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Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of Managers, October 13, 2008

WCD Offices, 1380 W. Frontage Road, Hwy. 36
Stillwater, MN 55082

APPROVED

ROLL CALL

Present:	Others Present:
Craig Leiser, President	Karen Kill, Administrator
Rick Vanzwol, Vice-President	Debbie Meister, Recorder
Connie Taillon, Treasurer	Camilla Correll, EOR
Gerald Johnson, Secretary	Chuck Holtman, Smith Partners
	Steve Hobbs, Minnesota Conservation Consulting
Absent: Gail Pundsack	Lisa Tilman, EOR

1. Call Regular Meeting to order @ 6:30 PM

President Leiser called the Regular Meeting to order at 6:32 PM.

2. Approve Regular Meeting Agenda and Discussion Agenda

The managers recognized Manager Taillon's reappointment to the Board. Administrator Kill requested that the 319 Grant Application be added to the agenda under item 7d.

Manager Vanzwol, seconded by Manager Johnson, moved to approve the meeting agenda and discussion agenda as amended. Vote: 4/0.

3. Public Comments

No public comments.

4. Approve September 8, 2008 Regular Board Meeting Minutes – Board Action

Manager Johnson, seconded by Manager Taillon, moved to approve the minutes of the September 8, 2008 regular Board meeting as presented. Vote: 4/0.

5. Projects/Programs

a) Land Conservation Program Development

1 • **Presentation by Steve Hobbs—Discussion/Board Approval**

2 Steve Hobbs, by request of Jay Riggs, drafted a conservation work plan for the
3 District. He outlined a five-step plan: 1. conduct research as the basis for program
4 goals and guidelines, 2. conduct a first workshop with staff to review research and
5 determine basic goals, 3. develop a program manual, 4. conduct a second
6 workshop to review the manual, 5. provide guidance information to landowners.
7 Managers identified goals/outcomes for the program including: set conservation
8 priorities, work with limited funds, identify problems and opportunities, establish
9 a process including who to involve such as CAC, TAC and EOR, integrate
10 existing programs including those in the District and at the County, and State
11 levels, help identify what we as a watershed district do—make the connection
12 between land and water conservation and develop an “elevator speech”. Legal
13 counsel suggested, as part of an “elevator speech”, to stress collaboration with
14 other government units to protect water resources. Collaboration provides a way
15 to leverage dollars and other resources. Manager Taillon stated that a little under
16 \$30,000 was budgeted for program development and \$50,000 was budgeted in
17 2009 for implementation.
18

19 **Manager Vanzwol, seconded by Manager Johnson, moved to authorize**
20 **immediate work on phases 1 and 2 of the work plan not to exceed \$2,500**
21 **from account 935-000. Vote: 4/0.**
22

23 • **Support for DNR Community Conservation Assistance for Priority**
24 **Mapping—Board Action**

25 Administrator Kill summarized the joint grant application to develop a priority
26 map of the county’s natural resources. BCWD will provide an in-kind match. The
27 project will begin in January and provides another way to leverage funding.
28

29 - **Manager Vanzwol, seconded by Manager Taillon, moved to support the**
30 **Community Conservation Assistance grant application. Vote: 4/0.**
31

32 The board directed Administrator Kill to work on the project including providing
33 a letter of support.
34

35 **b) Kern Center Pond Soils Study Results**

36 Lisa Tilman presented the results of the pond investigation. Five sediment cores and
37 five water samples were collected on September 9. Grain size analysis showed soils
38 are silty sands with a small amount of clay. The dominant algae found in all sites was
39 mucilaginous, but easily broke apart upon agitation. Both soil and algae are not
40 considered to be the source of clogging. Next a water surface elevation measurement
41 was taken at the wetland to the west of the pond. The level was within two feet of the
42 pond elevation. These results seem to indicate localized perched groundwater tables
43 as a potential cause of the restricted infiltration. EOR—with concurrence from the
44 board—does not recommend further investigation because there is nothing that can be
45 done. EOR further noted that the pond is providing water quality and rate control
46 benefits and for most of the season is not overflowing.
47

1 **c) THPP – Culvert Cleaning & Field Road Stabilization — Board Action**

2 Camilla Correll summarized and showed slides of Mike Majeski's (EOR) THPP
3 erosion repair and THPP/Kismet structure inspection. Erosion repair and reseeding
4 were completed on both sides of the farm field road between Wetland C and Basin 1,
5 on the buffer zones of Wetlands B and C and on the slope at the southeast corner of
6 Wetland B. The vegetation has filled in. Most of the structures in THPP are in good
7 shape, though the railroad culvert between Wetlands A and B should be monitored to
8 ensure riprap is not obstructing the flow. Washington County repaired the culvert
9 under CR 7. Sediment removal is recommended in the RCP pipes under the field
10 road between Wetland C and Basin 1.

