

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

April 6, 2022, RPBCWD Board of Managers Regular Monthly Meeting

PRESENT:

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

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

Other Attendees: Paul Bourgeois Eleanor Mahon
Lori Haak Ron Spoden
Brian Jastram - MWMO JoAnn Syverson
Andy LaPalme Jeff Weiss

Note: This meeting was held remotely via meeting platform Zoom in abidance with the District's procedures in response to state COVID-19 actions, mandates, and guidance.

1. 5:00 p.m. Work Session - CANCELED

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2. Call to Order of Regular Monthly Meeting

2 President Ziegler called to order the Wednesday, April 6, 2022, Board of Managers Regular
3 Meeting at 7:00 p.m. The meeting was held remotely via meeting platform Zoom.

3. Approval of Agenda

4 Manager Pedersen moved to approve the agenda as presented. Manager Crafton seconded the
5 motion.

Manager Koch moved to amend the agenda to move items 5c – Accept Minutes for March 4, 2022, Governance Committee Meeting, and 5d – Accept Minutes for March 24, 2022, Personnel Committee Meeting to the Consent Agenda. He noted he would like Consent Agenda items 7b, c, d, and j to remain on the Consent Agenda with the understanding the Board will reserve time to discuss during the discussion portion of the meeting agenda. He asked to move items 7e, f, g, h, and i off the Consent Agenda. Manager Koch stated the resolution in item 7a should reflect the changes to the Consent Agenda, he requested laying over item 7l to a future meeting or moving to the end of the action items, and he commented 7k – Approval of Governance Committee Regular Meeting Schedule isn't the Board's purview.

The managers agreed by consensus to move items 5c and 5d to the Consent Agenda and move item 7l – Approval of Resolution 22-032 Authorizing a Cooperative Agreement for the Lower MN River Chloride Initiative – to the end of the action items.

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

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

4. Matters of General Public Interest

Interim Administrator Jeffery announced that Ms. JoAnn Syverson has requested 10 minutes during this portion of the meeting to share her comments on the UMN wake boat study and her request to the District. The Board, upon confirming no other citizens were in attendance to raise matters of public interest, agreed to Ms. Syverson's request. Ms. Syverson presented her PowerPoint slides on the topic of the UMN wake boat field study findings and her request for the District to take action to help get local governmental unit lake ordinances enacted regarding wake boat distance from shoreline.

Ms. Syverson highlighted the study's finding that wake boats should be at 2.5 times the minimum distance from shoreline compared to a non-wake surfing boat. She reminded the Board the regulation is for boats to be at a minimum distance of 100 feet from shoreline, and the DNR recommends 200 feet. Ms. Syverson said the DNR's regulations don't separate wake boats from other boats, and the DNR's regulations permit local governmental units to enact local ordinances on their lakes.

Ms. Syverson informed the managers of her request to the City of Chanhassen to allow buoy markers to be put in Lotus Lake to demark the location of 100 feet distance from the shoreline and her request to prohibit wake boats in the portion of Lous Lake that is only 431 feet across.

Manager Koch said he would like the District to look into this issue prior to spending a lot more money on Lotus and Riley for alum treatments. He noted staff Maxwell raised the issue of increased levels of phosphorous in the shallower portions of Lotus Lake. Manager Koch said he thinks data would show a high correlation between the wake boats and the increase in phosphorous. He referenced an extensive study undertaken in Wisconsin. Manager Koch said the UMN study is a good study showing impacts on distance to shore and impacts to shore but not impacts to lake bottoms. He said his understanding is this Wisconsin study will fill in that piece. President Ziegler said this item should be added to a future Board meeting agenda.

5. Reading and Approval of Meeting Minutes

a. March 2, 2022, RPBCWD Board of Managers Regular Monthly Meeting

Manager Pedersen moved to approve the minutes of the March 2, 2022, Board of Managers Regular Meeting. Manager Koch seconded the motion. Managers Pedersen and Crafton noted several non-substantive edits to be made. Managers Pedersen and Koch accepted the friendly amendments. Upon a roll call vote, the motion carried 4-0:

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

b. Board of Managers March 17 Special Meeting

Manager Pedersen moved to accept the minutes of the Board's March 17th special meeting. Manager Crafton seconded the motion. Manager Crafton noted a spelling correction. Manager Pedersen agreed to the friendly amendment. Upon a roll call vote, the motion carried 4-0 as follows:

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

Ziegler

Aye

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6. CAC

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a. Report and CAC Minutes

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Mr. Weiss reported on the CAC's March 21st meeting. He summarized the 90-minute presentation "The Earth, Soil, Dirt Beneath our Feet" given by Dr. Ann Marie Journey and the CAC's discussion afterward. He reported the CAC passed a motion recommending to the Board of Managers the District's development an educational program for citizens and community to help understand and implement soil health principles and best management practices, including the five soil health best practices, including cover, minimal disturbance, plant diversity, maintaining living roots, and including herbivores.

