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Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of Managers, June 8, 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, arrived at 6:34 p.m.	Jennifer Olson, EOR
Gail Pundsack, Vice-President	Michael Welch, Legal Counsel
	Cecilio Olivier, EOR
	Jason Naber, EOR
Gerald Johnson, Secretary, absent	Dan McKenzie, Long Lake resident

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

President Leiser called the Regular Meeting to order at 6:33 PM.

2. Approve Regular Meeting Agenda and Discussion Agenda

Administrator Kill requested that no board action be taken on item 6a, board action be taken on Washington County HRA under item 7b and item 7 precede item 6. President Leiser suggested adding item 8e File Retention System and item 10c Information on Valley Branch WD & South Washington WD boundary changes. Manager Vanzwol suggested Permit Review #03-09 be added.

Manager Taillon arrived at 6:34 PM

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

3. Public Comments

There were no public comments.

4. Approve Board Meeting Minutes – Board Action

a) May 11 Regular Meeting

1 **Manager Taillon, seconded by Manager Vanzwol, moved to approve the minutes**
2 **of the May 11, 2009 Regular Meeting as amended. Motion carried, Vote: 4/0.**
3

4 b) **May 21, 2009 Special Meeting**

5 **Manager Vanzwol, seconded by President Leiser, moved to table the approval of**
6 **the May 21, 2009 minutes. Motion carried, Vote: 4/0.**
7

8 **5. Treasurer's Report**

9 a) **Review Authorized Funds Spreadsheet**

10 Administrator Kill reported that several line items were updated to reflect actual
11 expenditures, Plan Reviews (922-0000) are taking less time than anticipated and the
12 actual cost for the Masterman Lake Management Plan (946-0000) is \$21,100.
13 Manager Pundsack suggested that Homeowner BMP Program (914-0000) should
14 include future design and oversight costs.
15

16 **Manager Vanzwol, seconded by Manager Pundsack, moved to transfer \$1,100**
17 **from line item 922-0000 to line item 946-0000. Motion carried, Vote: 4/0.**
18

19 b) **Current Items Payable – Board Action**

20 Manager Vanzwol stated that the bus tour was successful and very cost effective.
21

22 **Manager Taillon, seconded by Manager Vanzwol, moved to pay bills in the**
23 **amount of \$53,255.52. Motion carried, Roll call vote: 4/0.**
24

25 c) **Permit Fee Statements Review**

26 Administrator Kill reported that she is still working to schedule a meeting with Todd
27 Gurstel at the collection agency. Interest has been applied to outstanding permits and
28 fees have been paid on the Dennis Stockpile Permit 09-05.
29

30 **6. Projects/Programs**

31 a) **(20-30 minutes) Brown's Creek TMDL Stressor ID Presentation – Jason Naber,**
32 **EOR**

33 President Leiser explained that the Minnesota Pollution Control Agency (MPCA) has
34 listed Brown's Creek as impaired for biota. The District is now responsible for
35 understanding why it is impaired and developing a plan for its improvement.
36 Administrator Kill added that the State is funding the TMDL study through a contract
37 with the Washington Conservation District (WCD). WCD has subcontracted with
38 BCWD.
39

40 Jason Naber of EOR summarized the TMDL Stressor Identification Study. The
41 Environmental Protection Agency (EPA) has developed a system—the Causal
42 Analysis/Diagnostic Decision Information System—for determining the causes of
43 impairment. Using this system, EOR identified two impaired reaches—the upper and
44 lower, of which Highway 15 is the boundary. In these reaches, fish were dominated
45 by warm-water species and trout were not surviving. The invertebrate community was
46 also below standard expectations of biotic integrity. All potential causes were
47 evaluated. Total suspended solids (TSS), temperature and copper were identified as

1 the stressors. Increased impervious surfaces from development is the likely cause of
2 elevated TSS. Decreased vegetation along with increased impervious surfaces are the
3 likely causes of elevated temperatures. Chemical use in the watershed (herbicides,
4 fungicides, pesticides, treated wood, etc.) are likely causes of elevated copper
5 concentrations. The final TMDL report will be incorporated into the District's
6 management plan. LGUs will then need to update their local water management plans.
7 President Leiser noted that trout had naturally reproduced in the creek in the past and
8 this should be the goal for creek improvement. Next steps identified were: The TAC
9 will provide comments by June 12.

10
11 **b) Long Lake, Stillwater**

12 • **Long Lake Draw Down Feasibility Study – Final Draft**

13 Cecilio Olivier noted that the final result and overall conclusions are the same as
14 what was represented last month. A full draw down is not recommended. A
15 partial draw down may be beneficial in allowing for the removal of the sediment
16 deltas at the southern end of the lake. Two significant areas of the lake were
17 identified—the deeper northern and shallow southern. The shallow areas
18 comprise 80 percent of the lake. EOR recommends doing an estimate of
19 phosphorus being released in the deeper area. If phosphorus is being released,
20 alum treatment could be recommended for the deep area in the north. A
21 preliminary literature search indicates motorboats and/or rough fish could be
22 causes of phosphorus mixing.