11
12 The Kismet structures are in good condition, with the exception of the outlet to
13 Johnson Pond. There is a crack in the drop structure, though the integrity has not been
14 affected. It is recommended that this structure be monitored. President Leiser stated
15 that the culvert and entry structure near the first driveway to the west of the outlet to
16 Johnson Pond were constructed as a part of the Kismet project and requested that they
17 be inspected. EOR will add this inspection.

18
19 Administrator Kill reported that a University of Minnesota graduate student is
20 interested in doing a study on the THPP infiltration project.

21
22 **President Leiser, seconded by Manager Vanzwol, moved to expend not more**
23 **than \$3,000 from the contingency line item to clean out the THPP field road**
24 **culvert and place crushed rock on the field road between Wetland C and Basin 1**
25 **and to authorize the District's onsite engineer to use his best judgment on the**
26 **field road stabilization. Vote: 4/0.**

27
28 **d) North Market Place Pond Improvement – Riprap—Board Action**

29 Administrator Kill reported that additional riprap is needed at the outlet and this work
30 was not requested of the contractor. The City of Stillwater is willing to do the
31 installation, if the District pays for the material.

32
33 **Manager Vanzwol, seconded by Manager Johnson, moved to provide funds for**
34 **materials not to exceed \$750 from the Long Lake Implementation Fund with the**
35 **City of Stillwater to install the riprap. Vote: 4/0.**

36
37 **e) BMP Projects**

- 38 • **2007 Approved Projects Requesting One-year Extensions—Board Action**
39 **Manager Vanzwol, seconded by Manager Johnson, moved to authorize a**
40 **one-year extension of the Filandrinos, Rinker, Sutton and White projects.**
41 **Vote: 4/0.**

- 42
43 • **Completed Projects Requesting Reimbursement—Board Action**
44 **Manager Taillon, seconded by Manager Vanzwol, moved to reimburse**
45 **\$2,766 to the Kocans for the BMP project. Vote: 4/0.**
46

1 Manager Taillon, seconded by Manager Vanzwol, moved to reimburse
2 \$1,550 to the Stephens for the BMP project. Vote:4/0.
3

4 **6. Permits/Rules**

5 **a) Permit Fee Statements Review and Recommendations—Board Action**

6 Administrator Kill reported that the Kane Residence (Permit 06-28) owes \$506.10 in
7 outstanding fees. According to the County auditor, these fees cannot be added to the
8 owner's property tax. Legal counsel has sent a second letter. Upon receipt of this
9 letter, the Kanes said they would pay. Legal counsel has sent another letter to Evans
10 Marina (Permit 04-19). There has been no response.

11
12 Administrator Kill reported that has Elite Development (Permit 06-08) dissolved.
13 Asked about pursuing a lawsuit, legal counsel advised that initiating an action would
14 cost about \$1,000, however developing the lawsuit—including investigating whether
15 Elite Development actually has assets— could be expensive. Although filing a 1099
16 for Elite Development is a possible option; Manager Pundsack, at a previous Board
17 meeting, advised that this would preclude trying to recoup the owed fees at a later
18 date.

19
20 President Leiser, seconded by Manager Vanzwol, moved, that as a prudent
21 manager of our funds, the board write off the amount owed by Elite
22 Development for activities related to BCWD Permit 06-08 and seek no further
23 legal action at this time. Vote: 4/0.
24

25 **b) BCWD #05-12 Sanctuary/Subdivision Developments**

26 Counselor Holtman summarized two recommendations for ensuring that stormwater
27 facilities are constructed and maintained during the development of a subdivision,
28 without unduly burdening the developer. Approach A suggests transferring the
29 permit with enhanced conditions. Approach B suggests amending the permit for
30 earlier closure and enhancing the post-permit oversight. Issues discussed included:
31 the City of Lake Elmo is requiring the developer to close the permit; the District and
32 City operate as two separate entities with separate permit requirements; the District
33 permit does not contain specific language requiring lots to be stabilized before an
34 infiltration basin is finalized; there is concern that with many lots unsold, a
35 homeowners association would not have the funds to do cleanup; the District needs
36 leverage or tools to ensure the sites are maintained; and the question of ownership is
37 of primary concern. Both legal counsel and the administrator recommended Approach
38 A unless the City is willing to take over the maintenance responsibility.
39

40 President Leiser, seconded by Manager Johnson, moved to table selection of an
41 approach to managing a subdivision permit until a definite response from the
42 City of Lake Elmo on site maintenance is obtained. Vote: 4/0.
43

44 **c) BCWD Permit Review Audit**

45 Prompted by concern over unpaid permit fees, Administrator Kill was directed to
46 conduct a permit review audit. She outlined the audit process including interviewing
47 engineers from other watershed districts and communities and applicants. She

1 reviewed steps the District has already taken to address this concern—passing
2 resolutions #07-11, #07-13 and #08-01—and highlighting issues for discussion. She
3 concluded that the three resolutions would have solved many of the current problems.
4 Compared to other watershed districts, BCWD tends to be more involved in the
5 review and assisting the applicant with areas that do not initially meet the rules. This
6 could be streamlined by encouraging or requiring a pre-application meeting before a
7 permit is considered complete. The initial completeness review should also be more
8 thorough to address potential issues earlier in the process. Also recommended was
9 providing applicants with the draft review at least 5 days prior to submitting the
10 review to the Board.

