

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

June 7, 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
 Zach Dickhausen, Natural Resources Coordinator
 Terry Jeffery, District Administrator
 Joshua Maxwell, Water Resources Coordinator
 Mat Nicklay, Natural Resources Technician
 Louis Smith, Attorney, Smith Partners
 Scott Sobiech, Engineer, Barr Engineering Company

Other Attendees: Andrew Aller Ted Melby
 Arne Bjork, CAC Michael Pressman
 Andrew Hartmann Maya Santamaria, EP Duck Lake Assoc.
 Greg Hawks Nathan Terhaar
 Louise Ludford, CAC

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, June 7, 2023, Board of Managers Regular
 2 Meeting at 7:01 p.m. Mr. Smith called attendance for the Board of Managers.

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

Pedersen	Present
Ziegler	Present

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Manager Koch stated the District is conducting this meeting via Zoom out of an abundance of caution due to the Covid pandemic and high-risk Board members.

2. Approval of Agenda

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Administrator Jeffery announced the removal of the Lake Susan Park Pond agenda items, 8d and 8e, because the District received only one quote, which came in above the Engineer’s Opinion of Cost. He said staff will reach out to try to learn the reason behind the elevated quote. He said he anticipates going out for more quotes. Administrator Jeffery reported Mr. Pressman of Conservation Solutions will be attending tonight’s meeting and has questions for the managers about the language in the agreement. Administrator Jeffery recommended adding to the agenda action item, 8h - Authorize the Administrator with the Advice of Legal Counsel to Enter into Agreement with Conservation Solutions.

Manager Koch requested removing from the Consent Agenda item 7e – Adopt Resolution 2023-039 Electing not to Waive Monetary Limits on Municipal Tort Liability as Listed in Minn. Stat. 466.04. He requested adding it as an action item.

Manager Koch moved to approve the agenda with the proposed amendments and to change the Consent Agenda language to “Receive the Staff Report” and “Receive the Engineer’s Report” and “Receive the Regulatory Report” because he wants to reserve the opportunity to discuss the reports during the Administrator’s Report. 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

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3. Adoption of Motion to Limit Debate and Discussion to 10 Minutes per Manager

27 Manager Pedersen moved to limit debate and discussion to 10 minutes per manager per topic.
 28 Manager Crafton seconded the motion.

29 Manager Koch said the District’s Governance Manual states the Board’s motions and resolutions
 30 should be proposed in writing.

31 Manager Koch said he does not believe limiting debate is appropriate and the proposal should be
 32 discussed by the Governance Committee. He said the Governance Committee should make a
 33 proposal to the Board before the Board revises the District’s Governance Manual, which states
 34 the Board is to follow Robert’s Rules of Order, which allows each manager two 10-minute
 35 periods of time for debate and discussion. Manager Koch recommended the Board follow its
 36 Governance Manual and Robert’s Rules of Order until the Board receives a report from the
 37 Governance Committee as to why the Board’s procedure should be changed.

38 Manager Duevel said he thought Robert’s Rules of Order also gives the prerogative to the Board
 39 President to extend the amount of time for discussion if it would be fruitful for the group and the
 40 discussion.

41 Upon a roll call vote, the motion carried 4-1.

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

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4. Matters of General Public Interest

44 President Ziegler announced the procedure for raising matters of general public interest.

45 Ms. Maya Santamaria, President of the Eden Prairie Duck Lake Association, said the Association
 46 submitted a letter to the District requesting time on the Board’s meeting agenda to discuss the
 47 Association’s interest in a lake management plan being created for Duck Lake. She said the
 48 Association’s letter communicated the Association is willing to commit \$1,000 out of the
 49 Association’s membership money to help pay for expenses related to the lake management plan.
 50 Ms. Santamaria said the Association would like to get some of the first steps going regarding the
 51 plan, including the Board approving moving forward with the lake management plan. She
 52 requested the Board approve and support the Duck Lake lake management plan.

53 Administrator Jeffery said Joe Bischoff of Barr Engineering is putting together a scope of work
 54 for a lake management plan and it should be ready for the Board’s review by the Board’s July
 55 meeting.

