

MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

August 2, 2023, RPBCWD Board of Managers Regular Monthly Meeting

PRESENT:

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

Staff: Zach Dickhausen, Natural Resources Coordinator
Liz Forbes, Communications Manager
Terry Jeffery, District Administrator
Joshua Maxwell, Water Resources Coordinator
Mat Nicklay, Natural Resources Technician
Scott Sobiech, Barr Engineering Company
Michael Welch, Attorney, Smith Partners

Other Attendees: Rod Fisher Michael Pressman
Zach Moen Leigh Stoakes, Xcel Energy
Dylan Monahan Mark Weber

Note: the Board meeting was held remotely via meeting platform Zoom because it was deemed not prudent to meet in person due to the COVID-19 pandemic.

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

1 President Ziegler called to order the Wednesday, August 2, 2023, Board of Managers Regular
2 Meeting at 7:01 p.m. He stated the Board is conducting this meeting via Zoom per the Board’s
3 procedure due to concern about the Covid pandemic.

4 Administrator Jeffery 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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Manager Koch raised a point of order. He said when the Zoom recording opened up there was a conversation going on between Michael Welch, President David Ziegler and Terry Jeffery. Manager Koch expressed his objection and stated if that is the case it is a violation of the Open Meeting Law. He said any discussion should be recorded and during Managers’ Reports he plans to bring up other violations of the Open Meeting Law and the Minnesota Data Practices Act. Manager Koch requested pursuant to the Minnesota Data Practices Act a description of exactly what was discussed prior to the commencement of the recording of tonight’s meeting.

Administrator Jeffery said it was he, President Ziegler, and Mr. Welch speaking about the fact that the delegation memorandum has not changed and the resolution has changed and Mr. Welch is prepared to speak on the topic tonight should President Ziegler wish to add it to the meeting agenda. Administrator Jeffery said as Mr. Welch was speaking, Administrator Jeffery saw it was time to start the meeting and admitted everyone into the meeting at the same time.

Manager Koch said this is an after-the-fact explanation so he has severe reservations about that and it something that should not be conducted in any way, shape, or form and he thinks there were people on and speaking before the meeting had been convened. He said he will make a decision on whether to do anything else about it.

2. Approval of Agenda

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President Ziegler said there is an opportunity to add to the agenda a discussion item about the delegation of authority. He said Legal has reviewed the memo a second time and is prepared to speak about it. President Ziegler suggested the Board add the discussion item to hear what Legal Counsel has to say and the Board can act on it at the next Board meeting.

Manager Koch moved to approve the agenda with the following changes: remove all Consent Agenda items except 6e – Approve Final Pay Application #11 for \$10,211.04 to Rachel Contracting for Lower Riley Creek - and not take up the issue of delegation until the Board has had the opportunity to review the documents.

Manager Crafton said she would like to have the delegation item on the agenda. The motion died due to lack of a second.

Manager Pedersen moved to accept the agenda with the modification to remove all Consent Agenda items except 6e and adding as part of agenda item 10c - Legal Counsel Report – an item for Attorney Welch to talk about the delegation memo and resolution. President Ziegler seconded the motion. Manager Koch asked if the memo is linked in the online agenda. Mr. Welch said the memo has not changed from the last time the managers received it in the previous meeting packet, and Mr. Jeffery emailed the draft resolution to the managers this morning.

40 Manager Koch said the statute is specific about having documents available during the meeting
 41 and he is not going comment on something that he has not had appropriate time to review. He
 42 reiterated manager complaints about wasting time on items in which the documents have not been
 43 made available. He said this should be a matter for a workshop in which Mr. Welch presents the
 44 information. Manager Koch said he objects to this proposed agenda item because it is a violation
 45 of statute.

46 Administrator Jeffery requested removing item 8F - Permit Review for House on Frontier Trail
 47 because the review and information are not yet complete.

48 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 Public Interest

51 Mr. Rob Fisher, President of the Duck Lake Association and resident on South Shore Lane, Eden
 52 Prairie reported three shoreline properties along Duck Lake have been renovated to native plants
 53 and also one property has installed rain gardens thanks to participating in the District’s cost-share
 54 program.

