



BROWN'S CREEK WATERSHED DISTRICT

1380 W Frontage Rd, Highway 36, Stillwater, MN 55082 Tel: 651-275-1136 x26 Fax: 651-275-1254

1 **Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of**
2 **Managers, June 13, 2005.**

3
4 **WCD Offices, 1380 W. Frontage Road, Hwy. 36**
5 **Stillwater, MN**

APPROVED

6
7 **ROLL CALL**

8 Present: Craig Leiser, President	Others Present: Karen Kill, WCD, Administrator
9 Gail Pundsack, Vice President	Chuck Holtman, Smith Parker
10 Connie Taillon, Treasurer	Ryan Fleming, EOR
11 Gerald Johnson, Secretary	Pat Conrad, EOR
12 Rick Vanzwol	Rick Reidt, Permit Applicant
	Karen Erickson, Resident
	David Korte, Resident
	Robert & Paula Kroening, Resident
	George Hof, Resident
	Donald McKenzie, Resident
	Tom Henderson, Resident

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20 **1) Call to Order**

21 President Leiser called the Regular Meeting to order at 6:30 p.m.

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23 **2) Approve Agenda and Discussion Agenda**

24 Jennings State Bank letter to the District and an update by Manager Vanzwol regarding
25 the Xcel Energy landfill was added to the agenda. **Manager Johnson, seconded by**
26 **Manager Taillon, moved to approve the Agenda as amended. Vote: 4/0.**

27
28 *Manager Pundsack arrived 6:33 p.m.*

29
30 **3) Approve Minutes**

- 31 ○ **November 8, 2004 Regular Meeting – Manager Johnson, seconded by Manager**
32 **Taillon, moved to approve the November 8, 2004 minutes as presented. Vote 3/0/2,**
33 **Manager Vanzwol and Manager Pundsack abstained.**
- 34 ○ **May 9, 2005 Regular Meeting**
35 The May 9, 2005 minutes were revised as follows: page 3 “he” to “Manager Vanzwol”,
36 page 4 remove “complete of the”, page 6 add “because surety is required in all cases”,
37 page 8 add “pipe had not experienced sinking and”. **Manager Vanzwol, seconded by**
38 **Manager Pundsack, moved to approve the May 9, 2005 minutes as amended. Vote**
39 **3/0/2, Manager Taillon and Manager Johnson abstained.**

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4) Treasurer's Report

a) Manager Taillon reported that the current items payable are in the amount of \$51,472.17. The District will have \$190,576.86 after the payment of the June expenditures. Administrator Kill corrected the current items payable listing for Smith Parker invoice 18060; it was changed to Smith Parker Invoice 18179. **Manager Taillon, seconded by Manager Vanzwol, moved to authorize payment of items payable as presented. Roll call vote taken: 5/0.**

5) Permits/Rules

a) **BCWD Permit #05-06 Washington County Road 58 Culvert Replacements – Board Action**

Ryan Fleming, EOR, gave a detailed description of the proposed project. The Washington County Department of Transportation and Physical Development intends to replace eight culverts on County Road 58 within the District. All the culverts are to be replaced in-kind, maintaining the invert elevation, diameter, and length of the existing culverts. Aprons will be added to the new culverts, therefore increasing their overall length. Mr. Fleming stated that only one of the culverts is in the current H&H study and is adequately sized. The County has agreed to give the District all the invert elevations of the installed culverts.

Mr. Fleming recommended two conditions. It was recommended that silt fence or other sediment barrier be placed on the downstream end of all culverts to be replaced. It was also recommended that if not already in place on existing culverts, energy dissipation be installed at the downstream end of the new culvert aprons. **Manager Vanzwol, seconded by Manager Johnson, moved to approve BCWD Permit #05-06 with the recommended conditions. President Leiser, seconded by Manager Taillon, moved to amend the motion to also require the County to provide the District with the culvert inverts. Vote on amendment 5/0. Vote on full motion 5/0.**

b) **BCWD Permit #05-07 Reidt Shoreline Alteration – Board Action**

Administrator Kill provided the Board with background on the project. The District was alerted on May 26, 2005 to significant landscaping, including the installation of limestone boulders, along the shoreline of a residence on the northwestern shore of Long Lake at 7155 Melville Ct, Stillwater, MN. The site was inspected by the administrator that same afternoon to determine if a BCWD permit was required for the project. The landowner had already installed 55 feet of one row high 24" by 24" limestone boulders along the shoreline of Long Lake. This action would trigger BCWD Rule 5.0 Shoreline Alterations requiring prior Board approval. The landowner was notified during that site visit and agreed to install the necessary erosion control measures and submit the permit application and supporting materials.

