MEETING MINUTES

Riley-Purgatory-Bluff Creek Watershed District

July 9, 2025, RPBCWD Board of Managers Regular Monthly Meeting and Public Hearing

Attendees:

Managers	Jill Crafton (Secretary); Tom Duevel (Treasurer); Bonnie Nelson (Vice President); Dorothy Pedersen (President), and David Ziegler
Staff/Advisors	Zach Dickhausen* (Natural Resources Coordinator), Terry Jeffery (District Administrator), Josh Maxwell* (Water Resources and Fisheries Manager), Dylan Monahan (Office Administrator), Alaina Portoghese* (GIS Communications Specialist), and Louis Smith (Smith Partners)
Other Attendees	Morgan Jacobs; Larry Koch*; Dennis Rakocy; Holly Rakocy; Marilyn Torkelson* (CAC)

Attended the meeting virtually.

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

President Pedersen called the meeting to order at 7:02 p.m. at the District Office, 18681 Lake Drive East, Chanhassen, Hennepin County, Minnesota.

2. Approval of Agenda

Manager Ziegler moved to approve the agenda. Manager Duevel seconded the motion. The motion carried with no managers opposing.

3. Matters of General Public Interest

President Pedersen read aloud the procedure for providing comments on matters of general public interest and opened the floor for comments.

Morgan Jacobs of Carver said he is a water feature contractor professionally trained and certified by Aquascapes and he has been building rainwater capture systems for the last five years. He said he has turned his front yard into such a system, which includes aquaponic filtration, which is biological natural filtration as required by the International Organization of Bathing Waters. Mr. Jacobs noted he received a grant for the project from a group in his local area. Mr. Jacobs invited the Board to tour the project and his other designed features such as 150 plants, a sauna, and a cold plunge, during his showcase running July 18 through July 20.

Larry Koch of 471 Bighorn Drive, Chanhassen commented he believes the workshop violates the law as there is no quorum and managers have not been appointed to fairly represent the various hydrologic areas and, therefore, in his view they do not have any authority to act or hold such a meeting. Mr. Koch repeated his comment with regard to this meeting and noted potential violations of the Open Meeting Law regarding documentation not provided or made available. Mr. Koch commented on item 5c of the staff report, saying he would like the old items and new items to be distinguished from each other. Mr. Koch said regarding the City of Chanhassen's upcoming SWMP, he would like the City to be challenged to do something about wake boats. He commented that the University of Minnesota should be coming out soon with its guidance on wake boats. Mr. Koch mentioned Lotus Lake has significant algal blooms this year. Mr. Koch commented he found the budget presentation lacking the detail provided in previous years. He said he noticed the finance report is not in compliance with Generally Accepted Government Accounting Principals nor does it have a disclaimer regarding it. Mr. Koch said instead of buying land with no water issues, the money should be spent to fix that berm and have a carp capture area.

4. Reading and Approval of Meeting Minutes

a. Approve Minutes of the June 4, 2025, RPBCWD Board of Managers Workshop and Regular Meeting

Manager Crafton moved to approve the minutes of the June 4, 2025, RPBCWD Board of Managers workshop and regular meeting. Manager Ziegler seconded the motion. Manager Crafton requested an edit to the Regular Meeting minutes, on page 7, line 208 to insert the word "adjourned" before "at 8:19." The managers consented to the change.

The motion carried with no managers opposing.

5. Committee and Member Reports

a. Receive Citizen Advisory Committee Report and Minutes

Marilyn Torkelson reported on the CAC's previous meeting, which included presentations on the draft 10-Year Plan community engagement plan and Creek Week. She said the CAC suggests that since the District and the Nine Mile Creek Watershed District are both in the process of their 10-year plan update, the districts work together as possible. Ms. Torkelson mentioned the August 11th CAC event includes a garden tour of her property.