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4. Reading and Approval of Meeting Minutes

a. Approve Minutes of the July 12, 2023, Regular Monthly Meeting of the RPBCWD Board of Managers with Continuations on July 17, 20, and 26, 2023

58 Manager Koch moved to waive the reading of the minutes and to approve as presented the
 59 minutes of the July 12, 2023, Regular Monthly Meeting of the RPBCWD. Manager
 60 Pedersen seconded the motion.

61 Manager Crafton noted edits on the minutes of the July 12th meeting including page 5, line
 62 84 to replace “Donny” with “Bonnie; Page 9, line 174 to replace “comes” with “to come”;
 63 line 207 change “its” to “the.” She noted an edit on the July 17th minutes, line 13, to
 64 correctly identify the manager who seconded the motion.

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Manager Koch accepted Manager Crafton’s changes. Manager Pedersen accepted Manager Crafton’s changes. 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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5. Committee Reports

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a. Acceptance of the Citizens Advisory Committee Report and Minutes

Manager Koch moved to table this item to next month’s Board meeting. President Ziegler seconded the motion. Manager Koch said he does not think it is appropriate to receive draft the minutes without a CAC representative present to speak about them. Upon a roll call vote, the motion failed with 3 votes against and 2 votes in favor as follows:

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

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Manager Pedersen moved to accept the CAC minutes. Manager Crafton seconded the motion. Manager Koch objected to accepting draft minutes without a CAC member present. Upon a roll call vote, the motion carried 4-1 as follows:

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

Duevel	Yes
Koch	No
Pedersen	Yes
Ziegler	Yes

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b. Confirm Board Representative for August 21, 2023, CAC Meeting

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Manager Duevel volunteered to be the Board representative at the CAC’s August 21, 2023, meeting.

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c. Receive Governance Committee Report and Minutes

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President Ziegler said the draft minutes were attached to the Board packet.

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President Ziegler moved to accept the Governance Committee report as written and provided. Manager Duevel seconded the motion.

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Manager Koch said in reading the minutes and having been on the Governance Committee before, he comes away with the presence that Administrator Jeffery is trying to commandeer the Committee and its positions based upon not only delegation of authority but also the Governance Manual and its provisions.

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Manager Koch quoted the Committee minutes regarding the topic of delegation of authority and a statement that most metro watershed districts participating in metro-wide regulatory delegate most everything to the administrator except for variances or projects. Manager Koch said he does not know if that is true but he certainly would not take it at face value without having some facts to support that and to know exactly what they are delegating and how and with what limitations. Manager Koch said he puts it to the Governance Committee that before it makes a decision, and maybe Mr. Welch can chime in, that until Manager Koch sees it in writing he has some doubts of substantiations of positions of other the watershed districts similar to the NMCWD.

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Manager Koch commented that during the Committee meeting Mr. Welch shared a resolution and Manager Koch does not see the resolution was provided or attached as part of the agenda. Manager Koch asked to be corrected if he is wrong about this. Manager Koch said if the resolution was not attached or provided it is another violation of the Open Meeting Law. He said it seems to be a bad habit of not following the precise statute of making sure a copy is available for review. Manager Koch said he is confident it clearly does not mean the copy on the screen. Manager Koch referenced a Committee discussion about what materials to provide at the meeting. Manager Koch suggested Legal Counsel and the Governance Committee review statute to make sure they are following statutes

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112 when deciding what language to include in the Governance Manual regarding retention
 113 and presentation of documentation.
 114 President Ziegler amended the motion to include a screen shot of what was shared on the
 115 screen during the meeting but not shared in the notes. Manager Duevel accepted the
 116 amendment.

117 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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120 **d. Receive Audit and Finance Committee Report**

121 Manager Crafton moved to receive the Audit and Finance Committee Report from the
 122 July 11th Committee meeting. Manager Duevel seconded the motion.

