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Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of Managers, November 9, 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	Michael Welch, Legal Counsel
Gerald Johnson, Secretary	Camilla Correll, EOR
Gail Pundsack, Vice-President	Pat Conrad, EOR
	Curt Giessler, Long Lake 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

It was suggested items 8d and 9b be eliminated. President Leiser requested adding the MAWD meeting under 10b and permit #07-28 update under 10a. Administrator Kill requested adding permit #09-09 Stillwater Hockey Rink/Ice Garden as item 6c.

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) October 6, 2009 Special Meeting

Manager Vanzwol, seconded by Manager Taillon, moved to approve the minutes of the October 6, 2009 Special Meeting as amended. Motion carried, vote 4/0/1.

President Leiser abstained because he was absent from the special meeting.

- 1 **b) October 12, 2009 Regular Meeting**
2 Legal counsel suggested several changes.

3
4 **Manager Taillon, seconded by Manager Johnson, moved to approve the minutes**
5 **of the October 12, 2009 Regular Meeting as amended. Motion carried, vote 5/0.**
6

7 **5. Treasurer's Report**

- 8 **a) Review Authorized Funds Spreadsheet**

9 Administrator Kill presented the spreadsheet and noted changes in the contingency
10 reserve and the BMP account.

- 11
12 **b) Current Items Payable – Board Action**

13 **Manager Taillon, seconded by Manager Vanzwol, moved to pay bills in the**
14 **amount of \$24,509.61. Motion carried, roll call vote 5/0.**
15

- 16 **c) Permit Fee Statements Review**

17 Administrator Kill reported that she and Louis Smith discussed collections. It is a
18 high priority for them to find a new collection agency.

19
20 **6. Permitting**

- 21 **a) #04-16 Millbrook — Surety Reduction Request —Board Action**

22 Ryan Fleming, EOR, recommended a surety reduction of \$50,000 based on the amount of
23 stabilization already completed.

24
25 **Manager Vanzwol, seconded by Manager Johnson, moved to reduce the**
26 **Millbrook surety for BCWD Permit #04-16 by \$50,000 conditional upon**
27 **bringing the permit-fee deposit to a positive balance; the surety reduction will**
28 **result in a remaining surety of \$100,000 for final site stabilization as per the**
29 **conditions of the permit. Motion carried, vote 5/0.**
30

- 31 **b) Copper Discussion**

32 Administrator Kill reported that according to legal counsel, under state statute
33 watershed districts as a local government unit cannot prohibit copper treatment (or
34 pesticide use) in stormwater ponds. The Minnesota Department of Agriculture (MDA)
35 regulates pesticides, and the Department of Natural Resources (DNR) issues permits
36 for aquatic pesticide treatment. Questions discussed included: Can the Minnesota
37 Pollution Control Agency (MPCA) publish a regulation? Using TMDL studies, can
38 the MPCA rule that copper is a stressor?

39
40 Manager Johnson suggested getting this issue on the MAWD agenda.

41
42 **President Leiser, seconded by Manager Vanzwol, moved that after the District's**
43 **TMDL is put out for review, to authorize the Administrator and Legal Counsel**
44 **to explore with the MPCA how to work with the MDA and DNR on restricting**
45 **copper in the Brown's Creek watershed. Motion carried, vote 5/0.**
46
47

1 **c) #09-09 Stillwater Hockey Rink/Ice Garden**

2 Administrator Kill reported that the ice garden requires grading on two acres of CityCity
3 parkland. The CityCity is the project applicant and the youth hockey group is the
4 representative. A permit fee of \$1,250 has been received for the project. However,
5 because this is a CityCity project on publicly owned property, District policy provides
6 that a permit fee or surety should not be collected.

7
8 **President Leiser, seconded by Manager Vanzwol, moved to authorize the**
9 **Administrator to issue a permit fee refund of \$1,250 for permit #09-09. Motion**
10 **carried, vote 5/0.**

11
12 **7. Projects/Programs**

13 **a) Long Lake**

14 **i. Sediment Delta Final Report**

15 Pat Conrad reported that the chromium testing has been completed. The sediment
16 delta is not hazardous and does not contain a significant source of phosphorus.
17 Dredging would stir up the bottom, but a curtain could be used to contain the
18 sediment. Discussion included: dredging could occur when water levels are low;
19 the City of Stillwater is willing to provide equipment; the delta is a small area and
20 dredging would only have a small impact on recreation; dredging will not
21 improve water quality; the sediment delta formed during the Marketplace
22 development, which occurred before the District's permitting program; the ponds
23 have eliminated more sediment build up and because of low water levels, the delta
24 has revegetated and stabilized.

