MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

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

PRESENT:

Managers: Jill Crafton, Treasurer

Larry Koch, Vice President Dorothy Pedersen, Secretary David Ziegler, President

Staff: Amy Bakkum, Administrative Assistant

Zach Dickhausen, Water Resources Technician II

Liz Forbes, Grant Program Coordinator

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

Mark Casey Dr. Ray Newman
Greg Hawks Marilyn Torkelson

Eleanor Mahon Phone # 612-XXX-XX60

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.

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1. Call to Order of Regular Monthly Meeting

President Ziegler called to order the Wednesday, March 2, 2022, Board of Managers Regular Meeting at 7:03 p.m. The meeting was held remotely via meeting platform Zoom.

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2. Approval of Agenda

Manager Crafton moved to approve the agenda as presented. Manager Pedersen seconded the motion. Manager Koch moved to amend the agenda to move items 7c - Approve Resolution 22-021 Temporary Interim Administrator Extension and 7g - Accept February Construction Inspection Report to the Consent Agenda and pull off of the Consent Agenda item 6g – Adopt Resolution 22-020 Request Vacant Board Position be Filled. Attorney Smith commented regarding resolution 22-018 in Consent Agenda item 6a to confirm the transfer of day-to-day

banking from Old National to US Bank, staff just heard this afternoon from Old National Bank that it would like a resolution that the District would like to close its accounts at Old National Bank. Attorney Smith asked the Board to adopt a resolution authorizing the closing of the District's accounts at Old National Bank.

Manager Koch move to pull item 6a – Approve Resolution 22-018 Confirming Transfer of Dayto-Day Banking from Old National Bank to US Bank from the Consent Agenda. Managers Pedersen and Crafton accepted all of Manager Koch's friendly amendments.

Temporary Interim Administrator Sobiech recommended the Board pull item 7k – Approve Final Reconciliation of 2021 Budget - off the agenda and move to future meeting. Managers Pedersen and Crafton agreed to the friendly amendment.

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

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

3. Matters of General Public Interest

No matters of general public interest were raised.

4. Reading and Approval of Meeting Minutes

a. February 2, 2022, RPBCWD Board of Managers Regular Monthly Meeting Manager Koch moved to approve the minutes of the February 2, 2022, Board of Managers Regular Meeting. Manager Crafton seconded the motion. Manager Crafton noted an edit on line 22 to correct the spelling of Lake Riley and on line 240 to correct the spelling of the name Sorensen. Managers Koch and Crafton accepted the edits at friendly amendments. Upon a roll call vote, the motion carried 4-0:

| Manager | Action |
|---------|--------|
| Crafton | Aye |
| Koch | Aye |

| Pedersen | Aye |
|----------|-----|
| Ziegler | Aye |

Board of Managers February 9 Continuation of February 2, 2022, Regular Meeting

Manager Pedersen moved to accept the minutes of the February 9th continuation of the

February 2, 2022, regular meeting. Manager Crafton seconded the motion. Manager

Crafton noted a correction on line 155 to replace the word "commenting" with

"commented." Managers Crafton and Manager Pedersen agreed to the friendly amendment.

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

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

5. CAC

a. Report and CAC Minutes

Ms. Torkelson reported the CAC discussed and supports the Board's idea of bringing in a GreenCorps member to work with the District. She said the CAC passed a motion that a study be implemented to identify and list all ecologically valuable and/or fragile areas in the watershed with the aim of protecting and preserving those areas from development and for the education of the general public including developers, homeowners, and individuals.

President Ziegler directed staff to add this topic as a discussion item on a future Board meeting agenda.

Manager Pedersen said she is in support of the CAC's motion. Manager Koch asked staff to come up with thoughts, including pros and cons, on how such an effort could be addressed and to bring the information to the Board. Manager Crafton suggested staff reach out to the Lower Minnesota River Watershed District for insights and information. Manager Pedersen suggested looking at research conducted by the Freshwater Society. Manager Koch said he is in favor of staff finding existing sources of information and

Manager Crafton stated she will be the Board representative at the CAC's March 21st

building upon that instead of starting from scratch.

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b. **Confirm Board Representative for March 21st CAC Meeting**

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6. Consent Agenda

meeting.

