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

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

**APPROVED**

**ROLL CALL**

Present:	Others Present:
Craig Leiser, President	Karen Kill, Administrator
Rick Vanzwol	Paula Guetter, Recording Secretary
Connie Taillon, Treasurer	Pat Conrad, EOR
Gerald Johnson, arrives 6:36 PM	Louis Smith, Smith Partners
Gail Pundsack	Paul Wickman, EOR
	Tim Freeman, FFE
	Lisa Tilman, EOR
	Will Zintl

- 1. Call Regular Meeting to order @ 6:35 PM**  
President Leiser called the Regular Meeting to order at 6:35 PM.  
  
*Manager Johnson arrived at 6:36 PM.*
- 2. Approve Regular Meeting Agenda and Discussion Agenda**  
Manager Vanzwol requested the addition of maintenance of the District's website as item 8h of New Business. **Manager Vanzwol, seconded by Manager Taillon, moved to approved the meeting agenda and discussion agenda as amended. Vote 5/0.**
- 3. Approve Minutes – Board Action**
  - a.) **January 8, 2007 Regular Board Meeting**  
**Manager Vanzwol, seconded by Manager Johnson, moved to approve the minutes of the January 8, 2007 Regular Board Meeting Minutes as amended. Vote 5/0.**
- 4. Treasurer's Report**
  - a.) **Review Authorized Funds Spreadsheet**

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

2       Manager Taillon reported that the amount payable was \$73,122.69 and the total balance  
3       was \$221,180.93.

4       **Manager Taillon, seconded by Manager Vanzwol, moved to pay bills as presented.**  
5       **Roll call vote 5/0.**

6  
7       **5. Permit/Rules**

8       **a.) Permit #06-30 WATE Office/Warehouse – Board Action**

9       Louis Smith, Smith Partners, presented on W.A.T.E. Office Warehouse, Permit 06-030.  
10       At the January 8, 2007 meeting, the Board asked legal counsel to advise on the legal  
11       framework for evaluating the above permit application. The application concerns a  
12       commercial development in the City of Oak Park Heights within the Kern Center plat  
13       area and largely, but not entirely, within the drainage area to the Kern Center stormwater  
14       basin.

15  
16       At its June 9, 2003 meeting, the Board adopted a policy exempting development within  
17       the Kern Center plat area from compliance with BCWD Rule 2.0 (stormwater  
18       management). The Board then proceeded to approve a permit for Zintl Cold Storage  
19       (Permit 02-16) on the basis of that policy. On December 12, 2004, the District and the  
20       City of Oak Park Heights (City) entered into a cooperative agreement for the City, using  
21       City and BCWD funds, to expand the Kern Center stormwater basin. Under the  
22       agreement, once work on the basin was completed, development within City boundaries  
23       and the basin drainage area – up to a limit – could use the basin to meet BCWD  
24       stormwater requirements.

25  
26       The Board has asked whether its June 2003 policy still applies, whether the policy has  
27       been superseded by the Kern Center cooperative agreement, and what standards apply  
28       under each.

29  
30       After discussion of the review by legal counsel, the Board agreed the 2004 Kern Center  
31       cooperative agreement supersedes the June 9, 2003 Policy.

32  
33       **Manager Vanzwol, seconded by Manager Johnson, moved that the December 2004**  
34       **Kern Center cooperative agreement is the controlling document and supersedes the**  
35       **June 9, 2003 Policy and other previous agreements. Vote 5/0.**

36  
37       Lisa Tilman, EOR, presented that the project includes two office warehouse buildings  
38       and associated parking on a 2.6-acre lot. The majority of the site is located within the  
39       Kern Center Pond drainage area. The applicant has indicated that this parcel is the final  
40       portion for development under a PUD that includes a total of 15.5 acres within the Kern  
41       Center Plat.