123 Manager Koch said the minutes note the sharing of a report from the Forest Lake
 124 Watershed District and unless the report was posted and available at the time of the
 125 meeting then it is a violation of the Open Meeting Law.

126 Manager Koch stated he thinks there is a misreading and overbroad reading of state statute
 127 103B and the statute actually requires approval item-by-item and as a result should be
 128 reported item by item. Manager Koch said he thinks the District should maintain on its
 129 financial report a monthly budget a project-by-project itemization.

130 Manager Koch asked for an explanation about the reference to Minnesota Statute 118A
 131 and concerns about the processes of investments.

132 Manager Koch mentioned that under the discussion of per diem payments he has provided
 133 links to the IRS website stating payments to government officials is reported income as
 134 W-2s not 1099s. He asked that anyone advising the District be aware of the IRS
 135 information and to be able to show the District specific authorization for reporting per
 136 diems as 1099s. Manager Koch said he looks forward to a discussion of other forms of
 137 payment like bill.com. Manager Koch said unless someone can show legal authority for
 138 1099s then per diems should be reported as W-2s. He said he thinks it is a good topic for
 139 Minnesota Watersheds to look into. Manager Koch reiterated his point that IRS
 140 documents referring to government officials refer to W-2s not 1099s.

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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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6. Consent Agenda

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President Ziegler listed the item on the Consent Agenda - item 6e – Approve Final Pay Application #11 for \$10,211.04 to Rachel Contracting for Lower Riley Creek.

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Manager Koch moved to adopt Resolution 23-052 with the insertion of the description for the approval of pay application to Rachel Contracting as set forth in item 6e of the agenda. 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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7. Old Business

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[No Old Business items on the agenda.]

8. New Business

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a. Items Removed from Consent Agenda

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i. Receive July Staff Report

Manager Duevel moved to accept the July staff report. Manager Pedersen seconded the motion.

Manager Koch asked if there is a report or one that can be made for the managers regarding the grant applications and their status.

Manager Koch said he sent staff a number of comments and concerns regarding clarifications on the website and he has not received a response.

Manager Koch said he thinks all of the District’s meetings including Committee meetings should be posted on the District’s YouTube channel.

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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ii. Receive July Engineer’s Report

Manager Koch moved to accept the Engineer’s Report. Manager Crafton seconded the motion.

Manager Koch said the District should not be giving away its time and asked if the District tracks the calls staff field regarding permit pre-applications. Scott Sobiech said pre-application phone calls and emails are assigned to the general permitting number. Manager Koch asked the engineers and staff to discuss and consider a method of capturing the information per permit.

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

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

Pedersen	Yes
Ziegler	Yes

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iii. Receive July Regulatory Report

Manager Koch moved to accept the July regulatory report. Manager Crafton seconded the motion.

Manager Koch said regarding the Laredo Drive property that did a demo without a permit, he wants to make sure the District recoups all costs the District is incurring for dealing with this matter. He said he heard what sounded like tons of rocks being dumped from a dump truck and he wants to make sure that is investigated.

Manager Koch asked about the April and May items in the report and if the projects are able to proceed. He said his view is the projects should stop until permitted.

Mr. Jeffery summarized the different scenarios of project tasks that can proceed and projects that cannot. He said it would be a good workshop topic for the Board to discuss setting thresholds and determining steps and stages of regulatory action. Manager Koch said the District needs to make it known the District is serious about its rules. Manager Koch asked Mr. Jeffery to put this topic on the Board’s workshop schedule. Manager Koch said the District needs to review its rules and not wait for EHAP to be done before reviewing its rules. 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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iv. Approve Pay Application #7 for \$4,875 to Sunram Construction for Middle Riley Creek

President Ziegler moved to approve pay application #7 for \$4,875 to Sunram Construction for Middle Riley Creek. Manager Pedersen seconded the motion.

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Manager Koch raised his concerns about running the vegetation management term through July 20 instead of at least the full seasonal time period. Mr. Sobiech responded the term is such because July 20, 2023, marks the first full year of maintenance.

Manager Koch asked to receive a non-locked version of the document. Administrator Jeffery said staff could provide a non-locked unsigned copy.

