

**MEETING MINUTES**

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

**April 3, 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: Zach Dickhausen\*, Natural Resources Coordinator  
 Liz Forbes\*, Communication Manager  
 Terry Jeffery, District Administrator  
 Eleanor Mahon\*, Community Engagement Coordinator  
 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: Scott Anderson                      Betsy Preus  
 Morgan Jacobs                                      Chris Preus  
 Ted Melby    Marilyn Torkelson

*\*Attended the meeting virtually.*

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

1        President Dorothy Pedersen called to order the Wednesday, April 3, 2024, Board of Managers  
 2        Regular Meeting at 7:01 p.m. at the District Office, 18681 Lake Drive East, Chanhassen,  
 3        Hennepin County, Minnesota.

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

9        Louis Smith 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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**2. Approval of Agenda**

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Manager Ziegler moved to accept the agenda. Manager Duevel seconded the motion.

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President Pedersen noted the addition of agenda item 4d – Statement on the Performance Review of the District Administrator.

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Manager Larry Koch requested removing items 6b – Receive March Staff Report; 6d – Receive March Regulatory Report; 6e – Approve Permit 2023-031 Lake Susan Park Pond Reuse System Intake Modification as Presented in the Proposed Board Action Segment of the Permit Review Report; and 6f – Adopt Resolution 24-032 to Enter into a Cost Share Agreement with The Preserve Association for a Shoreline Buffer Project not to exceed \$20,000 and Professional Maintenance not to Exceed \$3,000. He requested adding item 7g to discuss data requests. Manager Koch said he will have comments to make under manager reports.

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Manager Ziegler asked to add item 5iv – Audit and Finance Committee Report.

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Manager Ziegler and Manager Duevel agreed to the amendments. 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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**3. Matters of General Public Interest**

28 President Pedersen explained the procedures for raising matters of public interest.  
 29 No matters of public interest were raised.

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

31 **a. Approve Minutes of the March 13, 2024, Regular Meeting of the RPBCWD Board of**  
 32 **Managers**

33 Manager Ziegler moved to approve the minutes of the March 13, 2024, Regular Meeting  
 34 of the RPBCWD Board of Managers. Manager Crafton seconded the motion.

35 Manager Koch asked for the meeting agenda, titles of documents, and minutes to have  
 36 consistent numbering.

37 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

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40 **b. Approve the Minutes of the March 26, 2024, Continuation of the March 13<sup>th</sup> Regular**  
 41 **Meeting of the Board of Managers.**

42 Manager Crafton moved to approve the minutes of the March 26, 2024, Continuation of  
 43 the March 13<sup>th</sup> Regular Meeting of the Board of Managers. Manager Duevel seconded the  
 44 motion.

45 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
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**c. Approve the Minutes of the March 28, 2024, Special Meeting of the Board of Managers**

Manager Crafton moved to approve the minutes of the March 28, 2024, Regular Meeting of the RPBCWD Board of Managers. Manager Crafton seconded the motion.

Manager Koch suggested as a matter of order if items are added to the agenda after the original posting that staff send a courtesy email to notify managers of the updates. He said he thinks members of the public should be notified as well.

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

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

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**d. Statement on the Performance Review of the District Administrator**

President Pedersen stated the Board of Managers held a Special Meeting on March 28, 2024, in which the Board met in closed session for the purpose of evaluating the performance of District Administrator Terry Jeffery.

President Pedersen reported that the salient points of the evaluation are as follows:

Managers evaluated Mr. Jeffery as to six categories of his major accountabilities:

1. With the Board of Managers, develop and adjust goals, programs, policies, projects and priorities to ensure prudent use and management of water and related land resources in the District.
2. Manage District activities to implement the District’s goals and objectives through coordination with government agencies and supervision of District consultants, vendors, and contractors.
3. Manage District budgets and finances to ensure resources are available to accomplish District goals and objectives and to maintain financial stability;
4. Represent the District in the community and support the Board’s similar efforts demonstrating leadership that helps to achieve District goals and objectives;