42  
43       The site is currently vacant and contains no impervious surfaces. Under existing  
44       conditions, 86% of the site drains to the Kern Center Pond and 14% of the site drains to a  
45       wetland located at the northwest corner of the property. The proposed site will be 85%  
46       impervious. Under proposed conditions, 92% of the site drains to the Kern Center Pond

1 and only 8% drains to the wetland in the northwest corner of the lot. All 2.2 acres of  
2 impervious surface are intended to be directed to the Kern Center Pond. Drainage from  
3 the western storage building is directed toward the Kern Center Pond through a shallow  
4 swale that curves around the back of the building. While this swale may be effective in  
5 redirecting flow for small events, it is unlikely that the swale will effectively redirect all  
6 of the drainage from the storage building to the Kern Center Pond. As modeled by EOR,  
7 the swale has the capacity for a 1.5-year event, but does not have capacity for the 10-year  
8 and 100-year events. Therefore, in larger events a portion of the drainage may flow  
9 toward the wetland at the northwest corner of the property. To avoid this occurrence the  
10 swale should be designed with a larger berm at the north end of the building.  
11 Additionally, soils must be provided with permanent stabilization to prevent erosion in  
12 this area.  
13

14 The design for the Kern Center Pond allowed for up to 73.6 acres of impervious cover in  
15 the full Kern Center Pond drainage area. The original area currently contains about 44.7  
16 acres of impervious surface and 30 acres of undeveloped parcels. About 1.9 acres of  
17 additional impervious surface was added to the original drainage area from the Zintl PUD.  
18

19 The Board discussed EOR's 4 recommended conditions of the permit as well as adding a  
20 5<sup>th</sup> condition based on the advice from legal counsel on communication with Oak Park  
21 Heights. The 5 conditions were

- 22 1. Revise entry drive culvert to prevent overtopping of the roadway and provide  
23 adequate passage of flow through the ditch.
- 24 2. Increase the height of the berm along the north end of the swale around the west  
25 storage building to ensure that the swale has adequate capacity to fully redirect  
26 drainage to the Kern Center Pond.
- 27 3. Submit revised Erosion Control Plan indicating the use of inlet protection on all catch  
28 basin inlets, providing a site re-vegetation schedule, and providing permanent  
29 stabilization on the berm along the swale around the west storage building to prevent  
30 erosion at this location.
- 31 4. Provide \$5,200 surety for grading and alteration.
- 32 5. Receive written approval from Oak Park Heights for the redirected drainage to the  
33 Kern Center Pond.

34  
35 **Manager Vanzwol, seconded by Manager Johnson, moved to approve Permit #06-30**  
36 **with the 5 conditions as specified. Vote 5/0.**  
37

38 **b.) Permit #07-05 Stillwater Phase 3 Utilities – Board Action**

39 Lisa Tilman, EOR, presented that the City of Stillwater proposes new sanitary sewer  
40 service along Neal Avenue between McKusick Road and the Zephyr Railroad Line. The  
41 sanitary sewer line will cross Brown's Creek. The project will use directional boring and  
42 auger methods with boreholes at the three proposed manholes along Neal Avenue. The  
43 two boreholes closest to Brown's Creek are about 125 feet away from the creek. The  
44 City does not need an erosion control plan, although they did submit one. Ms. Tilman  
45 presented one recommended condition that asks that the City include the location of the  
46 temporary spoil piles on the plan, as well as a plan for final spoil disposal.

1  
2 **Manager Johnson, seconded by Manager Pundsack, moved to approve Permit #07-**  
3 **05 with the condition stated. Vote 5/0.**  
4

5 **c.) Permit Subcommittee Findings – Update by Manager Vanzwol**

6 After being part of the subcommittee, Manager Vanzwol agrees with Manager Taillon  
7 that inspections should not be reduced. A large sum of money was spent for permit  
8 inspections in 2006; however, the money was well spent. Manager Vanzwol  
9 recommends the Board look into a PermiTrack ESC, which could save a couple of  
10 thousand dollars over a year in reduced administrative costs by the inspector. Paul  
11 Wickman, EOR, gave the Board an assessment of PermiTrackESC, the potential  
12 challenges it may present and suggestions for alternate solutions. The Board discussed  
13 how PermiTrack ESC could save money and where money for such a purchase could  
14 come from. The possibility of reassignment of funds budgeted for 926-0000 “GIS  
15 Management Tool/Web-Mapping” was raised by Manager Vanzwol. The Board was  
16 interested in hearing more about the cost of the program. Manager Vanzwol will work  
17 with Administrator Kill to look into the financial commitment of PermiTrack ESC.  
18