Manager Koch moved to approve the resolutions set forth in the Consent Agenda. Manager Pedersen seconded the motion. President Ziegler confirmed the items on the Consent Agenda include items b, c, d, e, f, and Action Items c and g.

Attorney Smith said regarding the two permits on the Consent Agenda, there is an overlying resolution that was prepared as part of this agenda item, and the staff report already has one prepared, and he recommends the Board use the one prepared as part of the staff report as it is more specific for those permits, and it would be good to be clear on what the Board is approving.

Attorney Smith said regarding the Consent Agenda item for Permit 2020-061, the District makes it clear that the application of the District's rules is dependent upon the City's assumption that the street and associated infrastructure to be constructed that the City will take that responsibility. He said the Board wants to make clear this is a condition of the permit rule that the City take on that responsibility.

Manager Koch moved to amend the meeting agenda to pull from the Consent Agenda item 6d – Approve Permit 2020-061 Purgatory Creek 2nd Addition as Presented in the Proposed Board Action Section of the Permit Review Report and to add it as an Action Item. He said in his motion to approve the Consent Agenda he did intend to include approving the proposed Board actions set forth in those items. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

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| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

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Upon a roll call vote, the motion to approve the Consent Agenda as revised carried 4-0 as follows:

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| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

The Consent Agenda included items 6b – Approve Resolution 22-019 in Support of Minnesota GreenCorps Member, 6c -Approve Payment Application #3 for Pioneer Wetland Restoration Project, 6e – Approve Permit 2021-089 Nor-Son Development as Presented in the Proposed Board Action Section of the Permit Review Report, 6f – Approve Task Order 6i for Barr Engineering Assistance with WOMP Station Monitoring, 7c – Approve Resolution 22-021 – Temporary Interim Administrator Extension, and 7g – Accept February Construction Inspection Report.

7. Action Items

7. Action Items

a. Items Pulled from Consent Agenda

i. Approve Resolution 22-018 Confirming Transfer of Day-to-Day Banking from Old National to US Bank

Manager Koch moved to adopt Resolution 22-018 with the proposed change that Attorney Smith described to adopt a resolution approving closing the District's two Old National accounts. Manager Pedersen seconded the motion. Manager Koch made the friendly amendment to authorize the District's Legal Counsel to craft the language as appropriate for the resolution the bank needs. Manager Pedersen accepted the friendly amendment. <u>Upon a roll call vote</u>, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

i. Approve Permit 2020-061 Purgatory Creek 2nd Addition as Presented in the Proposed Board Action Section of the Permit Review Report

Manager Koch moved to approve Permit 2020-061 with the addition stated by Attorney Smith. Attorney Smith reiterated that the approval is conditioned upon the City's assumption of responsibility for the street and associated infrastructure to be constructed. Manager Koch said he includes Attorney Smith's condition in his motion. Manager Pedersen seconded the motion. <u>Upon</u> a roll call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

ii. Adopt Resolution 22-020 Request Vacant Board Position be Filled

Manager Koch moved to adopt the resolution. He commented that the statutes indicate Hennepin county is supposed appoint a replacement within 90 days, so it is appropriate for the Board to adopt this resolution, because statute doesn't allow the Board to wait until September. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

b. Closed Session Interim Administrator Review

By consensus the managers agreed there was no need to move into closed session and no need to discuss this item.

c. Accept January Staff Report

Manager Pedersen moved to accept the January staff report. Manager Crafton seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

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d. Accept February Staff Report

Manager Crafton moved to accept the February staff report. Manager Pedersen seconded the motion. Manager Koch asked about what Eden Prairie's model will include regarding creeks in and out of Eden Prairie. Engineer Sobiech said the areas of the creek outside of Eden Prairie will be included in the model but won't be as detailed as the areas of the creek inside Eden Prairie. Engineer Sobiech explained the City of Minnetonka updated all of Purgatory Creek. He said there will be a little bit of the Lotus Lake watershed that will need to be updated, but that portion is very minimal. He provided more information about the level of detail included in the model.

Manager Koch asked for more details about the proposed fluoridone treatment. Staff Maxwell provided information about the District's grant application with the DNR to do a fluoridone treatment on Staring Lake. He said the proposal for the scope of work will be coming in front of the Board.