- 74 5. Perform related duties consistent with the role of District Administrator as directed  
75 by Board; and,  
76 6. Perform other duties as apparent or assigned.  
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78 President Pedersen stated the managers reviewed and discussed the collective comments  
79 of all six of these accountability categories and general comments. She reported three  
80 managers rated Mr. Jeffery’s performance at 5, or outstanding, on all six categories.  
81 President Pedersen stated one manager provided a rating of four, or exceeds requirements,  
82 in five of the six categories, for an average rating of 4.25. Manager Pedersen reported one  
83 manager rated Mr. Jeffery’s performance as one, or unacceptable, in four categories and  
84 no rating in two categories, for an average rating of 0.8. President Pedersen said in  
85 combination the average rating by all the managers was 4.27, which is “exceeds  
86 requirements.” President Pedersen said based on this rating, Mr. Jeffery’s years of  
87 experience, and merit guidelines, the Board of Managers approved by a vote of 4-1 a  
88 6.25% salary increase to \$115, 394.

89 Manager Koch stated he has comments on Mr. Jeffery’s review, including how the review  
90 deviated from past practices. Manager Koch said he could make his comments now or  
91 during Managers Reports. President Pedersen responded that he could provide comments  
92 during Manager Reports.  
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**5. Committee Reports**

94 **a. Adopt Resolution 2024-027 Receiving Committee Reports.**

95 **• Receive Audit and Finance Committee Report**

96 Manager Crafton reported the Committee recommends adjusting the  
97 Administrator’s discretionary spending limit. She said the Committee reviewed  
98 and edited financial policies. Manager Koch said he would like to see  
99 justification for any increase in spending limits before we increase limits. He  
100 asked if the Committee developed recommendations for the accounting and  
101 finance policies that go into the Governance Manual as well as those upon which  
102 the District’s audit is based.

103 Manager Crafton responded the Committee has not yet finished a total review.

104 Manager Koch asked if changes to the accounting and finance policies can be  
105 accomplished before the next audit is due to be completed.

106 Administrator Jeffery said the April 18<sup>th</sup> Board of Managers Workshop includes  
107 going through the Governance Manual and the recommendations from the Audit  
108 and Finance Committee and the Governance Committee. He said ABDO is  
109 scheduled to be on site April 25 and 26 and tentatively scheduled to present to  
110 the Audit and Finance Committee the last week of May and to the Board in June  
111 for a discussion of the audit at that time.

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- **Receive Governance Committee Report**

Manager Ziegler said the Committee meeting minutes are in the Board packet.

Manager Koch asked for clarification about the details discussed regarding invoice payment timeframes. Administrator Jeffery said stemming from the Board’s discussion a year ago, the District’s new contracts put forward to vendors and contractors have 45-day payment language. He said the current Governance Manual reflects 30 days, but the Board changed it to 45 days, which is adequate, but the edit to the manual was written as 60 days.

Manager Koch suggested the Governance Committee and the Audit and Finance Committee revisit that because of the interplay between the statute and what the District’s Governance Manual has to say and what we can put in as our requirements for our contracts. Manager Koch pointed out people were looking at Code of Conduct and some requested insertions, so he recommends the public take a look at the minutes as well as regarding discussions about Data Practices Act and cost requirements. Manager Koch said there was some discussion about 1099s. He said he thinks the District or Minnesota Watersheds should ask for an opinion from the IRS as to whether managers are considered employees. Manager Koch recommended the Audit and Finance Committee and the Governance Committee relook at that issue.

- **Receive Citizen Advisory Committee’s Report and Minutes**

Marilyn Torkelson reported the CAC had at its most recent meeting a wonderful presentation by District staff Andrew Hartmann and Josh Maxwell on the water quality report and Score Your Shore. She reported one CAC member commented that neither the DNR version nor the District’s version of Score your Shore assesses whether native plants are used.

Ms. Torkelson said Mr. Maxwell informed the CAC that when District staff walk the creeks, staff identify location of springs. She said this was one of the items on the CAC’s list to the Board.

Manager Duevel moved to adopt Resolution 2024-027 Receiving Committee Reports. Manager Ziegler 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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**b. Confirm Board Representative for April 15, 2024, CAC Meeting**

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Manager Duevel volunteered to be the Board representative at the April 15<sup>th</sup> CAC meeting.

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**6. Consent Agenda**

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**a. Adopt Resolution 24-028 to Approve Consent Agenda**

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President Pedersen listed the items remaining on the Consent Agenda: 6a – Adopt Resolution 24-028 to Approve Consent Agenda and 6c – Receive March Engineer’s Report. Manager Crafton moved to adopt Resolution 24-028 to Approve Consent Agenda. Manager Duevel seconded the motion.