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Manager Koch said his understanding is the Board is going to be engaged in review of the District's rules and regulations. He said he hopes soil health and rules pertaining to soil, erosion, building sites, etc. include at least a consideration of soil health issues. President Ziegler mentioned a Minnehaha Creek Watershed District project to rehabilitate 100 acres of farmland a few years ago. He said it would be interesting to learn how successful that project was. President Ziegler said this topic should be added to a future Board agenda.

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Manager Koch moved to direct staff to develop recommendations on how the District could develop education and outreach on this topic and recommendations on how to incorporate soil health into the District's rules and permitting program. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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b. Confirm Board Representative for April 18th CAC Meeting

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Manager Crafton stated she will be the Board representative at the April 18th CAC.

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7. Consent Agenda

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President Ziegler reviewed the revised Consent Agenda. Manager Pedersen moved to approve the Consent Agenda as revised. Manager Crafton 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	Aye
Koch	Aye

Pedersen	Aye
Ziegler	Aye

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88 The Consent Agenda included items 5c – Accept Minutes for March 4, 2022, Governance
89 Committee meeting, 5d – Accept Minutes for March 24, 2022, Personnel Committee meeting, 7a
90 – Approve Resolution 22-023 to approve Consent Agenda, 7b – Accept March Staff Report, 7c –
91 Accept March Engineer’s Report, 7d – Accept March Construction Inspection Memo, 7j –
92 Summary of March 24th Personnel Committee, and 7k – Approval of Governance Committee
93 Regular Meeting Schedule.

8. Action Items

a. Items Pulled from Consent Agenda

i. 7e Approve Payment of Chloride Reduction Grant Reimbursement to Eden Prairie Schools

98 Manager Pedersen moved to approve payment of the chloride reduction grant
99 reimbursement to Eden Prairie Schools. Manager Crafton seconded the motion.
100 Manager Koch said his understanding is that there is no agreement between the
101 chloride parties and asked for more details.

102 Interim Administrator Jeffery said the District has an agreement in place with
103 the City of Eden Prairie. He provided details about the Clean Water
104 Implementation grant the District was awarded in 2019. He explained that grant
105 pays for both the Lower Minnesota River chloride initiative and the Hennepin
106 County chloride initiative and the wetland rehabilitation on Pioneer Trail.
107 Interim Administrator Jeffery said there is a grant agreement with Eden Prairie
108 schools. He said what is lacking is a cooperative agreement between the four
109 agencies to whom this grant was awarded and who are required to do the
110 matching funds. Interim Administrator Jeffery said since the RPBCWD is
111 responsible for submitting initial payment of these grants and then being
112 reimbursed, there should be in place a cooperative agreement. Interim
113 Administrator Jeffery said agenda item 7l is that cooperative agreement.

114 Manager Koch said he thinks the parties should work out the cooperative
115 agreement before the District approves any monies. He said he hasn’t had a
116 chance to look at the cooperative agreement and he wants to review it and make
117 sure the District is following a good process with its grants.

118 Manager Koch moved to table this item and have Interim Administrator Jeffery
119 put together information on the cooperative agreement and have everyone agree
120 on the process and have the committee sign something saying the committee
121 has reviewed it and it can be paid. Manager Koch said approving it before that

is not a good practice. Interim Administrator Jeffery said there is not documentation of the process, but the entities have been meeting as a group and going through the process.

President Ziegler highlighted the fact that the District has been paying grant reimbursements, commenting that the District could pay this one following that same process while in parallel working out the new process.

The managers discussed their opinions on paying or not paying this grant reimbursement at this time.

Manager Koch amended his motion amendment to continue discussion of this item at a continuance of the meeting on Friday, April 8th at 10 a.m.

Manager Koch's motion died due to lack of a second.

