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Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of Managers, October 12, 2009

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

APPROVED

ROLL CALL

Managers Present:	Others Present:
Craig Leiser, President	Karen Kill, Administrator
Rick Vanzwol, Vice-President	Debbie Meister, Recorder
Connie Taillon, Treasurer	Louis Smith, Legal Counsel
Gerald Johnson, Secretary	Cecilio Olivier, EOR
Gail Pundsack, Vice-President	Pat Conrad, EOR
	Jennifer Olson, EOR
	David Fabio, Resident
	Joe Arndt, Resident

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**
Manager Vanzwol requested adding land spreading of septage as item 8g.
Manager Johnson, seconded by Manager Vanzwol, moved to approve the meeting agenda and discussion agenda as amended. Motion carried, vote 5/0.
3. **Public Comments**
There were no public comments.
4. **Approve Board Meeting Minutes – Board Action**
 - a) **September 14, 2009 Regular Meeting**
Legal counsel suggested changes to the minutes.
Manager Vanzwol, seconded by Manager Pundsack, moved to approve the minutes of the September 14, 2009 Regular Meeting minutes as amended. Motion carried, vote 3/0/2. Managers Leiser and Johnson abstained because they were not present at the September 14, 2009 meeting.

1 **5. Treasurer's Report**

2 **a) Review Authorized Funds Spreadsheet**

3 Administrator Kill presented the spreadsheet.

4
5 **b) Homeowner BMP Projects—Board Action**

6 Administrator Kill presented requests for reimbursement. She reported that the
7 Settler's HOA original cost estimate was based on non-profit Great River Greening
8 doing the work. Because a for-profit company was used, costs were more than
9 expected. There was also a misunderstanding about who would water and a problem
10 with sod rotting before it could be installed by MCC crew. To ensure this is a
11 successful project, Administrator Kill requested additional BMP funds.

12
13 **Manager Taillon, seconded by Manager Vanzwol, moved to approve a total**
14 **additional cost-share reimbursement of \$1,175 to Settler's HOA from account**
15 **940-0000. Motion carried, vote 4/1. Manager Johnson was opposed.**

16
17 Administrator Kill reported that the cost of the Whistler/Sedlacek project was higher
18 than the original estimate because a private contractor was hired for the installation.
19 She also noted that although two rather than three homeowners are participating, the
20 same level of stormwater management will be achieved.

21
22 **Manager Vanzwol, seconded by Manager Taillon, moved to reallocate the**
23 **\$3,750 from the 2008 project to account 914-0000 and approve the revised 2009**
24 **project not to exceed \$5,500 for the Whistler/Sedlacek BMP cost-share from**
25 **account 914-0000. Motion carried, vote 5/0.**

26
27 Administrator Kill reported that Mr. Lahr misunderstood the BMP contract thinking
28 50 percent of materials and 100 percent of labor would be reimbursed. He relied on
29 this when purchasing material and was thus requesting additional reimbursement for
30 labor. She noted that he did an excellent job completing the project. The contract
31 wording was reviewed and will be revised on all future contracts.

32
33 **President Leiser, seconded by Manager Pundsack moved to authorize the**
34 **additional expenditure of \$279.94 to bring the total Lahr BMP cost-share**
35 **reimbursement up to \$1,900 to indicate that Mr. Lahr completed the project**
36 **very well and in good faith and this is as a one-time occurrence.**

37
38 Manager Pundsack spoke against the motion stating that the District policy is clear.
39 Administrator Kill stated that perhaps there could have been a misunderstanding and
40 provided new wording to make the contract truly explicit.

