

## MEETING MINUTES

### Riley-Purgatory-Bluff Creek Watershed District

#### May 4, 2022, RPBCWD Board of Managers Work Session & 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 Niklay, Natural Resources Technician  
Louis Smith, Attorney, Smith Partners\*  
Scott Sobiech, Engineer, Barr Engineering Company\*  
Michael Welch, Smith Partners

Other Attendees:

Matt Blazer, Bolton & Menk	Greg Hawks
Chris	Lani Leichty
Chris Call	Josh Metzger, Lennar
Julie Fleming-Wolfe	Christopher Mozina
Jeremy Foss, ISG	Mark Nordland
Don Giacchetti	Phil Olson
Nancy Giacchetti	Steve Sabraski
Mitch Hatcher	Mike Waltman, Bolton & Menk
Joe Jablonski, Lennar	

*\*Indicates attendance at both the workshop and the monthly meeting*

*Note: the Board 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. 5:00 p.m. Work Session

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President Ziegler called the Board work session to order at 5:02 p.m.

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**a. Regulatory Program**

Interim Administrator Jeffery said the intent of this work session is to get all the managers to understand the regulatory program and things the District can and cannot do and to discuss the District’s rules and get a clear understanding of what the managers want to see regarding the District’s rules.

Interim Administrator Jeffery shared a PowerPoint presentation and reviewed the categories of resource protection tools at the District’s disposal. Attorney Welch reviewed the regulatory authority delegated to the District via statute. He went through the 1955 Watershed Law and the purposes and powers designated from it. He talked about the 1982 Metropolitan Surface Water Management Act, which established a framework for identifying the necessary standards of criteria to protect water resources to prevent flooding and implement them collaboratively and efficiently with the cities.

Attorney Welch explained the Metropolitan Surface Water Management Act still maintains the principle of limited specific powers. He listed what the District can do under its regulatory authority:

- Require permits
- Inspect properties
- Issue notices
- Issue compliance orders – a temporary authority of staff
- Fix and charge – draw on the financial assurance

Attorney Welch said watersheds can require bonds and draw on them to fix items identified in a compliance order. Attorney Welch said watershed district rules are the critical, mandated link from the District’s Plan to action. He said the regulatory program is a tremendous tool for achieving action achieving those policies. Attorney Welch stated the District’s rules establish performance standards and are governed by procedural steps for implementation.

Manager Pedersen asked if there are boundaries to performance standards. Attorney Welch said the standards can be stricter than state law and everything the District does has to be based in sound science and hydrological analysis. Manager Pedersen asked what happens in the case the District uses cutting edge science. Attorney Welch said the District can use cutting edge science, but there should be sound legal basis and considerations of practical reality. Attorney Welch added it’s incumbent on the watershed districts to have the latest, greatest science, but it has to be sound. He explained the Board can’t make arbitrary and capricious decisions and that is a standard in state law for the kinds of decisions the Board makes on permits and variances.

Manager Pedersen asked what if the cities don’t like the performance standards the District sets. She said it seems the cities decide what they want to do and how they want to do it, and they can try to force the District to accept it. Attorney Welch said cities can

42 make those decisions in terms of land use and but not in terms of standards and criteria  
43 for protection of water resources because the District sets those in its plan. Manager  
44 Crafton said cities and districts working collaboratively is a better approach. Attorney  
45 Welch said a collaborative approach is what was envisioned and prescribed in the  
46 Metropolitan Surface Water Act Chapter 103B and is the approach favored by the state  
47 entity.

48 Interim Administrator Jeffery said the direction needed is to identify how the District can  
49 make its regulatory program as efficient and protective as possible and how to decide  
50 which of those two sides to tip to where they are incongruent.

