



**REGULAR MEETING OF THE RCWD BOARD OF MANAGERS**  
Wednesday, September 11, 2024

**Shoreview City Hall Council Chambers**  
**4600 North Victoria Street, Shoreview, Minnesota**  
**and**

**Meeting also conducted by alternative means**  
**(teleconference or video-teleconference) from remote locations**

**Minutes**

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**CALL TO ORDER**

President Michael Bradley called the meeting to order, a quorum being present, at 9:00 a.m.

**ROLL CALL**

Present: President Michael Bradley, 1<sup>st</sup> Vice-Pres. John Waller, 2<sup>nd</sup> Vice-Pres. Steve Wagamon, Treasurer Marcie Weinandt, and Secretary Jess Robertson

Absent: None

Staff Present: Regulatory Manager Patrick Hughes, Drainage and Facilities Tom Schmidt, Program Support Technician Emmet Hurley (video-conference), Office Manager Theresa Stasica

Consultants: District Engineers Chris Otterness and Adam Nies from Houston Engineering, Inc. (HEI); District Attorney Chuck Holtman from Smith Partners

Visitors: Chris Stowe, Catherine Decker

**SETTING OF THE AGENDA**

***Motion by Manager Robertson, seconded by Manager Wagamon, to approve the agenda as presented. Motion carried 5-0.***

**READING OF THE MINUTES AND THEIR APPROVAL**

**Minutes of the August 28, 2024, Board of Managers Regular Meeting. Motion by Manager Robertson, seconded by Manager Weinandt, to approve the minutes as presented. Motion carried 5-0.**

**CONSENT AGENDA**

The following items will be acted upon without discussion in accordance with the staff recommendation and associated documentation unless a Manager or another interested person requests opportunity for discussion:

31 **Table of Contents-Permit Applications Requiring Board Action**

32 <b>No.</b>	<b>Applicant</b>	<b>Location</b>	<b>Plan Type</b>	<b>Recommendation</b>
33 24-042	Beng Xiong	Lino Lakes	Land Development Wetland Alteration	CAPROC 10 items
35 24-043	NuStar	Roseville	Final Site Drainage Plan	CAPROC 6 items
36 24-048	BayMarc Properties, LLC	Columbus	Final Site Drainage Plan	CAPROC 9 items
37 24-052	West Lake Drive Properties, LLC	Columbus	Final Site Drainage Plan	CAPROC 7 items

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40 President Bradley referenced Permit No. 24-043 and noted that the table showed 80% of peak flow rate  
41 being less than the rate determined for the proposal and asked if that was acceptable.

42 Regulatory Manager Hughes explained that it was within the tolerance of the model.

43 President Bradley referenced Permit No. 24-048 which is for a truck washing facility but noted that he does  
44 not see any discussion of where the run-off would go.

45 Regulatory Manager Hughes stated that he does not know the answer to that question, but noted that the  
46 District had approved other car wash facilities in the past. He asked District Engineer Otterness if that is  
47 specifically captured within the rule.

48 District Engineer Otterness stated that a car wash would be similar to this and explained that they typically  
49 handle the water that comes off the car wash as sewage. He stated that many of these types of facilities  
50 have water re-use systems, but is not sure if that is the case for this facility. He stated that the car wash  
51 would not discharge its effluent as stormwater run-off and would be contained and handled within the  
52 facility.

53 President Bradley asked where the sewer water would go from the facility.

54 District Engineer Otterness stated that if there is a municipal sewer system in this location it would go there  
55 and if not, it would go to an on-site septic system.

56 Manager Waller noted that there is a municipal system in the area.

57 Manager Wagamon stated that in his business they had a settling tank that all of their water went into  
58 which was then also monitored at the street.

59 President Bradley stated that the District should confirm the proper treatment of the wash water.

60 Manager Wagamon noted that Anoka County was monitoring them at the street for his business in order  
61 to see what they were putting down into the sewer system.

62 President Bradley suggested that the Board postpone action on the permit until they find out more details  
63 about what would happen with the water from the truck wash.

64 District Administrator Tomczik noted that the Board could do that but explained that the District rules do  
65 not look at sewer discharge.

66 President Bradley stated that if the Board did not want to pull this permit from consideration it could also  
67 add a condition of approval that addresses this issue.

68

69 District Administrator Tomczik stated that he supports the idea of adding a condition and noted that they  
70 could essentially look for staff to ensure that the entity that has the authority over the sewer and on-site  
71 disposal is aware of the situation and also receive confirmation that it would be handled accordingly.

72 President Bradley suggested that the condition be that they demonstrate that the run-off from the  
73 operations of the truck wash do not flow untreated into the District's ditch system.

74 District Attorney Holtman noted that the District's Illicit Discharge rule prohibits the discharge of wash  
75 water into stormwater conveyances, and suggested that the condition provide that the administrator must  
76 confirm compliance with the Illicit Discharge Rule.

77 Manager Robertson suggested that tabling this item may actually be the right idea in order to communicate  
78 with the business owner about this issue.

79 Manager Robertson stated that she understood what was been proposed but would urge the District to  
80 have a conversation with the business owner prior to amending this language and including additional  
81 conditions of approval and explained that she did not think that having a conversation would be a bad thing.