41 **The motion failed, vote 2/3. Managers Pundsack, Johnson and Vanzwol opposed.**

42
43 **c) TMDL Review—Board Action**

44 **Manager Johnson, seconded by Manager Vanzwol, moved to reallocate \$1990.25**
45 **from the contingency reserve fund to 947-0000 Brown's Creek Biota TMDL to**
46 **cover the TMDL review and stormwater management standards**
47 **recommendations. Motion carried, vote 5/0.**

1
2 **d) Current Items Payable – Board Action**
3 **Manager Taillon, seconded by Manager Vanzwol, moved to pay bills in the**
4 **amount of \$102,258.99. Motion carried, roll call vote 5/0.**
5

6 **e) Permit Fee Statements Review**
7 Administrator Kill reviewed.
8

9 **6. Permitting**

10 **a) Declaration—Prohibit Copper Treatments to Stormwater Facilities--**
11 **Discussion**

12 Administrator Kill reported that copper is one of the stressors identified in the
13 Brown’s Creek Biota TMDL, with a potential source being algaecides in ponds. She
14 is in communication with a number of HOAs that are interested in using copper to
15 treat ponds. Discussion focused on the ability of the District to prohibit the use of
16 algaecides containing copper in stormwater maintenance agreements as a condition of
17 new permits.
18

19 **Manager Taillon, seconded by Manager Vanzwol, moved to authorize legal**
20 **counsel to investigate what the District can legally do to restrict copper in**
21 **algaecides. Motion carried, vote 5/0.**
22

23 **7. Projects/Programs**

24 **a) Long Lake**

25 As a way to build relationships and foster good communication, guidance,
26 information sharing and consensus building with HOAs, Joe Arndt suggested one or
27 two managers be assigned to a specific HOA or section of the watershed. President
28 Leiser guaranteed that at least one manager would attend any meeting where a request
29 was made through the District Administrator. Manager Johnson suggested making the
30 District website interactive to provide information and pose questions about Long
31 Lake. David Fabio suggested holding a general meeting for Long Lake residents to
32 explain what is going on and get public input. President Leiser stated that if a venue,
33 date and time are provided to Administrator Kill, a manager will attend. Other issues
34 discussed included evaluating the Long Lake elevation and v-notch, which requires a
35 high-water year, conducting a boating study and dealing with Eurasian water milfoil.
36

37 **• Sediment Delta Corings Status Update--Discussion**

38 Cecilio Olivier summarized the coring results: the delta sediment is relatively
39 clean, sediments have higher organic content as one moves north and there are
40 higher phosphorous levels in the deeper area making alum treatment a possibility
41 in the north (deeper) part of the lake. EOR concluded that the only reason for
42 dredging is for recreational or aesthetic purposes. On further discussion of
43 dredging, administrator Kill noted that the City of Stillwater is willing to provide
44 pumps and that several residents would like to see this move forward and are
45 willing to have resident cost share discussions. Managers raised the following:
46 what is the water quality benefit, how willing are residents to cost share, what
47 alternative methods (such as a special taxing district) are available to fund the

1 project, was sediment accumulation due to lack of oversight during construction.
2 It was noted that although recreation is part of the District mission, recreation
3 with public access is a higher priority and water quality is the highest priority.
4

5 **President Leiser, seconded by Manager Vanzwol, moved to table this**
6 **pending completion of an analysis of the benefits of the project, exploration**
7 **of alternative funding/taxing options, discussions with lake residents about**
8 **their willingness to fund the project and discussion with the CAC, to which**
9 **Long Lake residents will be invited. Motion carried, vote 5/0.**
10

11 • **Eurasian Water Milfoil —Vegetation Survey Results and Management**
12 **Options--Discussion**

13 Pat Conrad summarized results of the milfoil and macrophyte survey on Long
14 Lake and Jackson WMA. Milfoil was found in the northern lobe of Long Lake
15 and in the channel leading from the lake to Jackson WMA Pond. There are
16 healthy plant communities in the other areas of the lake. Options to inhibit the
17 spread of milfoil were discussed including vegetation blankets, pulling and/or
18 spot spraying milfoil, restricting boat traffic and sending a letter to residents about
19 the situation.
20