51 Manager Koch asked if staff would go through each of the Districts rules, as he wants to  
52 understand the scope of each rule. Interim Administrator Jeffery said that's a good idea to  
53 do sometime and noted tonight staff plans to go through a few projects that are  
54 illustrative of some of the issues the District is seeing with its rules. He said these  
55 projects prompted comments and raised concerns from the managers. He said staff can  
56 come back at a future time to go through the rules.

57 Manager Pedersen said she would like staff to bring the most critical rules issues to the  
58 Board first. Manager Koch said he would like to know for each of the District's rules  
59 what is its purpose, what is the District trying to accomplish, what is the reason for the  
60 criteria, and what are the rule's limitations. He said this will help put context around the  
61 rules.

62 Manager Crafton said she has watched permits come through for years and the District's  
63 rules are focused on certain things like rate control. She said she thought the intent of the  
64 District's rules was to improve things. Manager Crafton said a source of frustration for  
65 her is that now more is known about how the nature works and how the system should  
66 work and the District isn't making things better. She wants to know how the District can  
67 use new science. President Ziegler responded to Manager Crafton's comments about rate  
68 and runoff controls. He said he thinks the District is doing a lot of good, but he doesn't  
69 think the District is doing enough.

70 President Ziegler said a sore point for him is the District's restricted site rules. He said  
71 the managers and staff were thinking of liner projects when that rule was put in place, but  
72 developers are using the restricted site rules to cram more things on a lot than seems  
73 logical. Manager Ziegler said he thinks the District should be pushing green space and  
74 prairie lawns rather than turf lawns. He said the District can't easily limit turf lawns but  
75 can limit runoff requirements.

76 Manager Koch commented on the difficulty of returning to a pre-settlement condition and  
77 said he thinks the District is successful in not making things worse. He said these are big  
78 issues and he wants to make things better but also be practical.

79 Engineer Sobiech commented that when the District reinstated its rules, the Board at the  
80 time implemented the MIDS standard. He said the underlying basis of the MIDS standard  
81 is trying to mimic hydrology that occurred under pre-settlement conditions. Engineer  
82 Sobiech said that approach works really well when you have soils that infiltrate. He said

83 when there are clay soils, that approach won't work to mimic those pre-settlement  
84 conditions. He said the question is whether something different should be done to better  
85 protect the resource.

86 Attorney Welch said he doesn't think the District's regulatory program is allowing losses  
87 or even just holding the line.

88 Attorney Welch commented the Board should inform staff of the Board's priorities and  
89 staff will consider that information and figure out how to make the rules work based on  
90 those priorities.

91 Interim Administrator Jeffery said he thinks staff has a good idea of where the managers  
92 want to go, and he shared a tentative timeline for the District's rules revision process  
93 starting with tonight's workshop and extending to June 7, 2023. He said he will share this  
94 timeline with the managers and post it on the District website. He asked managers to let  
95 him know if they have feedback about it.

96 Manager Koch raised the idea of the District putting in place both carrots and sticks and  
97 the idea of knowing the watershed's geology.

98 Interim Administrator Jeffery said he recommends having Attorney Welch included in all  
99 the rules conversations during this process, so he can hear the information first hand. The  
100 managers indicated their consent to the recommendation.

101 The workshop ended at 5:32 p.m.

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## 2. Call to Order of Regular Monthly Meeting

103 President Ziegler called to order the Wednesday, May 4, 2022, Board of Managers Regular  
104 Meeting at 7:01 p.m. The meeting was held remotely via meeting platform Zoom.

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## 3. Approval of Agenda

106 Manager Crafton moved to approve the agenda as presented. Manager Pedersen seconded the  
107 motion. Manager Koch asked to discuss the staff report, engineer report, and construction  
108 inspection report during the manager discussion items but leave them on the Consent Agenda. He  
109 requested moving items 7e, 7h, 7i, 7j, and 7k off the Consent Agenda. Manager Pedersen and  
110 Manager Crafton accepted the friendly amendment.

111 Upon a roll call, 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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#### 4. Matters of General Public Interest

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No matters of general public interest were raised.