Upon a roll call vote the motion carried 5-0.

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

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v. Approve Pay Application #7 for \$9,500 to Sunram Construction for Pioneer Wetland Restoration

Manager Crafton moved to approve pay application #7 for \$9,500 to Sunram Construction for Pioneer Wetland Restoration. Manager Pedersen seconded the motion.

Manager Koch said he has the same questions and comments on this pay app as he had on the pay app in the previous discussion. He suggested staff review its contracts and consider a term that stretches across the end of the season.

Upon a roll call vote the motion carried 5-0.

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

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b. Accept June Treasurer’s Report

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Manager Crafton moved to approve the June Treasurer’s report, which was reviewed in line with the District’s internal controls and procedures. Manager Pedersen seconded the motion.

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Manager Koch remarked he likes the Valley Branch report format.

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Manager Koch said regarding the District’s Visa payments it seems the process is inconsistent and it is unknown if the Board has approved the amounts paid. He said it seems to him not a best practice. Manager Koch suggested the Audit and Finance Committee look at the monthly Treasurer’s Reports before they go out. He said the report about the Visa is an issue. He said the report lists the credit card as the vendor and Visa is clearly not the vendor and he does not think it is a generally accepted accounting standard because it does not show how much the District is spending on a particular vendor and is very hard to spot fraud or other issues unless reviewed in an audit and he is not sure an auditor would even spot it when a credit card is listed as a vendor.

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Manager Koch said he thinks the accountant costs for working on the audit should be recorded as an audit cost. Manager Koch stated his concern about the report showing a negative number regarding the US Bank balance.

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Manager Koch said he submitted two per diem claims, one at the beginning of June and one at the beginning of July and he has not received payment for either one of them. He said there has been way more than enough time to process the uncontested portions of the claims. Manager Koch referenced the Minnesota Wage Theft law and said he thinks there should be concerns about not paying these wages. Manager Koch said in spite of the fact they are called per diems and there is a set amount to be paid per day, under state statute there is no such thing that limits the amount to be paid only a maximum per day although that is probably superseded by the Federal Minimum Wage laws. He suggested staff, accounting, finance, and legal look into the matter and said he expects to receive interest and whatever other payments entitled to him under the Wage Theft Law to be paid to him no later than the next meeting.

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

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

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c. **Resolution 23-053 Approving Payment of the Bills**

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Manager Crafton moved adoption of Resolution 23-053 Approving Payment of the

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Bills. Manager Pedersen seconded the motion.

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Manger Koch repeated all the comments he made about the bills to be paid that he made

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in the acceptance of the Treasurer’s Report. Upon a roll call vote the motion carried 4-

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

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d. **Approve Variance from Rule B – Floodplain for Placement of Fill within Floodplain**

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Mr. Sobiech displayed a map “2022-074 Xcel Service Center.” He explained the proposed development is located on 22 acres south of Highway 5 and west of Audubon Road in Chanhassen and the permit applicant is Xcel Energy. Mr. Sobiech said the proposed project would disturb 17 acres and create 9.65 acres of impervious surface. He described the proposed impacts to the four water resources located on the property.

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Mr. Sobiech summarized the proposed project is generally compliant with the District’s rules with a lot of the same conditions the District typically sees during permit reviews.

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Mr. Sobiech said one unique condition to this permit is a condition under Rule G about a slight design adjustment such as to reduce the flow to the tributary or for the applicant to demonstrate the flows will not result in increased erosion in that water course.

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Mr. Sobiech said the applicant is requesting a variance from the District’s flood plain rule. He reminded the Board the project proposes to completely eliminate the wetland located in the southern portion of the property. He said the District’s rules require providing compensatory storage in the floodplain adjacent to that water feature. Mr. Sobiech explained that waterbody will be eliminated so the applicant is unable to provide compensatory storage adjacent to the water feature, which is why the applicant is requesting a variance.