56 Manager Koch said he does not remember a lake management plan for Duck Lake coming to the
 57 Board for discussion and approval or directing staff to act. He said he does not think staff and
 58 engineers should be spending money on this without the Board having information on this topic
 59 and without the Board’s approval. He said it behooves the Board not to take any action until the
 60 Board receives and discusses the letter from the Association, at which point the Board can direct
 61 staff accordingly.

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5. Reading and Approval of Meeting Minutes

63 a. Approve Minutes of the May 3, 2023, Regular Monthly Meeting of the RPBCWD
64 Board of Managers

65 Manager Pedersen moved to approve the minutes of the May 3, 2023, Regular Monthly
 66 Meeting of the RPBCWD. Manager Crafton seconded the motion.

67 Manager Crafton noted the following corrections: page 2, line 9, to update the
 68 organization’s name to Minnesota Watersheds; page 3, line 29, delete the word “of;” and
 69 page 5, line 107, to confirm if Manager Crafton seconded the motion.

70 Manager Koch commented he followed the Board’s adopted procedure of submitting
 71 comments to the various minutes in advance to the Administrator. He asked if
 72 Administrator Jeffery received Manager Koch’s changes to the minutes. Administrator
 73 Jeffery said yes. Manager Koch moved to incorporate his changes to the minutes.
 74 Administrator Jeffery displayed the minutes with proposed changes. He went through the
 75 following edits proposed by Manager Koch: line 1 insert “after resolving technology
 76 issues;” line 117 replace “accepted” with “accepting;” line 179 insert a comma after the
 77 word “not;” line 232 replacing the word “times” with “items;” and line 275 delete one
 78 extra space between “March” and “Treasurer’s.” Administrator Jeffery noted a correction
 79 to the spelling of Mat Nicklay’s name. Manager Pedersen and Manager Crafton accepted
 80 the changes as discussed, and the Board agreed to the changes by consensus.

81 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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b. Approve Minutes of the May 18, 2023, Continuation of the May 3rd Meeting of the Board of Managers

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Manager Pedersen moved to accept the minutes of the May 18, 2023, Continuation of the May 3rd Meeting of the Board of Managers. Manager Crafton seconded the motion.

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Manager Crafton noted a correction on line 99 to replace “Waters” with “Watersheds.”

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Mr. Smith suggested the following change to the language of the motion reflected on lines 66-71:

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President Ziegler repeated that the motion in front of the Board is to ask Legal Counsel to review the legal authority for the Board to delegate permitting decisions to the Administrator and to work with staff to propose revisions to the delegation resolution to address the concerns discussed by the Board, for example such revisions could make clear that if there is litigation or if there are multiple things happening at the same time, like a permit extension plus a change of ownership, those special cases should be brought back before the Board.

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Manager Koch said he agrees Mr. Smith’s language is a better recitation of the motion.

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The Board agreed to the changes by unanimous consent.

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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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c. Approve Minutes of the May 18, 2023, Work Session of the Board of Managers

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Manager Pedersen moved to approve the minutes of the May 18, 2023, Work Session of the RPBCWD Board of Managers. Manager Crafton seconded the motion.

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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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6. Committee Report

110 **a. Acceptance of the Citizens Advisory Committee Report and Minutes**
 111 Ms. Louise Ludford said she and Mr. Arne Bjork are representing the CAC. Ms. Ludford
 112 said the CAC made no motions at its last meeting. She reported the CAC discussed and
 113 had a lot of interest in the first Ecological Health Action Plan (EHAP) meeting. She said
 114 the CAC would like to know how it can stay updated on the EHAP discussions and
 115 information going forward. Ms. Ludford shared highlights from the CAC meeting
 116 minutes, including questions from some of the CAC members that could be topics for
 117 future presentations to the CAC.

118 Manager Koch asked when the Board would have a presentation on EHAP to receive the
 119 information presented to the CAC and if it would be a Board workshop topic.