19 **d.) Resolution #07-03 Surety Waiver – Board Action**

20 The Board discussed the waiver. Legal counsel pointed out the resolution does not  
21 require a surety; however, the Board can penalize for violations when necessary.  
22 Administrator Kill questioned the ability of the Board to require a surety in high-risk  
23 situations. The resolution as presented does not allow the Board to require a surety in  
24 high-risk situations. The board discussed the addition of a paragraph in the resolution to  
25 include a surety, which may be required by the Board for projects that have high risk to  
26 water resources.  
27

28 *Recess 8:15-8:25*  
29

30 **e.) Rules/SONAR Update – Description of Changes Made**

31 Administrator Kill pointed out the two things changed in the Rules/SONAR documents.  
32 The first change was the definition of “groundwater dependent natural resources”; the  
33 second change was the addition of “to stream side and middle zone” to the buffer rule,  
34 which would prohibit stormwater basins from both the streamside and middle zone of a  
35 stream buffer. The Board agreed with these changes.  
36

37 **6. Projects/Programs**

38 **a.) Third Generation Management Plan – Board Action**

39 Lisa Tilman, EOR, presented that BWSR approved the next generation management plan.  
40

41 **Manager Leiser, seconded by Manager Taillon, moved to accept the Third**  
42 **Generation Management Plan as approved by BWSR and to make the plan in effect**  
43 **as of today, February 12, 2007; from now on it will be used as the implementing tool,**  
44 **legal counsel shall draft a resolution to reflect the Board’s intentions. Vote 5/0.**  
45

1 The Board recognizes and appreciates all the persons and organizations, especially legal  
2 counsel, EOR, and Administrator Kill, that worked on the draft of the Third Generation  
3 Management Plan to make it presentable to and acceptable by BWSR.  
4

5 **b.) Long Lake Management Plan Implementation**

6 ○ **North Marketplace Water Quality Improvements – Board Action**

7 EOR received bids from four companies; Pat Conrad found no significant  
8 differences between the companies. Mr. Conrad recommended approval for Dahn  
9 Construction. In addition, Mr. Conrad pointed out the project is over-budget due  
10 primarily to the complexity of the hydrologic/hydraulic modeling for the MP1  
11 system. The Board decided to reallocate funds from 929-0004 for the project.  
12

13 **Manager Vanzwol, seconded by Manager Pundsack, moved to approve the**  
14 **North Marketplace Water Quality Improvement Project construction**  
15 **documents, and to award the construction project to Dahn Construction for**  
16 **\$29,950 funds to come from account #929-004 and authorized legal to**  
17 **proceed with a contract.**  
18

19 **Manager Vanzwol, seconded by Manager Johnson, moved to authorize an**  
20 **additional \$6,900 to EOR, \$2050 to come from account #929-0000 and \$4,850**  
21 **to come from account #929-0004, for engineering services to account for the**  
22 **additional effort spent modeling the system and for bringing the project**  
23 **through the construction phase. Vote 5/0.**  
24

25 ○ **Highway 36 Water Quality Improvements/H&H Upgrade – Board Action**  
26 Pat Conrad, EOR, presented that EOR is in the process of assessing the area and  
27 are beginning the modeling process. EOR presented two options to move forward  
28 in the modeling process. The board discussed the benefits to each option.  
29

30 **Manager Taillon, seconded by Manager Vanzwol, moved to authorize EOR**  
31 **to revise the District’s XP-SWMM model to include the Sanctuary area of**  
32 **Lake Elmo as developed, using \$3,000 from account #923-0000. Vote 5/0.**  
33

34 ○ **City of Stillwater Software License Agreement for digital data**  
35 **topography – Board Action**