82 Manager Wagamon asked if there are other agencies that would also be looking at this, such as the PCA.

83 President Bradley reiterated that was why he likes the idea of having one of the conditions be that they  
84 demonstrate that they will not discharge material into the ditch system.

85 Manager Waller stated that rather than a condition, they could just pull this item for the time being until  
86 they can have that conversation with the business owner and just bring it back before the Board at their  
87 next meeting.

88 President Bradley stated that if they add a condition it would not cause a 2-week delay until the next  
89 meeting.

90 Regulatory Manager Hughes stated that if the Board adds the condition that has been discussed, staff would  
91 have a conversation with the applicant and their team about this situation and if there ended up being  
92 some issue found that required a redesign of the system, the District would require an amended approval.

93 Manager Wagamon stated that if the Board could pass this with the condition that the applicant show that  
94 the discharge meets District rules, that would be a better solution than pulling it, because he does not want  
95 to cause a delay for the applicant.

96 ***It was moved by Manager Weinandt and seconded by Manager Bradley, to approve the consent agenda***  
97 ***Permit #'s 24-042, 24-043, and 24-052, as outlined in the above Table of Contents in accordance with***  
98 ***RCWD District Engineer's Findings and Recommendations, dated September 3, 2024. Motion carried 5-0.***

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100 ***It was moved by Manager Bradley and seconded by Manager Waller, to approve Permit # 24-048, with***  
101 ***an amended condition that the District Administrator will confirm that the design meets the District's***  
102 ***Illicit Discharge Rule. Motion carried 4-1 (Manager Robertson opposed).***

### 103 PUBLIC HEARING: PROPOSED RULE REVISION

104 President Bradley opened the public hearing and read aloud a statement regarding the hearing. He noted  
105 that the Board is currently in the 45-day comment period and is seeking comment on the proposed  
106 amendments. He explained the purposes of the Watershed Act and noted the proposed amendments

107 focus mostly on technical adjustments to application submittals and rule criteria, brought forward  
108 principally by the District’s permit review team based on experience in administration. He noted that the  
109 proposed amendment and a memorandum explaining the proposed changes are available on the District  
110 website or from the District office. These proposed amendments have also been submitted to the  
111 Minnesota Board of Water and Soil Resources (BWSR), all cities and public transportation authorities in the  
112 watershed, and other interested parties. He explained that written comments must be submitted before  
113 the end of the comment period on September 20, 2024. He gave a brief overview of the public hearing  
114 process and procedure.

115 Regulatory Manager Hughes gave a summary of the proposed RCWD rule revisions including, Rule C-  
116 Stormwater Management Plans and outlined the various issues and proposed solutions to: the proposed  
117 changes to the Definition and Stormwater Trigger; Regional Stormwater Basins; Landlocked Basins; Total  
118 Phosphorus Removal Table for BMPs; BMP Location Siting; BMP Design Criteria; Underground BMPs;  
119 Uninhabitable Structures; Public Drainage System Easement; Easement Requirements on Partial  
120 Developments; and Non-Residential Phase Development. He outlined the various issues and proposed  
121 solutions to items within Rule D - Erosion and Sediment Control Plans, including: Stormwater BMP  
122 Maintenance; Rule E- Floodplain Alteration, including: Floodway; One-Time Floodplain Fill Exemption;  
123 and Rule F – Wetland Alteration, including: Wetland Replacement Siting.

124 President Bradley announced a brief meeting break.

125 Regulatory Manager Hughes continued with his presentation. He outlined various issues and proposed  
126 solutions to items within Rule I – Public Drainage Systems; Public Drainage System Easement; Temporary  
127 Crossings and Obstructions; Rule K- Enforcement – Enforcement Action; Rule L – Variances; and Removal  
128 of Undue Hardship. He stated that the public comment period is currently open and would end on  
129 September 20, 2024. He explained that once that closed they will consider the public comments that were  
130 received, bring back the proposed rule to the November Board workshop meeting, and then to the regular  
131 meeting for approval of the rule change which would be effective January 1, 2025. He noted that the  
132 District has received one written comment thus far.

133 Manager Waller stated that the Board had received comments when this was first put out from the Cities  
134 of Forest Lake, Lino Lakes, Hugo, and White Bear Lake and asked if those comments are included in the  
135 record.

136 Regulatory Manager Hughes confirmed that they had been included in the record and would be included  
137 with all the comments that have been received in a response to comments table.

138 Manager Waller asked how many of the earlier comments had been incorporated into the proposed  
139 changes.

140 Regulatory Manager Hughes stated that he believes the comments have prompted three or four of the  
141 proposed changes.

142 President Bradley suggested changing the word statute to ‘law’ within Rule K and referenced page 78 of the  
143 packet, under item e, where he thinks the word ‘be’ needs to be added.

144 Regulatory Manager Hughes noted that at the last Board meeting, President Bradley had made a comment  
145 about the 100 cubic yard exemption and the variance request that had come through. He explained that  
146 staff is also looking into that and would be providing a response and assessment.

