

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

September 1, 2021, RPBCWD Board of Managers Monthly Meeting

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch

Dorothy Pedersen, Vice President

David Ziegler, Secretary

Staff: Amy Bakkum, Administrative Assistant

Zach Dickhausen, Water Resources Technician II

Liz Forbes, Grant Coordinator

Terry Jeffery, Interim District Administrator and Watershed Planning Manager

Eleanor Mahon, Education and Outreach Coordinator

Josh Maxwell, Water Resources Coordinator

Louis Smith, Attorney, Smith Partners

Scott Sobiech, Engineer, Barr Engineering Company

Other attendees: Robert Erickson

Ray Newman

Elizabeth Henley

Gretchen Schroder

Eleanor Mahon

Jeff Weiss

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

1. Call to Order of the Regular Meeting of the RPBCWD Board of Managers

- 1 Vice President Pedersen called to order the Wednesday, September 1, 2021, Board of
2 Managers Regular Meeting at 7:00 p.m. The meeting was held remotely via meeting
3 platform Zoom.
- 4 Manager Koch commented on the order of proceeding. He said the Board should adopt
5 the agenda prior to the swearing in of managers Koch and Crafton. There was a response
6 by Attorney Smith on why the District ordered its agenda as presented and noted the
7 Board can act to revise its agenda. The managers discussed the points raised. Manager
8 Ziegler moved to proceed with the swearing in of managers Crafton and Koch prior to the
9 approval of the agenda. Manager Crafton seconded the motion. Upon a roll call vote, the
10 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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2. Swearing in of Managers Crafton and Koch

14 Attorney Smith led Larry Koch and Jill Crafton through the oath of office of manager of the Riley
 15 Purgatory Bluff Creek Watershed District. Vice President Pedersen congratulated managers
 16 Crafton and Koch on their reappointment to the Board.

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3. Approval of Agenda

18 Manager Ziegler moved to approve the agenda as written. Manager Crafton seconded the motion.

19 Manager Koch requested removing Consent Agenda items 7a-7g, and 7i, moving 9a to become
 20 8f, moving 9c1 to 8g, moving 9c3 to 8h, 9d1 to 8i, and 9d3 to 8j.

21 Manager Crafton moved to amend the motion. Manager Koch seconded the motion. Upon a roll
 22 call vote, the motion failed 2-2 as follows:

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

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25 There was discussion to clarify the items removed from the Consent Agenda included 7a-7g and
 26 7i to become action items 8ai.

27 Upon a roll call vote, the motion to approve the agenda 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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4. Matters of General Public Interest

30 Mr. Robert Erickson said he is speaking as a representative of Megan Doyle, resident on Dell
 31 Road. He said he had a conversation with Interim Administrator Jeffery and Engineer Sobiech
 32 regarding a culvert crossing, noting this crossing lacks a public easement. Mr. Erickson stated the
 33 condition of the culvert has been evaluated by Barr Engineering, and he is pursuing resolution on
 34 behalf of property owner Megan Doyle regarding the conditions and possible construction. He
 35 said the property owner is willing to provide permanent easements at no cost for the Riley Creek
 36 Watershed District and which would require participation by the City of Eden Prairie. Mr.
 37 Erickson pointed out the City of Eden Prairie has ownership but not an easement. He said the
 38 culvert work could possibly be included in the City’s project for Dell Road in 2022 or 2023. Mr.
 39 Erickson expressed gratitude for the cooperation of the District staff thus far.

40 Manager Koch asked the Board to direct Interim Administrator Jeffery to bring him up to speed
 41 on communications with Mr. Erickson and asked Interim Administrator Jeffery if he needs
 42 direction from the Board. Interim Administrator Jeffery recommended putting this topic on the
 43 agenda for the Board’s next meeting. The Board agreed by consensus for staff to report on this
 44 issue at the Board’s next meeting.

5. Reading and Approval of Meeting Minutes

a. August 4, 2021, RPBCWD Board of Managers Workshop and Regular Meeting, Including August 12th Continuance

47 Manager Ziegler moved to approve the minutes of the August 4th Board of Managers
 48 Workshop and Regular Meeting including the August 12th meeting continuance. Manager
 49 Crafton seconded the motion. Manager Ziegler requested the following edits: line 238
 50 revise to state “forwarded,” line 338 remove the s and the word “to,” line 529 to indicate
 51 Manager Koch voted against the amended motion, line 78 to “Manager Ziegler agreed to
 52 the changes recommended by Legal Counsel” and “Manager Pedersen seconded the
 53 motion.” Manager Crafton requested line 95 to be revised to remove the repeated words
 54 “study to allow”, line 160 delete the word “along,” and on line 238 to insert the word
 55 “asked,” Manager Koch stated on page 8, line 230, the word pursuing should be corrected
 56 to “pursued.” Attorney Smith said the meeting reference on line 301 should state the June
 57 meeting. Manager Crafton requested the word “even” be inserted into the sentence on
 58 lines 512-513. Managers Ziegler and Crafton accepted the friendly amendments.