President Pedersen volunteered to be the Board liaison at the CAC's August 11th meeting / event.

b. Receive June Administrator Report

c. Receive June Staff Report

Manager Crafton asked for more details about the District's sampling and types of macroinvertebrates found. Josh Maxwell talked about the Eurasian watermilfoil treatments on Lake Riley and Duck Lake, explaining the point intercept surveys will take place later in July and August. He said staff is working on getting the macrophyte data online, so everyone will be able to view that data. Mr. Maxwell said the District does macroinvertebrate sampling on a rotation of one creek per year – rotating through Riley Creek, Bluff Creek, and Purgatory Creek. Mr. Maxwell said the District does not have complete access to the IBI developed by the DNR, but eventually he would like to run the District's data through the DNR's IBI scoring methodology to get a good picture of what's happening in the District's streams.

d. Receive June Engineer's Report

e. Receive June Regulatory Report

f. Receive Legal Report

Louis Smith reported the Open Meeting Law has been amended, so managers can participate remotely without having to be in a publicly accessible noticed location, but it needs to be noticed that the remote participation is possible. He said, for example, managers planning to participate remotely would let Administrator Jeffrey know, and the meeting agenda needs to alert the public, as the District notices the meeting, that managers may participate remotely using interactive technology and identify the meeting link.

g. Receive Manager Reports

Manager Ziegler commented that when the District updates its rules, he thinks the District should make sure the rules state that any grading that results in a restricted site is not the District's problem. He said he thinks it should be spelled out more clearly than is stated currently in the rules.

Manager Ziegler said on the summer tour bus, someone commented why is there not a Board for the Minnesota River. He said there could be a group of watersheds and other participants that forms a group or Board to fix problems. Mr. Smith said there have been many conversations about getting a group together for the Minnesota River. He said the challenges have been that there are only a small number of watershed organizations in the Minnesota river basin and counties historically have not embraced the idea of working together to work on behalf of the Minnesota River. Mr. Smith said part of the effort would be to cultivate a watershed constituency or mentality.

Manager Nelson reported Lotus Lake's high water levels triggered the City of Chanhassen's no wake ordinance for three days. She said the result is a lot of interest in lake level monitoring. Manager Nelson said a new lake level monitor for Lotus Lake is linked to the District's and City's sites, which she can share on Facebook.

Manager Crafton shared that when she used to organize watershed summits she would feature policy and a shovel-ready project. She remarked on a success story presentation at Roseau regarding a collaboration of projects amongst different watershed districts to remove dams so sturgeon can now reach spawning areas. Manager Crafton reported she attended the June 17th resilient shoreline workshop and said it was excellent.

President Pedersen announced this is Manager Ziegler's last meeting as a manager and she thanked him for his service.

6. Consent Agenda

a. Adopt Resolution 2025-038 Ordering a Public Hearing on the Budget and Levy for August 6, 2025.

b. Adopt Resolution 2025-041 Authorizing the Administrator to Solicit Bids for the Alum Treatments of Rice Marsh Lake and Round Lake

c. Approve Permit 2024-058 Total Wine Parking Lot Improvements as Presented in the Recommended Board Action Section of the Permit Review Report

d. Adopt Resolution 25-042 Adopting the Community Engagement Plan for the 10-Year Plan Update and Authorizing the Administrator to Submit to the Board of Water and Soil Services

Manager Ziegler moved to approve the Consent Agenda as written. Manager Duevel seconded the motion. The motion carried with no managers opposing.

7. New Business

a. Items Removed from Consent Agenda

No items were removed from the Consent Agenda.

b. Adopt Resolution 25-039 Accepting the May Treasurer's Report and Approving Payment of the Bills

Manager Crafton moved to adopt Resolution 25-039 to accept the May Treasurer's Report and pay the bills. Manager Ziegler seconded the motion. The motion carried with no

managers objecting.

c. Take Public Comment and Consider Adoption of Resolution 25-040 Awarding $20,270 to Timber Lakes Homeowners Association for Stewardship Shoreline Restoration on Mitchell Lake

Administrator Jeffery mentioned there are two representatives from the Timber Lakes HOA at this evening's meeting. Administrator Jeffery said the property is along Mitchell Lake and includes 1,400 square feet of upland, 1,900 square feet of wet meadow, and about 1.000 square feet of emergent vegetation. He said the project looks at restoring the area, including removing a lot of buckthorn and planting more than 80 different species within the area. He said staff and the grant review committee are excited about this project. Administrator Jeffery said the cost share would include a 50% match on the project and a 75% match on maintenance.

President Pedersen opened the floor for public comments.