147 President Bradley invited comment on this item.

148 Chris Stowe, 426 Pine Street, stated that he runs an equine boarding facility that has been around since  
149 1968 under a special use permit through the Village of Lino Lakes. He asked if the comment made during  
150 the presentations related to structures in the wetland plain would affect him in relation to something he is  
151 already allowed to do in erecting temporary structures where they are needed. He stated that there was  
152 also a statement made about access to the drainage system and noted that it confused him because the  
153 City of Lino Lakes just passed an ordinance change to basically have easements on all the drainage systems.  
154 He asked if the easement on the ACD 10-22-32 branch that passes through his backyard belongs to the  
155 District or to Lino Lakes. He stated that some things included are incorrect and likes the suggestion to  
156 change the wording from 'statute' to 'law', but also feels that implies that the District is the law  
157 enforcement agency for the wetlands which is actually the DNR. He asked if the District is actively paying  
158 fines to the DNR for violations on ACD 10-22-32. He explained that he does not like any new laws or  
159 changes because it seems like the farther they go down this path, they forget what the original goal is of  
160 protecting the wetlands. He stated that what seems to be happening now is they sell wetland credits and  
161 allow people to build large complexes, but his property is still under water and he doesn't know what to do  
162 about it even though he has asked for help. He stated that he was misquoted in the minutes from one of  
163 the recent meetings and clarified that when he said they lowered the ditch he meant the City of Columbus  
164 on the north side of Pine Street, however the ditch is part of ACD 10-22-32. He stated that the District  
165 lowered the pipe and Columbus lowered the ditch, nothing has been increased in size or lowered  
166 downstream and reiterated that he does not support any changes to the regulations because continual  
167 changes would lead to it meaning something completely different in the end.

168 Catherine Decker, 614 Pine Street, referenced the proposed change under enforcement from 'statute' to  
169 'law' and offered that the District would do a disservice to itself if it did that. She stated that the statute  
170 seems pretty specific and changing it to law would expand the umbrella. She stated that the public and  
171 the Board would be well served to have clarity on what is and isn't accepted which she feels that statutes  
172 would do.

173 President Bradley explained that law would include the statute and the rules that have been adopted that  
174 explain the statute. He stated that if they just include statutes that was essentially only 1 of the 3 pieces  
175 and clarified that the District's obligation is to enforce the 'law', which includes statutes.

176 Ms. Decker stated that her advice to the Board would be to make decisions that do not muddy the waters.

177 President Bradley asked for anyone else in person or on-line that wanted to comment on the proposed rule  
178 changes. There being no comment, he asked if any of the Managers would like to comment.

179 Manager Weinandt stated that the last time the Board had done this was in 2020 and it was done on-line  
180 because they were in the throes of Covid at the time. She stated that she was new to the Board at that  
181 time and wanted to point out that when they are looking at the applications for permits, the Regulatory  
182 Manager lays out the conditions for approval and referenced the recent item with the truck wash facility  
183 where the District Attorney recommended adding a condition related to the Illicit Discharge Rule. She  
184 stated that was just adding considerations in the permit to point out the rule to ensure that the applicant  
185 was aware of it and so the District had some certainty about what would happen with the discharge.

186 Regulatory Manager Hughes stated that was correct and the engineer’s report reflected the District’s  
187 findings of how a project would be meeting the rules.

188 Manager Robertson stated that she has a few questions, but noted that according to the next steps and  
189 timeline that was presented it looked like the Board would be able to have further discussion at a workshop  
190 prior to approval.

191 Regulatory Manager Hughes noted that if Manager Robertson would like to provide a written comment she  
192 could also do that prior to September 20, 2024. He noted that the Board discussion of this is planned for  
193 the November workshop meeting.

194 Manager Wagamon stated that Mr. Stowe had made a statement that he agreed with regarding trying to  
195 eliminate any duplicative rules, when possible. He stated that he did not fully understand the easement  
196 issue and asked if the city also had an easement.

197 Manager Waller stated that the word ‘easement’ is most likely not the proper language for the drainage  
198 system and believes it should be ‘right-of-way’. He stated that his opinion would be that the city really  
199 does not have authority over the drainage system, except where the District has specifically delegated that  
200 authority.

201 Regulatory Manager Hughes stated that for a drainage system and its existing condition, they have implied  
202 right-of-way through 103E and have tied public drainage to the regulatory program to obtain a formal  
203 easement as property develops. He explained that through the permit process, it is a specific easement  
204 document that is recorded on the property title and it is just another way to provide protection. He stated  
205 the city, through development projects or platting, would commonly obtain a drainage and utility easement  
206 or something similar, that could fall over a drainage system.

207 Manager Wagamon stated that he has some other questions as well but like Manager Robertson, he could  
208 also wait until the workshop discussion, so they have time to actually dig into it.

209 Manager Waller referenced right-of-way and easements again and explained that with right-of-way, the  
210 property owner still owns the property and an easement may grant other individuals the use of the  
211 property, not just public entities.

212 District Engineer Otterness stated that the intent is to create something that provides clarity to the  
213 landowner on what the District’s land rights are on the property. He noted that even with the District’s  
214 right of entry or an easement, it does not provide access for the general public and would only be for the  
215 District and its authorized consultants/team to have access for maintenance and inspection.

