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2 **Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of**
3 **Managers, November 12, 2007.**

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

APPROVED

7
8 **ROLL CALL**

Present:	Others Present:
Craig Leiser, President	Karen Kill, Administrator
Rick Vanzwol, Vice-President	Paula Guetter, Recording Secretary
Connie Taillon, Treasurer	Camilla Correll, EOR <i>arrived 7:23 p.m.</i>
Gerald Johnson, Secretary	Michael Welch, Smith Partners
	Pat Conrad, EOR <i>arrived 6:42 p.m.</i>
<i>Gail Pundsack - absent</i>	Kevin Biehn, EOR <i>arrived 7:23 p.m.</i>
	Jennifer Olson, EOR <i>arrived 7:23 p.m.</i>

9
10 **1. Call Regular Meeting to order @ 6:32 PM**

11 President Leiser called the Regular Meeting to order at 6:32 P.M.

12
13 **2. Approve Regular Meeting Agenda and Discussion Agenda**

14 Manager Vanzwol requested the addition of item h under new business as procedure for
15 establishing the agenda. In addition, Manager Vanzwol requested 6a and 6b be removed
16 from the agenda. Administrator Kill requested item 4a be tabled until the next meeting
17 since she had not yet made it through the 64 pages of the minutes yet.

18 **Manager Vanzwol, seconded by Manager Johnson, moved to approved the meeting**
19 **agenda and discussion agenda as amended. Vote 4/0.**

20
21 **3. Public Comment**

22 No public comments.

23
24 **4. Approve Minutes – Board Action**

25 a.) **August 13, 2007 & August 15, 2007 Regular Board Meeting**

26 **Manager Vanzwol, seconded by Manager Johnson, moved to table the minutes of**
27 **the August 13, 2007 & August 15, 2007 Regular Board Meeting Minutes. Vote 4/0.**

28 b.) **October 8, 2007 Regular Board Meeting**

29 **Manager Leiser, seconded by Manager Vanzwol, moved to approve the minutes of**
30 **the October 8, 2007 Regular Board Meeting Minutes as amended. Vote 4/0.**

1 **5. Treasurer's Report**

2 **a.) Review Authorized Funds Spreadsheet**

3 No changes made since the October regular Board meeting.

4 **b.) Current Items Payable – Board Action**

5 Manager Taillon reported that the amount payable was \$93,616.35, leaving a total
6 balance of \$40,240.22.

7 **Manager Taillon, seconded by Manager Vanzwol, moved to pay bills as presented.**

8 **Roll call vote 4/0.**

9 **c.) Permit Fee Statements Review**

10 **Manager Vanzwol, seconded by Manager Taillon, moved to table the discussion of**
11 **item 5c until item 6e. Vote 4/0.**

12
13 **6. Permit/Rules**

14 **a.) Violation Hearing: Permit #05-12 Sanctuary – Board Action**

15 Administrator Kill noted Permit #05-12 had come into compliance making a violation
16 hearing unnecessary.

17
18 **b.) Violation Hearing: Working without a Permit – David Scott Homes,**
19 **Sanctuary– Board Action**

20 Administrator Kill noted David Scott Homes had obtained their permit (07-36) and came
21 into compliance making a violation hearing unnecessary.

22
23 **c.) Permit #06-08 Legacy on Long Lake – Board Action**

24 The Board discussed the history of the Legacy on Long Lake permit. No further
25 information has been submitted to the Board since the April 11, 2007 letter from the
26 Stillwater Fire Chief. The request for preliminary plat approval for the project has been
27 denied by the City of Stillwater. Administrator Kill noted the applicant had been notified
28 in writing of the permit extension granted at the October 8, 2007 Board meeting. The
29 letter included the December 9, 2007 extension deadline and requested the permit fees be
30 paid by October 15th or the Board would be prepared to act on the permit at the
31 November 12, 2007 Board meeting. Administrator Kill said she had not received
32 payment or a request for extension. Michael Welch, legal counsel, presented a the
33 proposed findings and conclusions, should the board decide to deny the unapproved
34 portions of the permit application. He noted that Board should modify the findings and
35 conclusions as it deemed appropriate. Mr. Welch noted that fees incurred by the
36 applicant would remain due and would carry forward should the applicant reapply for
37 approval of the project.

