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2 **Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of**
3 **Managers, September 10, 2007.**

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

APPROVED

7
8 **ROLL CALL**

Present:	Others Present:
	Karen Kill, Administrator
Rick Vanzwol, Vice-President	Paula Guetter, Recording Secretary
Connie Taillon, Treasurer	Pat Conrad, EOR
Gerald Johnson, Secretary	Chuck Holtman, Smith Partners
Gail Pundsack, Manager	Bob Clark
	Mick Lynskey
	Mike Kramer
<i>Craig Leiser, President – Absent</i>	Anita Kramer
	Jerry Daniels

9
10 **1. Call Regular Meeting to order @ 6:37 PM**
11 Vice President Vanzwol called the Regular Meeting to order at 6:37 P.M.

12
13 **2. Approve Regular Meeting Agenda and Discussion Agenda**
14 Administrator Kill asked to add re-schedule of November 12 meeting as item 11g.
15 Microfiche and electronic document storage was added as a bullet point under 11d. In
16 addition, Administrator Kill requested addition of a special meeting request from Fairway
17 Villas for surety reduction as item b under permits. Manager Vanzwol requested item
18 10b be about message training. Administrator Kill requested item 7c Bradshaw Funeral
19 Home to discuss the gully.

20
21 **Manager Johnson, seconded by Manager Taillon, moved to approved the meeting**
22 **agenda and discussion agenda as amended. Vote 4/0.**

23
24 **3. Public Comment**
25 Jerry Daniels, Mike Kramer and Anita Kramer came to discuss the Heifort property. The
26 property is 26 acres on Neal Avenue between the Oakland Trail and Highway 96. Mr.
27 Daniels requested the Board with a few other agencies purchase the Heifort property to

1 preserve it as a nature conservancy. Mr. Daniels noted he had been in contact with Jane
2 Harper from Washington County Legacy Program, as well as the MN Trust for Public
3 Land. Mr. Daniels said he was hoping the groups would work together to preserve the
4 property and particularly to protect the area from over-development. Manager Taillon
5 asked if there were any natural areas on the property. Mr. Kramer said there is wildlife,
6 trees and a pond. Manager Johnson said they Board would not be able to do anything at
7 this point because there is currently a Brown's Creek Watershed District permit out for
8 the property; the Board cannot do anything until the permit for the property runs out. In
9 addition, Manager Johnson said the Board had just set their 2008 budget; the earliest the
10 Board would be able to include an item in their budget would be 2009. Mr. Daniels said
11 the Planning Committee had turned down the proposed development on the property. Mr.
12 Daniels noted if the Board was in favor of helping purchase the land he was going to try
13 to have Jane Harper come talk to the Board. Manager Vanzwol said the Board does not
14 take action on items not on their agenda. Manager Vanzwol recommended Mr. Daniels
15 get the item on the October agenda and provide Administrator Kill with some
16 information to include in the October packet. Mr. Daniels mentioned Mr. Heifort would
17 be attending a meeting on site tomorrow with one of the other possible partners.
18 Manager Vanzwol said he was interested in hearing a presentation on what Mr. Daniel's
19 was proposing. In addition, Manager Vanzwol noted the Board is in charge of protecting
20 water not building parks. The District has not yet developed its land conservation
21 program, waiting for the MLCCS to be complete. The District cannot participate in the
22 project unless it somehow protects water. Mr. Daniels asked if the Board had partnered
23 with other agencies before. Administrator Kill said no the Board had not partnered with
24 other agencies before on projects similar to what he was proposing. Mr. Daniels noted
25 the property is not to be annexed until 2015 so they just wanted to try to be a step ahead
26 in case the Board could plan to participate at some point in the future.

27
28 Bob Clark, Lynskey and Clark, said he wanted to give the Board an update on their
29 permit (07-07 Fairway Villas). Manager Vanzwol said their permit was on the agenda so
30 he would prefer to have Mr. Clark present at that time.