11
12 Discussion included how much permit information should be brought to the board
13 (compared to other districts, BCWD Board seems to be more hands-on),
14 acknowledging the permit process is part of the education process for applicants and
15 the board, the need to require local governments to provide their own design work
16 and the need to recover fees. The board directed Administrator Kill to convert her
17 suggestions into a resolution and work with legal counsel to draft a resolution on
18 procedures and fees. Other issues can be addressed in a guidance document.

19
20 **7. Old/New Business**

21 a) **MAWD Annual Conference—Board Approval**
22 **Manager Vanzwol, seconded by Manager Johnson, moved to pay conference**
23 **expenses and registration fees for board members and the Administrator.**
24 **Vote: 4/0.**

25
26 b) **Water Resources Conference—Board Approval**
27 **Manager Vanzwol, seconded by Manager Johnson, moved to pay conference**
28 **expenses and registration fees for board members and the Administrator.**
29 **Vote: 4/0.**

30
31 **Manager Johnson, seconded by Manager Vanzwol, moved to take a recess. Vote:**
32 **4/0. Recess at 9:00-9:07 PM**

33
34 c) **Stormwater U Training—Board Approval**
35 **President Leiser, seconded by Manger Vanzwol, moved to pay training**
36 **expenses and registration fees for board members and the Administrator.**
37 **Vote: 4/0.**

38
39 d) **319 Grant Application—Board Approval**
40 **President Leiser, seconded by Manager Johnson, moved to support the 319**
41 **grant application. Vote: 4/0.**

42
43 **8. Treasurer's Report**

44 a) **Review Authorized Funds Spreadsheet**

45
46 b) **Current Items Payable—Board Action**

1 **Manager Taillon, seconded by Manager Vanzwol, moved to pay accounts in**
2 **the amount of \$93,453.31 as presented. Role call vote: 4/0/0/1.**
3

4 **9. Consent Agenda—Board Approval**

- 5 a) **DNR Public Waters Gen Permit to MnDOT Repair/Replace Bridges &**
6 **Culverts GP 2004-0001**

7 **Manager Vanzwol, seconded by Manager Johnson moved to approve the**
8 **consent agenda. Vote: 4/0.**
9

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

- 11 a) **Brown’s Creek Biota TMDL – TAC Update and 2009 Monitoring**

12 **Recommendations**

13 Administrator Kill provided an update on the TAC meeting. The final drafts
14 identifying the stressors and the groundwater chemistry are nearly complete. Both
15 will be on the PCA and District Web sites. Meetings will be held with the PCA,
16 our CAC and all seven District communities, of which Grant, Hugo, Lake Elmo
17 and Stillwater are MS4 and are required to update their stormwater pollution
18 prevention plans to include TMDL. The next TAC meeting is January 12.
19

- 20 b) **Permit Review—Current Inspection Update**

21 Administrator Kill reported that she will inspect Settlers 5th Addition tomorrow
22 morning. If the site is still in poor condition, she will work with legal counsel and
23 request that Stillwater red tag them. She will update the board via email.
24

- 25 c) **BCWD Permit #07-28 CR 15/Welander Drainage**

26 Administrator Kill reported that there appears to be a field access driveway that
27 was possibly not in the approved permit. Ryan Fleming (EOR) inspected the site
28 and will get drawings from the County to ensure water is not being redirected
29 improperly.
30

- 31 d) **Joint meeting with City of Stillwater —Date to be Determined**
32

- 33 e) **Communications & Reports**

- 34 • **County Budget Meeting Update**
35

- 36 • **Recent Trends in Quantifying Groundwater Recharge Rates**

37 Dr. Richard W. Healy will speak on October 22, 2008 in Mounds View from
38 10:00-11:30 a.m.
39

- 40 • **9 Mile Creek WD/Anderson Lake Draw Down Tour Update**

41 Manager Vanzwol, President Leiser and Administrator Kill attended. It was
42 noted that this type of project could be used on Long Lake.
43

- 44 • **Jackson WMA Brush Removal Update**

45 Administrator Kill and Managers Vanzwol and Taillon attended. The District
46 provided an overlay showing that only about a noncontiguous acre is
47 developable if the rare orchids are to be preserved.

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- **Lake Pepin TMDL Conference Update**

The PCA will hold a meeting on October 15 for MS4 communities on how to meet reductions for total phosphorous and total suspended solids.

- **Benz Lake Management Plan**

Camilla Correll reported that the plan is nearly complete and will be presented next month.

- **Manager's Reports**

Manager Vanzwol reported that the new septic system amendment will be presented at a public meeting tomorrow.

f) **November 2008 BCWD Board Agenda**

11. **Adjournment**

Manager Leiser, seconded by Manager Taillon, moved to adjourn at 9:52 PM. Vote: 4/0.

Respectfully submitted by
Debbie Meister, Recorder