38
39 **Manager Leiser, seconded by Manager Vanzwol, moved to deny the permit and to**
40 **inform the applicant of the denial and include a copy of the 5 page Findings,**
41 **Conclusions and Denial document. Vote 4/0.**

42
43 The Board stated that the District should continue to bill the applicant for the outstanding
44 fees. The Board discussed that part of the permit had been approved at the April 9, 2007
45 regular Board meeting; however, the conditions of the permit will not be able to be met
46 and the partial approval will expire April 9th, 2008.
47

1 **d.) Permit #07-18 St. Croix Prep Academy**

2 Administrator Kill reported she had received a memo from the applicant requesting to
3 withdraw their application. A final invoice will be sent to the applicant and the permit
4 will be officially withdrawn.
5

6 **e.) Policy Options for minimizing outstanding permit fees – Discussion**
7 **Manager Vanzwol, seconded by Manager Leiser, moved to table items 6e, 6f, 5c and**
8 **7a until later in the meeting. Vote 4/0**
9

10 **7. Discussion Agenda – No Action Required**

11 **b.) McKusick Lake Management Plan Update/Joint BCWD and Stillwater City**
12 **Council Meeting – December 3, 2007 at 4:30 PM**

13 Administrator Kill gave a brief update on the draft McKusick Lake Management Plan.
14 The Board agreed to have a joint Board meeting with the Stillwater City Council on
15 Monday, December 3, 2007 at 4:30 PM at the Stillwater City Hall. The Board discussed
16 agenda topics.
17

18 **Recess 7:34-7:45**
19

20 **8. New Business**

21 **b.) Groundwater Dependent Natural Resource Management Plan Scope – Board**
22 **Action**

23 Jennifer Olson, EOR, presented the scope from EOR to develop a Groundwater
24 Dependent Natural Resource Management Plan for the fen located on Mike Regan's
25 property west of County Road 17 or Lake Elmo Avenue. The focus of the project would
26 be to identify the surficial groundwater not the bedrock groundwater. The project would
27 include data collection, mapping of the surficial groundwatershed to the fen based on
28 available data, determining time of travel management zones within the shallow aquifer
29 groundwatershed to the resource, determining the impact of potential land use changes
30 within the groundwatershed, evaluating existing standards and rules and consider
31 additional standards and rules for development activities, and developing a Final Report
32 and Groundwater Dependent Natural Resource Management Plan. There had been
33 discussion of collecting new data but had been decided against because if they were able
34 to use existing data it would be a more realistic template for future use. The Final Report
35 would include guidance for the development of future Groundwater Dependent Natural
36 Resource Management Plans. A Technical Advisory Panel of well-respected local
37 experts is proposed to assist throughout the project and provide validity to the end
38 product.
39

40 The Board stated that the property owner should also be [engaged early in the process and](#)
41 [invited to participate.](#) The Board would also like to see additional presentations of the
42 final report to the water consortium and possibly to the City of Grant Planning
43 Commission or City Council. EOR representatives stated that these additional
44 presentations would not increase the total cost of the project.
45

46 **Manager Leiser, seconded by Manager Johnson, moved to adopt the proposed scope**
47 **as presented by EOR. Vote 4/0.**
48

1 **7. a.) Erosion Inventory and Structure Inventory along Brown's Creek**

2 Kevin Biehn, EOR, presented the erosion inventory and structure inventory along
3 Brown's Creek that was completed in October 2007 after rainfall events. The inventory
4 included the area from Hazel Street crossing (eastern most extent) to the first McKusick
5 Road crossing (western most extent) in Stillwater. Despite the extreme slopes within this
6 corridor, the rail line (with noted exceptions below) is currently relatively stable. The
7 potential for significant instability, however, is very high. Of greatest concern is the
8 sensitivity of the steep side slopes of the fill sections of the rail line. Mr. Biehn noted
9 there are four identifiable erosion concerns. These include: areas of mass slumping, a
10 single head-cut identified on an ephemeral drainage to Brown's Creek, damage done by
11 foot traffic, and stream bank erosion. The area of stream bank erosion may have been
12 caused by ditching or straightening during railroad construction. Restoration would
13 include adding sinuosity to the creek thus providing greater stability, improving habitat,
14 and potentially floodplain storage.

