged. He said the  
 281 applicant is not proposing any new water retention or detention and the  
 282 applicant is not required to do so to meet the District’s rules. Mr. Sobiech said  
 283 there is no new water entering this pipe. Mr. Sobiech said the lifespan of  
 284 reinforced concrete is 50 to 100 years, which is more than adequate.

285 Manager Koch wondered if the District should be proposing improvements that  
 286 could provide erosion reduction or proposing any additional work in connection  
 287 with this culvert project.

288 Mr. Sobiech said in terms of additional work the District could do, perhaps  
 289 there is minor streambank stabilization that could be done downstream of the  
 290 culvert project. He said the project already includes some of that, so additional  
 291 work would mean extending work beyond the project’s reach. Mr. Sobiech said  
 292 regarding replacing the pipe under the roadway, the Department of  
 293 Transportation was clear it does not want to replace it because it does not want  
 294 to shut down the roadway. He reminded the Board the DOT did a video  
 295 inspection of the pipe and determined through an assessment that the steel pipe  
 296 under the roadway is in adequate condition.

297 Manager Ziegler moved to approve permit 2023-074 Culvert Replacement as  
 298 Presented in the Proposed Board Action Section of the Permit Review Report.  
 299 Manager Duevel seconded the motion.

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

301

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

302

303 **ii. Approve Permit 2024-004 Clear Springs Elementary Parking Lot as**  
 304 **Presented in the Proposed Board Action Section of the Permit**  
 305 **Review Report**

306 Manager Koch asked what the District could do regarding large parking lots and  
 307 salt to clean up salt and minimize the amount of salt, which could run off the lot  
 308 and into wetlands and lakes. He asked if the District has the ability to require  
 309 shopping center owners, if they are going to do parking lots, to adopt some  
 310 procedures to minimize situations of excess salt.

311 Manager Ziegler moved to approve Permit 2024-004 Clear Springs Elementary  
 312 Parking Lot as presented in the proposed Board action section of the permit  
 313 review report. Manager Duevel seconded the motion.

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

315

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

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317

318 **b. Accept February Treasurer’s Report**

319 Manager Crafton said the February Treasurer’s Report has been reviewed in compliance  
 320 with our internal controls and practices. She moved to accept the February Treasurer’s  
 321 Report. Manager Duevel seconded the motion.

322 Manager Koch asked if our balance sheets and income statements are based on cash or  
 323 accruals or a combination of both. He asked the Audit and Finance Committee to look at  
 324 that issue. He commented on two payments reflected in the report, the payments to  
 325 Chanhassen and Eden Prairie, which are noted as 2023 items, and he said they should be  
 326 receipts and disbursements, not income and expenses. He asked if those two items are  
 327 reflected in the 2023 financials, even though we pay them now. Manager Koch said his  
 328 understanding is the District accrues expenses rather than booking them on the basis of  
 329 paying them.

330 Administrator Jeffery said today Redpath sent him a final 2023 report, which includes  
 331 the two expenses Manager Koch is referencing.

332 Manager Koch stated he does not believe it is proper accounting to utilize the credit  
 333 card as the vendor because the vendor is the actual person or company. He said the  
 334 credit card company is just a financing arrangement. He said an alternative is acquiring  
 335 purchasing cards. He said putting it down as the credit card is the vendor is misleading  
 336 and makes it more difficult to determine if there are any issues or funny business or  
 337 fraud with our accounting procedures.

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

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

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341

**c. Adopt Resolution 24-022 Approving Payment of the Bills**

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Manager Crafton moved to adopt Resolution 24-022 Approving Payment of the Bills.

343

Manager Duevel seconded the motion. Upon a roll call vote, the motion carried 5-0 as

344

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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**d. Adopt Resolution 24-023 Authorizing the Administrator with Advice of Counsel to Enter into Agreement for Lake Vegetation Management**

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Manager Ziegler moved to adopt Resolution 24-023 Authorizing the Administrator with

350

Advice of Counsel to Enter into Agreement for Lake Vegetation Management. Manager

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Duevel seconded the motion.

352

Administrator Jeffery reported the District received bids from five entities, but not all

353

five were able to do all of the lakes or all of the treatments. He said Mr. Maxwell

354

applied for grants for the project and the District was awarded three.

355

Upon a roll call vote, the motion carried 4-0 as follows:

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

Duevel	Yes
Koch	Abstain
Pedersen	Yes
Ziegler	Yes

357

**11. Discussion Items**

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359

**a. Update on Lawsuit Larry Koch v. RPBCWD and Terry Jeffery (the Board may go into closed session)**

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361  
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Mr. Smith recommended the Board adopt a motion to go into closed session for the purpose of receiving confidential legal advice concerning litigation strategy in the matter of Koch v. Riley Purgatory Bluff Creek Watershed District and Terry Jeffery.

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Manager Ziegler moved to go into closed session for the purpose of receiving confidential legal advice concerning litigation strategy in the matter of Koch v. Riley Purgatory Bluff Creek Watershed District and Terry Jeffery. Manager Duevel seconded the motion.