The District Engineer conducted a site inspection on May 31, 2005 to see that proper

1 erosion control was installed and that the shoreline alteration/revetment was done
2 according to accepted engineering principles. The engineer found that the limestone
3 boulders have been installed on the water ward side of the resident's existing
4 shoreline. Geotextile fabric, as well as gravel fill was installed on the landward side
5 of the boulder wall. This method of installation conforms to acceptable engineering
6 practice for this type of revetment. Silt fence had been installed directly upslope of
7 the boulders to prevent sediment from construction and landscaping activities from
8 entering the lake. The presence of shoreline undercutting was noted during the field
9 inspection. This undercutting could be attributed to wave action and was apparent
10 behind the boulders wall. The remaining natural shoreline is in fairly vegetated
11 condition.
12

13 The District heard from several residents regarding the shoreline alterations. Paula &
14 Robert Kroening stated that the project establishes a precedent and that previously
15 developed properties had established setbacks and were not allowed to make these
16 types of shoreline alterations. President Leiser gave a brief history of the Stillwater
17 AUAR and the Long Lake. The District is currently trying to work towards
18 improving the water quality of Long Lake and to work with the City to maintain a
19 buffer on the lakeshore. Manager Pundsack addressed her concerns about the
20 unnatural shoreline and that the boulders have been placed into the water at least one
21 foot.
22

23 Applicant Rick Reidt stated that he had two paths to get down to the shore of Long
24 Lake and both of these paths were eroding. He installed the boulders around the dock
25 to stop further erosions, put in stone steps to stop erosion on the steeper pathway, and
26 revegetated the second pathway that will no longer be used. Manager Taillon
27 inquired about what was previously along the shoreline. Mr. Reidt stated that it was
28 primarily buck thorn and mowed pathways and some taller grass. Manager Vanzwol
29 stated his concern for the short and long term water quality of Long Lake and was
30 concerned about establishing a precedent.
31

32 Chuck Holtman, District legal counsel, informed the Board that the District's buffer
33 rule was not applicable in this project. The District would be evaluating the project
34 only under Rule 5.0 Shoreline Alterations. Under that rule, the Board needs to find
35 an erosion issue that need stabilization and that the process to stabilize the erosion
36 was necessary without excess encroachment on the resources.
37

38 Residents raised concerns that the shoreline alterations did not look natural. Mr.
39 Reidt stated that the plantings have not been completed and less than one third of his
40 shoreline was altered. He was willing to plant whatever the Board requests, including
41 water plantings if necessary.
42

1 The Board inquired as to the DNR and City of Stillwater regulations for this project.
2 Attorney Holtman reminded the Board that the District has its own rules and the
3 Board should evaluate the merits of the project based on the regulations of the
4 District's Rule 5.0.

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6 **President Leiser, seconded by Manager Johnson, moved to table the permit**
7 **consideration until further information can be collected regarding the DNR and**
8 **City of Stillwater regulations and restrictions for shoreline alterations. Vote 5/0.**
9

10 **New Business 8 f) (brought up on agenda) Long Lake—Citizen Report of Koi/Carp**
11 **in Lake**

12 Multiple residents around Long Lake have reported seeing goldfish/koi in Long Lake
13 and in the stormwater ponds draining to Long Lake this summer. The Washington
14 Conservation District has seen them during the routine water monitoring as well. The
15 City of Stillwater and DNR have been notified. These contacts will be continued to
16 determine a solution.
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18 **5) Permit/Rules (continued)**

19 **c) Storm water Facility Maintenance Agreement between BCWD & Stillwater**

20 Chuck Holtman gave an overview of the discussions between the District and the City
21 of Stillwater. He stated that discussions began during the Settler's Glen project when
22 in an agreement between the developer and the city indicated that the City of
23 Stillwater was to assume maintenance obligations for the Settler's Glen basins and
24 facilities. The City of Stillwater has stated that it is willing to perform maintenance
25 under its own terms, but is unwilling to record a legally binding document.
26