15
16 Mr. Biehn noted there are three additional trail design considerations and potential
17 instabilities. Many of the fill sections of the rail line are just wide enough to support the
18 8'6" rail line. Due to the side slopes, a trail could be no wider; the combination of an 8'
19 horse trail and a 10' pedestrian trail would be impossible in this area. Another area of
20 concern is excessive build-up of gravel along the shoulder and corresponding side slopes
21 throughout this reach of rail line. The recommendation would be that the excessive
22 gravel is removed and the areas of removal be restored with native vegetation appropriate
23 for stabilization. The BCWD stormwater and erosion control rules may be challenging to
24 meet in some of the areas if the rail line is converted to a trail. Most traditional BMP's
25 are unsuitable for the extreme slopes, proximity to bedrock, heavy shade, narrow linear
26 parcel and proximity to ground water found here. The Board may want to consider
27 mitigation opportunities. One possible mitigation could be restoring the historic
28 Stonebridge.

29
30 The structure survey was completed on a total of nine culverts, some of which are just as
31 historical as the Stonebridge and many are in need of repair.

32
33 The report will be shared with other stakeholders in the potential upcoming trail project,
34 including the City of Stillwater at the joint meeting, as well as the Gateway Trail
35 Association, Stillwater Country Club, and the Oak Glen Country Club. **Manager**
36 **Vanzwol, seconded by Manager Taillon, moved to accept the report as presented.**
37 **Vote 4/0.**

38
39 **1.) H&H Update Scope – Board Action**

40 **Manager Vanzwol, seconded by Manager Johnson, moved to approve \$1,800 from**
41 **account #923-0000 to update the H&H model with the results from the structure**
42 **inventory. Vote 4/0.**

43
44 **2.) Brown's Creek Trail/DNR Open House – Board Action**

45 MN DNR Trails has invited the District to present the erosion inventory at the Brown's
46 Creek Trail open house. The date of the open house has not yet been rescheduled.
47

1 **8. New Business**

2 **a.) Contract for 2007 Audit – Board Action.**

3 **Manager Taillon, seconded by Manager Vanzwol, moved to approve the scope of**
4 **service for HLB Tautges Redpath in the amount of \$7,800 to complete the 2007**
5 **audit. Vote 4/0.**

6
7 **c.) Brown’s Creek TMDL – Phase II Agreement – Board Action**

8 **Manager Vanzwol, seconded by Manager Taillon moved to accept the Brown’s**
9 **Creek Impaired Biota TMDL Phase II Stressor Identification Project service**
10 **agreement contract number 07-03 BCWD in the amount of \$134,211 to be received**
11 **by the Washington Conservation District for completing the activities described in**
12 **Exhibit A of the contract. Vote 4/0.**

13
14 **Manager Vanzwol, seconded by Manager Johnson, moved to approve Attachment A:**
15 **Brown’s Creek Impaired Biota TMDL Phase II Stressor Identification Project**
16 **Workplan which refers to contract #07-03 BCWD, in the amount of \$134,211, to be**
17 **executed by EOR and the BCWD Administrator on behalf of BCWD. Vote 4/0.**

18
19 **d.) Jackson WMA for Sale**

20 The Board was generally interested in finding out more information regarding the
21 potential sale of the Jackson WMA by the MN DNR. A motion to offer purchase at
22 \$101.00 was made by Manager Leiser, which died for lack of a second, after additional
23 discussion of potential ramifications of such a purchase.