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Mr. Sobiech went through the District’s Rule K - Variance Criteria. He reminded the Board that Rule K requires the Board of Managers to find that because of unique conditions inherent to the subject property the application of rule provisions will impose

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284 a practical difficulty on the applicant, and he went through the six criteria the District
285 uses to assess variance requests.

286 Mr. Sobiech summarized the rate control analysis, abstraction analysis and water quality
287 assessment submitted demonstrate compliance with the District's rules as well as
288 indicate no off-site adverse effects or impacts on government services. He reported that
289 because the project involves a net increase of storage below the 100-year flood
290 elevation of the wetland being filled, the proposed alterations are not likely to adversely
291 affect offsite governmental services, water resources, flood levels, or neighboring
292 properties and the proposed variance only impacts the applicant's property. Mr. Sobiech
293 noted the applicant created the circumstances requiring the variance but did so with
294 approval of the City of Chanhassen, which is the LGU [Local Governmental Unit].

295 Manager Koch said he is hearing that the water retention will be in the same general
296 area as the existing 30-square foot wetland. Mr. Sobiech said yes.

297 Manager Koch said he is concerned that the need for the variance is created by the
298 applicant. He said even though the WCA authority approved it, he is not sure that
299 approval absolves the applicant of responsibility.

300 Manager Koch said he is not sure the District's rules allow this and he thinks there is
301 room for reconsidering this District rule and to consider that even through the applicant
302 might have created it and increased storage, there should be something in the District's
303 rules other than this blatant statement that the applicant created the need for the
304 variance. He said he thinks this is a logical issue and he does not see room for
305 exceptions in the District's existing rules. Manager Koch said he thinks the District's
306 rules need to be changed and he is hesitant to approve this variance because of the
307 language in the District's rules. He asked if the District's rules have any type of
308 balancing language in its variance rule to allow the District to ignore one rule because
309 of another rule.

310 Mr. Sobiech said the only path the applicants have to not comply with the District's
311 criteria is a variance approved by the Board or the exception provision provided in Rule
312 K.

313 Manager Koch said his understanding is that the proposed project will provide better
314 protection and the Board should include that point as one of the bases for granting the
315 variance. Mr. Sobiech responded the proposed project will reduce the runoff rate greater
316 than is provided on the property today, but the District already requires that to meet the
317 District's stormwater criteria.

318 Mr. Welch said a variance request is required for this proposed project because the
319 project does not meet the District's rules for compensatory storage. He said the
320 proposed design, approved in part by the City of Chanhassen, creates the problem, but
321 the managers' hands are not tied. He said the District's variance factors are factors
322 instead of a checkbox of technical criteria. He said this is within the Board's
323 determination to make the decision and he thinks Mr. Sobiech is very comfortable with
324 the technical basis on which the managers could base their approval of this variance.

325 Manager Crafton asked Mr. Jeffery if no wetland functions are being lost in this
326 proposal. Mr. Jeffery said yes in this specific instance because of the degraded nature of
327 the existing wetland, which provides no habitat and has limited rate control and limited
328 storage. Manager Crafton said the water cycle is being disrupted and she is concerned
329 about it and she hopes that Xcel and future facilities would try to protect wetlands or
330 enhance them instead of filling them in. She said wetlands are very important to the
331 environment and she is very disturbed this project has been designed this way. She said
332 she will vote against this in terms of justice.

333 Mr. Welch said Zach Moen represents the applicant and is present at tonight's meeting.
334 Mr. Moen introduced himself and said Lee Stokes, the project manager with Xcel, is
335 also in attendance. Mr. Moen described the WCA process the project went through. Mr.
336 Stokes pointed out the storage pond provides more storage than the existing wetland.

337 Manager Crafton encouraged the project to enhance the wetlands to make them more
338 functioning.

339 Manager Pedersen referred to variance applications in general and the amount of
340 pervious surface being lost because of what the District is allowing to be permitted. She
341 said she thinks the Board will be tested time and time again with projects that come in
342 front of the Board for permits. Manager Pedersen said climate change is not getting any
343 better. She said she is not seeing in the proposal a lot of native trees that should be
344 included. Manager Pedersen said she understands the proposal provides additional
345 compensatory storage but she would like Xcel to work to improve the wetland and use
346 native vegetation materials.