27 Discussion: In order to move toward an agreeable outcome, Administrator Kill,
28 Legal Counsel, and the District Engineer have been developing a storm water
29 maintenance facility agreement with the City of Stillwater. The terms of the
30 agreement have been modified slightly, but still provide resource protection.
31 President Leiser stated that such a document would be beneficial as it could be
32 applied to all other cities as well as private developers. It would also be beneficial
33 because it would be a programmatic document in which the terms are already set
34 forth as new ponds are created. Manager Vanzwol questioned whether the document
35 would apply to only that the land that the City of Stillwater currently has easements.
36 Mr. Holtman replied that the agreement would apply to property that the City owns,
37 and on property the City, such as Settler's Glen, does not own that the landowner
38 would be required to sign a recorded declaration granting access to the city in
39 perpetuity.
40

41 Manager Taillon stated that Stillwater will be on MS4 in 2006 requiring that 20% of
42 ponds be inspected annually, and questioned the need for the agreement.
43 Administrator Kill clarified that BCWD standards are much stricter requiring that

1 ALL ponds be inspected annually, and outlet structures and catchments be inspected
2 2 times per year. Manager Vanzwol and President Leiser stated that the possible
3 problem with such requirement would be repairing/cleaning any problems found upon
4 inspection within 1 year, and suggested a grace period to allow cities to manipulate
5 their budget accordingly. President Leiser suggested that any inspections finding a
6 problem could wait until the following budget year. President Leiser requested that
7 Administrator Kill get commentary from the City of Stillwater for the July BCWD
8 meeting. Mr. Holtman questioned whether the Board would be willing to join into an
9 agreement with Stillwater vs. requiring a recorded declaration. President Leiser
10 stated that an agreement would be possible, but worried about problems arising from
11 land conveyed to private ownership not having adequate maintenance or protection.
12

13 Recess 8:36-8:46
14

15 **d) BCWD Rule 3.0 Erosion Control & Rule 7.0 Floodplain Management Checklist**

16 • **Rule 3.0 Erosion Control**

- 17 • In the application of the Erosion Rule, the Board would like to pursue
18 including a trigger for disturbance on slopes greater than 12%. The
19 Board requests the matter go to the CAC/TAC for further discussion
20 and future recommendations to the Board.
- 21 • In the application of the Erosion Rule, the Board would like pursue
22 including language that states “erosion and sediment control measures
23 must be installed prior to disturbance.” The Board will discuss the
24 issue as an administrative action.
- 25 • The Board would also like to include language regarding inspection
26 standards such as “Will notify District three days prior to grading to
27 schedule inspection.” The Board will discuss the matter as an
28 administrative action.
- 29 • The Board would also like to include language regarding vegetative
30 stabilization such as, “ Disturbed areas shall be seeded and mulched
31 within 14 days of final grade.” The Board will discuss the matter as an
32 administrative action.
- 33 • The Board would like to include winter condition regulations, such as
34 limiting amount of open disturbance during the winter months. The
35 Board requests the matter go to the CAC/TAC for further discussion
36 and future recommendations to the Board.

37
38 • **Rule 7.0 Floodplain Management Checklist**

- 39 • Previous studies have been conducted on land locked basins, but no
40 policy has come out of the recommendations. The Board would like to
41 pursue including a landlocked basin policy in Rule 7.0. The Board
42 agreed to begin working on draft language and have the issue go

1 before the Watershed Consortium and County, and then to the
2 CAC/TAC for further discussion and future recommendations to the
3 Board.

- 4 • The Board would like to pursue Language Clarifications. Managers
5 Taillon, Vanzwol and Leiser would like the issue to remain an
6 administrative action. Managers Johnson and Pundsack would like the
7 issue to go before the CAC/TAC. The Board resolved the issue by
8 agreeing to take the administrative action, and then go before the CAC
9 to explain the rationale behind the policy created.
- 10 • The Board would like to pursue allowing negligible floodplain fill
11 using the MCWD language as a model. The Board requests the matter
12 go to the CAC/TAC for further discussion and future recommendation
13 to the Board.
- 14 • The Board would like to include language that would make 7.3.1 apply
15 to manmade basins as well as natural basins. This will remain an
16 administrative action.
- 17 • The Board would like to pursue as an administrative action the issue of
18 including language that would require applicants to determine that by
19 creating a manmade basin or elevating natural basins that the lowest
20 basement floor standard will be maintained for existing buildings as
21 well as new buildings.
- 22 • The Board would like to include language in 7.3.2 stating, “no altering
23 existing surface flows.” This will remain an administrative action.