21 **President Leiser, seconded by Manager Vanzwol, moved to direct the District**
22 **Administrator and Engineer to work with the Department of Natural**
23 **Resources to evaluate methods and/or to remove milfoil in the channel and to**
24 **provide costs for signage and buoys to restrict boat traffic in affected areas**
25 **for a cost not to exceed \$2,000 from account 929-0000. Motion carried, vote**
26 **5/0.**
27

28 • **Boat Use Survey—Board Action**

29 **President Leiser, seconded by Manager Pundsack, moved to table action on**
30 **the boat use survey until April 2010. Motion carried, vote 5/0.**
31

32 *Recess 8:43-8:49 p.m.*
33

34 **b) Diversion Drainage**

35 • **Sample Results to Date**

36 Administrator Kill reported that three more samples were gathered after a rain
37 event and since the joint Stillwater meeting, but analysis has not come back.
38

39 • **Monitoring Data Analysis Scope—Board Action**

40 **President Leiser, seconded by Manager Vanzwol, moved to table board**
41 **action until January 2010. Motion carried, vote 5/0.**
42

43 **c) Fen Management Plan—Jennifer Olson, EOR**

44 • **Groundwater Dependent Natural Resources Rulemaking Process—Legal**
45 **Discussion**

46 Discussion focused on how to proceed with the rules including how much
47 groundwater monitoring is needed, the size of the groundwatershed, data gaps,

1 implementing rules versus pursuing land conservation, protecting resources
2 through creative development and talking with the City of Grant about
3 development that will protect natural resources. The managers agreed to proceed
4 with adoption of sections 1 through 5 of the plan and with a meeting with Mike
5 Regan, the District Administrator and Engineer, President Leiser and Manager
6 Vanzwol.

7
8 • **Fen Management Plan –Board Action**

9 **President Leiser, seconded by Manager Johnson, moved to adopt sections 1-5**
10 **of the Fen Management Plan as submitted on September 3, 2009 and**
11 **authorize a group from the District to meet with Mike Regan. Motion carried,**
12 **vote 5/0.**

13
14 • **Groundwater Monitoring Program—Board Action**

15 Administrator Kill suggested that EOR develop a groundwater monitoring
16 program plan and budget.

17
18 **President Leiser, seconded by Manager Johnson, moved to transfer \$1,000**
19 **from contingency to account 942-000 and authorize payment of EOR up to**
20 **\$1,000 from account 942-0000 to prepare a scope of services for development**
21 **of a groundwater monitoring plan. Motion carried, vote 5/0.**

22
23 d) **H&H Model Upgrade—Board Action**

24 **Manager Vanzwol, seconded by Manager Johnson, moved to approve the**
25 **hydraulic structure inventory as presented for a cost not to exceed \$6,864 from**
26 **line item 923-0000. Motion carried, vote 5/0.**

27
28 e) **62nd Street Culvert Replacement—Board Action**

29 Administrator Kill presented quotes from contractors to the City of Stillwater for a
30 storm sewer on 62nd Street while street repairs are made. The District is being asked
31 to cost share on this project. Cecilio Olivier stated that the quotes appear to be based
32 on a memo EOR provided to the City several years ago for a complicated structure
33 that called for an arch pipe. He also stated that to avoid liability it should be specified
34 that this is a City project.

35
36 **Manager Vanzwol, seconded by President Leiser, moved to authorize legal**
37 **counsel and the Administrator to prepare a letter to the City of Stillwater**
38 **agreeing to cost share up to \$7,500 from contingency funds to 929-0000, which**
39 **will be replaced in next year's budget, on the City of Stillwater's project for an**
40 **arch pipe culvert. Motion carried, vote 5/0.**

41
42 **8. New Business**

43 a) **Auditing Contract with HLB Tautges Redpath—Board Action**

44 **Manager Johnson, second by Manager Taillon, moved to accept the HLB Tautges**
45 **Redpath, Ltd. bid for auditing services not to exceed \$8,350 from account 200-4330.**
46 **Motion carried, vote 5/0.**

47

1 **b) Stillwater Joint Meeting – Oct. 6th Update and Next Tentatively in March 2010**

2 Discussion focused on the City's frustration with the diversion structure and the lack
3 of perceived action. Manager Johnson suggested sending a follow-up memo
4 summarizing the 19 BMP projects implemented in 2008 and 2009 improving the
5 quality of the water going to the diversion. The next joint meeting will be held in
6 March or when the diversion drainage analysis is completed.