Manager Koch asked if a copy of the District's annual report of WCA activity that staff submitted to BWSR is available on the District's website or how can he access it. Engineer Sobiech said staff can make it available to managers.

Manager Koch asked if the District has been in contact with North Dakota about its extensive wetland program. Temporary Interim Administrator Sobiech replied that to his knowledge, the District hasn't been in contact with folks in North Dakota, but the BWSR and Wisconsin DNR have teamed up to pursue development of a new wetland evaluation program. Temporary Interim Administrator Sobiech said staff Dickhausen has reached out to the DNR and BWSR to volunteer for those committees to help develop that program and also to offer being a test program.

Manager Koch asked for more details about looking at the release rates of phosphorous in shallow areas of Lotus Lake. Engineer Sobiech said cores taken in the shallower areas show a higher release rate than those areas that were treated, so it makes sense to target those shallower areas. Manager Koch said the wake boat study should be

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considered. Manager Crafton recommended the District write a letter to St. Anthony
Falls Lab about the wake boat study, as the District contributed \$10,000 and didn't
receive quite the deliverables the District was expecting.

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

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

e. Accept February Engineer Report

Manager Pedersen moved to accept the February Engineer Report. Manager Crafton seconded the motion. Manager Koch asked when the sediment analysis on Lotus Lake took place. Staff Maxwell said the cores were collected last year. Manager Koch asked if any other watershed organizations are sharing with the District what they have done regarding cost-share analysis. Engineer Sobiech said he understands Houston Engineering spoke with the Capitol Region Watershed District and approved sharing that information with the District. Manager Koch recommended staff follow up on the sharing of information. Upon a roll call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

f. Accept Memo on Status of Work without Permits

Temporary Interim Administrator Sobiech went through the summary memo included in the meeting packet regarding three locations where work has been done without permits and gave a status update.

Manager Koch commented he wants to make sure the work the property owners say they have done gets done correctly and that the District recovers its time and expenses

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incurred on these projects and facilitating them through the District's permit process. Manager Koch said he was very concerned about the Eliason fellow, and the District can't allow people to do things without permits. He said he would like staff to consult with Attorney Smith about options and the best course of action to get compliance and to come back to the Board with recommendations. Manager Koch said he brought two of these items to the District's attention, the most recent being 7300 Laredo Drive.

Manager Koch moved to accept the memo and direct staff to consult with District Legal Counsel and bring back recommendations on how to deal with these three situations and future situations. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

g. Accept January Treasurer's Report

Manager Crafton said she reviewed the report and transactions in accordance with the District's internal policies and procedures and she moved to accept the January Treasurer's Report. Manager Pedersen seconded the motion.

Manager Koch asked if the payment to the City of Eden Prairie in the amount of \$235,000 is in connection with the project for the Duck Lake bridge. He said he wants to make sure the District isn't paying sooner than obligated by contract and that the conditions in the contract have been satisfied. Temporary Interim Administrator Sobiech gave a construction status update as provided to him by the City of Eden Prairie. He explained the agreement outlined payment in five installments starting in 2021, after the contract gets awarded and construction started. He said he doesn't recall milestones listed in the agreement. Manager Koch said there should have been, and there was discussion about putting those triggers in there. He said he is uncomfortable approving the payment until someone looks at the contract and tells him the District is obligated to make the payment. Upon a roll call vote, the motion carried 3-1 as follows:

| Manager | Action |
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| Crafton | Aye |

Manager Koch moved to approve paying the bills with the caveat that the Treasurer and

District Legal Counsel confirm that the \$235,000 payment to the City of Eden Prairie is

in fact payable and due based on the terms of the agreement. President Ziegler seconded

| Koch | No |
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| Pedersen | Aye |
| Ziegler | Aye |

h. Approve Paying of the Bills

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| Manager | Action |
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| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

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

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i. Approve Resolution 22-022 Grant Agreement with the City of Chanhassen for a Groundwater Conservation Grant and Authorize President to Execute

Grant Program Coordinator Forbes provided background on the District's Ground Water Conservation Grant Program, the cost-share grants awarded, and the status of those cost-share grants. She summarized the proposed grant share agreement with the City of Chanhassen at an amount of \$15,058 as proposed in Resolution 22-022.