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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

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**7. New Business**

161 **a. Items Removed from Consent Agenda**

162 **i. Receive March Staff Report**

163 Manager Koch asked staff to create a table of the grant applications and awards  
 164 and for the table to be updated when the grant applications are submitted and  
 165 when grants are awarded and received. He said he thinks grants would be a good  
 166 workshop topic.

167 Manager Koch asked about the District’s timeline for reviewing its rules. Mr.  
 168 Jeffery responded there is not a defined schedule at this point and it will coincide  
 169 with the 10-Year Plan unless it gets advanced.

170 Manager Koch suggested the District contract out for services to review the  
 171 District website to see if it is user friendly. He said he finds it challenging to find  
 172 things on the District website. Manager Koch mentioned the City of Chanhassen  
 173 and other cities have publications. He suggested the District publish highlights in  
 174 those publications.

175 Manager Crafton suggested staff look at the Lakeville water conservation model  
 176 instead of the Woodbury model. She said the Lakeville program is very  
 177 comprehensive and is saving millions of gallons of water.

178 Manager Ziegler moved to accept the staff report. Manager Duevel seconded the  
 179 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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182 **ii. Receive March Regulatory Report**

183 Manager Koch referred to the violation summaries in the report and said we need  
 184 to make sure that if we allow after-the-fact permits we recoup our costs. He said  
 185 this is a good topic to discuss as part of the District’s rules revisions discussion.

186 Manager Ziegler moved to receive the March regulatory report. Manager Duevel  
 187 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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**iii. Approve Permit 2023-031 Lake Susan Park Pond Reuse System Intake Modification as Presented in the Proposed Board Action Segment of the Permit Review Report**

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Manager Koch asked why the permit number is 2023 but it is coming in front of the Board only now. Administrator Jeffery said the permit was previously approved but the project design has been modified to a better design and the permit is being modified to accomplish that goal.

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Mr. Sobiech explained the primary change is a change to the type of the structure, which is now designed to be rectangular instead of circular. He said there are changes to the screening as well as a change to move the structure back further from the shoreline. He said with these design changes the bids have come in considerably lower than the bids in spring 2023, making construction feasible at this time.

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Manager Ziegler approved Permit 2023-31 Lake Susan Park Pond Reuse System intake Modification as Presented in the Proposed Board Action Segment of the Permit Review Report with the modifications as presented. Manager Crafton 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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**iv. Adopt Resolution 24-032 to Enter into a Cost Share Agreement with The Preserve Association for a Shoreline Buffer Project not to exceed \$20,000 and Professional Maintenance not to Exceed \$3,000**

Manager Koch commented these are significant numbers for a project to go through on the consent agenda. He asked if we modified our cost-share program to allow for shoreline projects and if so, have we done enough to get the word out.

Administrator Jeffery said private residents can apply for grants for shoreline restoration that uses native plants or bio-engineering techniques and associations can apply for the grants. He said staff has been making a concerted effort to reach out to associations and to cities so more people know funding is available.

Mr. Smith asked if the District records a maintenance declaration. Administrator Jeffery said yes, and the District requires three years of maintenance and offsets a portion of the cost of maintenance. Mr. Smith recommended that in the agreement a declaration be recorded. He said Exhibit B would need to be updated.

Manager Koch asked if we are requiring signage. Administrator Jeffery said yes, signage is required indicating funding came from the RPBCWD. Manager Koch asked Administrator Jeffery to double check to make sure that requirement is covered in the grant agreement.

Manager Ziegler moved to approve adopting Resolution 24-032 to Enter into a Cost Share Agreement with The Preserve Association for a Shoreline Buffer Project not to exceed \$20,000 and Professional Maintenance not to Exceed \$3,000. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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

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**b. Accept March Treasurer’s Report**

Manager Crafton moved to accept the March Treasurer’s report. She said it has been reviewed in compliance with our internal policies and controls. Manager Duevel seconded the motion.

240 Manager Koch reiterated his objection to utilizing the credit card company as the vendor.  
 241 He said he does not think it is a best practice. Manager Koch said it makes it too difficult  
 242 to track vendors. He said purchasing cards are an available solution and would provide for  
 243 ease of downloading documentation as to the exact vendor and would minimize time  
 244 accounting these items.