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

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

ii. 7f Approve Permit 2021-085 7851 Park Drive Storage Expansion as Presented in the Proposed Board Action Section of the Permit Review Report

Manager Pedersen moved to approve Permit 2021-085 Park Drive Storage Expansion as Presented in the Proposed Board Action Section of the Permit Review Report. Manager Crafton seconded the motion.

Manager Koch expressed his concern about language that leaves the District negotiating after-the-fact maintenance agreements. Manager Koch moved to amend the motion to revise language to make the maintenance agreements available in advance where possible, and where not possible, make it clear they have to enter into a maintenance agreement that the District accepts. Manager Ziegler seconded the motion.

Interim Administrator Jeffery asked for more details about what Manager Koch was specifically referencing in the permit review report and talked about the District's templates. There was discussion about the District's maintenance agreement processes. Manager Koch suggested the District discuss its

inspection processes as part of the discussion about the District's rules.
Manager Koch withdrew his motion to amend.

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

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

iii. **7g Approve Permit 2022-002 New Vantage/Momentum Building as Presented in the Proposed Board Action Section of the Permit Review Report**

Manager Pedersen moved to approve Permit 2022-002. Manager Crafton seconded the motion. Manager Koch moved to amend the motion to amend the report's recommendation #2 on page 11 to the effect that the applicant must execute a maintenance and inspection agreement acceptable to or approved by the District.

Engineer Sobiech said he has no concerns with adopting the language proposed by Manager Koch.

Managers Pedersen and Crafton accepted Manager Koch's friendly amendment.

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

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

iv. **7h Approve Continued Financial Assistance of Carver County and Eden Prairie AIS Inspection Program**

Manager Koch moved to approve Carver County's request on the condition the County implements the inspection system as outlined in the memo of March 7,

176 2022, and conditionally approve request of Eden Prairie in the amount of
 177 \$32,000 on the condition the City submit a memo outlining their inspection
 178 hours and that they implement that program. Manager Pedersen seconded the
 179 motion.

180 Manager Koch amended his motion to include requiring the District receives a
 181 program report from the parties at the end of the year. Manager Pedersen
 182 accepted the friendly amendment.

183 Attorney Smith said this is an acceptable process. He said in the future, it might
 184 be appropriate to adapt the District's cost-share agreement to this AIS cost
 185 sharing, so all legal obligations are clear.

186 Manager Koch amended his motion to direct Interim Administrator Jeffery,
 187 Counsel Smith, and Engineer Sobiech to negotiate an agreement similar to the
 188 District's cost-share agreement. Manager Pedersen accepted the friendly
 189 amendment.

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

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

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193 **v. 7i Authorize Distribution of 2021 Annual Report**

194 Manager Pedersen moved to authorize the distribution of the 2021 annual
 195 report. Manager Crafton seconded the motion. Manager Koch provided his
 196 suggestions for changes.

197 Manager Koch moved to make changes to the report including having the report
 198 signed by both the Administrator and the Board President and to remove the
 199 land acknowledgment unless the acknowledgement is required by law. He
 200 asked if the District has legal basis of a court case verifying the land is stolen.
 201 Manager Crafton opposed the motion and said including the acknowledgement
 202 was her idea and it is happening all over the state and is a way of reaching out
 203 to the federal nations partners.

204 Manager Koch said the District should focus on having the report contain the
 205 required items. He shared more comments on the report, talked about BWSR's
 206 checklist, and provided his proposed changes to the report.

207 Manager Koch's motion to amend died due to lack of a second.

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

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

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211 **b. Accept February Treasurer's Report**

212 Manager Crafton moved to accept the February Treasurer's Report as presented. She
213 stated the report has been reviewed in accordance with the District's internal controls
214 and practices and procedures. Manager Pedersen seconded the motion.

215 Manager Koch remarked his calculations show that two months into the year is
216 approximately 17% of the total budget. He asked for an explanation of all budget items
217 that have expended more than 17% to-date and for an assessment on whether those
218 items will be over budget at the end of the year. Manager Koch also commented on the
219 acquisition cost from Granger, and he recommended the District do some shopping
220 because Granger's costs are higher than other sources.

221 Treasurer Manager Crafton noted the budget is the District's best estimate of what it is
222 going to spend and what things are going to cost. She said costs are not divided up to a
223 certain percentage each month, as items may be paid earlier or later in the year, and a
224 budget isn't absolute – it's a working document for what the District estimated it would
225 spend for the whole year.