Larry Koch of 471 Big Horn Drive commented he does not think the materials presented are sufficient to demonstrate a need or that the project meets the District's criteria for the grants. He said this project struck him as more of a landscape for the benefit of the Association and there was no documentation of the need. Mr. Koch said he is opposed to it based on the information provided. Mr. Koch said this is a significant expenditure and the project is supposed to be maintained for a 10-year period, but he saw no information about financial assurances that the project will be maintained properly. He commented that the declaration itself seemed to have an inadequate legal description because PID numbers are not adequate legal descriptions. He said there were missing attachments. Mr. Koch said he thinks the project should be re-evaluated to show what the real need is for it. He thinks the application should be given back to the proponents to do a better job with providing all the necessary information the District requires to agree to spend this amount of money.

Manager Crafton said she thinks this type of project is what we need more of.

Dennis Rakocy introduced himself as vice president of the Timber Lakes HOA. He described the history of the property and the battle with buckthorn and other background on the area and cost share project application.

President Pedersen said she is pleased to see the well-thought out planting plan and number of species and thinks this is a terrific project.

Manager Duevel asked if there are ways to address the July 18, 2026, substantially compete date, if more time is needed to accomplish the project. Administrator Jeffery said yes, the applicant could communicate with the District and the date can be modified, or the Board could act.

Manager Ziegler moved to adopt Resolution 25-040 Awarding $20,270 to Timber Lakes Homeowners Association for Stewarding Shoreline Restoration on Mitchell Lake. Manager Duevel seconded the motion. The motion carried with no managers objecting.

d. Adopt Resolution 25-043 Authorizing the Administrator to Solicit Bids and Authorize Task Order 036C for Barr Engineering Bidding Support and Construction Administration for the Upper Riley Creek Stabilization and Ecological Restoration Project

Administrator Jeffery summarized the resolution regarding the project that extends from Highway 5 along Riley Creek to the Lake Susan outfall. He explained the Task Order authorizes Barr Engineering, once agreements are received from the four private property owners, to solicit bids. Administrator Jeffery said the goal is to solicit bids in mid-July, review them in August, and bring them to the Board in September to award the contract. Scott Sobiech said also included in the task order is for Barr Engineering to continue providing bidding services and then once the project is awarded, Barr will do the construction management.

Manager Ziegler moved to adopt resolution 25-043 Authorizing the Administrator to Solicit Bids and to authorize Task Order 036C for Barr Engineering Bidding Support and Construction Administration for the Upper Riley Creek Stabilization and Ecological Restoration Project. Manager Crafton seconded the motion. The motion carried with no managers objecting.

e. Approve Permit 2024-096 Fox Ridge Development as Presented in the Recommended Board Action Section of the Permit Review Report

Mr. Sobiech explained this permit application is a resubmittal of a permit approved in January 2023. He said it is almost an identical application except this time the shoreline stabilization portion of the project has been removed. Mr. Sobiech explained the project takes a wooded site currently with a single house on it and constructs three single-family lots. He said the project proposes extending a storm sewer from one of the BMPs, an underground infiltration chamber system, and putting in a new outfall into Lotus Lake.

Mr. Sobiech reviewed the project compliance summary, noting the project generally meets all of the criteria. He explained this project is in front of the Board because the District's Rule G Waterbody and Crossing and Structures states that for the use of the bed or banks of a waterbody there must be a demonstrated public benefit for projects affecting public waters.

Mr. Sobiech said Lotus Lake is a public water, so the applicant must demonstrate the project provides a benefit to the public, not just for the applicant's project. He shared the information that the applicant provided regarding demonstrating the public benefit, including that the project exceeds the stormwater management criteria by:

- Providing 1.2 inches of abstraction instead of the required 1.1 inch
- Providing a net reduction in pollutant loading to Lotus Lake:
    - Annual runoff volume (acre-feet): 0.18 reduction

  - Total Suspended Solids (lbs./year): 26 lbs. reduction
  - Total Phosphorous (lbs./year): 0.13 lbs. reduction
- Capturing approximately 3,100 square feet of Fox Hill Drive ROW and routing the runoff through the new outfall to Lotus Lake.

Mr. Sobiech asked the Board to consider if these achievements meet the threshold for providing a public benefit. He reminded the Board that Lotus Lake is impaired for excess nutrients. He explained that if the benefits the applicant outlined do not meet the threshold, then the project does not meet the District's public benefit criteria. Mr. Sobiech said in that case, the applicant could proceed with the variance process or change the project design, or the permit could be denied.