25
26 Legal counsel provided an analysis of funding mechanisms available to the
27 District, including the ability to establish a watershed management district to
28 provide a regional source of funding. Counsel discussed an example established
29 at Bald Eagle Lake in the Rice Creek Watershed District. The Board discussed
30 that funding mechanisms other than ad valorem taxes would be time-consuming
31 and costly for a \$30,000-40,000 project. The board agreed that the next step is a
32 meeting with Long Lake-area property owners to identify problems and discuss
33 options.

34
35 Curt Giessler commented that in the last five years the south end of Long Lake
36 has become mucky with a proliferation of weeds, which prevents canoeing and
37 swimming. He also noted that the water clarity has improved.

38
39 **ii. Eurasian Water Milfoil —Management Strategies**

40 Pat Conrad referred to the White Bear Press letter to the editor forwarded by
41 Manager Vanzwol as a good discussion of the pros and cons of herbicide
42 treatment. On Long Lake, he recommends against treating the small pockets
43 infested with milfoil because the milfoil is not impairing recreational use and
44 treatment will not control the spread. Manager Vanzwol noted that a weevil is
45 being used in eight states to treat milfoil and the DNR is looking at this.

46
47 Administrator Kill distributed a draft Long Lake newsletter.

1 **Manager Vanzwol, seconded by Manager Pundsack, moved to authorize the**
2 **Administrator to send out 500 copies of the Long Lake Update to property**
3 **owners living on or near Long Lake from account 910-0000. Motion carried,**
4 **vote 5/0.**
5

6 **b) Homeowner BMP Projects—Board Action**

7 **Manager Taillon, seconded by Manager Vanzwol, moved to approve the Sundby**
8 **residence BMP cost share not to exceed \$1,950 from account 914-0000. Motion**
9 **carried, vote 5/0.**
10

11 **c) Brown’s Creek Trails Park Signage**

12 **Manager Vanzwol, seconded by Manager Taillon, moved to authorize**
13 **developing an educational sign with logos of BCWD, City of Stillwater and**
14 **LCCMR and with up to \$500 in funding from account 910-0000 to be posted in**
15 **the Brown’s Creek Trails Park parking area. Motion carried, vote 5/0.**
16

17 *Recess from 8-8:10 PM*
18

19 **d) MPCA Funding—Lily/Long/McKusick TMDL or Brown’s Creek**
20 **Implementation Plan in 2010**

21 Administrator Kill reported that although the District budgeted to fund the
22 Lily/Long/McKusick TMDL with MPCA pass-through funding and Brown’s Creek
23 Implementation Plan with District funds in 2010, MPCA funding could be used for
24 the implementation plan instead. It is possible that there would be more state funding
25 for the TMDL in 2011 or 2012. Stillwater would not have funds available for its
26 share of the study without state funding.
27

28 **President Leiser, seconded by Manager Johnson, moved to proceed with both**
29 **the Lily/Long/McKusick TMDL with state pass-through funds and the Brown’s**
30 **Creek Implementation Plan with BCWD funds in 2010. Motion carried, vote 5/0.**
31

32 **8. Old Business**

33 **a) 62nd Street Culvert Cost-share — New Cost Estimate**

34 Administrator Kill reported that the City of Stillwater received a revised cost estimate for
35 the 36” arch equivalent culvert within the previous cost-share funding approval. No
36 action is needed.
37

38 **b) Clean Water Fund and Competitive Grants Proposals —Board Action**

39 Administrator Kill presented potential projects for grant funding. She will meet with
40 Kevin Biehn (EOR) this week to work on the applications, which are due December 1.
41 Because they are members of the club, President Leiser and Manager Johnson
42 recused themselves from discussion about and voting on the Stillwater Country Club.
43

44 **Manager Vanzwol, seconded by Manager Taillon, moved to support Clean**
45 **Water Legacy Grant applications for the Challenging Neighborhoods, the Oak**
46 **Glen Golf Course, the Manning Avenue stream restoration and the Mendel**
47 **wetland restoration. Motion carried, vote 5/0.**

1 **Manager Vanzwol, seconded by Manager Taillon, moved to support a Clean**
2 **Water Legacy Grant application for the Stillwater Country Club projects as**
3 **presented. Motion carried, vote 3/0/2. President Leiser and Manager Johnson**
4 **abstained.**
5

6 The managers directed the administrator to work with counsel to determine whether
7 action is required to address past cost-share expenditures for projects that have proved to
8 be outside the watershed's legal and hydrological boundaries.
9