7
8 **c) Clean Water Fund and Competitive Grants RFP Announcement**

9 Administrator Kill stated that staff will be compiling a list of projects for funding and
10 will be bringing those ideas to the November board meeting.

11
12 **d) MAWD Annual Meeting—Board Action**

13 President Leiser reported that he will be attending, funds have been authorized for the
14 Administrator and board members and Administrator Kill and Jennifer Olson will be
15 presenting the District's Fen Management Plan at a Saturday session.

16
17 **e) Water Resources Conference**

18 Funds were authorized at the October meeting.

19
20 **f) Public Information Sharing Options**

21 Facebook was mentioned as a communication tool.

22
23 **g) Land Spreading of Septage**

24 Manager Vanzwol summarized concerns about spreading septage on agricultural land.
25 Although there are federal and state rules, legal counsel stated that the District may
26 have legal authority to address the issue, but the first question is to consider what
27 other local authorities, such as Washington County, are doing. Pat Conrad noted that
28 the MPCA chose not to regulate spreading, but rather requires a license.
29 Administrator Kill will check to see if Washington County or cities are enforcing
30 septage spreading and will report back next month.

31
32 **h) BMP Recognition**

33 Manager Pundsack suggested that, based on Administrator Kill's praise of the BMP
34 completed by Mr. Lahr, perhaps the District should recognize outstanding BMPs.
35 President Leiser suggested cash awards. He also suggested signs for the winning
36 installations. Legal counsel stated that if there is a cash award, the program should be
37 re-characterized as an additional performance incentive grant/award.

38
39 **Manager Vanzwol, seconded by Manager Pundsack, moved to direct the BMP**
40 **Assessment Committee to develop selection criteria including appearance,**
41 **functionality and cost effectiveness, for BMP Incentive Grants in the amounts of**
42 **\$250 for first place, \$150 for second place and \$50 for third place, select signs for**
43 **the award winning installations and select winners for 2009. Motion carried 5/0.**

44
45 Managers were asked to think of nominations for Conservationist of the Year.

46
47 **11. Discussion Agenda – No Action Required**

1 **a) Administrator Updates**

2 Administrator Kill reported on the following:

- 3 • Document retention options including Laserfich or scanning documents and
- 4 keeping the backup files off-site in a fire protected location. Administrator
- 5 Kill and President Leiser agreed to survey some watershed districts, the
- 6 County and MAWD about their practices.
- 7 • Herberger's Pond was planted. It is going dormant and might need to be
- 8 pumped in late fall or spring.
- 9 • Washington County Consortium toured BMP sites.
- 10 • Kern Center is still in the process of getting a permit from MnDOT.
- 11 Installation will probably be in the spring.
- 12 • Masterman Plan is under analysis. A meeting with the homeowners will be set.
- 13 • Brown's Creek impairments. Administrator Kill will be sending a letter to the
- 14 MPCA asking for a delisting.

15
16 **b) Communications & Manager Reports**

17 There were no reports.

18
19 **c) November 2009 BCWD Board Agenda**

20 Manager Johnson suggested adding planning the Christmas party and having the

21 Administrator's Report earlier on the agenda as item 3 or 4.

22
23 **12. Adjournment**

24 Manager Johnson, seconded by Manager Taillon, moved to adjourn at 11:02 PM.

25 Motion carried, vote 5/0.

26
27
28 Respectfully Submitted by

29 Debbie Meister, Recorder

30
31