36 **Manager Vanzwol, seconded by Manager Johnson, moved to approve license**  
37 **agreement with the City of Stillwater for digital data topography with**  
38 **clarification of “BCWD and its consultants”. Vote 5/0.**  
39

40 **c.) McKusick Lake Management Plan – Update by Manager Johnson**

41 Manager Johnson spoke with the City and the City will itemize the fees for the McKusick,  
42 Lily, and Long Lake Management Report. Manager Johnson asked the City to get him a  
43 copy of the minutes of the City Council meeting.  
44

45 **d.) Brown’s Creek TMDL – Update**

1 Pat Conrad, EOR, informed the Board that the Washington Conservation District  
2 submitted a Stressor ID proposal to MPCA on January 29, 2007. The proposal is to  
3 perform the first step of a biological TMDL, which is the Stressor Identification Process.  
4 The analysis will be done to find out why fish biota and macro-invertebrate biota are  
5 stressed. The board discussed the need to continue lab costs in the upcoming years.  
6 Browns Creek Watershed District will be on the advisory committee.  
7

8 **e.) BCWD Baseline Monitoring – Board Action**

9 The final invoice for the Washington Conservation District's (WCD) monitoring in  
10 Brown's Creek Watershed District (BCWD), showed the total monitoring costs in 2006  
11 had exceeded budgeted dollars by BCWD. The total amount exceeded for the 2006  
12 monitoring services, less any over-budget costs (lab charges, equipment, supplies, etc.),  
13 totaled \$1,182.21. The Washington Conservation District listed 5 reasons the budgeted  
14 amount was exceeded.

15 **Manager Leiser, seconded by Manager Vanzwol, moved to table BCWD Baseline**  
16 **Monitoring until the March 12, 2007 meeting when more 2006 final financial data is**  
17 **available. Vote 5/0.**  
18

19 **7. Old Business**

20 **a.) Revised Boundary Petition Resolution – Board Action**

21 **Manager Leiser, seconded by Manager Johnson, moved to table Revised Boundary**  
22 **Petition Resolution until the March 12, 2007 meeting. Vote 5/0.**  
23

24 **8. New Business**

25 **a.) Insurance Renewal/Liability Coverage Waiver Form – Board Action**

26 **Manager Vanzwol, seconded by Manager Johnson, moved to not waive the**  
27 **monetary limits on municipal tort liability established by Minnesota Statutes 466.04.**  
28 **Vote 5/0.**  
29

30 **b.) Services Qualifications Received:**

31 **o Engineering – Board Action**

32 Two proposals were received for engineering services, Emmons & Olivier  
33 Resources, Inc. and Bolton & Menk, Inc. Bolton & Menk, Inc. is not located  
34 close to Stillwater and has no projects near Stillwater. The board expressed that it  
35 was uncomfortable with the ranges given by Bolton & Menk, Inc. Emmons and  
36 Oliver Resources (EOR) is the current district engineer and the Board has been  
37 satisfied with their performance.

38 **Manager Vanzwol, seconded by Manager Taillon, moved to prepare a**  
39 **contract to authorize the engagement with EOR for a 2-year agreement as**  
40 **Brown's Creek Watershed District's engineering counsel. Vote 5/0.**  
41

42 **o Legal – Board Action**

43 One proposal was received for legal services, Smith Partners.  
44

1 **Manager Johnson, seconded by Manager Leiser, moved to prepare a**  
2 **contract to authorize the engagement with Smith Partners for a 2-year**  
3 **agreement as Brown's Creek Watershed District's legal counsel. Vote 5/0.**  
4

5 ○ **Auditor – Board Action**

6 One proposal was received for auditor, HLB Tautges Redpath, Ltd.  
7

8 **Manager Johnson, seconded by Manager Vanzwol, moved to approve the**  
9 **contract with HLB Tautges Redpath, Ltd as Brown's Creek Watershed**  
10 **District's auditor for \$5000 from account #200-4320.**  
11