120 Administrator Jeffery said he believes it is a topic for the Board’s August workshop.

121 Manager Koch asked to receive the information now that was shared with the CAC.

122 Administrator Jeffery said staff can give the managers an update on the work that has
 123 been done so far on EHAP.

124 Manager Koch moved to add this topic to the workshop agenda. Manager Crafton
 125 seconded the motion. 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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128 President Ziegler moved to accept the report from the CAC. Manager Koch seconded the
 129 motion. 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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132 **b. Confirm Board Representative for June 19, 2023, CAC Meeting**

133 Manager Crafton volunteered to be the Board representative at the CAC’s June 19, 2023,
 134 meeting.

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136 **c. Receive Personnel Committee Report and Minutes**

137 Manager Pedersen stated the Personnel Committee did not meet and has no report.

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139 **d. Receive Governance Committee Report and Minutes**

140 President Ziegler said the report is in the meeting packet.

141 Manager Koch said it is his experience there is a lack of availability during the meetings
 142 of the documents being reviewed at the time they are being discussed. He said the
 143 availability of such documents is required by the Open Meeting Law. Manager Koch
 144 recommended the Committee link to the documents they plan to review at the meeting so
 145 as to not violate the Open Meeting Law.

146 The Board received the Governance Committee Report and Minutes by unanimous
 147 consent.

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149 **e. Receive Audit and Finance Committee Report**

150 Manager Crafton reported the Committee met yesterday but does not yet have minutes
 151 drafted. She said the Committee discussed the District’s per diem payment policy and the
 152 financial statement reporting format. Manager Crafton said Audit and Finance Committee
 153 plans to schedule time to meet with Abdo and plans to have more discussion on internal
 154 controls and electronic check signing.

155 Manager Duevel stated the Committee plans to meet with U.S. Bank about the 4M Fund
 156 regarding what the fund is invested in and risk. Manager Duevel said the Committee plans
 157 to report back to the Board at its July 10th meeting.

158 Manager Koch announced he received a list of audit adjustments and a couple of other
 159 items from the auditor. He said he made comments and submitted them to the auditor and
 160 copied Administrator Jeffery and the District’s accountant.

161 Administrator Jeffery said the meeting with Abdo is scheduled for June 13th at 2:00 p.m.

162 Manager Duevel asked if the District has received comments from the auditor on
 163 adjustments to the District’s audit. Administrator Jeffery said he will forward that
 164 information from the auditor and Manager Koch’s comments to the Board.

165 The Board received the Audit and Finance Committee report by unanimous consent.
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7. Consent Agenda

167 President Ziegler listed the items remaining on the Consent Agenda, including 7a – Adopt
 168 Resolution 23-038 to Approve Consent Agenda; 7b – Receive May Staff Report; 7c –
 169 Receive May Engineer’s Report; and 7d – Receive May Regulatory Program Report.

170 Manager Koch moved to adopt Resolution 23-038 to approve the Consent Agenda as
 171 amended. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried
 172 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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8. Action Items

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

176 **i. Adopt Resolution 2023-039 Electing Not to Waive Monetary Limit**
 177 **on Municipal Tort Liability as Listed in Minn. Stat. 466.04**

178 Manager Pedersen moved to adopt Resolution 2023-039 Electing Not to Waive
 179 Monetary Limit on Municipal Tort Liability as Listed in Minn. Stat. 466.04.
 180 Manager Duevel seconded the motion.

181 Manager Koch said it is his recollection the Board considered if not approved
 182 increasing the limits for tort liability and approved the cost for the increased tort
 183 coverage.

184 Mr. Smith said he does not recall in the past the Board acting to approve
 185 insuring above the limits. He said staff can check. He said it is within the
 186 Board’s prerogative to insure above the limits.

187 Administrator Jeffery said the policy renewal is due in September, so the Board
 188 has July and August to consider the matter and make a decision.

189 Manager Koch moved to lay over this motion until the next Board meeting to
 190 provide time for Administrator Jeffery to search the records to see if the Board
 191 waived the limit in the past and to ask the District’s insurer to provide the
 192 District information on what the cost would be to increase liability coverage.
 193 President Ziegler seconded the motion with an amendment for staff to report on
 194 the costs not covered by insurance in the event of a lawsuit and that staff will
 195 bring this information to the Board at its next meeting. Manager Koch agreed to
 196 the amendments to the motion.

197 Mr. Smith said staff can bring this information back to the Board for discussion.
 198 President Ziegler reiterated that staff should bring the information to the Board
 199 at its next meeting.

200 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	Yes
Pedersen	No
Ziegler	Yes

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203 **b. Accept April Treasurer’s Report**

204 Manager Crafton moved to accept the April Treasurer’s Report. Manager Duevel
 205 seconded the motion.

206 Manager Koch asked for more information about the payment to Minnwest Aquacare.

207 Mr. Maxwell said it is for the Red Rock herbicide treatment. Manager Koch commented

208 about the invoice from Redpath and Company. He said he thought audit and accounting
 209 were to be broken into two separate items and he would like to see that breakdown.