245 Manager Koch stated he prefers the terminology “receipts and disbursements” instead of  
 246 “income and expenses.”

247 Manager Koch asked the Audit and Finance Committee to look into whether the balance  
 248 sheet is cash, accrual, or some combination and to make it clear which it is. He asked staff  
 249 to look into possible ways to lower software licensing costs. Manager Koch said he thinks  
 250 the District should have an IT consultant.

251 Manager Crafton said each credit card receipt is reviewed and verified. She said the  
 252 balance sheet is a modified cash approach.

253 Manager Koch responded he believes in the philosophy of trust but verify. He said  
 254 payment by credit card is increasing compared to paying by check. He said the famous  
 255 words of people who experienced embezzlement is, “I trusted them,” which does not hold  
 256 up in the court of public opinion if the District gets hit up by dishonest people or  
 257 cyberattacks.

258 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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261 **c. Adopt Resolution 24-029 Approving Payment of the Bills**

262 Manager Crafton moved to adopt Resolution 24-029 Approving Payment of the Bills.  
 263 Manager Ziegler seconded the motion. Upon a roll call vote, the motion carried 5-0 as  
 264 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. Approve Permit 2024-006 Lake Lucy Lane Watercourse and Wetland Restoration as Presented in the Proposed Board Action Section of the Permit Review Report**

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Administrator Jeffery stated this is an after-the-fact permit for work to restore work done without a permit on a property in Chanhassen. Mr. Sobiech displayed a location map and described the plan to restore the excavation done in the wetland and the natural watercourse.

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Mr. Sobiech recommended approval of the permit contingent upon:

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- A financial assurance in the amount of \$39,325;

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- The applicant providing the name and contact information of the general contractor responsible for the site;

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- Receipt in recordation of a maintenance of the wetland buffer areas and check dam structures. Drafts of all documents to be recorded must be reviewed and approved by the District prior to recordation and proof of recordation must be provided to RPBCWD.

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- The applicant must provide the permit fee deposit to the original amount due before the permit will be issued. As of March 22, 2024, the amount due is \$1,300.

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Manager Koch asked if the District is being compensated for its time and expenses of having to deal with this after-the-fact permit application. Mr. Sobiech said one of the recommendations is for the reimbursement and establishment of the permit fee deposit to recoup and recover those costs. Manager Koch said he thinks the Board action needs to reflect this is an after-the-fact application, so no one is under any misunderstanding.

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Administrator Jeffery clarified this permit is not an after-the-fact permit and is instead a permit for work to restore an area that underwent work without a permit. Manager Koch commented this work would not have to be done and this permit would not have to be issued if the application was timely made. He said it is remedial work but is still after-the-fact permit.

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Manager Ziegler moved to approve Permit 2024-006 Lake Lucy Lane Watercourse and Wetland Restoration as Presented to the Board and in the Proposed Board Action Section of the Permit Review Report. Manager Duevel seconded the motion. Manager Koch moved to amend the proposed resolution on the fourth line of the proposed Board Action after the words “resolved that the...” to insert “after-the-fact.” Manger Ziegler and Manager Duevel agreed to the amendment.

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300 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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303 **e. Adopt Resolution 24-030 Amending Resolution 24-007 to Move the Regular**  
 304 **Meeting of the Board of Managers from May 1 to May 8**

305 Manager Ziegler moved to adopt Resolution 24-007 to Move the Regular Meeting of the  
 306 Board of Managers from May 1 to May 8. Manager Duevel seconded the motion.

307 Manager Koch said he thinks per statute changing the adopted meeting schedule means  
 308 the meeting will be a special meeting since the Board already approved the meeting  
 309 schedule.

310 Mr. Smith stated this would not be a special meeting and the Board would be amending its  
 311 regular meeting schedule. Manager Koch said he does not believe Mr. Smith is correctly  
 312 interpreting the statute or the ability to amend the general meeting schedule. Manager  
 313 Koch said Mr. Smith’s interpretation would basically eliminate all special meetings.  
 314 Manager Koch said we can hash that out as another one of our issues. Manager Koch said  
 315 he stands convinced this would be a special meeting and he thinks the statute is pretty  
 316 specific.