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Manager Koch asked for assurances that this closed session is going to be limited to legal advice and will not contain information that is not legal advice. He said he does not consider the status of the litigation to be legal advice.

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371  
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Mr. Smith said the motion was to receive confidential legal advice concerning litigation strategy and that may well include the status of litigation in order to understand the litigation strategy.

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

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

375

The Board moved into closed session 8:56 p.m.

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377

The Board reconvened the public meeting at 9:22 p.m.

378 President Pedersen reported that in closed session Manager Zigler made a motion,  
 379 seconded by Manager Duevel to come out of closed session and the motion carried 4-0.

380

381 **b. Acquisition of 9955 Spring Road, 9875 Spring Road, and PID 281162230005**  
 382 **(the Board may go into closed session)**

383 Mr. Smith recommended the Board adopt a motion to go into closed session to discuss  
 384 the development of terms for the potential acquisition of 9955 Spring Road, 9875  
 385 Spring Road, and the parcel PID 2811622320005 in Eden Prairie.

386 Manager Ziegler moved to go into closed session for the purposes recited by Mr. Smith.  
 387 Manager Duevel seconded the motion.

388 Manager Koch said he is having difficulty hearing Mr. Smith. Manager Koch asked  
 389 about the purpose of the closed session.

390 Mr. Smith responded the purpose is to go into closed session for the purpose of  
 391 considering terms of the potential acquisition of the three parcels of property listed on  
 392 the agenda.

393 Manager Koch asked if we are talking about changing the price. He asked if we are  
 394 talking about a non-public appraisal. He asked if we are talking about offers or counter  
 395 offers.

396 Mr. Smith said we will discuss the potential terms of the acquisition and all of those  
 397 matters are appropriate for closed session.

398 Manager Koch said we have an agreement and the terms are known to everyone. He  
 399 said he does not know why we would go into closed session when we have an  
 400 agreement and no foundation laid for any of the reasons why you can go into closed  
 401 session.

402 Mr. Smith said he has nothing further to say.

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

404

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

405

406 The Board moved into closed session at 9:34 p.m. to discuss the development of terms  
407 for the potential acquisition of 9955 Spring Road, 9875 Spring Road, and the parcel PID  
408 2811622320005 in Eden Prairie.

409 The Board reconvened the public meeting at 9:59 p.m.

410 The Board agreed by consensus to hold a special meeting of the Board on Tuesday,  
411 March 26, 2024, at 10:00 a.m.

412

## 12. Member Reports

413 • **Manager Reports**

414 Manager Koch suggested the managers have laptops to better facilitate hybrid  
415 meetings. He offered other suggestions for microphones and camera locations and  
416 meeting room configurations.

417 Manager Koch asked if we are going to get some advice memo as to the  
418 reinstatement of the official rules regarding employee-non-employee will affect the  
419 organization. He said he would like to see a memo on what impact there is if any.

420 Manager Koch said he would like to see a memo calling into question using a 1099  
421 versus a W-2.

422 Manager Koch commented on his prior written manager report regarding a need for a  
423 human resources person. He said to his knowledge those items have not been  
424 addressed and also to his knowledge none of us have that experience or those skills.

425 Manager Koch asked if efforts are being made to find state funding for the  
426 acquisition of the Spring Valley parcels being discussed. Administrator Jeffery  
427 responded no efforts beyond the original efforts.

428 Manager Ziegler commented he does not think the Board meeting space should be  
429 configured in the current arrangement, which has visitors sitting behind the managers  
430 and facing their backs.

431

432 • **Administrator Report**

433 No report.

434

435 • **Legal Counsel Report**

436 Mr. Smith reported on the status of the chloride legislation and efforts of getting  
437 interested parties together to reach agreement over contents of a bill that could make  
438 its way through the legislature. He said some parties believe the landscape  
439 associations could certify salt applicators and other parties believe it should stay with  
440 Minnesota Pollution Control Agency (MPCA). Mr. Smith said the organizations  
441 signing the letter have the goal to have new legislation introduced that would provide  
442 liability protection for just negligence, not gross negligence, and would maintain



443 certification of the salt applicators with the MPCA and would provide for that  
444 certification to be good for at least three years.

445

**13. Upcoming Board Topics**

446 No upcoming topics were previewed.

447

**14. Upcoming Events**

- 448 • March 14, 2024 – Cedar Ridge Science Night
- 449 • March 19, 2024 – Woodland Invaders Workshop
- 450 • March 21, 2024 – Lake Association Summit
- 451 • March 25, 205 – Metropolitan Regulators Meeting

452

**15. Adjournment**

453 Manager Ziegler moved to continue this meeting to Tuesday, March 26 at 10 a.m.  
454 Manager Duevel seconded the motion.

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

456

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

457

458 At 10:13 p.m. the Board continued this meeting to Tuesday, March 26 at 10:00 a.m.

459

460

461

462

Respectfully submitted,

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464

465  
466

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Tom Duevel, Secretary