The managers raised many points, and Mr. Smith said there is not a lot of guidance in defining public benefit here. He said this is why the District Engineer is identifying the water quality benefits that come from the proposed treatment to the water going to the lake. Mr. Smith said the District does not typically see permits for developments that create new outlets into a public water body. He said for such a situation, the District's rules state that public benefit must be demonstrated. Mr. Smith said the DNR may or may not have an interest in this proposal. He explained that typically when new outlets to a public water body is being created, the DNR has an interest. Mr. Smith said he knows there has been dialog already about whether the DNR's general permit covers this or if this should be sent to the DNR to decide what to do with it.

Administrator Jeffery explained that under DNR rules, if an outlet discharges above the Ordinary High Water Level (OHWL), the DNR does not regulate it, but if it discharges at or under the OHWL, the DNR does. He said from his last communications with John Gleason, the District's general permit that it has with the DNR would cover the proposed outfall. Administrator Jeffery said, however, the District's general permit expired May 1, 2025, with an extension until July 1, 2025.

Manager Ziegler said because the District does not have a valid general permit currently, the District could send the Fox Ridge permit application to the DNR. Manager Crafton agreed. Mr. Sobiech explained that if the DNR takes over permitting for public water, then the DNR would make a determination about the public benefit, and the District's permit review would not need to make that determination.

Manager Nelson asked if the three lot owners would need to enter into some sort of joint powers agreement to manage the stormwater system. Mr. Smith said maintenance is a good question in terms of will the long term benefit be achieved. He said he is not aware of an HOA being formed as typically happens in a subdivision, and it appears an obligation that the three homeowners would have, for example a maintenance declaration could be part of the deeds.

Manager Crafton said she thinks there are grounds to send this to the DNR. President Pedersen said she does not think the 0.1 inch abstraction beyond the requirement and the other water quality benefits proposed provides the public benefit to meet the threshold.

President Pedersen moved to deny Permit 2024-096 Fox Ridge Development because it is not a public benefit to have a new outlet into the lake. Manager Crafton seconded the motion. Mr. Smith listed the reasons the managers discussed that determined the project does not demonstrate a public benefit: It is an outlet into the lake; the pollutant-loading reductions while measurable do not seem significant , and there seems to be a lack of clarity of ongoing maintenance of the stormwater facilities, which creates some question about the assurance that there will be ongoing pollutant reduction. The managers agreed those are the reasons.

The motion carried with no managers opposing.

8. Discussion Items

a. Minnesota Watersheds Resolutions and Petitions

Administrator Jeffery noted there is one more Board meeting prior to the Minnesota Watersheds business meeting. Mr. Smith summarized the three resolutions. The managers had some questions and comments, and Mr. Smith suggested the managers review the resolutions again for discussion at the next Board meeting. The managers agreed with his suggestion.

b. Update LAK v. RPBCWD and Terrance Jeffery (the Board may go into closed session)

Mr. Smith recommended the Board of Managers go into closed session for the purpose of receiving confidential legal advice about litigation strategy in two lawsuits, including Larry Koch versus Riley Purgatory Bluff Creek Watershed District and Terry Jeffery, concerning the Spring Road project, and the second lawsuit Larry Koch versus Carver County, Hennepin County, Riley Purgatory Bluff Creek Watershed District, Bonnie Nelson, Jill Crafton, concerning the manager appointment process by Carver County and Hennepin County.

Manager Crafton moved to go into closed session for the purpose of receiving confidential legal advice on these two lawsuits. Manager Ziegler seconded the motion. The motion carried with no managers objecting.

The Board went into closed session at 8:32 p.m.

The Board reconvened the public meeting at 8:45 p.m.

c. **Update LAK v. Hennepin County, Carver County, RPBCWD, et al (the Board may go into closed session)**

[See item 8a.]

9. Upcoming Board Topics

a. **Public Hearing on Preliminary Budget & Levy – August 6, 2025**

b. **University of Minnesota Restoration Plan Presentations for Spring Road Property, August 6, 2025, Workshop**

10. Upcoming Events

a. **Minnesota Watersheds Resolutions Meeting, August 25, 2025**

b. **Evening with the Watershed, October 2025**

c. **Minnesota Water Resources Conference, October 14-15, 2025**

d. **Minnesota Watersheds Annual Conference, December 3-5, 2025**

11. Adjourn

Manager Ziegler moved to adjourn the meeting. Manager Crafton seconded the motion. The motion carried with no managers objecting. The meeting adjourned at 8:46 p.m.

Respectfully submitted,

Jill Crafton, Secretary