226 Interim Administrator Jeffery provided details about some of the line items Manager
227 Koch referenced. Manager Koch stated he is concerned about the anticipated interest
228 income due to low interest rates. Interim Administrator Jeffery suggested revisiting this
229 topic in May or June after the District's funds are all transferred over to the 4M account,
230 and at that point the District could invite the 4M account manager to come speak to the
231 Board specifically about that point.

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

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

Koch	Aye
Pedersen	Aye
Ziegler	Aye

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c. Approve Paying of the Bills

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Manager Crafton moved to approve paying the bills. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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

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d. Approve Resolution 22-024 to Approve Approach to Gathering Feedback on the Governance Manual

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Manager Koch said he doesn't think this resolution reflects what he agreed to. Interim Administrator Jeffery shared his screen and displayed Manager Koch's requested amendments to Resolution 22-024. President Ziegler said first the Board should get an estimate from staff on how much time it would take for them to do the proposed work, and then the full Board would need to approve the proposed work for staff to review. Attorney Smith commented it isn't a legal requirement of the Board to gather feedback on its governance manual, but the Board is free to solicit such feedback.

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Manager Koch said he thinks soliciting feedback from District staff and from the public is a best management practice. He said if you care about soil health, he hopes you care about staff health.

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President Ziegler suggested moving forward without an actual resolution but by Board consensus that the Board solicits staff feedback, but staff will consider it a low work priority to review the District Governance Manual. He said the review needs to be completed by the end of the year. Manager Ziegler said the Governance Committee is going to try to look at manuals from a couple other watershed districts, and Attorney Smith and staff could make recommendations about which districts.

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By consensus, the Board agreed to solicit staff feedback on the District's Governance Manual with the understanding it is a low work priority and feedback is voluntary, to not solicit feedback from the public at this time, and to direct Attorney Smith to see

what he can do to provide the Board with examples of other governance manuals or bylaws as other watersheds agree.

Manager Koch said he thinks the District's standing committees should have space on the District website for posting minutes and other documents. Manager Pedersen said she thinks that is low on the District's work priority list and is work that would be done when there is time.

e. Approve Resolution 22-025 to Authorize Administrator to Enter Agreement with Carver County Soil and Water Conservation District for Technical Services

Manager Crafton moved to approve Resolution 22-025 to Authorize the Administrator to Enter into Agreement with Carver County Soil and Water Conservation District for Technical Services. Manager Pedersen seconded the motion. Manager Koch asked for details about the genesis of this agreement. Interim District Administrator Jeffery provided details, talking about the Carver County SWCD's help with the District's stewardship grant program, inspections of large ongoing projects, and other areas of minor work. Manager Crafton spoke about her strong support of this relationship and agreement as it is very cost beneficial and BWSR advocates watershed districts working with SWCDs.

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

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

f. Approve Resolution 22-026 to Authorize Administrator to Enter Agreement with the University of Minnesota for Assessment and Analysis of Aquatic Vegetation

Manager Pedersen moved to approve Resolution 22-026 to Authorize the Administrator to Enter into an Agreement with the University of Minnesota for the Assessment and Analysis of Aquatic Vegetation. Manager Crafton seconded the motion.

Manager Koch asked what budget line item this comes out of. Interim Administrator Jeffery said it is its own line item. He explained the budget only covers the first year of

the two-year project, and the District will need to levy \$50,353 for the second year of the project.

There was discussion about the UMN assessment and analysis as well as the District's aquatic vegetation plans.

Manager Koch made the friendly amendment to the motion to have the District's legal counsel consider his recommended revisions to the agreement and make such changes as legal counsel deems appropriate to formalize the contract, including adding an exhibit.

There was discussion about the lack of an exhibit in the agreement. Interim Administrator Jeffery recommended the table become Exhibit A.

Manager Koch said this agreement needs to be put into a standard format. Attorney Smith said the District does need a clear scope of work and statement of deliverables and Legal Counsel should review to make sure Legal Counsel is comfortable with the way the information is presented.

Manager Pedersen and Manager Crafton accepted Manager Koch's friendly amendment.

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

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

g. Approve Resolution 22-027 to Authorize Administrator to Enter Agreement/s with PLM for Staring Lake Fluoridone Treatment

Manager Crafton moved to approve Resolution 22-027 to Authorize the Administrator to Enter into Agreement with PLM for staring Lake Fluoridone Treatment. Manager Pedersen seconded the motion.