24 **Manager Leiser, seconded by Manager Johnson, moved to submit an inquiry to the**
25 **DNR requesting more information on the potential legal and financial liabilities of**
26 **owning the property. Vote 4/0.**

27
28 **e.) Stormwater Audit Pilot Program/Clean Water Legacy Grant Application –**
29 **Board Action**

30 **Manager Leiser, seconded by Manager Taillon, moved to authorize the submittal of**
31 **a joint application with Middle St. Croix and the Washington Conservation District**
32 **for the Clean Water Legacy Grant to hire a position for one-year to complete at**
33 **least 200 stormwater audits. Vote 4/0.**

34
35 **f.) Potential Fall 2008 Water Festival**

36 **Manager Leiser, seconded by Manager Vanzwol, moved to seek out more**
37 **information for a BCWD water festival and to make Manager Taillon the liaison.**
38 **Vote 4/0.**

39
40 **g.) Administrator Maternity Leave – Discussion**

41 Administrator Kill noted her leave will be from approximately mid-April 2008-mid July
42 2008. Manager Leiser noted there was a meeting between himself, Manager Pundsack
43 and Administrator Kill. Manager Leiser and Manager Pundsack have both offered to take
44 some of the administrator duties if necessary. Jay Riggs, Washington Conservation
45 District, would be the acting administrator.

46

1 **h.) Agenda Items within a Time Frame**

2 The Board expressed its displeasure with the current trend of last minute submittals for
3 Board agenda items. Administrator Kill said she is supportive of a policy for Board
4 packet submittals; however, it does pose a potential issue for permits with a 60-day
5 review deadline, with possible 60-day extension. The Board stated that, unless the
6 review deadline is pending at the next meeting, they would rather table the item due to
7 lack of time to review the documents. The Board suggested Administrator Kill and legal
8 counsel develop a proposed submittal deadline policy for consideration.
9

10 **6. Permit/Rules**

11 **e.) Policy Options for minimizing outstanding permit fees - Discussion**

12 Administrator Kill explained that a number of permits have had outstanding fees for a
13 significant amount of time and have not responded to past notices. The permits include:
14 03-09, 05-07, 05-12, 04-19, 06-04, 06-19, 07-08, and 07-10. **Manager Leiser, seconded**
15 **by Manager Johnson, moved to authorize legal counsel to help the administrator**
16 **write a letter to collect funds for the above mentioned permits and report back at**
17 **the next month's meeting the status of the letters. Vote 4/0.**
18

19 Administrator Kill discussed the current permit fee schedule and the need for its revision,
20 particularly for permits requiring stormwater management review. The Board requested
21 that a resolution for a revised permit fee schedule be presented at the December Board
22 meeting.
23

24 **9. Discussion Agenda – No Action Required**

25 **a.) Permit Review – Current Inspection Updates**

26 ○ **Permit #04-16 Millbrook – Dewatering Update**

27 Administrator Kill and Paula Guetter, District Inspector, presented an update.

28 ○ **Permit #03-09 Settler's Glen 5th Addition - Update**

29 ○ **Permit #06-01 Liberty West – Update**
30

31 **b.) Project Review and Update**

- 32 ○ **Herberger's Pond Update** - Mr. Conrad noted the Herberger's project was
33 nearly complete.
34

35 **c.) Subcommittee updates**

36 **d.) Communication & Reports**

37 ○ **MAWD Conference**

38 **Manager Vanzwol, seconded by Manager Johnson moved to name Manager**
39 **Leiser as the voting representative for the MAWD conference and if another**
40 **Manager attends they will be the 2nd vote. Vote 4/0.**

41 **Manager Vanzwol, seconded by Manager Johnson, moved to name Manager**
42 **Leiser the media spokes person for the District in Administrator Kill's**
43 **absence. Vote 4/0.**
44

45 ○ **Baseline Monitoring Reports**

46 The Board stated that using the Metropolitan Council's lake data summary in the
47 BCWD report appendix would be more efficient and allow more effort to be spent
48 on statistical analysis of the data in the report

1 ○ **Holiday Gathering**

2 Administrator Kill will send out an email to the Board and staff regarding
3 tentative dates for the gathering.

4
5 **e.) December 2007 BCWD Board Agenda**

6
7 **10. Adjournment**

8 **Manager Johnson, seconded by Manager Taillon, moved to adjourn the meeting at 10:15**

9 **PM. Vote 4/0.**

10
11 Respectfully Submitted by

12 Paula Guetter, Recording Secretary