216 Manager Waller stated that when he first came on the Board they had also made a change to the rules from  
217 2,500 sq. ft. for a permit to 10,000 sq. ft. for disturbance and noted that to him, it seemed as though that  
218 figure that was just plucked out of the air and asked how the District made sure that they did not have more  
219 restrictive rules than what the State standards set.

220

221 Manager Bradley noted that as a person who lives in a location where there are more houses on a lake than  
222 normally occurs, because of cottages being built and being turned into homes, he has neighbors who have  
223 been coming in and adding 10,000 sq. ft. of fill on the property and flooding their neighbors and would be  
224 concerned if that was changed, for example, to an acre. He stated that he also does not want the District  
225 process to be greater than it needs to be and would ask that they look at whether they can consider

226 individual circumstances of the fill and make a determination of whether or not a variance would be  
227 appropriate or not.

228 Manager Waller noted that this is not just a question related to fill and is about disturbance of property.  
229 He stated that in one of the contiguous watershed districts to the east, he has seen a permit requirement  
230 for 250 sq. ft. of disturbance and noted that would essentially be the same size as a 10 x 25 deck that is  
231 added to a house. He stated that, in his opinion, sometimes the rules are arbitrary and capricious and  
232 noted that he would share additional thoughts about this at the upcoming workshop meeting.

233 Regulatory Manager Hughes identified that at the November workshop staff will provide the supporting  
234 research and figures that show the necessity for the land disturbance and impervious surface thresholds.

235 Manager Bradley closed the public hearing. He stated that the record will remain open until September  
236 20, 2024, for the District to receive written comments on the proposed rules amendments. Anyone who  
237 wishes to submit comments just offered verbally in written form, or other written comments, please send  
238 them by mail or email to Mr. Hughes' attention. Mr. Hughes' contact information, as well as the rule  
239 amendment documents, can be obtained by visiting the District web site at [www.ricecreek.org](http://www.ricecreek.org).

## 240 **OPEN MIC/PUBLIC COMMENT**

241 Chris Stowe, 426 Pine Street, stated for the record that it was the City of Columbus that had lowered the  
242 ditch on the north side of Pine Street and with the blessing of the District to lower the pipe. He asked if  
243 the District is currently being fined by the DNR.

244 District Administrator Tomczik stated that the District is not paying fines to the DNR.

245 Mr. Stowe asked when the workshop discussion would be regarding ACD 10-22-32.

246 President Bradley stated that the workshop was held on September 9, 2024, where they received  
247 information from Manager Wagamon concerning a potential Coon Creek direction on a culvert which has  
248 been investigated.

249 Manager Wagamon explained that it had turned out to be inaccurate information.

250 District Administrator Tomczik reminded the Board that their workshop item was regarding Alternative #4  
251 and the Board was contemplating its implementation. He stated that the Board had reviewed the various  
252 alternatives within Alternative #4, one of which is maintenance which awaits a DNR position regarding rare  
253 and endangered species.

254 President Bradley explained that the result is that Manager Wagamon has agreed to come in with his papers  
255 and cross-check them against the papers that the District has to ensure there is a full record.

256 Mr. Stowe stated that the city has placed a moratorium on building, however, it is only for single-family  
257 homes, and not for commercial, industrial, or religious organizations but noted that if any of those were  
258 built in the floodplain it would still negatively affect him.

259 Manager Wagamon stated that he would need to look into that information.

## 260 **ITEMS REQUIRING BOARD ACTION**

261 **1. Highlights of 2025 Budget – Revised from RCWD Board Discussions**

262

263

**Consider Resolution to Adopt 2025 Budget and Direct Certification of 2025 Proposed Tax Levy -**

264 **There will be a public meeting on the District’s budget and levy adopted today on December 11,**  
265 **2024 at 6:30 p.m. in the Shoreview City Hall Council Chambers and remotely (teleconference or**  
266 **video-teleconference) in conformance with MN Stat. 275.065.**

267 District Administrator Tomczik explained that the packet includes a revised, bold/italicized items,  
268 2025 budget highlights page that reflects the various items that the Board had discussed and  
269 highlighted some of the revisions proposed since their last discussion.

270 Manager Robertson stated that her objection to what is in front of the Board today is that she  
271 believes the Board resolution should reference a ‘proposed’ 2025 budget. She stated that she  
272 spent some time reading Minnesota Statutes 275 and the requirement of the taxing agency is to  
273 provide a proposed levy and/or budget to the County Auditor by September, allowing it to send out  
274 proposed property tax statements identifying all the taxing agencies on one sheet of paper between  
275 November 10<sup>th</sup> and the end of November, so they can be transparent with the public. She stated  
276 that she was not inferring that the Board was not being transparent, but she felt that the State  
277 Statute allowed that for a reason and to approve a ‘final’ budget now when, in her opinion, that was  
278 not the intent of the statute, made her uncomfortable. She stated that if the resolution were  
279 changed to state ‘proposed’ 2025 budget, she would be happy to support it with a ‘yes’ vote in order  
280 for the public to receive their proposed property tax statements and the District can hold a public  
281 hearing and then vote on a final budget by the December timeline. She explained that she is  
282 uncomfortable with how it is presented and reiterated her suggestion to amend the language and  
283 if they choose not to, this would serve as an explanation for her ‘no’ vote.