Manager Koch made the friendly amendment to have Legal Counsel consider Manager Koch's comments about the contract and to include such revisions as Legal Counsel is able to negotiate with PLM.

Managers Crafton and Pedersen accepted Manager Koch's friendly amendment. Upon a roll call vote, the motion carried 4-0 as follows:

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

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h. Approve Resolution 22-028 to Authorize Administrator to Enter Agreements with PLM for Lake Vegetation Management

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Manager Pedersen moved to approve Resolution 22-028 to Authorize the Administrator to Enter into Agreement with PLM for Lake Vegetation Management. Manager Crafton seconded the motion.

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Manager Koch made the friendly amendment to have District Legal Counsel consider his comments on the agreement and to include such revisions as Legal Counsel is able to negotiate with PLM.

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Managers Pedersen and Crafton accepted Manager Koch's friendly amendment. Upon a roll call vote, the motion carried 4-0 as follows:

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

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i. Approve Resolution 22-031 Green Espel PLLP Request for the Board Approval of Waiver Regarding Retention of Barr

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Manager Koch said he is opposed to waiving the conflict of interest. Attorney Smith explained the resolution. Interim Administrator Jeffery and Engineer Sobiech provided more details. Engineer Sobiech pointed out he hasn't had any direct contact with the City of Eden Prairie's legal counsel. Engineer Sobiech described his level of understanding about the situation and the waiver.

Attorney Smith said he is revising his recommendation, stating if there is this level of caution as expressed by Interim Administrator Jeffery and Engineer Sobiech, he doesn't think it is prudent to waive the conflict of interest.

Manager Koch moved to resolve the District will decline the invitation to waive the conflict of interest. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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

Manager Koch moved to continue this meeting to 1:00 p.m. on April 18. Manager Pedersen seconded the motion. Manager Koch apologized to Manager Pedersen for his earlier remarks. Manager Pedersen accepted his apology.

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

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

At 10:14 p.m. the Board continued the meeting to 1:00 p.m. on April 18, 2022.

- j. Approve Resolution 22-029 for Fund Transfers to Reconcile 2021 Budget**
- k. Consider Variance Request for Permit 2021-063 Reserve at Autumn Woods as Related to Floodplain Compensatory Storage**
- l. Consider Exception Request for Permit 2021-063 Reserve at Autumn Woods as Related to Waterbody Crossing Used for Wetland Restoration**

- m. **Approve Permit 2021-063 at Autumn Woods as Presented in the Proposed Board Action Section of the Permit Review Report**
- n. **Approve Groundwater Conservation Grant Reimbursement Distribution in the Amount of \$25,722.56 to Bloomington Public Works**
- o. **Approve Resolution 22-030 Authorizing Staff and Engineer to Engage the Minnesota Department of Natural Resources in Review of Duck Lake Outlet Elevation Decision**
- p. **Accept Summary of March 24, 2022, Closed Session of the Board of Managers**
- q. **Preliminary Consideration of Hostile Work Environment Allegation (Closed Session)**
- r. **Authorization to Retain Firm for Hostile Work Environment Investigation**
- s. **Approval of Resolution 22-032 Authorizing a Cooperative Agreement for the Lower MN River Chloride Initiative**

9. Discussion Items

- a. **Attorney Report**
- b. **Engineer Report**
- c. **Administrator Report**
 - i. **Meeting Format**
 - ii. **Draft Report Card**
- d. **Manager Report**
- e. **Personnel Committee Report**
- f. **Governance Committee Report**
 - i. **March 4th Meeting Summary**

10. Informational Items

11. Upcoming Board Topics and Events

- 393 a. Regulatory Program Workshop May 4, 2022
- 394 b. Project Prioritization Metric Workshop June 1, 2022
- 395 c. Joint Meeting with CAC/Preliminary Budget WS July 6, 2022
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12. Upcoming Events

- 397 a. April 8th Governance Committee Meeting
- 398 b. April 12th Shallow Lakes Webinar
- 399 c. April 18th CAC Meeting
- 400 d. May 4th Workshop and Regular Meeting

13. Adjournment

401 Meeting was continued to April 18.

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Respectfully submitted,

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Dorothy Pedersen, Secretary