Manager Koch commented the \$15,058 is an increase from the amount in a previous letter from the City, and he asked staff to note going forward the reasons when there are changes like that, so managers are made aware. He said the agreement includes the indemnification language exactly as the District should be including in its contracts. Manager Koch moved to adopt Resolution 22-022. Manager Crafton seconded the motion.

Attorney Smith said there is a letter included at Exhibit A that doesn't belong with the scope of work. He recommended that not be part of the agreement, as the scope is clearly spelled out otherwise. Attorney Smith said it would be worthwhile for Temporary Interim Administrator Sobiech or Staff Forbes to work with the District's

Legal Counsel on an update on the status of the cost-share grant agreements with the other cities, so the Board is apprised of the situation with those grants.

Manager Koch amended his motion to delete the letter in Exhibit A from Resolution 22-022. Manager Crafton accepted the friendly amendment. Upon a roll call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

Manager Crafton moved that staff review the status of the cost-share grant projects with other cities and bring back the information to the Board. Manager Koch seconded the motion. Manager Koch said he thinks the update would be appropriate to have when the Board discusses the reconciliation of the District's 2021 budget. <u>Upon a roll call vote</u>,

| Manager | Action |
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| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

8. Discussion Items

the motion carried 4-0 as follows:

a. DDA Human Resources Inc. - Administrator Search Update

Mr. Mark Casey of DDA Human Resources Inc. presented a timeline for the administrator search process and asked if there are any question. He said he is seeking the Board's approval of the timeline and for moving forward in the process. Manager Pedersen moved to approve the administrator search timeline and to move forward. Manager Crafton seconded the motion. Manager Koch added a friendly amendment to change the special meeting to March 17th at 9 a.m. <u>Upon a roll call vote</u>, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

b. University of Minnesota Aquatic Vegetation Management Proposal

Staff Maxwell noted the memo in the meeting packet states the objective of the study and lists specifically what the District is getting out of the project. Dr. Ray Newman summarized other work he has conducted with the District in terms of water quality in the watershed and explained this work is on the vegetation response. He went into more detail about the proposed work. Manager Pedersen move to accept the University of Minnesota Aquatic Vegetation Management Proposal and authorize moving forward.

Temporary Interim Administrator Sobiech said District staff is looking for concurrence from the Board that it wants to move forward, and if it does, then the proposal will be reviewed in detail and an agreement will be drafted to bring to the Board. Manager Koch provided his recommendations on information to include, such as cost benefit analysis, and the structure of that information. He said the District really needs to stick to it's 10-year plan or change the plan. Temporary Interim Administrator Sobiech said aquatic vegetation work is in the District's 10-Year Plan, but it is an important step to bring that information to the Board, so it understands where it is in the Plan.

Manager Pedersen amended her motion to approve development of the proposal and draft agreement and bring to the Board. Manager Crafton seconded the motion. <u>Upon a roll</u> call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

c. 2022 AIS Monitoring Partnerships

Temporary Interim Administrator Sobiech said the meeting packet includes a summary of the 2021 AIS Monitoring partnerships with the City of Chanhassen and City of Eden

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Prairie. He said staff is looking for Board direction on 2022 support of these partnerships for water craft inspections in the Carver County portion of the district and the three lakes in Eden Prairie.

Manager Koch moved to direct staff to move forward to bring recommendations to the Board and to seek out the requests from the cities and counties and bring all information back to the Board. Manager Crafton seconded the motion. Attorney Smith clarified the motion is for staff to be proactive in developing a proposal with the other partners and bringing it to the Board. Manager Koch said yes, that is his motion. Upon a roll call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

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d. 2021 Annual Report Status

Grant Program Coordinator Forbes displayed a timeline for developing the annual report and shared an update on next steps for the managers' review and commenting on the draft report. Manager Koch commented BWSR has specific specifications for what is included in the annual report, and he wants staff to make sure the District follows each and every one of those report requirements.