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#### 5. Reading and Approval of Meeting Minutes

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##### a. April 6, 2022, RPBCWD Board of Managers Regular Monthly Meeting

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Manager Crafton moved to approve the minutes of the April 6, 2022, Board of Managers

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Regular Meeting. Manager Pedersen seconded the motion. Manager Crafton noted an

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attendee's name was listed twice. Manager Crafton noted an edit on line 109 to replace the

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word "do" with "provide.". She asked for a change on line 202 to replace "acknowledge"

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with "suggested." Manager Crafton asked for a change on line 203 to replace "federal"

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with "tribal nation partners." Manager Pedersen accepted the edits at friendly

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amendments. Upon a roll call vote, the motion carried 4-0:

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<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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No CAC report presented.

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##### b. Confirm Board Representative for May 16th CAC Meeting

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Manager Pedersen volunteered to be the Board representative at the CAC's May 16<sup>th</sup>

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meeting.

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## 7. Consent Agenda

133 President Ziegler listed the items remaining on the Consent Agenda. Manager Koch moved to  
134 adopt the resolution 22-037 as presented with the addition to the resolution the consent agenda  
135 items as President Ziegler just listed and that those items be inserted in the formal resolution.  
136 Manager Pedersen seconded the motion.

137 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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140 The Consent Agenda included items 7a – Adopt Resolution 22-037 to approve consent agenda,  
141 7b – Accept April staff report, 7c -Accept April engineer’s report, 7d – Accept April construction  
142 inspection memo, 7f – Approve Permit 2022-005 Cunningham 2<sup>nd</sup> Addition as presented in the  
143 proposed Board action section of the permit review report, and 7g – Approve Permit 2022-026  
144 Chapel Hill Expansion as presented in the proposed Board action section of the permit review  
145 report.

## 8. Action Items

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### a. Items Pulled from Consent Agenda

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#### i. Approve Permit 2021-078 Mattson Shoreline as Presented in the Proposed Board Action Section of the Permit Review Report

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149 Manager Koch asked if the applicant is doing extensive work and asked what  
150 triggered the District’s rule. Interim Administrator Jeffery said the District’s  
151 rule is triggered because proposed project includes work at or below OHW. He  
152 said the floodplain and erosion control come into effect.

153 Manager Koch asked if anything is being done with respect to the rainwater  
154 flowing down from the house to the lake. Engineer Sobiech said the applicant is  
155 proposing the shoreline stabilization and minor landscaping in the area,  
156 upgrading from the rip rap. He said there are no proposed stormwater BMPs,  
157 which aren’t required because the project doesn’t trigger the District’s  
158 stormwater rule.

159 Manager Koch said he would like the Board to discuss at the District’s rules  
160 workshop the topic of storm water runoff toward lakes and the idea of requiring  
161 some type of BMP when considering shoreline changes.

162 Manager Koch moved to adopt the resolution set forth in the staff report for  
163 Permit 2021-078. Manager Pedersen seconded the motion. Upon a roll call vote,  
164 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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168 **ii. Adopt Resolution 22-038 to Grant Administrator Authority to**  
169 **Facilitate Entry into Minnesota State Retirement System Retirement**  
170 **Plans**

171 Manager Koch said his issue is he thinks the Board should have the applications  
172 filled out and completed or this resolution should be amended to specify what  
173 the Board is approving on that basis.

174 Manager Koch moved to adopt Resolution 22-038 with the amendment that  
175 staff complete the application forms and bring back to the Board for approval at  
176 its May 11<sup>th</sup> meeting. Interim Administrator Jeffery said it would be helpful to  
177 have clarification from the Board about the options available in the plans.