317 Manager Crafton commented the Board has taken this action before to change its meeting  
 318 schedule. Manager Koch responded that what Manager Crafton said is like saying it is ok  
 319 that I killed the person – they were going to die of cancer tomorrow anyhow. He said that  
 320 is not how you go about doing the statutes. He said two wrongs do not make a right.  
 321 Manager Koch said he has said this analogy before – just because everyone else jumps off  
 322 the bridge and kills themselves does not mean we do that.

323 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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**f. Adopt Resolution 24-031 Authorizing Barr Task Order 040B – Final Design and Bidding Support Services for Lotus Lake Alum Treatment (2<sup>nd</sup> Dose) Pursuant to Agreement for Engineering Services**

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Manager Duevel moved to adopt Resolution 24-031 Authorizing Barr Task Order 040B Administering Lotus Lake Alum Application. Manager Crafton seconded the motion.

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Manager Koch asked if a copy the task order was not posted on the website nor attached to the meeting agenda. Administrator Jeffery reviewed the agenda posted on the District website and said it was not posted. Mr. Sobiech displayed the task order and reviewed its four tasks including:

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1. Finalize dose and strategy, anticipated to be completed by June 2024.

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2. Develop bidding and documents, anticipated to be completed by June 2024.

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3. Application observation, anticipated to be completed by September 2024.

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4. Post alum treatment data analysis and reporting, anticipated to be completed by July 2025.

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Mr. Sobiech said the anticipated cost for Task Order 040B is \$41,600.

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Manager Koch reiterated comments he made at the last Board meeting regarding testing and monitoring in some of the shallow areas because of wake boat activity and wake boat activities disturbing the lake bottom and the water column. Manager Koch he thinks a testing-analysis program for Lotus Lake should include sampling in the shallower areas so we have a handle on where the phosphorous is and to see what happens before, during, and after the wake boats are on the lake.

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Manager Crafton noted Joe Bischoff is an expert in this field and that he stressed the alum will bind to the phosphorous. She said the District will be sampling for phosphorous in Lotus Lake to know what is going on.

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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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**g. Manager Koch’s Data Request**

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Manager Koch stated he submitted a data request for the data pertaining to Administrator Jeffery’s review. Manager Koch said he received a response from Mr. Jeffery, which in Manager Koch’s view was not compliant with the Minnesota Government Data Practices Act.

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Manager Koch stated Mr. Jeffery said he did not have in his possession those reports.

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Manager Koch said he does not believe the law requires the data to be in the possession of the responsible authority but if they are in the possession of the District, which Manager Koch understands to be any staff member, employee, and manager, then they are in Mr. Jeffery’s possession.

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Manager Koch aid the Board is not the responsible authority and Mr. Jeffery should be complying with Manager Koch’s request. Manager Koch said Mr. Jeffery said to bring the request up to the Board, which is what Manager Koch is doing now.

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Mr. Smith said Manager Koch is correct in that if the data is in possession of the District it is accessible and can be produced pursuant to a Data Practices request. Mr. Smith said in this case, the question is we are dealing with private personnel data. He said that data is only available to the subject of the data and otherwise internally within the District for those who have reasonable need for access to the data. Mr. Smith said the specific language in the statute is, “the work duties that reasonably require access.”

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Mr. Smith said this is an issue that has come before the Board in previous reviews. He said the issue for the Board is whether you believe that each manager individually believe the duties as manager require you to have access to the data Manager Koch is requesting, those being the individual reports or reviews.

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Mr. Smith said in the past the Board has concluded that as managers your duties do not reasonably require access to that information. He said it is the same issue in front of the Board now.

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Manager Pedersen moved that we keep the individual review reports on the District Administrator’s performance review private as we have in past years. Manager Ziegler seconded the motion with the amendment to the motion to include staff reviews are kept private as well, meaning the individual managers do not need to see the staff reviews.

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383 Manager Koch said he believes Attorney Smith is giving erroneous advice and you are not  
 384 the responsible authority. Manager Koch stated that he is going to assume you are taking  
 385 over that determination as to being the responsible authority.

386 Manager Koch stated if you want to continue down this path, you certainly can. He said  
 387 he will have more comments on this review when he gives his manager report. Manager  
 388 Koch said he does not think you should be approving this type of resolution because it is  
 389 not within your purview and even if it was, your determination was erroneous or your  
 390 method of going about it is not in compliance with the statute.