31
32 **4. Approve Minutes – Board Action**

33 **a.) July 9, 2007 Regular Board Meeting**

34 **Manager Johnson, seconded by Manager Pundsack, moved to approve the minutes**
35 **of the July 9, 2007 Regular Board Meeting Minutes as amended. Vote 4/0.**

36
37 **b.) August 13, 2007 and August 15, 2007 Regular Board Meeting**

38 **Manager Johnson, seconded by Manager Pundsack, moved to table the minutes of**
39 **the August 13, 2007 and August 15, 2007 Regular Board Meeting Minutes and the**
40 **August 15, 2007 Budget Workshop Minutes. Vote 4/0.**

41
42 **5. Treasurer's Report**

43 **a.) Review Authorized Funds Spreadsheet/2006 Financial Overview**

44 Administrator Kill went over the Authorized Funds Spreadsheet.

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

46 Manager Taillon reported that the amount payable was \$70,650.02 and the total balance
47 was \$157,881.33.

1 **Manager Taillon, seconded by Manager Johnson, moved to pay bills as presented.**
2 **Roll call vote 4/0.**

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

4 Administrator Kill reviewed the permit fee statement summary. Highlights included that
5 Manager Leiser had indicated prior to the meeting that he may know someone who might
6 be able to recover the funds for 02-17 Parkwood Lane; this will be worth looking into
7 further before recommending the permit be closed without payment. Manager Vanzwol
8 said he did not want to write off the Parkwood Development until all five Managers were
9 present. Manager Vanzwol said he was interested in hearing how unpaid permit fees
10 could be prevented in the future. Manager Pundsack suggested higher sureties as one
11 option. Mr. Holtman noted the Board could change their policy to include using the
12 surety as a way to pay for the outstanding permit fees at closure.. Manager Taillon asked
13 if a permit applicant had disappeared before, as in the case of Parkwood Development,
14 leaving the District with outstanding permit fees. Administrator Kill noted this was a
15 new situation for the District. Mr. Holtman added the Board had sued before to claim
16 fees; however, suing requires having someone to sue. Manager Vanzwol said he
17 appreciated the permit fee review Administrator Kill had put together for the Board.
18

19 **6. 7:00 p.m. Public Hearing – Proposed 2008 Budget and Levy**

20 **Manager Vanzwol, seconded by Manager Johnson moved to open the public hearing at**
21 **7:18 p.m. Vote 4/0.**

22 Manager Vanzwol noted for the public the hearing was being recorded. Manager Vanzwol asked
23 for public comment on the 2008 Proposed Budget and Levy three times. No public comment
24 was given.

25 **Manager Vanzwol, seconded by Manager Johnson moved to close the public hearing at**
26 **7:19 p.m. Vote 4/0.**

27
28 a.) **Resolution 07-10 Certified 2008 Tax Levy Resolution: All Funds – Board**
29 **Action.**

30 Administrator Kill reviewed the changes in the proposed 2008 Budget for the Board. The
31 2006 Audit done in 2007 had cost the Board \$5,000, but had cost HLB Tautges Redpath
32 Ltd. \$8350 to complete. Administrator Kill added HLB Tautges Redpath Ltd. had taken
33 a lower price in previous years because the District comes in at a good time for them.
34 Due to additional accounting standards, HLB Tautges Redpath have proposed \$7,800 for
35 the 2007 Audit fee. Administrator Kill noted she increased the accounting fund from
36 \$9000 to \$10,800 to cover the costs. Administrator Kill noted she had not refined the
37 Herberger's pond improvement monitoring since the Budget Workshop. Administrator
38 Kill was in contact with Amanda Goebel on possible rollover funds for the Groundwater
39 Monitoring Program (account number 942-0000). Manager Vanzwol noted the levy was
40 up a bit from last year but said he believes the Budget is economical. Manager Taillon
41 noted the Long Lake project was still a large number. Administrator Kill noted the final
42 numbers on the resolution should read \$131,849 for the General Fund, \$1,021,068 for the
43 Management Planning Fund, \$1,152,917 for the mill rate, \$333,200 for the total revenues
44 and carry forward and \$819,717 for the tax levy for 2008.
45

46 **Manager Johnson, seconded by Manager Taillon, moved to approve the budget as**
47 **amended. Vote 4/0.**
48

1 **Manager Pundsack, seconded by Manager Johnson, moved to approve resolution**
2 **07-10 for the certified 2008 tax levy as amended. Roll call 4/0.**
3