284 Manager Wagamon stated that he intended to do the same.

285 District Administrator Tomczik stated that the District held the public hearing on the proposed  
286 budget and believes that the answer to this issue lies in several State statutes in play, some of which  
287 are specific to watershed districts. He stated that the District cannot go higher than the current  
288 proposed levy amount and then, in December, there is the requirement of the public information  
289 meeting, and noted that the Board may reduce the amount at that time. He noted that typically  
290 what has happened in December is that the Board re-certifies the budget and levy and asked District  
291 Attorney Holtman to comment.

292 President Bradley stated that the second whereas in the resolution refers to the ‘proposed’ budget  
293 and referenced some other areas where the word ‘proposed’ could be added, but noted that adding  
294 it would not actually change anything.

295 Manager Robertson reiterated that it would just add a layer of transparency. She stated that there  
296 is a disconnect to have the District hold a Truth in Taxation hearing after they had already made a  
297 motion and voted on approval of the final budget. She suggested that would be more like asking  
298 for an apology after the fact and did not seem transparent.

299 Manager Wagamon agreed and stated that it would not feel transparent to him either.

300 Manager Waller asked if President Bradley had intended his references to the insertion of  
301 ‘proposed’ into the resolution to be a motion.

302 President Bradley explained that he wanted to asked District Attorney Holtman if he would support  
303 that suggestion.



304 District Attorney Holtman stated that Manager Robertson had referred to the State's Truth in  
305 Taxation statute, which is a general statute that applies to taxing authorities broadly. He noted  
306 that it is a somewhat complicated statute and parts apply to some taxing authorities and not to  
307 others. He stated that within the watershed law, Chapter 103D, there is specific language about  
308 requirements for budget adoption and levy certification that are applicable only to watershed  
309 districts. He explained that Chapter 103D states that before September 15<sup>th</sup> each year, watershed  
310 districts must hold their Truth in Taxation hearing and then must adopt a budget which is certified  
311 by September 15<sup>th</sup> to the County Auditors. He stated that because that is more specific and more  
312 strict, it applies and is essentially a layer over the top of the general statute. He stated that the  
313 obligation to adopt a budget before September 15<sup>th</sup> is because there is an obligation to certify the  
314 levy by September 15<sup>th</sup> and in order to do that they first needed to take formal action establishing  
315 the budget. He stated that the Board can revise the budget at any time so for the purpose of the  
316 September 15<sup>th</sup> levy, the District needs to adopt a budget and in that sense, it is a final 2025 budget,  
317 as the basis for the levy. He noted that after that point, through discussion of priorities and intent,  
318 they can adjust the 2025 budget by raising it or lowering it, move funds from reserves or utilize grant  
319 funds, in a way that would change their spending and budget.

320 President Bradley read aloud a statement from that resolution that says, 'be it finally resolved that  
321 a levy of \$6,143,782 be certified to the Counties of Anoka, Ramsey, Hennepin, and Washington and  
322 levied upon all taxable properties' He stated that whether the Board chooses to include the words  
323 'proposed budget' or not, this certification is explicitly laid out. He noted that they have also already  
324 included the word 'proposed' within the second whereas statement, so it appears as though the  
325 Board would be meeting their obligation.

326 District Attorney Holtman stated that he does not have the statute in front of him, but believes that  
327 it says that the District shall adopt a budget and determine the amount to be certified to the counties  
328 by September 15, 2024. He does not object to use of the word 'proposed' in relation to the budget,  
329 but would advise that the term not be applied to the levy.

330 Manager Wagamon stated that it just seems wrong to him to have a public hearing after the fact.

331 President Bradley stated that he understands their point but is attempting to acknowledge the fact  
332 that the final will not be done until December.

333 Manager Waller asked if he had understood District Attorney Holtman to say that the levy is certified  
334 in September and that would be permanent, so the District could not lower it.

335 District Attorney Holtman stated that it is a final levy, meaning that if the Board does not choose to  
336 reduce it no further action is required, but that as a matter of practice, the Board can reduce the  
337 levy before the end of December.

338 Manager Waller stated that since they can reduce the levy he does not think they need to be so  
339 definite with the decision because the purpose of it is that there is really no need for anything that  
340 will happen over the next 3 months, including the public hearing. He explained that the solidness  
341 of President Bradley's definition made him uneasy and he would rather say that this is a proposed  
342 budget and include that language in the resolution because that will give the idea that it really is not  
343 a final tax levy because there could still be a change in the budget and the levy.

344 President Bradley read aloud the language change that he believed Manager Waller was proposing.

345 Manager Waller stated that he was not saying anything about the proposed levy and was saying that  
346 when they say that the levy isn't going to change, it gives the impression that this whole 3 month  
347 period now and the public hearing is just a formality that has no meaning which is not true. He stated  
348 that the point is that this is the proposed budget, and what is finalized is that the levy cannot go any  
349 higher, but can come down.

350 District Attorney Holtman stated that is correct, but he would advise against qualifying how the levy  
351 is described and explained that he would not call it a 'proposed levy'.