391 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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## 8. Discussion Items

### 394 a. Riley Creek WOMP Station

395 Administrator Jeffery said the Metropolitan Council communicated to the District the  
 396 Council is no longer operating the Riley Creek WOMP station. He said District staff  
 397 believes that data is important to have and the City of Eden Prairie agrees.

398 Administrator Jeffery reported he met with the City of Eden Prairie and the City is  
 399 amicable to splitting the cost of the data collection equipment. He said the equipment is  
 400 approximately \$9,500, or roughly \$4,700 each and there will be offsetting the cost of  
 401 sampling as well. He said this topic and the draft agreement will come in front the  
 402 Board at its May meeting.

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## 9. Member Reports

### 404 a. Manager Reports

405 Manager Ziegler reported he is registered for the Southern Lakes Conference by ISG in  
 406 Rochester.

407 Manager Koch stated it is imperative for him to let the public know the process for  
 408 Administrator’s Jeffery review was clearly not consistent with best management

409 practices. Manager Koch said this was probably the worst process he has experienced in  
410 all his tenure.

411 Manager Koch said we started out by talking about increases before discussing the  
412 various managers' comments. He said we did not discuss or review those before  
413 bringing in Mr. Jeffery, at which point President Pedersen proceeded to read some sort  
414 of compilation of other managers' reports. Manager Koch said the compilation was not  
415 sufficient to be able to discern what each manager's views were and why or how they  
416 might have come up with their views on those reviews.

417 Manager Koch said he was not given the opportunity to ask Mr. Jeffery any questions  
418 about his past work, future work, professional plans, or outside activities having to do  
419 with water and water districts. Manager Koch commented on the 6% salary increase in  
420 relation to an inflation rate of 1.45%. He commented he does not know of anyone  
421 getting perfect reviews except in the military and he does not think we are in the  
422 military but then again he could be wrong.

423 Manager Koch, President Pedersen, Administrator Jeffery, and Mr. Smith started to  
424 speak.

425 Manager Koch said he has the right under the statute to discuss this information.

426 Mr. Smith said he wants to draw a distinction for the managers and explained it is  
427 legitimate to voice a concern about general process of a review but the review was held  
428 in closed session as provided by the statute. Mr. Smith said managers should not, by  
429 comments about the substance of the review, circumvent that closed session discussion.  
430 He said the privacy of the data and the evaluation is a concern. Mr. Smith said Manager  
431 Koch's comments on process, which here-to-fore had been addressing, are appropriate  
432 and in order in this setting but to then go into the substance of the closed session is a  
433 problem and he would caution against that.

434 Mr. Duevel said he objects to the characterization that we should be subject to critique  
435 or review by other managers as to what our evaluation was. He said this is an individual  
436 evaluation based on each manager's interaction with the Administrator and is not  
437 subject to discussion or debate.

438 President Pedersen commented Manager Koch should keep his comments to the topic of  
439 the review process not his feelings about the District Administrator.

440 Manager Koch said there is no law against it. He said if Mr. Smith would want to follow  
441 the law or the rules, and Manager Koch has invited him to do that, the statute is pretty  
442 clear.

443 Manager Koch said we can have this debate in court if we have to.

444 Manager Koch said this process was atrocious and Mr. Jeffery did not make any  
445 comments. Manager Koch said he was not able to ask Mr. Jeffery questions about past  
446 performance and what his plans are. Manager Koch said there was no self-evaluation  
447 and no 360-evaluation.

448 Manager Koch said we need an HR consultant because none of us has the training or  
449 experience to perform these types of reviews.

450 Manager Koch said he objects to the method, means, and conclusions reached but  
451 particularly the failure to provide your reviews so that he can have sufficient  
452 information on which to evaluate how much weight he would want to put on it and he  
453 objects to not being able to ask questions so that he can determine how much weight he  
454 would want to put on each person's review.

455 Manager Koch said he does not know how many reviews any of the other managers  
456 have done on that basis of professionals. He said he thinks we need advice and he has  
457 been saying this for six years. Manager Koch said he thinks the public needs to know  
458 this process is poor at best and not in meeting with best management practices.

459 Manager Koch said he has made other data requests to Mr. Jeffery and has not received  
460 responses to his data request and he asks to receive prompt response to his data requests.

461 Manager Crafton stated we have used this process since 2013 and it has served us well  
462 and we hired a coach one year, who used essentially the same process. Manager Crafton  
463 commented four managers on this Board are satisfied with this process and find it  
464 fulfills the need of the review. Manager Crafton said four managers do not share  
465 Manager Koch's opinion.