4 **Manager Johnson, seconded by Manager Pundsack, moved to authorize**
5 **Administrator Kill to submit the resolution and appropriate levy information to**
6 **Washington County. Vote 4/0.**
7

8 **7. Permit/Rules**

9 **a.) Permit #07-28 County Road 15 Expansion – District Staff Request for 60-day**
10 **Extension - Board Action**

11 Administrator Kill noted staff requested a 60-day extension for the review of Permit #07-
12 28 County Road 15 Expansion.
13

14 **Manager Vanzwol, seconded by Manager Johnson, moved to extend by 60 days the**
15 **review of Permit #07-28 County Road 15 Expansion on the basis of the District**
16 **engineer’s need for additional information from Washington County. Vote 4/0**
17

18 **b.) Permit #07-07 Fairway Villas**

19 Bob Clark, Lynskey and Clark, gave a quick update on the progress on the Fairway Villas
20 permit. Mr. Clark said they had been able to clear up most of the engineering conditions.
21 Mr. Clark said prior to starting the grading they were going to walk up the ravines with a
22 video camera to document the condition of the ravines prior to the start of their project.
23 Manager Vanzwol commended Mr. Clark on the idea of video taping the ravines prior to
24 starting.
25

26 Mr. Clark noted the surety amount was a shock to them. Mr. Clark noted for the Board
27 they had found a comparable ravine along Hazel Street for cost comparison regarding the
28 surety. Mr. Clark asked if it would be possible to set up a special meeting to discuss the
29 surety amount prior to the October Regular Board Meeting. The Board and staff
30 discussed the potential for a special meeting. Manager Vanzwol noted Manager Leiser
31 wanted all Managers present for discussions regarding possible surety reduction the
32 Fairway Villas surety. Mr. Clark said EOR had noted the surety amount they had come
33 up with was an estimate. Mr. Clark asked if the Board would be willing to have the
34 District’s engineer review the Hazel Street project surety example. Mr. Holtman noted
35 a surety reduction would require an amendment to the permit, which would need to be
36 done by Board action. Manager Vanzwol noted if the District’s engineer felt comfortable
37 reducing the surety he would feel comfortable reducing the surety. The Board directed
38 the District Engineer to review the information submitted by the Permit Applicant
39 requesting a reduction in the surety amount. EOR was further directed to determine
40 whether or not a special meeting would be necessary based on the findings of this review.
41 The Board indicated a special meeting to act on the request without all Board members
42 able to be present would be acceptable if Engineering Staff found the request reasonable.
43

44 **c.) Bradshaw Gully**

45 Administrator Kill noted she has visited the Bradshaw site with Jim Bradshaw, Jay Riggs
46 and Rick Fuhr. Administrator Kill reported the prairies are coming along well but the
47 grasses are still just clumps and will take another 3 to 5 years to fill in. Administrator
48 Kill said there are concentrated flows to a drainage area on the north side of the building.

1 Administrator Kill said Mr. Riggs thought it would probably require more of an
2 engineering solution than a simple re-stabilization solution. There may be engineering
3 funds available through a NPEAP grant as long as it would be under \$10,000 and as long
4 as it is not an active permit. Administrator Kill asked the Board if they would be willing
5 to allow her to close the Bradshaw Permit so there could be resolution to the drainage
6 area on the north side of the building. Administrator Kill noted there was a permit for the
7 campus because one part had not yet been developed but the Bradshaw Funeral Home
8 portion was complete with the exception of the drainage problem. Manager Vanzwol
9 asked if Mr. Bradshaw was willing to pay the outstanding \$4,000 on the permit.
10 Administrator Kill admitted she had not asked Mr. Bradshaw about the outstanding
11 permit fees.
12

13 Manager Vanzwol noted Mr. Bradshaw had been a willing cooperater with the
14 Watershed District to go above and beyond to create good design. Manager Vanzwol
15 believes if the Board needs to be flexible with Mr. Bradshaw on the amount to close he
16 believes the Board should do so. Manager Johnson agreed with Manager Vanzwol.
17 Manager Vanzwol added Mr. Bradshaw's campus design he believes is an example of
18 good design that Mr. Bradshaw was not required to do.
19