178 Manager Koch amended his motion to move to direct Interim Administrator  
179 Jeffery complete the form based on his recommendations and bring it to the  
180 Board at its May 11<sup>th</sup> meeting. Manager Pedersen seconded the motion. Upon a  
181 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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**iii. Adopt Resolution 22-039 to Enter into Agreement with Houston Engineering to Develop MS4Front Grant Database Application and Other Ancillary Services and Authorize Administrator to Sign.**

Manager Koch asked if the District has a license agreement with Houston Engineering. Interim Administrator Jeffery said he and Legal Counsel reviewed the Board’s motion and the District’s agreement with Houston Engineering. Interim Administrator Jeffery said the amount approved by the Board only included the first year of SaaS. He said the District’s license will expire this September or October.

Manager Koch moved to lay this item over until May 11<sup>th</sup> so he can see the original agreement and to direct Interim Administrator and Legal Counsel to come back with the license agreement and a proposed amendment to make sure it’s within the District’s control as to renewing this license agreement. He said he would like to see this agreement come back to the District as an ongoing license subject to the District’s continuation and paying of the license fee.

Interim Administrator Jeffery asked Manager Koch what he would like to see in the proposed amendment that is different from Task 1 in the current proposed agreement. Manager Koch said more delineation so the agreement is more definitive about functionality. Attorney Smith noted staff, not legal counsel, will need to articulate the scope.

Manager Koch restated his motion to lay this item over until May 11<sup>th</sup> and direct staff and Legal Counsel to come back with documentation for the ongoing licensing of the software for the District’s permit database and delineation and agreement as to what Houston will provide as for the grant database. 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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213 **iv. Approve Entering into a Cost-Share Agreement for \$6,008 for**  
214 **Removal of Invasive Species and Restoration of Native Plant**  
215 **Community and 3 Years of Professional Maintenance for Shoreline**  
216 **Restoration (Parcel 1).**

217 Manager Koch asked for confirmation regarding if the grant agreement provides  
218 for 75% of costs of maintenance. Staff Forbes explained the District’s cost  
219 share is set up to provide up to 75% of maintenance for the first three years up  
220 to a certain amount based upon the original grant. She displayed additional  
221 information about the cost break down for this proposed cost-share project.

222 Manager Koch said he doesn’t think the agreement matches the totals Staff  
223 Forbes just displayed and he wants to make sure the right numbers are in the  
224 contract. He commented going forward he thinks it would be good to reconsider  
225 item 5b because with notice, the recipient could sell the place and the  
226 maintenance could be stopped. He wondered if in the future the District should  
227 consider requiring recipients to maintain it or get the buyers to agree to do it or  
228 pay the District back and not just let people walk away after the District gives  
229 them \$5,000. Manager Koch asked for having a form of resolution for  
230 approving cost-share agreements.

231 Interim Administrator Jeffery said staff would like to present at a future meeting  
232 a policy to the managers to adopt by resolution as to what the District’s grant  
233 program actually is.

234 Manager Koch moved to adopt resolution 22-042 to approve this cost-share  
235 grant for the two parcels 17221 and 17225 Terry Pine Drive. Manager Pedersen  
236 seconded the motion.

237 Attorney Smith added he thinks Legal Counsel reviewed one of the two cost-  
238 share agreements and it would be appropriate to have the understanding Legal  
239 Counsel will review the second agreement as well before it’s executed.  
240 Manager Koch made a friendly amendment to direct Legal Counsel to review  
241 the second agreement for consistency. Manager Pedersen accepted the friendly  
242 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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245 v. **Approve Entering into a Cost-Share Agreement for \$6,008 for**  
246 **Removal of Invasive Species and Restoration of Native Plant**  
247 **Community and 3 Years of Professional Maintenance for Shoreline**  
248 **Restoration (Parcel 2).**

249 [Item handled as part of agenda item 8v.]

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251 **b. Accept March Treasurers' Report**

252 Manager Crafton reported the report has been reviewed in accordance with the District's  
253 internal policies and procedures and she moved to accept the March Treasurer's Report.  
254 Manager Pedersen seconded the motion.