347 Manager Koch moved to adopt the resolution on page 1 of the report, which reads Be it
348 Resolved that the variance request for Permit 2022-074 from compliance with Rule B,
349 subsection 3.2b is approved, based on the facts and analysis provided by the RPBCWD
350 engineer below and the information provided by the applicant and placed in the record
351 at the August 2, 2023, meeting of the managers, and the managers find based on all the
352 facts and circumstances that this variance should be approved. President Ziegler
353 seconded the motion with the amendment of making the footprint of the two stormwater
354 BMPS larger, meaning more acres, and having the engineers work together to maximize
355 the area of those BMPs. Manager Pedersen moved to amend the motion to incorporate
356 her comments about using better native plant materials.

357 Manager Koch said unless there is something in the District's rules requiring the
358 applicant to expand the ponds or requiring a different list of vegetation then the Board
359 cannot impose those things on the applicant. Manager Koch said he does not accept the
360 suggested amendments to the motion.

361 Manager Duevel seconded the motion as made by Manager Koch.

362 Mr. Welch said if the applicant comes forth with an application and a plan that the
363 engineer finds meets the rules, then the applicant gets the permit. He said the managers
364 can certainly ask for the applicant to try to maximize the areas of the BMPs and to ask
365 for a review of the materials and improving the plants as they can. Mr. Welch said if the

366 applicant agrees to those requests as additions to the action by the Board of Managers
 367 then he thinks legally the Board stands to solid legal ground to include those requests.

368 President Ziegler moved to amend the motion to request that the applicant consider
 369 maximizing the BMPS especially the wetland characteristics of the BMPs and include
 370 Manager Pedersen’s recommendation to request that the engineer/architect look closely
 371 at the plant materials and choose native materials more appropriately. Manager
 372 Pedersen seconded the motion.

373 Mr. Welch recommended hearing from the applicant as to their disposition as to the
 374 amendment.

375 Mr. Stokes of Xcel Energy said the applicant agrees to those amendments.

376 Upon a roll call vote, the motion to amend carried 5-0 as follows:

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

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379 Upon a roll call vote, the motion to approve the variance 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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382 Manager Koch commented the discussion highlights the Board’s need to review and
 383 discuss the District’s rules.

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e. **Approve Permit 2022-074 Xcel Energy Facility as Presented in the Proposed Board Action Section of the Permit Review Report**

Manger Koch moved to adopt the proposed resolution set forth at the bottom of page 1 as they pertain to application for Permit 2022-074. Manager Pedersen seconded the motion. Upon a roll call vote, the motion to approve the permit carried 5-0 as follows:

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

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9. Discussion Items

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a. **Presentation of Proposed 2024 Draft Budget and Levy**

Administrator Jeffery shared a PowerPoint presentation “Draft Budget and Levy Discussion – RPBCWD BOM Regular Meeting, August 2, 2023.” He said the proposed timeline for adopting the District’s 2024 budget is for the Board to adopt it after the budget public hearing at the Board’s September Board meeting. He said the draft budget for 2024, and moving forward to 2028, is predicated on an increase to the District’s opportunity projects for \$420,000 per year.

Mr. Jeffery summarized District projects to be implemented or modified per budget year from 2024 to 2028 and proposed an 8% levy increase in 2024, 9% levy increase in 2025, 11% increase in 2026, 11% increase in 2027, and 14% increase in 2028.

Mr. Jeffery went through his revenue projection for 2024, for a total projected revenue of \$9,717,646.00 with revenue sources including the plan implementation levy, permits, grant income, investment income, past levies (carry overs), miscellaneous income, reimbursements, and partner funds.

Mr. Jeffery said regarding 2024 projected administrative costs, staff costs are proposed to increase by \$165,629 to pay for two new fulltime positions and the 0.75% time office assistant. He said manager per diems are proposed to increase by 14% and all other administrative costs are proposed to increase by 2%.