20 **Manager Johnson, seconded by Manager Taillon, moved to allow Administrator**
21 **Kill to work with Mr. Bradshaw to designate an appropriate amount to require Mr.**
22 **Bradshaw to pay to close out the permit. Vote 4/0.**
23

24 **8. Projects/Programs**

25 a.) **Long Lake Management Plan Implementation – Herberger's/Tower Drive**
26 **Pond's Board Action**

27 o **Select Contractor – Board Action**

28 Pat Conrad, EOR, updated the Board on the Herberger's/Tower Drive Pond's. Mr.
29 Conrad said he received five bids and the low bidder was Dahn Construction at
30 \$47,314.00. Mr. Conrad pointed out Dahn Construction was the contractor for the North
31 Market Place Pond Improvements.
32

33 **Manager Johnson, seconded by Manager Pundsack moved to award the bid to Dahn**
34 **Construction in the amount of \$47,314.00; authorized Administrator Kill to issue**
35 **notice of award to Dahn Construction; authorized Manager Leiser or Manager**
36 **Vanzwol to sign the contract documents on behalf of the District; and authorized**
37 **EOR to order EcoStorm Plus and 27" diameter catch basin from Royal**
38 **Environmental Systems to be invoiced directly to the District. Vote 4/0.**
39

1 **9. Old Business**

2 **a.) Stillwater Local Water Management Plan – Board Action**

3 Administrator Kill noted a final copy had not yet been drafted because there were still a
4 few questions from legal counsel, including whether the LOU for stormwater
5 maintenance was adequately addressed in the plan. Mr. Holtman noted the City of
6 Stillwater was not proposing to assume full permitting authority in the City. In addition
7 to responding to the City of Stillwater with comments on the plan, Mr. Holtman said
8 there should be a resolution of the plan approval at a future meeting. Mr. Holtman
9 recommended the Board authorize the administrator to respond with comments from staff
10 (legal, engineering, and otherwise). Administrator Kill asked if the Board would like to
11 resolve to approve the plan now or if they would prefer to wait until a final local water
12 management plan is received with the recommended changes. The Managers indicated
13 they would prefer the latter.
14

15 **Manager Vanzwol, seconded by Manager Johnson, moved to approve the Stillwater**
16 **Local Water Management Plan comment letter with any additional necessary**
17 **comments from legal counsel and authorize submittal to the City of Stillwater. Vote**
18 **4/0.**

19
20 **10. New Business**

21 **a.) Scope for Erosion Inventory along Brown's Creek – Board Action**

22 Pat Conrad reported the Erosion Control Inventory would take place along the Zephyr
23 Railroad along Brown's Creek to inventory the erosion and structural problems along
24 Brown's Creek. Presently, the area is currently under review for a state trail. Mr. Conrad
25 said the inventory would allow the District to better work with the DNR to resolve any
26 erosion issues during the planning and creation of the new trail. Mr. Conrad noted the
27 two separate costs, one cost for the Structure Inventory and one cost for the Erosion
28 Inventory. Manager Taillon asked which account the funds would come from.
29 Administrator Kill responded the funds would come from 923-0000 the H&H model
30 update, which has \$11,068 currently available. Manager Pundsack asked if the
31 information obtained during the Fairway Villas permit review would be utilized. Mr.
32 Conrad said it would be used. Manager Vanzwol said he believes the inventories are
33 very important. Staff and the Board discussed the extent of the inventories.
34 Administrator Kill noted the discussions with the DNR regarding the trail so far have
35 been receptive to going above and beyond BCWD Rules.
36

37 **Manager Vanzwol, seconded by Manager Johnson, moved to authorize EOR to**
38 **conduct a survey of the culverts along the Zephyr Railroad bed from the St. Croix**
39 **River to Oak Glen Golf Course (east boundary of the District to the 10th green of**
40 **Oak Glen Golf Course) and a field inspection of the erosion areas along this same**
41 **stretch of the railroad for a total not-to-exceed \$7,750 to come from account 923-**
42 **0000.**

43
44 **b.) Message Training**

45 **Manager Vanzwol, seconded by Manager Johnson, moved to authorize paying for**
46 **all Board Members and the Administrator admission to the Message Training to**
47 **come from the miscellaneous fund. Vote 4/0.**
48