255 Manager Koch asked for details on a couple of the disbursements listed in the report.  
256 Interim Administrator Jeffery provided details. Manager Koch commented the report  
257 shows several budget items over the 25%, and he is asking if it's an aberration and will  
258 the District still be in budget on those items. Interim Administrator Jeffery and Manager  
259 Crafton reviewed and commented on those items.

260 Manager Koch commented he still has a problem with the reporting of the staff's Visa  
261 activity as Visa transaction, when it's really a transaction with another vendor.

262 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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266 **c. Approve Paying the Bills**

267 Manager Crafton moved to pay the bills. Manager Pedersen seconded the motion. Upon  
268 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. Adopt Resolution 22-040 to Enter into a Cost-Share Agreement for \$16,250 with Lake Riley Woods HOA for Installation and Three Years of Professional Maintenance of a Native Shoreline Buffer**

Interim Administrator Jeffery explained the Board granted the permit a meeting or two ago but waited to act on the cost-share grant until the applicant had gone through the regulatory framework. He said the grant is for the buffer being installed, where rip rap is being removed and native vegetation is being planted.

Manager Pedersen moved to Enter into a Cost-Share Agreement for \$16,250 with Lake Riley Woods HOA for Installation and Three Years of Professional Maintenance of a Native Shoreline Buffer. Manager Crafton seconded the motion.

Manager Koch moved to amend the motion to include the motion is to adopt Resolution 22-040. Manager Pedersen and Manager Crafton accepted 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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**e. Reconsider Variance from Rule B Regarding Floodplain Compensatory Storage for Permit Application 2021-063 Reserve at Autumn Woods**

Interim Administrator Jeffery announced Joe Jablonski and Josh Metzger from Lennar and consulting engineer Matt Blazer are here to speak to the matter. Interim Administrator Jeffery reported he and Engineer Sobiech met with Lennar and the consulting engineer after the District Board denied the variance and talked about the Board’s concerns.

Mr. Jablonski shared a presentation about the proposed project’s site design. He went through the details, noting the original design proposed 102 lots and the revised design reduced the number of lots to 86. Mr. Jablonski said 580 of 720 trees inventoried will be preserved and 75% of the existing wetlands will be preserved. He stated the project will

298 impact just under two acres of wetlands and will restore two acres of wetlands. Mr.  
299 Jablonski provided additional details about the proposed site plan, such as plans for a  
300 pedestrian trail, a park, and preservation of natural features on the site. He said 40% of  
301 the site is remaining open space, and that excludes everything outside of the residential  
302 lots.

303 Manager Crafton commented that her concern was the impact to the wetlands and if  
304 there would be any risk for wet basements with the houses located in the ephemeral  
305 wetlands. Mr. Metzger said he doesn't foresee an issue with those four or five lots. He  
306 explained the site plan has calculated the maximum amount of impervious surface lots  
307 would be permitted from mid roof line of the house to the rear property line. He said  
308 this community will be managed by the Jonathan Homeowners Association. Mr. Metzger  
309 said part of the project's permit is that the Jonathan HOA will sign an operations and  
310 maintenance agreement, which includes the monitoring of impervious surfaces on these  
311 lots. He explained there will be disclosures included as part of the sale of these homes  
312 informing buyers of the limitations of hard cover.

313 Manager Pedersen asked what the homeowners will be able to use as lawn in terms of  
314 what species. She said if Kentucky Blue Grass is used, it will use much more of the  
315 water resources to keep the lawns irrigated. Manager Pedersen talked about trying to  
316 save water. Mr. Foss said the plan is to sod with Kentucky Blue Grass. Manager  
317 Pedersen asked the project to consider using something with a deeper root system  
318 instead of a lawn grass that takes a lot of inputs to make it live. There was discussion  
319 about the topsoil requirements.