i. Closed Session – Spring Valley Friends vs. RPBCWD Litigation

Attorney Smith said there's no need for a closed session on this matter

explained the District had brought the motion to dismiss, which was

and the District hasn't yet received a new date for that hearing, so the

tonight. He provided an update on the litigation process. Attorney Smith

scheduled for February. He said the judge needed to change the calendar

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e. Attorney Report

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f. Engineer Report

Temporary Interim Administrator/Engineer Sobiech said that at the continuance of the Board's February 2nd meeting, there was discussion about the potential opportunity for Barr Engineering to work with the City of Minnetonka on a streambank stabilization project along Purgatory Creek in Purgatory Creek Park. He said the City of Minnetonka is interested in pursuing some type of a partnership such as a cost share or technical

District is waiting to receive the new date of the hearing.

assistance. He reported the City is discussing it internally and will reach out to the District when they have more plans in place.

Manager Koch expressed his concern about Riley Creek by Noble Hills and the potential for sloughing of the slope. He said he would like that updated as part of the District's CRAS, and maybe the City of Eden Prairie would be interested in partnering with the District. Manager Koch moved for staff to come back to the Board with recommendations with respect to the slopes along Riley Creek along the Fredrick-Miller Spring area. Manager Pedersen seconded the motion. Upon a roll call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

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g. Administrator Report

i. Email Forwarding

Temporary Interim Administrator Sobiech provided an update on work with the IT consultant and email forwarding processes.

ii. Meeting Minute Development

Temporary Interim Administrator Sobiech noted work being done to look at ways the Board's draft minutes could be distributed to managers prior to the Board packet coming out. He said he will suggest the Governance Committee look at what the requirement is for minutes. Attorney Smith said the minutes record the votes, the Board secretary is responsible for producing the minutes, and the required certification means certification that the minutes are accurate as approved by the Board. Manager Koch said the Governance Committee can discuss this with Attorney Smith and provide clarification, so everyone is on the same page.

h. Manager Report

i. Upcoming Data Practices Office Trainings

Manager Koch recommended every manager and administrator go through this training.

ii. Meeting Notices

Manager Koch said the District's last two meeting notices were excellent.

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353 354 Manager Pedersen – Lake Association Forming Manager Pedersen reported Silver Lake residents are pl

Manager Pedersen reported Silver Lake residents are planning to form a lake association and are looking at finding information on why Silver Lake's level has gone down substantially over the last year. She said she heard that the group is planning to bring something to the District in the next month or so. She said she recused herself from the group in those discussions, and she's not really part of that group, unless the group needs background information about the watershed and/or District.

i. Personnel Committee Report

i. February 16th Meeting Summary

Manager Pedersen said the notes are in the meeting packet.

j. Governance Committee Report

i. February 11th Meeting Summary

President Ziegler said the Committee met and talked about the current manual and agreed to use the 2020 manual to start with for discussion. He said another meeting is scheduled for March 4th. Manager Koch added the Governance Committee agreed it will meet the Friday after each regular District Board meeting. Manager Koch commended Ms. Bakkum on the great work she has been doing.

President Ziegler moved to have the Personnel Committee look at appropriate compensation for the extra work done by District staff due to the temporary interim administrator situation and to bring a recommendation back to the Board. Manager Koch seconded the motion. Manger Crafton said the District staff is amazing to work with and commended Ms. Bakkum on her great work. Manager Koch mentioned the great work done by all staff members. Manager Ziegler made the friendly amendment that the Personnel Committee work with the temporary interim administrator and legal team on the recommendation. Temporary Interim Administrator thanked all the staff members for how they have stepped up and have been fabulous to work with. Upon a roll call vote, the motion carried 4-0 as follows:

| Manager | Action |
|----------|--------|
| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

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9. Upcoming Board Topics and Events

a. Duck Lake Outlet Elevation

b. 2021 Scoresheet

c. Permit Fee Schedule

d. Potential Regulatory Revision Workshop

10. Upcoming Events

a. March 4th Governance Committee Meeting

b. March 16th and 17th MAWD Legislative Event

c. March 21st CAC Meeting

d. April 6th Board Meeting

11. Adjournment

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

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| Manager | Action |
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| Crafton | Aye |
| Koch | Aye |
| Pedersen | Aye |
| Ziegler | Aye |

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The meeting adjourned at 9:28 p.m.

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400 Respectfully submitted,

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Dorothy Pedersen, Secretary