59 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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6. CAC

62 Mr. Jeff Weiss reported on the CAC’s August 16th meeting, noting the CAC passed a resolution
 63 requesting Interim Administrator Jeffery present to the CAC about the District’s permit
 64 application and review processes and the District’s rules. Mr. Weiss described the ways the CAC
 65 would like to be involved in future watershed activities. The Board agreed by consensus that
 66 Interim Administrator Jeffery should conduct the presentation to the CAC as the CAC requested
 67 in its motion. Manager Ziegler said he will attend the CAC’s next meeting, which is September
 68 20th, as the Board representative.

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7. Consent Agenda

70 Manager Crafton moved to accept the Consent Agenda as amended earlier in the meeting.
 71 Manager Ziegler seconded the motion. The Consent Agenda included item 7h - Approve Permit
 72 2021-061 Goddard School Redevelopment as Presented in the Proposed Board Action Section of
 73 the Permit Review Report.

74 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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8. Action Items

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a. Items Pulled from Consent Agenda

i. Accept August Staff Report

Manager Koch raised many points, including asking staff to ensure the District calendar meets all requirements of state statute, that the minutes of the August 4th Personnel Committee get disseminated, asking for more information about the conversation with North Risk Partners and asked staff to provide more information at the Board’s next meeting about the services they provide, asked if MAWD has made its annual call for resolutions, noting he would be in favor of proposing a resolution that watersheds could continue to hold Zoom meetings, and asked for more information about the Carver County process ED & A on Lotus Lake . He brought up many other issues such as lake vegetation plans, mapping wetlands, and using drones to measure impacts. Staff provided information and indicated when additional information will be provided to Manager Koch and presented to the Board.

Manager Koch moved to accept the staff report. Manager Ziegler 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

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ii. Accept August Engineer Report

Manager Koch asked if staff time is being tracked and being billed back to applicants. Engineer Sobiech said from the engineering side, yes. He described the process. Manager Koch moved to accept the Engineer’s Report. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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

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iii. Accept August Construction Inspection Report

Manager Koch requested staff put this report on its own page, and he asked the report to include a list of actions taken, which will help build a record of non-compliant parties. Manager Koch raised his concerns about his neighbor’s rip rap and other projects he has noticed around Lotus Lake including a sand blanket.

Manager Koch moved to accept the August Construction Report. Manager Ziegler 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

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iv. Authorize Interim Administrator Jeffery to Draft Job Description and Announcement for the District Administrator Position, Bring to Personnel Committee for Review and Approval, and Advertise for Position

Manager Koch moved that Mr. Jeffery work with staff and the Personnel Committee to come up with a job description for the District Administrator and a proposed advertisement and to bring to the managers for consideration and approval and that Mr. Jeffery continue as Interim Administrator until such time as he would resign, or the Board appoints his replacement. Manager Ziegler seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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

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v. Approve Permit 2018-066 Castle Ridge Modifications as Presented in the Proposed Action Section of the Permit Review Report

Engineer Sobiech displayed slides about the permit modification, noting it is a complicated permit modification request. He provided history about the District’s October 2019 conditional approval of permit 2018-066. Engineer Sobiech went through the request and the District Engineer’s review in detail. He went through the compliance summary, and he called out two stipulations, including the maintenance declaration would need to be revised and additional financial assurance would need to be provided .

The managers discussed the project, the permit modification request, the District’s rules, and their concerns about infiltration and the increase in impervious surface area and runoff. Attorney Smith reminded the Board it needs to apply the District’s rules to the judgement in front of it, and the District Engineer’s recommendation is this project complies with the District’s rules, so the Board has no basis on which to deny the permit. Manager Crafton wondered if the District’s rules are strong enough.

Manager Koch moved to accept the Engineer’s report and adopt the resolution set forth in that report. Manager Ziegler seconded the motion. The managers agreed by consensus it needs to revisit the District’s rules. Attorney Smith asked for clarification on the date through which the permit is being extended. Engineer Sobiech said the permit was set to expire in 2022, and the applicant requested a two-year extension, so the two-year extension will be through 2024. Attorney Smith asked Engineer Sobiech if both condition 2E and 2F are required as listed on page 14 of the Engineer’s Report. Engineer Sobiech said 2E can be removed because 2F covers it. Manager Koch said he prefers 2E, and Engineer Sobiech said its fine to remove 2F. Manager Koch moved to amend his motion to adopt the Engineer’s recommendations except not agreeing to item 2F. Manager Ziegler agreed to the friendly amendment.