12 ○ **Accountant – Board Action**

13 **Manager Johnson, seconded by Manager Pundsack, moved to approve the**  
14 **contract with Dave S. McCord. Vote 5/0.**  
15

16 c.) **Groundwater Issues**

17 ○ **Furgala Groundwater Test Request**

18 Administrator Kill updated the Board that Mr. Furgala believes there may have  
19 been groundwater contamination on his property. Mr. Furgala has been  
20 diagnosed with tongue cancer. No testing has been done on Mr. Furgala's  
21 property for groundwater contamination. Mr. Furgala is looking for  
22 approximately \$1,500 to do the testing. The Board decided that further  
23 groundwater contamination questions should be forwarded to the County  
24 Department of Public Health & Environment since BCWD has only started to  
25 incorporate groundwater rules. If the County Department of Health cannot help,  
26 the Minnesota Department of Health should be the next contact.  
27

28 ○ **Millbrook Update/Petroleum Mitigation**

29 It was brought to the attention of the BCWD that work is being completed at the  
30 Millbrook project without notifying local entities to remove petroleum  
31 contamination from the site. There is a meeting Wednesday morning including  
32 EOR, Carnelian Marine Watershed and the County to talk about the situation.  
33

34 d.) **Legislative Audit**

35 Administrator Kill reviewed the full legislative auditor's report and she did not find the  
36 report to be damaging to watershed districts. The report was tough on BWSR; however  
37 the analysis seemed shallow and no reasons were given why BWSR should go through  
38 structural changes. Manager Leiser encouraged Board members to inform Legislators at  
39 the MAWD Legislative Breakfast about what is going on with watershed management in  
40 Minnesota.  
41

42 e.) **MAWD Legislative Breakfast: March 15, 2007 – Board Action**

43 **Manager Leiser, seconded by Manager Vanzwol, moved to authorize the Board to**  
44 **pay the breakfast fee for any manager and the administrator choosing to attend the**  
45 **breakfast. Vote 5/0.**  
46

1           **f.)     MECA Conference: March 8-9, 2007 – Board Action**  
2           **Manager Vanzwol, seconded by Manager Taillon, moved to authorize**  
3           **Administrator Kill to attend the MECA conference. Vote 5/0.**

4  
5           **g.)     March 2007 BCWD Board Agenda – No Discussion**

6  
7           **h.)     Website Maintenance**

8           Manager Vanzwol knows someone who would volunteer to do website maintenance for  
9           BCWD at no cost to the district.

10           **Manager Leiser, seconded by Manager Vanzwol, moved to authorize accepting the**  
11           **offer of a volunteer to maintain the District website. Vote 5/0.**

12  
13          9.     Discussion Agenda – No Action Required

14           a.)     Permit Review – Current Inspection Update

15           b.)     Project Review and Updates

16                   o    BMP Program

17                   o    Education Program

18                           •   CAC Meeting

19                           •   Stillwater Daylily Garden Club Presentation

20                           •   Estate Planning Workshops

21                           •   Stormwater U – Update

22                           •   Upcoming Educational Trainings: “Living on a Few Acres Series”  
23                                 in Forest Lake Community Education

24                           •   East Metro Water Resource Education Program

25                                   o   Annual Report (2006-2007)

26                                   o   Education Plan 2006-2007

27                   o   Long Lake TMDL – Administrator Update

28                   o   Washington County Land and Water Legacy Program (Land Conservation)

29           c.)     Communications & Reports

30                   o   MN BWSR Watershed District Guidebook – BCWD Pages

31                   o   Notice of Public Hearing – Enlargement, Increase Number of Managers  
32                         and Name Change Petition for Carnelian-Marine Watershed District

33                   o   Protecting the St. Croix Conference: April 19, 2007 at UW River Falls

34          10.     Adjournment

35           **Manager Vanzwol/Johnson/Leiser, seconded by Manager Pundsack, moved to adjourn the**  
36           **meeting at 10:35 PM.**

37  
38  
39          Respectfully submitted by

40          Paula Guetter, BCWD Recording Secretary

41  
42