320 Manager Koch said it isn't currently within the District's purview to dictate what type  
321 of grass the project includes. He said what is before the Board is consideration of  
322 variances and permits.

323 Manager Koch moved to adopt the resolutions regarding the granting of the variances  
324 set forth in the staff report for Permit 2021-063. Manager Ziegler seconded the motion.  
325 Manager Ziegler asked what type of the trees will be planted as part of the project. Mr.  
326 Foss said the plan includes not only ornamental trees but also story trees, native to the  
327 area as much as possible. Interim Administrator Jeffery said five species of native oaks  
328 are included in the tree plan. Manager Koch said he assumed the project had a tree plan,  
329 which was or will be reviewed by the City. Mr. Metzger responded yes, the City has  
330 reviewed and approved the tree plan, and he read some of the tree species off the plan.

331 Attorney Smith said Manager Koch asked whether the District's rules require a specific  
332 species of grass to be planted at the site, and the answer is the District's rules don't  
333 provide that requirement. Attorney Smith said he imagines if there are suggestions of  
334 alternative species that would be good for the site and be more sustainable, that the  
335 applicant could consider them, even though it is not a matter of consideration regarding  
336 the variance. Manager Koch remarked he views the Board's job is to follow its rules and  
337 the law, and if a project qualifies by the District's rules, the Board is duty-bound to  
338 approve it. He said if the Board decides its rules are inadequate, then the District can

339 consider changing them. Manager Koch said he has heard no legal justification for not  
340 approving this variance.

341 Manager Pedersen said she'd like to challenge the developer to think about what they  
342 could do to help improve the environment. She said enough progress isn't being made,  
343 especially in consideration of climate change. She asked the developer to reconsider  
344 trying to use something else for their lawn and consider putting in heritage species.  
345 Manager Crafton suggested low-mow, which has deeper roots and is more sustainable.

346 Mr. Metzger said he will bring the suggestions of alternatives to Kentucky Blue Grass to  
347 his team at Lennar. Manager Pedersen listed information resources for Mr. Metzger.

348 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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351 Manager Koch moved to adopt the resolutions for the exception action set forth in the  
352 staff report for permit 2021-063. Attorney Smith recollected the Board acted to approve  
353 the exception at the previous Board meeting. Staff confirmed. Manager Koch withdrew  
354 his motion.

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356 **f. Re-consider Permit Application 2021-063 Reserve at Autumn Woods as**  
357 **Presented in the Proposed Action Section of the Permit Review Report**

358 Manager Koch move to adopt the resolution set forth in the staff report for approving  
359 permit 2021-063. Manager Ziegler seconded the motion. Upon a roll call vote, the  
360 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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**g. Consider Variance for Permit 2021-079 Tonka-Woodcroft Street Reconstruction Related to Minimum Buffer Width**

Manager Koch moved to adopt the resolutions regarding the variance as set forth in the permit review report for Permit 2021-079 and to incorporate the findings of the engineer and applicant’s engineer. 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

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**h. Approve Permit 2021-079 Tonka-Woodcroft Street Reconstruction as Presented in the Proposed Board Action Section of the Permit Review Report**

Manager Koch moved to adopt the resolutions regarding the approval of the permits set forth in the permit review report for Permit 2021-079. Manager Pedersen seconded the motion. Interim Administrator Jeffery thanked the City of Minnetonka for its patience with the process. 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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**i. Approve Modification for Permit 2018-016 Avienda as Presented in the Proposed Board Action Section of the Permit Review Report**

Manager Koch asked for some history on this item. Engineer Sobiech explained the permit has been conditionally approved a couple of times in the past. He said the permit holder has met the conditions of approval. Engineer Sobiech provided a status update on the permit holder’s proposal to change the infiltration basin design to function as filtration basins, and he explained why. He said to provide abstraction on the site, the permit holder is proposing rain water harvesting and reuse. Engineer Sobiech said in addition to the change he just described, the permit holder is adding in the first phase of development. He said that development, the townhomes on the west side of the property, will also have rainwater harvest and reuse to meet the District’s criteria.