Upon a roll call vote, the motion carried 3-0 as follows:

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

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vi. Approve Permit 2021-049 Foxford Shoreline Maintenance as Presented in the Proposed Board Action Section of the Permit Review Report

Manager Koch asked Engineer Sobiech to review the permit review and to describe the diagram indicating where the rip rap and the sand blanket will go. Interim Administrator Jeffery and Engineer Sobiech responded to Manager Koch’s questions about slope, pitch, and BMPs to minimize erosion of the sand blanket.

Manager Koch moved to accept the Engineer’s Report and adopt the resolution set forth in the Engineer’s report. Manager Crafton 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

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vii. Approve Permit 2021-054 Morimoto City Homes as Presented in the Proposed Board Action Section of the Permit Review Report.

Manager Koch asked for an overview of the proposed project and permit review and asked for information about the rate controls and how reductions in total suspended solids and total phosphorus are calculated. Engineer Sobiech provided the information. Manager Koch moved to accept the Engineer’s Report and adopt the resolution set forth in the Engineer’s report. Manager Crafton seconded the motion.

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

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

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185 **viii. Approve Contract with Smith Partners and Authorize President**
 186 **Ward to Sign**

187 Manager Koch said he would like to see the contract or some acknowledgement
 188 that the District has 60 days from the date of presentation to pay the Smith
 189 Partners invoices, that Smith Partners will track its time by matter so the time
 190 can be appropriately charged back to the appropriate permit, and that an
 191 explanation of the travel details be footnoted. Attorney Smith accepted Manager
 192 Koch’s recommendations.

193 Manager Koch moved to approve the legal services agreement between the
 194 District and Smith Partners with the change that Smith Partners will track
 195 permit time on a permit by permit basis and will provide the District 60 days to
 196 pay the Smith Partner invoices. Manager Crafton seconded the motion.
 197 Manager Ziegler made the friendly amendment to authorize President Ward to
 198 sign the contract. Managers Koch and Crafton accepted the friendly
 199 amendment.

200 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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203 **b. Accept July Treasurer’s Report**

204 Manager Crafton stated the report has been reviewed in accordance with internal
 205 controls and procedures. She moved to accept the Treasurer’s Report. Manager Ziegler
 206 seconded the motion. Manager Koch stated he has an issue with recording items as the

207 vendor being the credit card as opposed to the actual vendor because he doesn't think it
 208 is an appropriate accounting practice. He called out the late charge listed on the credit
 209 card bill, and Interim Administrator Jeffery explained the routing number error.
 210 Manager Koch said in the internal report, sometimes staff are specifically allocated to
 211 line items but not in the budget. He asked if this could be addressed in the budget
 212 discussion. Manager Koch asked if there are any line items with potential overages.
 213 Interim Administrator Jeffery said not as of today, but staff will be coming back in
 214 October with account transfer recommendations for projects including Middle Riley
 215 Creek and St. Hubert. Manager Koch asked that the information be ready by September
 216 14th.

217 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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 220 **c. Approve Paying of Bills**
 221 Manager Crafton moved to pay the bills. Manager Ziegler seconded the motion.
 222 Manager Koch asked about the Pulte Homes disbursement. Interim Administrator
 223 Jeffery said it was an escrow release for its projects in Chanhassen. Upon a roll call
 224 vote, the motion carried 4-0 as follows:
 225

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

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 227 **d. Consider Professor Ray Newman's Request for District Funding on Aquatic**
 228 **Vegetation Management**

229 Interim Administrator Jeffery introduced Professor Ray Newman from the University of
 230 Minnesota, noting the District has received a proposal from him, and he will present
 231 about past work and the proposal.

232 Professor Newman shared slides and presented about the proposed continuation of work
 233 on the restoration and maintenance of native macrophytes in lakes in the RPBCWD
 234 watershed, highlighting the importance of macrophytes to water clarity. He presented
 235 results of work completed and discussed the proposed university involvement. Professor
 236 Newman responded to the managers' questions.

237 Vice President Pedersen said the Board's consensus is that it would like to receive a
 238 more detailed proposal, and the Board will discuss the proposal and will communicate
 239 back with Professor Newman.

240

241 **e. Consider Budget Modification Request for Barr Construction Management**
 242 **Services for Pioneer Wetland Restoration**

243 Interim Administrator Jeffery and Engineer Sobiech described the reason behind the
 244 budget modification request . Manager Crafton moved to approve the budget
 245 modification request for Barr Engineering construction management services for the
 246 Pioneer Wetland Restoration project. Manager Ziegler seconded the motion.