352 Manager Waller stated that he had not suggested calling it a proposed levy and was simply saying  
353 that it is a proposed levy, because it is a proposed budget and that budget is what will determine  
354 the levy. He explained that what he is taking issue with is the description by President Bradley.

355 ***Motion by Manager Bradley, seconded by Manager Wagamon, to amend Resolution 2024-06, to***  
356 ***add the word 'proposed' before 2025; in the first 'whereas' statement, the word 'proposed' be***  
357 ***added prior to budget; in the first 'therefore' statement, that the word 'proposed' be added prior***  
358 ***to 2025, and that the rest of the resolution remain unchanged.***

359 District Attorney Holtman noted that the further hearing that the Board will hold in December is not  
360 a Truth in Taxation hearing and strictly speaking it is also not a hearing, but is an agenda item. He  
361 stated that the District's hearing occurred prior to September 15<sup>th</sup>. He explained that the Truth in  
362 Taxation statute is complicated and does not entirely fit together. He stated that Smith Partners  
363 went through it several years ago in an effort to understand precisely how it applies to watershed  
364 districts and, in general, it does not, but there are several elements of the statute that do encompass  
365 watershed districts.

366 Manager Weinandt explained that she would be voting against the proposed amendment to the  
367 resolution because as she reads this, it says within the second 'whereas' statement that in August,  
368 the District discussed a proposed 2025 District budget and that time had now passed. She noted  
369 that what they are doing here is basically for the purpose of the levy is telling the counties that this  
370 is what the District believes that their levy will be. She stated that if the Board decides that they  
371 want to lower it that would be the discussion that they have in December.

372 President Bradley stated that the alternative discussion item that he would propose is that instead  
373 of adding the word 'proposed' before budgets, they add a 'whereas' statement that states that the  
374 budget may not be increased, but may be decreased at the December meeting.

375 Manager Waller reminded the Board that there is a motion currently on the floor and asked if  
376 President Bradley is proposing an amendment to his original motion.

377 President Bradley explained that he is suggesting withdrawing that motion and replacing it with a  
378 different motion.

379 Manager Robertson stated that there was nothing that precludes the District from being additionally  
380 transparent, outside of the base minimums that have been laid out in State statute. She reiterated  
381 that her issue with this is just the transparency and noted that it also does not allow her to fulfill her  
382 obligation to the county that appointed her to serve on this Board. She stated that everyone else  
383 is doing their preliminary levy right now and this just does not seem to be transparent. She  
384 suggested that the Board vote on the current amended motion that is on the table and explained  
385 that if the proposed language change were removed, she would not support that. She explained

386 that her decision is not for the purpose of being disruptive, but because of her concern about  
387 transparency.

388 President Bradley asked Manager Robertson if a more useful change may be to add a clause that  
389 explains the continued process.

390 Manager Robertson reiterated that she would vote for the amended language that is currently on  
391 the floor because it identifies what they were reviewing today as proposed/preliminary.

392 Manager Wagamon stated that he agrees with Manager Robertson.

393 Manager Waller called the question on the existing motion on the floor.

394 **Motion carried 3-2 (President Bradley and Manager Weinandt opposed).**

395 ***Motion by Manager Bradley, seconded by Manager Waller, to Adopt Resolution 2024-06***  
396 ***Resolution to Adopt 2025 Budget and Direct Certification of 2025 Tax Levy, as amended.***

397 **THEREFORE BE IT RESOLVED**, that the Rice Creek Watershed District Board of Managers adopts a  
398 proposed 2025 general fund and plan implementation budget totaling \$9,410,614;

399 **BE IT FURTHER RESOLVED**, that the Rice Creek Watershed District Board of Managers approves a  
400 close out transfer sufficient to completely close out fund 95-01 and fund 95-02, estimated to be  
401 net \$516,883, subject to audited year-end closing adjustments and further approves fund transfers  
402 in adherence to District fund balance policy;

403 **BE IT FINALLY RESOLVED**, that a levy of \$6,143,782 be certified to the Counties of Anoka, Ramsey,  
404 Hennepin and Washington and levied upon all taxable property in the Rice Creek Watershed  
405 District for the year 2025, as authorized by the Metropolitan Surface Water Management Act,  
406 Minnesota Statutes Section 103B.241, to pay the cost to prepare the District's watershed  
407 management plan and for projects identified in the plan as necessary to implement the purposes  
408 of Minnesota Statutes Section 103B.201;

409  
410 Manager Waller explained that he would be voting against this resolution because the resolution,  
411 in his opinion, has \$1.5 million in regulatory spending which he considers way out of line. He stated  
412 that this resolution sets a cap on the amount of money to be taxed and he does not agree with the  
413 \$1.5 million in the regulatory area.

414 Manager Robertson asked for an overview of the motion before the Board.

415 President Bradley explained that it is the resolution found on page 127 of the packet, including the  
416 addition of the 3 'proposed' statements that were outlined in the previous motion.

417 Manager Wagamon stated that he agrees with Manager Waller because he also does not like the  
418 amount of money allocated to regulatory items, but he would vote in favor of this resolution. He  
419 noted that this is definitely something that the Board should be looking into.