210 Manager Koch asked about the invoice from the staff training and job coach.
 211 Administrator Jeffery said it needs to be determined if the funds for that cost will come
 212 from the professional development budget, payroll budget, or somewhere else.

213 Manger Koch said he is confused about the Visa payment and if payment happened
 214 before it was authorized by the District. Administrator Jeffery said the Board’s
 215 authorization of the credit card payment is after-the-fact and paid down prior to an
 216 authorization. Manager Koch said he thinks if this is the Board’s policy, it should be
 217 dealt with in the District’s internal controls and policies. He said he assumes the
 218 District’s Audit and Finance Committee will pick this issue up as appropriate.

219 Manager Koch asked why the report shows the District is running a negative number at
 220 a financial institution when the District has more than \$6,000,000 in its 4M Fund.
 221 Administrator Jeffery responded said the Audit and Finance Committee has discussed
 222 this and will be meeting with Redpath to discuss this. He said the Committee will bring
 223 this information to the Board at its July meeting.

224 The managers discussed accounts payable and what is included in that category.
 225 Manager Duevel said the Audit and Finance Committee is working to understand what
 226 is included in the different categories and is working to review the balance sheet with
 227 Redpath.

228 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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231 **c. Adopt Resolution 23-040 to Approve Paying of the Bills**

232 Manager Crafton moved to Adopt Resolution 23-040 to Approve Paying of the Bills.
 233 Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 5-0 as
 234 follows:

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

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f. Adopt Resolution 23-042 Authorizing the Purchase of Four Hach Autosamplers

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Manager Crafton moved to Adopt Resolution 23-042 Authorizing the Purchase of Four Hach Autosamplers. Manager Pedersen seconded the motion.

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Administrator Jeffery corrected the cost listed in the Resolution and announced the correct cost is \$63,668.00.

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Manager Koch said the proposal included the possibility of leasing the autosamplers from Barr Engineering. He asked why the District would not consider leasing, assuming payment would be on a monthly basis. Administrator Jeffery said the District is not looking to use the samplers for short term but for the long-term because the samplers will be long-term placements. Manager Koch said he thinks it makes sense for staff to do calculations to see whether buying or leasing the autosamplers is the most economical. He said perhaps the District could lease more autosamplers for less cost than buying autosamplers, which may be the best spend of the budget.

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Manager Koch said the District's equipment budget is \$50,000 and asked where the additional budget would come from.

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Administrator Jeffery said the District will be able to continually use the purchased autosamplers and he believes the cost benefit is there for purchasing the units. He went through the budget for lake vegetation management, pointing out savings that will be realized this year of \$11,422.11. Administrator Jeffery said those cost savings could be applied to equipment, bringing available equipment funds to \$61,422.11.

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Administrator Jeffery said there is a prevalence of Eurasian Watermilfoil on Lotus Lake right now. He noted the correlation between the increasing presence of Eurasian Watermilfoil and the increasing improvement of Lotus Lake's water quality. He described staff's discussion on the best management plan for Eurasian Watermilfoil and how that plan would realize a cost savings of \$10,595.00 from the District's 2023 budget. Administrator Jeffery said with this additional savings of approximately \$10,000 that could be applied toward equipment, the 2023 equipment budget would be approximately \$71,000, which would be adequate to purchase the four Hach autosamplers.

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267 Administrator Jeffery pointed out the cost, effectiveness, and habitat impact differences
 268 between the different lake treatment chemicals. He said if the District goes with the
 269 more expensive chemical, the 2023 budget is within \$1,500 of the cost estimate.
 270 Administrator Jeffery said there are additional funds in the 2023 data collection budget
 271 that could be used toward that \$1,500, or the District could choose to use the less
 272 expensive chemical this year, which would realize cost savings that could be applied
 273 toward the equipment purchase..

274 Manager Koch proposed the Board discuss at an upcoming Board meeting or workshop
 275 the proposed adjustments to budget line items.