466 Manager Koch said his rebuttal is that Manager Crafton does not know what she does  
467 not know. Manager Koch said she has neither the experience nor the training in HR  
468 matters. He said just because you have done something wrong a thousand times does  
469 not make it right. He said doing something one way forever does not make it right and  
470 we should be doing the right thing. Manager Koch said the right thing at a minimum is  
471 hiring an HR consultant. He said the one we had was not the best.

472 Manager Koch said there is no way the process we went through with Administrator  
473 Jeffery this last time was anywhere near in any shape or form the process we went  
474 through on prior reviews. Manager Koch said he is sure there are recordings out there  
475 and we can go through them and review those.

476 Manager Crafton said we are moving forward with EHAP (Ecosystem Health Action  
477 Plan) and one of the things driving her interest is the need for more infiltration to  
478 recharge creeks and lakes and so on. She said there are climate action plans focused on  
479 greenhouse gases and emissions. Manager Crafton said with EHAP we are stepping  
480 forward and looking at things around water quality and water management and the  
481 water cycle, which is so important and is another driver for climate change. She  
482 suggested going through a process of developing a climate action framework and having  
483 discussions and speaker presentations and seeing about aligning that with the water  
484 cycle as an important piece of what we are doing as we move the EHAP forward.

485 Manager Ziegler reported he attended an online seminar several weeks ago and there are  
486 a number of people doing something similar to the EHAP the District is doing. He said  
487 there is recognition about the importance of the water cycle.

488 Manager Duevel reported he attended meetings in March and as a resident of  
489 Minnetonka he listened to the State of the City of Minnetonka. He said a central theme  
490 of the City's focus is dealing with water and how it impacts virtually everything going

491 on in the city. Manager Duevel reported he went to the Met Council State of the Region  
492 meeting and central themes were sustainability and water.

493 Manager Koch commented he thinks what we are forgetting in a lot of these programs is  
494 we are not dealing with the underlying facts. He said those facts are driven by what  
495 properties we already have and what facilities are already on the land. He said there is a  
496 limited amount we can do and there is a large part of the District where permeability  
497 does not exist. Manager Koch said we cannot lose sight that we have certain facts we  
498 have to deal with and they shape what we can or should be responding to. He said we  
499 need to gather the facts, such as about groundwater, and then develop a plan to fill in the  
500 data we do not already have. Manager Koch stated it seems to him this groundwater  
501 process misses the mark scientifically. He said there should be an issue or potential  
502 issue or goal you are trying to find an answer to and not having that is his concern about  
503 the groundwater issue and EHAP. Manager Koch commented on the proposed  
504 redeveloped city center area in Chanhassen and said there is no reason it should not be  
505 the beacon for how you do a city center that is climate change friendly or at least  
506 climate change neutral. He stated if we want to do something with climate change, that  
507 is where we need to go.

508 Manager Ziegler said with all due respect he disagrees.

509

510 **b. Administrator Report**

511 Administrator Jeffery stated the District closed today on the Spring Road property.

512

513 **c. Legal Counsel Report**

514 No legal counsel report.

515

516

**10. Upcoming Board Topics**

517 **a. 2023 Financial Audit – June 5, 2024**

518 Administrator Jeffery stated ABDO will be on site for the annual audit in the end of  
519 April and in May the draft report will be presented to the Audit and Finance Committee  
520 and the ABDO report will come to the Board at its June 5<sup>th</sup> meeting.

521

**11. Upcoming Events**

- 522           **a. STEM on Tap – April 15, 2024**
- 523           **b. RPBCWD Board of Managers Workshop – April 18, 2024**
- 524           **c. Eden Prairie Eco Expo – April 20, 2024**
- 525           **d. Resilient Shores Workshop – April 25, 2024**
- 526           **e. Eden Prairie Arbor Day Walk & Green Fair – April 27, 2024**
- 527           **f. RPBCWD Creek Week – May 5-12, 2024**
- 528           **g. MNWA Summer Tour – June 25-27, 2024**

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530

**12. Adjournment**

531           Manager Duevel moved to adjourn the meeting. Manager Ziegler seconded the motion.

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

533

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

534

535           The meeting adjourned at 9:15 p.m.

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Respectfully submitted,

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Tom Duevel, Secretary