247 Manager Koch asked how much of the \$22,000 will be needed to perform the post-
 248 construction work. Engineer Sobiech said \$6,000, which is \$2,000 per year for three
 249 years. Manager Koch expressed his concerns with projects exceeding estimates, and he
 250 emphasized the District's need for good estimates.

251 Manager Koch moved to approve \$16,000 for this task order and to come up with a new
 252 task order for post-construction services at an amount not to exceed \$6,000 and to
 253 authorize Interim Administrator Jeffery with advice of Legal Counsel to review and
 254 execute it. The motion died due to lack of a second.

255 Upon a roll call vote, the motion on the table carried 3-0 as follows:

256

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

257

9. Discussion Items

258 **a. 2022 Preliminary Budget**

259 Interim Administrator Jeffery announced the proposed levy for 2022 is a 1.8% increase
 260 over the District's 2021 levy. He went through changes to the proposed budget compared

261 to the last time the budget was presented and talked about proposed fund transfers.
262 Interim Administrator Jeffery said transfers include moving \$113,000 from the repair and
263 maintenance fund to be applied to the berm work at the Purgatory Rec area in Eden
264 Prairie – which will be a 50-50 match with the City, and he noted the proposal to move
265 \$217,000 from the opportunity fund to Middle Riley Creek. He noted a couple of other
266 proposed transfers.

267 There was discussion about anticipated 2022 permit fees and grant income. Manager
268 Koch said he needs more information on staffing costs and asked Interim Administrator
269 Jeffery to use the methodology Manger Koch provided. Manager Koch talked about how
270 the budget and the audit need to be consistent with each other. He said he wants to make
271 sure the estimates for the projects are good numbers and to make sure there is enough
272 budget to pay for those projects. Manager Koch provided his recommendations on how to
273 present the costs per line item.

274 Vice President Pedersen said she is hearing that the managers are fine with the 1.8% levy
275 increase. The managers indicated consent with her statement.

276 **b. Attorney Report**

277 Attorney Smith said regarding MAWD resolutions, other watersheds are talking about the
278 Open Meeting Law and virtual meetings, and the District could collaborate with other
279 watersheds and will want to address this before October 4th. Attorney Smith said he could
280 talk with Manager Koch about this topic as a possible MAWD resolution. Manager
281 Crafton asked Interim Administrator Jeffery to find out what other watersheds are
282 discussing regarding this topic.

283 **c. Administrator Report**

284 **1. Regulatory Program**

285 **i. Potential Revisions**

286 Interim Administrator Jeffery recommended a District workshop on the
287 District’s rule program and permits. The Board directed Interim
288 Administrator Jeffery to send out an email to the Board to collect ideas
289 about rules changes.

290 **ii. After the Fact Permits**

291 Manager Koch said he would like staff to follow through on the four
292 permit issues he previously discussed. Interim Administrator Jeffery said
293 he will provide an update next month.

294 **2. Data Collection**

295 Interim Administrator Jeffery said he addressed this topic during the budget
296 discussion.

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298 **3. COVID Policy**

299 Interim Administrator Jeffery said staff is working to update the District's
300 COVID policy. Manager Koch asked staff to bring this topic back to the Board at
301 its next meeting.

302 **4. Riley Creek Erosion at Frederick Miller Spring**

303 Interim Administrator Jeffery said there has been discussion about how to
304 mitigate foot traffic and address the erosion in that area. Manager Crafton asked if
305 there would be a benefit to adding bank pins. Interim Administrator Jeffery said
306 yes. Manager Koch said he would like staff to bring recommendations to the
307 Board. The Board indicated consensus with Manager Koch's request to staff.

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309 **d. Managers' Report**

310 **1. Data Practices Requirements**

311 Manager Koch said he has made a number of data requests, some of which date
312 back many months. He said the District doesn't have the policies on data
313 practices, and this is a serious issue because the District needs to make sure it
314 follows the law. He asked to be provided the District's policies or asked the
315 District to draft them.

316 **2. Greater MN Checklist from BWSR**

317 Manager Koch said the District is supposed to do a report card each year, and the
318 District should either do its own report card or the Greater MN check list.

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10. Upcoming Board Topics

320 Vice President Pedersen stated the upcoming Board topics are listed on the meeting
321 agenda.

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11. Upcoming Events

323 Vice President Pedersen noted the upcoming events are listed on the meeting agenda.

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12. Adjournment

325 Manager Crafton moved to adjourn the meeting. Manager Ziegler seconded the motion.
326 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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The meeting adjourned at 10:22 p.m.

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Respectfully submitted,

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David Ziegler, Secretary