24
25 **e) BCWD Rule 5.0 Shoreline Alteration & Rule 6.0 Water Crossing Rule Revision**

- 26 • **BCWD Rule 5.0 Shoreline Alteration and Streambank Alterations**
27 Pursuing alterations to Rule 5.0 would allow greater emphasis on
28 bioengineering options. It would allow guidance documents to
29 provide options for bioengineering where possible to stabilize the
30 slope of stream banks and shorelines. The Board authorized staff to
31 move forward with draft language for the proposed changes to Rule
32 5.0.
 - 33
34 • **BCWD Rule 6.0 Watercourse and Basing Crossings Rule**
35 Rule 6.0 would require culvert maintenance so that once a structure is
36 put in place, it does not become an obstruction. It would require a
37 recorded declaration to maintain structures. However, for public
38 waters, where no declaration can be recorded, it would require a
39 maintenance agreement.
- 40

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2 f) **Added) Jennings State Bank**

3 Administrator Kill received a letter from David Jennings of Jennings State Bank
4 suggesting that Browns Creek Watershed District has damaged the Bank and their
5 holding company, and putting forth nine conditions. One of these issues can be
6 cleared up, while the others have been addressed previously. The Board would like to
7 provide a detailed response and inform their insurance carrier of the issue. The Board
8 authorized Chuck Holtman to spend 2 hours drafting a response.
9

10 **6) Project Review and Update**

11 a) **Kern Center Pond Construction Monitoring Update**

12 Ryan Fleming of EOR stated that the contractor has planted, put up silt fences, and
13 acted on the recommendation to water more frequently.
14

15 b) **THPP-Monitoring Well Abandonment – Board Action**

16 The abandoned monitoring well (MW-2) has still not been located. Stevens Drilling &
17 Environmental quoted the District \$1560 for locating and sealing the well. This includes
18 8 hours of backhoe work to locate the well (with a minimum of 4 hours) and quoted a
19 90% chance of successfully locating the well within 8-9 hours. The Board asked
20 Administrator Kill to speak with Keith DeWolf about possible crop damage and
21 compensation. **Manager Vanzwol, seconded by Manager Johnson authorized**
22 **Administrator Kill to find and properly seal monitoring well MW-2 #00608364.**
23 **Vote 5/0.**
24

25 c) **Kismet Basin – Manure Spreading – Board Action**

26 Craig Dewolf indicated that he could spread the manure stockpiled on the Sterner's
27 property for \$65/hour. Mr. DeWolf felt that it would take him approximately 2 days
28 or 16 hours to complete the job. **President Leiser, seconded by Manager Vanzwol,**
29 **authorized up to 2 days (16 hours) for Craig DeWolf to spread the manure at**
30 **\$65/hour as well as any extra time required for drying. Vote 5/0.** President
31 Leiser appointed Administrator Kill to review the MPCA regulations for manure
32 spreading and to contact all the involved landowners.
33

34 **7) Old Business**

35 a) **Equipment & Software Purchase for Digital Inspection Data Collection – Board**
36 **Action.**

37 **Manager Vanzwol, seconded by Manager Taillon, authorized the purchase of**
38 **two hand-held computers and necessary software to assist staff with collecting**
39 **permit inspection data digitally, not to exceed \$1200. Vote 5/0.**
40

41 b) **Guidance Document – Stormwater Management Rule for Bounce/Duration of**
42 **inundation – Board Action.**

1 **President Leiser, seconded by Manager Vanzwol, moved to accept the guidance**
2 **document prepared by Camilla Correll for publication on the website. Vote 5/0.**
3

4 **c) County Road 15 Drainage Scope – Board Action**

5 Ryan Fleming of EOR summarized the history of flooding on the Craig and Marcia
6 DeWolf property. The Board had previously authorized him to examine the option of
7 installing a dyke on County Road 15 to convey water past the Craig and Marcia
8 DeWolf property and into a wetland. Upon further investigation, it was found that
9 this would not be a cost-effective alternative. The District Engineers proposed low
10 flow restriction on the inlet east of the culvert crossing at the intersection of County
11 Road 15 and County Road 61, as well as minor modifications and infiltration control
12 structures be added. **President Leiser, seconded by Manager Vanzwol, authorized**
13 **Administrator Kill and Ryan Fleming to meet with Washington County to**
14 **discuss the current analysis. Administrator Kill and Manager Vanzwol should**
15 **then meet with Craig and Marcia DeWolf to discuss the viable options. Vote:**
16 **5/0.** Discussion Followed. Chuck Holtman advised the Board that any structural
17 improvements would require a plan amendment.
18

19 **d) Stillwater Township Conservancy Comprehensive Plan Amendment – Board**
20 **Action.**