11. Discussion Agenda – No Action Required

a.) Permit Review – Current Inspection Update

Administrator Kill updated the Board on the past month's inspections, specifically highlighting the recent discharges to Brown's Creek and the surrounding wetlands from the Millbrook development. Manager Taillon asked if buffer averaging had not been allowed if there would have been a problem on Millbrook. Administrator Kill responded it is possible. Administrator Kill reported Jyneen Thatcher, WCD Wetland Specialist, had recommended the failure areas be left for now until all the grading had been complete. One of the high-value seeps had been affected during the failures. Administrator Kill noted Ms. Thatcher had mentioned possibly improving the quality of the buffer since the buffer included extensive buckthorn. Administrator Kill noted Ms. Thatcher was still looking into the drain tile that was discovered to the south of the Millbrook property. After hearing the update on Millbrook, Manager Pundsack said she could not help think about Fairway Villas. Manager Vanzwol noted the District needed to watch Millbrook like a hawk after such erosion control failures. Administrator Kill noted the site needed to be buttoned up within a month to prepare for winter and spring snow melt conditions. Manager Vanzwol recommended Windscapes as a possible BMP for Millbrook. Administrator Kill noted Jay Michels had visited the site and had proposed a number of management tools. Administrator Kill noted that one lesson learned was the need to require the ponds remain off-line until approved by the Administrator or District's engineer. In addition, Administrator Kill noted Millbrook was not preparing the soil for seeding as indicated in their SWPPP. Manager Vanzwol said the scary part is the damage to the creek that has been done cannot be undone and this is a permit holder that has been cooperative. Mr. Holtman suggested and asked the Board to consider if they felt comfortable with Lennar volunteering to do the work, what authority EOR would exercise in Administrator Kill's absence, if press coverage would ensure button-up on Millbrook, and if Millbrook would be a good example for the MAWD meeting as a "lessons learned" example. Manager Vanzwol said he thought the Millbrook issue would best be served at 2nd part of the presentation of the MAWD meeting. Manager Pundsack noted hearing about Millbrook makes her want to keep the surety where it is for Fairway Villas. Manager Taillon asked if Millbrook was phased. Administrator Kill said phasing was not possible on Millbrook due to the location of the utilities coming into the site. Manager Taillon pointed out that sometimes even with all the measures in place sites still fall into non-compliance.

Manager Vanzwol, seconded by Manager Johnson, moved to encourage EOR to keep the District Inspector, Paula Guetter on staff for permit inspections at least through the end of October 2007. Vote 4/0.

Manager Vanzwol, seconded by Manager Johnson, moved to have Jay Riggs act as BCWD Administrator in Administrator Kill's absence. Vote 4/0.

The Board discussed the current status of The Sanctuary development in Lake Elmo.

b.) Project Review and Updates

- o Long Lake Sediment Delta – Update from District Engineer's site visit
- Pat Conrad noted during his site visit he could not see the sediment deltas due to the recent rainfall events.

- 1 ○ McKusick Road Beaver - Administrator Kill noted the beaver problem had
2 been eliminated.
- 3 c.) Subcommittee updates
- 4 d.) Communications & Reports
- 5 ○ Microfiche
- 6 Administrator Kill noted she looked into archival storage because of Manager
7 Vanzwol's concern about long-term storage of the District's paper documents.
8 Administrator Kill could scan all of the paper documents, but various software
9 programs could be used that would allow searching of archived documents.
10 Administrator Kill noted Rice Creek WD uses this system. Manager Vanzwol
11 said he recommends Administrator Kill look through the information to see if it
12 would work for her and come back to the Board with a recommendation.
- 13 e.) Reminder: District Administrator will be out on leave September 13-28, 2007
- 14 f.) October 2007 BCWD Board Agenda
- 15 g.) November Meeting Date – Veteran's Day
- 16 Administrator Kill asked if the Board would like to reschedule the November
17 meeting since Veteran's Day is observed on Monday for some businesses. The
18 Board decided to leave the meeting date as scheduled.

19
20 12. Adjournment

21 **Manager Johnson, seconded by Manager Taillon, moved to adjourn the meeting at 9:25**

22 **PM. Vote 4/0.**

23
24 Respectfully Submitted by
25 Paula Guetter, Recording Secretary