10 c) **Land Application Requirements**

11 Administrator Kill reported on her discussion with County staff about land
12 application of septage and other materials. For any application, the landowner must
13 prove there is a need for the material with soil tests. Washington County requires a
14 permit from a licensed applicator for each site. The County no longer keeps a detailed
15 database of approved sites. Although the County verbally stated that it does not
16 allow septage applications, specific language was not found in the County ordinance.
17 Some counties, however, do prohibit septage applications. It was suggested that land
18 application of various materials might be a good topic for the Water Consortium or
19 the Groundwater Advisory Committee.
20

21 **9. New Business**

22 a) **BWSR Cooperative Weed Management Grant—Board Action**

23 **President Leiser, seconded by Manager Vanzwol, moved to support the**
24 **cooperative weed management area grant proposal and continue as a grant**
25 **partner. Motion carried, vote 5/0.**
26

27 b) **Washington Conservation District 2010 Contract: Administration, Water**
28 **Monitoring, BMP Technical Assistance, Volunteer Stream Monitoring —Board**
29 **Action**

30 Administrator Kill reviewed the contract with the proposed changes in administration,
31 water monitoring and budgets. This contract is proposed for one year. WCD intends
32 to submit a two-year contract next year.
33

34 **Manager Vanzwol, seconded by Manager Taillon, moved to approve the**
35 **contract as presented. Motion carried, vote 5/0.**
36

37 c) **Lake Phalen Plant Guides Purchases—Board Action**

38 Administrator Kill reported that the District has been providing the guide to BMP
39 Program participant to assist in native plant and weed identification for shoreline
40 restoration projects. The Ramsey-Washington Metro Watershed District is low on
41 guides and might not be reprinting copies.
42

43 **President Leiser, seconded by Manager Johnson, moved to purchase 20 copies of**
44 **the Lake Phalen Plant Guide for \$10 each for a total of \$200 from account 910-**
45 **0000. Motion carried, vote 5/0.**
46

1 **As per the recommendation of President Leiser, Manager Vanzwol, seconded by**
2 **Manager Taillon, moved to purchase five copies —for four managers and the**
3 **Administrator—of The Nine Mile Creek Watershed District: Preserving Heritage**
4 **and Environment from account 910-0000. Motion carried, vote 5/0.**
5

6 **d) MAWD Annual Meeting—2009 Certificate of Membership and Delegate**
7 **Appointment Form—Board Action**
8 **Manager Vanzwol, seconded by Manager Taillon, moved to appoint President**
9 **Leiser and Manager Johnson as the BCWD official delegates to the MAWD**
10 **Annual Meeting and designate any other manager who chooses to attend as the**
11 **alternate. Motion carried, vote 5/0.**
12

13 **e) Annual Conservationist Award**
14 The BMP subcommittee will brainstorm possible awardees.
15

16 **f) Holiday Gathering**
17 It was agreed that the holiday gathering will be held at Sal's on December 16.
18

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

20 **a) Administrator Updates**

21 Administrator Kill reported the following:

- 22 • Permit #07-28 County Road 15 expansion is not in compliance. She and Ryan
23 Fleming (EOR) met with Washington County. The County reported that the
24 ditches were not infiltrating as designed. For winter safety, the check dams were
25 cut to prevent freezing water in the culverts. The new design will not promote
26 volume control, but will have water quality benefits as the stormwater is filtered
27 through the rock check dams. Stabilization on the Grant side of road across from
28 Liberty West is scheduled for this week.
- 29 • More data is needed before the groundwater-monitoring plan is finalized.
- 30 • She and Manager Taillon handpicked some milfoil from the Long Lake outlet
31 channel. This might not be the most cost-effective action.
- 32 • The BWSR native buffer grant has been signed. The District has until 2011 to
33 finish the work. In mid-October, spraying for reed canary grass was done. The
34 goal is to spray in the spring and fall of 2010 and determine if additional spraying
35 is need in 2011, before planting is completed.

36
37 **b) Communications & Manager Reports**

38 President Leiser reported that he attended a joint meeting of MAWD, Association of
39 Minnesota Counties and Association of Soil and Water Conservation Districts.
40 Concerns were raised about the proposed Lessard/Sams funding going toward
41 earmarks instead of being based on programs, as with Legacy funding. Drainage and
42 buffers are issues in Greater Minnesota. Other issues are TMDLs and state funding
43 cuts to local government units. The associations are jointly developing a white paper
44 for the legislature.
45
46
47

1 c) **December 2009 BCWD Board Agenda**

2 President Leiser stated that the annual meeting will be held in December. At the
3 meeting the levy will be finalized and accomplishments will be discussed.
4

5 **12. Adjournment**

6 **Manager Taillon, seconded by Manager Johnson, moved to adjourn at 9:48 PM.**

7 **Motion carried, vote 5/0.**
8

9 Respectfully Submitted by

10 Debbie Meister, Recorder