Engineer Sobiech said the District Engineer is recommending the Board approve an extension of time until July 1, 2023, as well as the permit modification for them to change the design to switch to filtration basins and rainwater harvesting and reuse and adding to the project the construction of the townhomes on the west side of the parcel.

Manager Koch clarified that Engineer Sobiech has reviewed the changes and they comply with the District’s rules. Engineer Sobiech replied that is correct.

Manager Koch moved to adopt the proposed resolutions set forth in the staff report for Permit 2018-016. 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

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**j. Adopt Resolution 22-041 to Enter into an Agreement with Peterson Companies and Authorizing Administrator to Execute the Agreement with Advice of Counsel.**

Manager Koch said he had suggested some changes to the terms to Exhibit A. Interim Administrator said he forwarded those suggestions to Attorney Welch asking him to make that change. Interim Administrator Jeffery and Manager Koch explained the change.

413 Manager Koch moved to adopt Resolution 22-041 with the changes he recommended if  
414 they meet the approval of Interim Administrator Jeffery and Legal Counsel. Manager  
415 Pedersen seconded the motion.

416 Manager Crafton asked for details about the difficulties happening with this filtration  
417 and reuse system. Interim Administrator Jeffrey provided details.

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

419

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

420

421

422 **k. Workplace Investigation Update (Closed Session)**

423 Manager Pedersen moved for the Board to go into closed session for a preliminary  
424 update on the workplace investigation. Manager Crafton seconded the motion. Upon a  
425 roll call vote, the motion carried 4-0 as follows:

426

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

427

428 The Board moved into closed session at 8:55 p.m.

429 At 9:07 p.m. President Ziegler reconvened the public meeting. Manager Pedersen  
430 moved to accept the contract with Kennedy & Graven. Manager Crafton seconded the  
431 motion. Upon a roll call vote, the motion carried 4-0 as follows:

432

433

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

434

435

## 9. Discussion Items

436

### a. Staff Report and Engineer Report

437

Manager Koch said he would like the District to get a report from Imagine IT on their view of the status of the District's security and procedures and what they've done.

438

439

Manager Koch said he contacted the Carver County Sheriff and provided license plate numbers regarding some bow fishing or spear fishing on Lotus Lake. He commented on the idea of a contest to spearfish carp.

440

441

442

Manager Koch said the District needs to look into drone technology and Lidar technology and seriously consider using GoPro technology for in-field recordation. Interim Administrator Jeffery said staff will be getting a demonstration next week on drones.

443

444

445

Manager Koch asked why Eurasian Watermilfoil isn't listed in the Lotus Lake vegetation management plan. Staff Maxwell stated the Lotus Lake Association applied for the Eurasian Watermilfoil permit, and the DNR didn't approve the permit. Interim Administrator Jeffery said staff will try to work with the homeowners this year to try and better coordinate what is going on with Eurasian Watermilfoil treatment.

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Manager Koch said regarding opportunity projects, he would like to see the Riley Creek section by Noble Hills get some real attention.

451

452

Manager Koch said he would like the District to increase its annual monitoring of phosphorous on Lotus Lake in response to the District's findings of increased phosphorous in the shallow areas of Lotus Lake.

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### b. Attorney Report

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Attorney Smith said he had no additional items to report.

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**c. Engineer Report**

Engineer Sobiech said he is looking forward to getting into the District’s rules and being innovative.

**d. Administrator Report**

**i. Boardroom Furniture**

Interim Administrator Jeffery updated the Board on his inquiries to furniture providers. He said he will bring information to the Board at the June or July Board meeting.

**ii. St. Hubert Education Partnership**

Interim Administrator Jeffery reported on meeting with the school’s science department and District staff working with the science department to help develop curriculum.