21 Pat Conrad discussed the history of the proposed Plan Amendment to change land use
22 from conservancy to agriculture, changing the ration to 1/10 units. In a letter drafted
23 by Camilla Correll, it was recommended that Stillwater Township maintain the
24 conservancy zoning, and use low impact development conservation design.
25 **President Leiser, seconded by Manager Taillon moved to accept the letter as**
26 **presented. Vote 5/0.**
27

28 **e) MSCWMO Second Generation Management Plan – Board Action.**

29 District Engineer reviewed the MSCWMO Second Generation Management Plan for
30 common goals and partnering opportunities as a courtesy review. **President Leiser,**
31 **seconded by Manager Vanzwol, authorized the sending of a letter of support**
32 **drafted by Camilla Correll to MCSWMO representing the view of Brown's**
33 **Creek Watershed District. Vote 5/0.**
34

35
36 **f) BWSR Challenge Grant for Long Lake Management Plan Implementation**

37 BCWD received a grant in the amount of \$75,000 to implement the Long Lake
38 Strategic Lake Management Plan in 2006/2007. The District will need to meet with
39 the Cities of Stillwater and Oak Park Heights to work out the details and put together
40 a work plan.
41

42
43 **8.0 New Business**

1 a) **Request for Monitoring Sample on DNR wetland #82-318**
2 **President Leiser, seconded by Manager Taillon, authorized the**
3 **monitoring/sampling. Vote 5/0.**
4

5 b) **Washington Conservation District Cost Share Program/MetroEnvironmental**
6 **Partnership Grant**

7 The Metropolitan Council has \$375,000 in funds available for a
8 **MetroEnvironmental Partnership Grant.** The Washington Conservation District
9 (WCD) is applying for a grant to reduce phosphorus loading to the St. Croix River
10 Basin and implement the St. Croix Basin team's plan. The WCD is requesting letters
11 of support from the watersheds that drain to the St. Croix River as well as MN DOT
12 and the National Park Service. **President Leiser, seconded by Manager Vanzwol,**
13 **moved that a letter of support be drafted by Administrator Kill and reviewed by**
14 **Legal Counsel. Vote 5/0.**
15

16 The WCD recently has started a cost share program of its own for stormwater
17 practices. The program will provide a 50% match up to \$5,000 per project. There is
18 \$15,000 available in 2005.
19

20 c) **Public Storage—Erosion Issue**

21 Brief update on erosion issue at the Public Storage property in the Kern Center
22 Addition. The City of Oak Park Heights has notified the landowner and rip rap will
23 be installed to address the problem.
24

25 d) **Spreeman Property**

26 The Spreeman Property is located upstream of Oakland Golf Course on Neil Avenue
27 and McKusick. Developers have offered to purchase the property for further
28 development, but the owner would like to see the property remain undeveloped.
29 **Manager Vanzwol, seconded by Manager Pundsack, moved to authorize**
30 **Administrator Kill to continue her work to coordinate with other agencies and**
31 **find funds to participate. Vote 5/0.** President Leiser appointed Manager Taillon as
32 the primary contact, and Manager Johnson as the secondary. Chuck Holtman advised
33 the Board that if the contribution made by the board is financial, a plan amendment
34 would be required.
35

36 e) **Set 2006 Budget Workshop Date – Board Action**

37 The Board set the 2006 budget workshop for Monday, July 25th, 2005 at 6:30 p.m. at
38 the WCD offices.

39 f) **Long Lake-Citizen Report of Increased Koi/Carp – Discussed under**
40 **Permits/Rules**

41 g) **McKusick Lake – Water Quality Update – no discussion held**

42 h) **July 2005 BCWD Board Agenda**

1 President Leiser requested a change of date for the regular July 11, 2005 Board
2 Meeting. The meeting was rescheduled for Monday, July 18, 2005 at 6:30 p.m. at the
3 WCD offices.
4

5 **9) Discussion Agenda**

- 6 a) **Permit Review**– no discussion
7 b) **Communications and Reports**– no discussion
8 • **MAWD Annual Summer Tour: Brainerd June 23-25th**
9 • **Washington County Fair: August 3-7th**
10 c) **June 2005 Washington County Water Consortium – update** – no discussion
11 d) **Permitting Information Sheet** – please review and comment by next Board meeting
12 e) **Long Lake Management Plan update** – no discussion
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14 **10) Adjournment**

15 **Manager Johnson, seconded by Manager Taillon, moved to adjourn at 10:55 p.m.**
16 **Vote 5/0.**
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