420 President Bradley reminded the Board that there will be a workshop meeting where the rules will  
421 be discussed and if they decide to make some sort of wholesale change to the rules, it would end  
422 up changing the budget, which would be reflected in December. He explained that he would urge  
423 Manager Waller to consider voting in favor of this motion, subject to whatever further change  
424 occurs moving forward.

425 Manager Waller explained that he would still be voting against this motion because that will provide  
426 a record of his interest in having a very detailed discussion about the rules. He reiterated that they  
427 will have the opportunity in December to be reduced and would like it to be known that he was very  
428 strongly in favor of reducing the rules and changing that budget item.

429 **ROLL CALL:**

430 **Manager Bradley – Aye**

431 **Manager Robertson – Aye**

432 **Manager Wagamon – Aye**

433 **Manager Waller – Nay**

434 **Manager Weinandt – Aye**

435 **Motion carried 4-1.**

436

437 **2. JACON LLC Final Pay Request #6 – AWJD 3 Branches 1, 2 & 4 Repair Project**

438 Drainage and Facilities Manager Schmidt explained that this would be the final payment and would  
439 also close the contract for the repair project at AWJD 3, Branches 1, 2, and 4. He noted that part  
440 of the project was intended to start in 2023, but the majority of the work took place in 2024. He  
441 explained that this would also release all the retainage that has been held to this point.

442 District Engineer Nies gave a brief presentation on the project close-out of JD 3, Branches 1, 2 and 4  
443 repair project and some of the challenges that they faced. He reviewed the final construction  
444 costs, the engineer’s estimate, payments made to date, retainage, and the final payment amount.  
445 He shared photos of the project, and reviewed some of the expected future maintenance needs.

446 Manager Waller stated he believes that the last time this drainage ditch was cleaned was around  
447 1959. He noted that District Engineer Nies had stated that there will need to be future  
448 maintenance and believes the current schedule and dedicated funds for maintenance for the  
449 District’s 120 miles of ditches is inadequate. He stated that there is a gas pipeline located on one of  
450 these branches and asked if that has been lowered.

451 District Engineer Nies stated that there is a gas pipeline crossing and noted that the gas folks were  
452 on site for several days while they were excavating around those areas but lowering the pipeline  
453 was not part of this project.

454 District Engineer Otterness stated that Flint Hill Resources, the owner of the pipeline, has come in  
455 for a permit to lower the pipeline, but he does not know the schedule for the work.

456 District Engineer Niese displayed a few more photos from the project and outlined some of the  
457 project challenges including a formal DNR wetland violation, described the use of an amphibious  
458 excavator, and gave a few additional project highlights.

459 Manager Waller noted that he was glad to hear that staff held a lot of meetings with everyone that  
460 was involved in this project. He asked that staff put something in bold print on their checklists that  
461 there be lots of driving over the area where they were going to do the repair prior to bringing the  
462 machines in, so regardless of how cold it is, they can drive that frost down into the ground so they  
463 can try to manage things like limiting getting stuck in the mud. He stated that he understood that  
464 staff could not control the contractor, but would like this to be raised during their meetings, because  
465 many of these companies do not work on drainage ditches every day.

466 ***Motion by Manager Robertson, seconded by Manager Waller, to approve JACON LLC's final pay***  
467 ***request as submitted and certified by the District Engineer and directs staff to issue payment of***  
468 ***\$27,731.22. Motion carried 5-0.***  
469

470 **3. Check Register Dated September 11, 2024, in the Amount of \$161,334.24 Prepared by Redpath**  
471 **and Company**

472 ***Motion by Manager Weinandt, seconded by Manager Robertson, to approve check register dated***  
473 ***September 11, 2024, in the Amount of \$161,334.24 prepared by Redpath and Company. Motion***  
474 ***carried 5-0.***  
475

476 **ITEMS FOR DISCUSSION AND INFORMATION**

477 **1. District Engineer Update and Timeline**  
478

479 **2. Administrator Updates**

480 District Administrator Tomczik referenced a workshop follow-up item regarding ACD 10-22-32.  
481 Manager Wagamon supplied 1 page of Coon Creek Watershed District's (CCWD) minutes. He  
482 noted that Manager Wagamon's one page of CCWD minutes was referencing a different project and  
483 has nothing to do with ACD 10-22-32 and Jodrell. He distributed copies of the complete CCWD  
484 minutes to the Board for them to read at their leisure. He noted that he and Drainage and Facilities  
485 Manager Schmidt would also like to provide a few public drainage updates and referenced the  
486 concern that was raised at the sod farm with the private culvert.

487 Drainage and Facilities Manager Schmidt stated that the District did some pumping around a  
488 potentially failing culvert on Robinson Sod Farm. He noted that the pumping was done in order to  
489 alleviate the immediate flooding upstream and explained that they were looking to investigate  
490 further in order to verify the culvert's condition. He stated that they are planning to do some  
491 survey work in order to get some preliminary indications when the water is low enough to physically  
492 see it.

493 District Administrator Tomczik stated that he was not present at the last meeting when Mr. Stowe  
494 had addressed the Board about some concerns including Andall Street culvert but explained that  
495 Houston Engineering is working on a memo about those concerns, which will be on their October  
496 workshop meeting agenda.