276 Manager Koch moved to amend the motion to update the Resolution with the actual
 277 dollar amount of \$63,668.00 and add that the excess over-the-budget will be taken out
 278 of District reserve funds and the Administrator will come back to the Board with any
 279 other adjustments he recommends, if any, to replace the amount taken out of the reserve
 280 or the excess of the \$63,668.00 over and above the \$50,000 currently allocated for
 281 equipment. Manager Crafton seconded the motion.

282 Upon a roll call vote, the motion to amend 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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285 Upon a roll call vote, the amended 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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g. Adopt Resolution 23-043 to Authorize Entering into a Cost Share Agreement with the City of Eden Prairie for a Native Vegetation Planting, Bee Lawn, and Installation of Energy Dissipators in a Stormwater Basin.

Manager Pedersen moved to Adopt Resolution 23-043 to Enter into a Cost Share Agreement with the City of Eden Prairie for a Native Vegetation Planting, Bee Lawn, and Installation of Energy Dissipators in a Stormwater Basin. Manger Crafton seconded the motion.

Manager Duevel asked if the City of Eden Prairie is applying for a District grant. Administrator Jeffery said yes, a cost-share grant and the District would reimburse the City for \$11,355.00 or 50% of costs, whichever is less, and the City of Eden Prairie will pay the remainder of project cost.

Manager Koch said he submitted a number of proposed changes to the agreement to clarify the terms and the responsibilities and requirements of the District.

Manager Koch moved to amend the motion to adopt Resolution 23-043 to add that the comments provided by Manager Koch be reviewed by District Legal Counsel and incorporated as Legal Counsel and the Administrator deem appropriate. Manager Duevel seconded the motion.

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

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

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

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

Ziegler	Yes
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h. Authorize Administrator with Advice of Legal Counsel to Enter into Agreement with Conservation Solutions

Administrator Jeffery reminded the Board it directed staff to engage Conservation Solutions to assist with District processes. He reported staff has been working through the District’s standard agreement with Mr. Pressman of Conservation Solutions. Administrator Jeffery said Mr. Pressman had some questions about the insurance requirements and is requesting a mutual indemnification, which is the topic in front of the Board tonight.

Mr. Smith said waving some of the District’s insurance requirements is not an unusual thing for the Board to consider when dealing with a contractor providing administration services and/or the Board perceives there is small risk exposure and the insurance requirements would be considered onerous by the contractor. Mr. Smith said the request for mutual indemnification is unusual and is not something Legal Counsel typically recommends. He said it would be unusual for the District to indemnify a professional service provider. Mr. Smith said Mr. Pressman can speak to his concerns.

Mr. Pressman commented he does not have commercial insurance for his work as a contractor. He raised his concerns over the District’s standard agreement clause regarding indemnification of the District and said it seems fair and reasonable if the District is negligent and exposes him, the contractor, that there is reciprocity in that matter. Mr. Pressman addressed how this project with the District is a higher risk project given the project’s history.

Manager Koch said his view is in light of the history, it would not be unusual for the District to agree to indemnify Mr. Pressman, should he get hauled into court or get entangled in litigation, with the exclusion of if it is a result of his negligence or wrongful action.

Manager Koch moved to authorize Mr. Smith to draft appropriate indemnification language to protect the District from Mr. Pressman’s negligence and wrongful acts and Mr. Pressman would be protected if the District ends up in court in litigation over this project and incurs fees that has nothing to do with his negligence or wrongful actions. Manager Pedersen seconded the motion. Manger Koch amended his motion to authorize the inclusion of a contract with those indemnification terms and such other terms as Legal Counsel deems appropriate and to authorize either the Board President or District Administrator to execute that contract on behalf of the District. Manager Pedersen consented to Manager Koch’s amendment to 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

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9. Discussion Items

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a. Independent Contractor Status for Per Diem Payments

Administrator Jeffery reported he met last week with a payroll specialist at Abdo. Administrator Jeffery said Abdo’s opinion is the District managers do not meet independent contractor status and the District should continue with the W-2 process. Administrator Jeffery said he asked other metro-area watershed districts and received seven responses. He reported three of those districts treat the Board managers as independent contractors and use 1099s and pay the Board managers as vendors, and the remaining use the payroll and W-2 process. He said the Audit and Finance Committee asked Administrator Jeffery to survey additional watershed districts, talk with Redpath on the topic, and request Mr. Smith to ask the state auditor for an opinion.