**iii. GreenCorps Appointment**

Interim Administrator Jeffery said the District was selected to have a GreenCorps Appointment. He said the member will start in September and work with the District through the following fall and will do soils fieldwork and data collection among other tasks.

**iv. Non-compliance Status**

Interim Administrator Jeffery provided a status update. He said as the District works through its rules update, the managers and staff will want Attorney Welch to help develop a step-by-step protocol.

**v. Consider Letter of Recommendation to LGU to Address Wake Boat Impacts**

Interim Administrator Jeffery asked if the Board would like staff to prepare a letter of support for the Association in regard to evaluating their surface water rules for wake boat management. Manager Pedersen and Manager Crafton supported the idea. Manager Koch said he is in favor of a letter. The managers agreed by consensus that staff should prepare a letter of support.

**vi. Audit Update**

Interim Administrator Jeffery reported he and Staff Bakkum met with the auditor and uploaded documents requested by the auditor. He said he will request the auditor come in and meet with the Board, and it seems so far there will be no findings on late payments.

**e. Manager Report**

**i. RPBCWD Fiscal Policies (LK)**

497 Manager Koch said he doesn't think the District has nailed down its  
498 approved fiscal policies and he thinks it's critical to do so. He wants to  
499 make sure everyone is on the same page.

500 President Ziegler asked about the timing for the Interim Administrator  
501 and Engineer's discussion with the DNR regarding the Duck Lake Outlet  
502 elevation. Interim Administrator Jeffery said the meeting is tomorrow,  
503 and he and Engineer Sobiech will provide an update to the Board.

504 **ii. Open Meeting Law (LK)**

505 Manager Koch asked for more direction from Attorney Smith about how  
506 the managers and staff exchange information to not violate the open  
507 meeting law. Attorney Smith said the short response is to funnel  
508 communications through the Administrator. Attorney Smith said he can  
509 provide more details as needed.

510 **iii. Discuss Adoption of Agenda Protocol**

511 Manager Koch said he would like a good process established for getting  
512 things on the meeting agenda.

513

514 **f. Personnel Committee Report**

515 **i. February 16<sup>th</sup> Meeting Summary**

516 Manager Pedersen said the Personnel Committee held a meeting on  
517 Monday and minutes will be distributed later this month. She reported the  
518 Committee discussed rewarding staff for the extra work taken on while  
519 the Interim Administrator was on leave. She said the Committee would  
520 like to look into resources regarding evaluating compensation, and the  
521 Committee will have more information at the Board's next meeting.

522

523 **g. Governance Committee Report**

524 **i. April 8<sup>th</sup> Meeting Summary**

525 President Ziegler reported the Committee's meeting minutes are in the  
526 Board packet.

527

**10. Informational Items**

528

No informational items were raised.

529

530

## 11. Upcoming Board Topics

- 531 a. Special Board Meeting May 11, 2022 – Administrator Search  
532 b. Special Board Meeting May 31, 2022 – Administrator Search  
533 c. Project Prioritization Metric Workshop – June 1, 2022  
534 d. Joint Meeting with CAC/Preliminary Budget Workshop – July 6, 2022

## 12. Upcoming Events

- 535 a. Special Board Meeting May 11, 2022 – Administrator Search  
536 b. Special Board Meeting May 31, 2022 – Administrator Search  
537 c. Workshop and Regular Meeting – June 1, 2022  
538 d. Special Board Meeting – June 2, 2022  
539 e. TAC Meeting – June 16, 2022  
540 f. MAWD Summer Tour – August 23-25, 2022

## 13. Adjournment

541 Manager Pedersen moved to adjourn the meeting. Manager Crafton seconded the motion.  
542 Upon a roll call vote, the motion carried 4-0 as follows:

543

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

544

545 The meeting adjourned at 9:42 p.m.

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Respectfully submitted,

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Dorothy Pedersen, Secretary