497 Drainage and Facilities Manager Schmidt stated that Manager Wagamon had pointed out some  
498 concerns from a different landowner about this situation and explained that they investigated it and  
499 discovered that the culvert under Andall Street is experiencing a failing catch basin. He stated that  
500 it is collapsing and is full of sediment, so the District had notified the City of Lino Lakes Public Works  
501 Department who will be addressing the issue by repairing the catch basin and evacuating the  
502 sediment from the culvert.

503 Mr. Stowe stated that pipe was negatively affecting him in addition to the next one downstream  
504 and, most likely, the one that crosses 4<sup>th</sup> Street as well. He stated that because the District had  
505 lowered those pipes, he felt that they also needed to be lowered downstream and increased in size  
506 because the storm surge that has water sitting in a wetland area, the water evaporates or  
507 penetrates. He stated that if they get 6 inches of rain, it would take millions of gallons before it

508 would come to his property and now, because it is at the bottom, it all comes right to his property  
509 so he was constantly under water. He stated that anytime they see the sod farms under water, he  
510 is also under water.

511 District Administrator Tomczik stated that it would be a good idea to ask the District Engineer to  
512 comment because the District had repaired this system previously, determined the ACSIC and  
513 confirmed the culvert sizing.

514 District Engineer Otterness stated that he has confirmed that the culvert is at the adopted profile  
515 elevation which was why the District did not change anything when they had completed the repairs  
516 in 2013. He noted that, at that time, they had also reviewed the size of the culvert and it was  
517 determined to be adequate at that time in the repair report. He stated that the culvert is larger than  
518 the upstream one at Pine Street and noted that the failure that is occurring is on a catch basin into  
519 the culvert and the city is not planning to make any change on the culvert itself. He stated that the  
520 city has the prerogative, since it is their infrastructure, to modify the size and elevation of their  
521 infrastructure, if they feel it would suit their needs, but reiterated that currently the size and  
522 elevation is adequate for the drainage system.

523 Mr. Stowe stated that it 'was' adequate, but then the District lowered the pipes upstream and  
524 because they did not lower the pipes downstream, he was getting flooded out. He reminded the  
525 Board about the situation with Rick Wilder and noted that he felt his situation was very similar.

526 District Administrator Tomczik explained that the request he had made to Houston Engineering in  
527 exploration of the original comment from Mr. Stowe does include assessment of the culvert. He  
528 stated that consistent with what District Engineer Otterness had shared, the District's duty is to the  
529 ACSIC and its functioning capacity, so when those systems are built and remain in that condition,  
530 anything that would change that would be an improvement which would then require a lot of  
531 protocol and work to get there.

532 President Bradley noted that it would also require cost recovery.

533 District Administrator Tomczik agreed that it would involve cost recovery from the landowners in  
534 the area. He stated that the Board had discussed Pine Street a bit at the workshop and explained  
535 that the District was working on getting some bids and would bring that information back to the  
536 Board. He stated that it would also need Wetland Conservation Act approval with a permit that  
537 would tie in the District's wetland bank credits. He noted that Drainage and Facilities Manager  
538 Schmidt had made a comment about all the work they are doing with relation to things like beaver  
539 dams, downed trees, high water, precipitation, and noted that the District was spending through  
540 their budgeted amount and that needs remain high, including for Pine Street. He stated that he  
541 just wanted to advise the Board that they were nearing their budgeted amount and staff would  
542 continue to monitor this and provide the Board with any updates. He noted that the District was  
543 currently at 150% of normal precipitation at the 95<sup>th</sup> percentile which is a lot of water and explained  
544 that at the New Brighton creek measuring station, shows that they are at 146 cubic feet/second  
545 when the normal is 40 cubic feet/second.

546 Administrator Tomczik noted that Program Support Technician Hurley, one of the District's new  
547 hires, is quite skilled in IT matters and has been putting forth some security efforts and ways to make  
548 sure that staff are aware of various phishing attempts.

549 **3. Managers Update**  
550 Manager Waller attended the Washington County Consortium meeting and gave a brief overview  
551 of the topics discussed. He suggested that the Board review the front page of the Minnesota Star  
552 and Tribune and the St. Paul Pioneer Press from a week ago which had extensive articles about  
553 forever chemicals.

554 Manager Wagamon stated that in relation to the comments made by Mr. Stowe, he felt that the  
555 whole system was a disaster. He stated that he knows that the District has worked on it, but felt  
556 that it needed to be fixed. Manager Wagamon stated that when he had turned in the document  
557 (1 page of the CCWD minutes), he told the Board that he had done his very best to verify it and  
558 wanted to thank Office Manager Stasica for her investigation skills in obtaining a copy of the  
559 complete CCWD minutes.

560 Manager Robertson confirmed that she was slated to attend the October 2, 2024, CAC meeting.

561 President Bradley stated that he had attended the CAC meeting where they approved a number of  
562 stormwater grants that will be presented to the Board as part of an upcoming agenda.

563 **ADJOURNMENT**

564 ***Motion by Manager Bradley, seconded by Manager Waller, to adjourn the meeting at 11:07 a.m.***  
565 ***Motion carried 5-0.***

566