Manager Koch asked if changing project years for District projects requires a watershed management plan amendment. Mr. Welch said the Minnesota Board of Water and Soil Resources usually does not see changing project years as requiring a plan amendment.

413 He added that it would not hurt to include the year changes in the plan amendment if the
 414 District does a plan amendment, for example to add capital projects into the plan.
 415 Manager Koch said he would prefer to present the plan with amendments and go
 416 through the change process.

417 Manager Koch said the proposed 8% levy increase would probably make sense given
 418 inflation. He said as a taxpayer he would have concerns with levy increases of 9%, 11%,
 419 and 14%. Manager Koch said he would like to see Administrator Jeffery’s budget
 420 spreadsheet outline the breakdown of year-by-year, category-by-category so the
 421 managers can see what is going to be spread over future years. Manager Koch said he
 422 would also like to see a breakdown of estimates of what the District will spend per
 423 project in 2024 and another column in the overall one-page budget sheet to list the
 424 estimated spend in future years of funds already levied.

425 At 10:10 President Ziegler called for a five-minute recess. The Board recessed at 10:10
 426 p.m. and readjourned the meeting at 10:16 p.m.

427

428 **b. Fall Tour**

429 Administrator Jeffery suggested holding the District’s fall tour the last week of
 430 September and asked the managers to email him with dates that work during that week.
 431 Manager Pedersen said any day works for her except September 25th.

432 Manager Koch moved to have managers email Mr. Jeffery with their availability for the
 433 fall tour and for the Board to skip over the remaining agenda items through item 9e -
 434 Closed Session to Discuss the Potential for Acquisition of Property Located at 9955 and
 435 9875 Spring Road, Eden Prairie, MN and PID 2811622320005. Manager Pedersen
 436 seconded the motion. Mr. Welch recommended the Board receive a brief update on the
 437 Spring Valley Friends vs. RPBCWD, which is meeting agenda item 9d. Manager Koch
 438 amended his motion to include on the agenda a brief update from Legal Counsel on
 439 Spring Valley Friends vs. RPBCWD. Manager Pedersen agreed to the amendment.
 440 Upon a roll call vote the motion carried 5-0.

441

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

442

443

c. Lake Ann

444

[Item skipped per Board action in agenda item 10b.]

445

446

d. Update on Spring Valley Friends vs. RPBCWD

447

Mr. Welch said the Minnesota Court of Appeals on Monday [July 31, 2023] released its decision on the appeal from Spring Valley Friends to that court in the matter of contesting the District’s issuance of a permit for the Noble Hills development. Mr. Welch said that the court upheld the district court’s dismissal of the challenge.

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

453

Manager Koch moved to go into closed session for the purpose of developing terms for the potential acquisition of property located at 9955 and 9875 Spring Road, Eden Prairie, Minnesota and Minnesota Property ID (PID) 2811622320005. Manager Pedersen seconded the motion.

454

455

456

457

458

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

459

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

460

The Board moved into closed session at 10:23 p.m.

461

462

The Board reconvened the public regular monthly Board meeting at 10:48 p.m.

463

Manager Koch moved to continue the meeting to 6:30 p.m. on Thursday, August 17.

464

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

465

466

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

Duevel	Yes
Koch	Yes
Pedersen	Yes
Ziegler	Yes

467

468

469

At 10:49 p.m. the Board continued the meeting to Thursday, August 17, 2023, at 6:30 p.m.

10. Member Reports

470

a. Manager Reports

471

[Continued to August 17.]

472

473

b. Administrator Reports

474

[Continued to August 17.]

475

476

c. Legal Counsel Reports

477

[Continued to August 17.]

478

11. Upcoming Board Topics

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[Continued to August 17.]

480

12. Upcoming Events

481

[Continued to August 17.]

482

13. Adjournment

483

[Continued to August 17.]

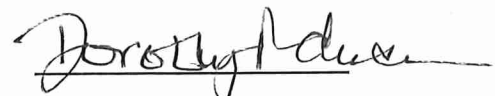
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Respectfully submitted,

487



488

Dorothy Pedersen, Secretary

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