Administrator Jeffery said he will come back to the Audit and Finance Committee with more information and the Committee will bring information and a recommendation to the Board.

Manager Koch said he will forward a link to the IRS website to Administrator Jeffery regarding information on the topic.

Mr. Duevel said he does not view this as a black and white issue. He said the Audit and Finance Committee will report back to the Board after getting more inputs.

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

366 **b. Closed Session to Discuss the Potential for Acquisition of Property Located**
 367 **at 9955 and 9875 Spring Road, Eden Prairie, MN and PID 2811622320005**

368 Mr. Smith recommended the Board adopt a motion to go into closed session for the
 369 purpose of developing terms for the potential acquisition of property located at 9955 and
 370 9875 Spring Road, Eden Prairie, Minnesota and Minnesota Property ID (PID)
 371 28116223220005.

372 Manger Koch moved to go into closed session for the purpose of developing terms for
 373 the potential acquisition of property located at 9955 and 9875 Spring Road, Eden
 374 Prairie, Minnesota and Minnesota Property ID (PID) 28116223220005. Manager
 375 Pedersen seconded the motion. 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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 378 The Board moved into closed session at 8:56 p.m.
 379 The Board reconvened the public regular monthly Board meeting at 9:36 p.m.
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10. Manager Reports

381 Manager Koch said he will wait until the Board’s July meeting to discuss his items.

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 383 President Ziegler reported on the Duck Lake Bridge dedication ceremony. Administrator
 384 Jeffery said the project plaque has been designed and will be placed in the center of the
 385 railing at the fishing pier.
 386

11. Administrator Reports

387 Administrator Jeffery said he will be meeting with the Board of The Friends of Red Rock
 388 Lake Association this month.

389
 390 Manager Koch asked for a status update on the office furniture and the District office HVAC
 391 system. Administrator Jeffery said he should have quotes and information to report to the

392 Board at its July meeting. President Ziegler said he hopes the Board’s July regular meeting
 393 will be held as a hybrid meeting.
 394

12. Legal Counsel Reports

395 Mr. Smith said there was a manager request for a report on the United States Supreme Court
 396 decision about the extent of the federal government’s jurisdiction over the waters of the
 397 United States. Mr. Smith said the Sackett v. the Environmental Protection Agency decision is
 398 a very significant decision for protecting wetlands and small tributary streams in states where
 399 there are not strong state laws.

400 Mr. Smith said Minnesota has the Wetland Conservation Act, which is in most ways more
 401 protective of wetlands than federal regulations. He said the decision by the Supreme Court,
 402 which constrained the authority of the federal government concerning regulation of impacts
 403 to waters of the United States, will not have a significant impact on the way the Watershed
 404 District does business other than if there are some cases in which the District might undertake
 405 a wetland restoration project or other large-scale projects that impact wetlands and there may
 406 still be a requirement to get a permit from U.S. Army Corps of Engineers. He said the Sackett
 407 Decision does implicate the regulatory reach of the U.S. Army Corps of Engineers in that
 408 regard.

409 Mr. Smith said this issue regarding regulatory reach over waters has gone back and forth in
 410 the U.S. Congress and has changed with each presidential administration, and the U.S.
 411 Supreme Court has taken this issue up a number of times as well. Mr. Smith said the recent
 412 decision and conservative view by the Supreme Court is that there needs to be physical
 413 adjacency for a wetland’s connection to a navigable waterbody for it to be a water of the
 414 United States and subject to federal regulation. He said the federal government’s reach will
 415 now be more constrained. Mr. Smith said the bottom line is the Sackett decision does not
 416 really directly impact the way the District goes about its business.

417 Manager Crafton said the state is looking to take over some jurisdiction from the U.S. Army
 418 Corps of Engineers. She said it has not been approved but is in the process of development.
 419 She said if this is approved and it is done well, there will be better protection in place,
 420 particularly for the ephemeral and intermittent streams.

421 Administrator Jeffery said the Wetland Conservation Act does not regulate federal streams
 422 but the District’s rules do regulate them through flood plain and stream bank stabilization. He
 423 said the District’s rules will still be in place but the state will not be protecting federal
 424 streams.

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13. Upcoming Board Topics

426 Manager Koch asked Administrator Jeffery to circulate the list of upcoming topics.
 427 Administrator Jeffery said he will present it at the Board’s June workshop.

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