23
24 President Leiser stated that the District is trying to deal with three issues: flooding
25 concerns of east side residents, preferences by many north and west side residents
26 for a deeper lake to support boating and Long Lake impairments for excess
27 nutrients. The District has worked with businesses and residents to address runoff
28 including the recent approval of ten more rain gardens, but target reductions for
29 phosphorus are still not being met. Manager Vanzwol noted that progress has
30 been made as documented by positive trends in the monitoring reports.

31
32 • **Motor Boat Mixing Literature Review**

33 Mr. Olivier presented a summary of a literature review on motorboat mixing. This
34 will be provided to the Stillwater City Council in support of the District's request
35 for a one-year motorboat moratorium on Long Lake. Resuspension of phosphorus
36 by motorboats is highest in shallow water and resuspension increases as motor
37 horsepower increases. In as little as ten minutes of boating activity, the maximum
38 suspension of phosphorus can be reached. It can then take a complete day to
39 reduce the available phosphorus.

40
41 Discussion included: imposing a motor boat moratorium on the shallow portion of
42 Long Lake; acknowledging there is no public access on the north end, which is
43 the deep portion of the lake; conducting a survey to assess the amount and type of
44 boat traffic; monitoring additional points on the lake, which has been authorized
45 by the board; developing a model to test the affect of motors on Long Lake
46 including seeking funding for this unique research.

47

1 • **Washington County HRA – Ann Brodlovich Facility (ABF) Retrofits-**
2 **Board Action**

3 Administrator Kill reported that the District had hoped to remove 75 pounds of
4 phosphorus with the North Marketplace stormwater facility retrofits, but instead
5 removed 11 pounds because existing home elevations prohibited additional
6 bounce in the pond elevations. Additional BMPs are necessary to reach Long
7 Lake water quality goals. The Washington HRA is willing to spend \$43,000 to
8 install vegetated swales and other BMPs at the Ann Brodlovich site in North
9 Marketplace in Stillwater. With up to \$500 in District H&H line item funds, EOR
10 provided a modeling estimate of the phosphorus reduction to Long Lake if the
11 BMPs costing \$58,000 are installed, equaling 3.4 pound/year phosphorous
12 reduction to Long Lake. Staff recommends providing \$15,000 in cost share
13 funding for the retrofit.
14

15 **Manager Vanzwol, seconded by Manager Taillon, moved to approve \$15,000**
16 **from line item 929-0000 for the Washington HRA—Ann Brodlovich Facility**
17 **BMP cost share and require a maintenance declaration and signage**
18 **highlighting the cost share and reduction of phosphorus draining to Long**
19 **Lake. Motion carried, Vote: 4/0.**

20
21 ○ **Model Updates – Board Action**

22 **President Leiser, seconded by Manager Taillon, moved to accept**
23 **the expenditure of \$500 from line item 923-0000 initiated by the**
24 **District Administrator for EOR modeling of phosphorus reduction**
25 **to Long Lake if the Washington HRA retrofits are completed.**
26 **Motion carried, Vote: 4/0.**
27

28 • **Long Lake Shoreline Restoration – BWSR grant contracts &**
29 **maintenance**

30 Administrator Kill explained that the state restoration grant will be awarded to
31 the city of Stillwater as the property owner. The District and City would enter
32 into a contract indicating that the District will be reimbursed for project
33 expenses and will do the work and maintain the project. The grant requires a
34 25 percent match of \$14,500, which has already been approved to come from
35 940-0000.
36

37 **Manager Vanzwol, seconded by Manager Pundsack, moved to approve**
38 **this project in principle and authorize the District Administrator with**
39 **Legal Counsel to draft contracts with the city of Stillwater and WCD.**
40 **Vote 4/0.**
41

42 c) **Fen Management Plan Presentation – Jennifer Olson, EOR**

43 Ms. Olson presented the final report on the Groundwater Dependent Natural Resource
44 Management Plan (GDNRMP) developed for the fen on Mike Regan's property. The
45 plan identifies the groundwatershed to the resource with the surficial water table,
46 develops standards to protect the resource using three future development scenarios
47 and provides guidance for the development of future GDNRMP. The plan was

1 developed with input from an advisory group. Ms Olson also provided seven
2 recommendations in a memo for the board to consider at a later date. Legal counsel
3 reminded the board that identification of groundwater-dependent natural resources,
4 which is accomplished by acceptance of the plan, triggers certain requirements
5 already in the rules. No rulemaking is necessary to make these provisions effective.
6 Counsel added that the Board may pursue rulemaking to adopt additional protections
7 for a fen. The Board deferred discussion of the specific rule requirements triggered
8 until the July meeting.
9

10 **President Leiser, seconded by Manager Vanzwol, moved to accept the**
11 **Groundwater Dependent Natural Resource Management Plan for the fen on**
12 **Mike Regan's property and acknowledge that accepting the plan triggers certain**
13 **District rule requirements. Motion carried, Vote: 4/0.**
14

15 President Leiser thanked Ms. Olson for the outstanding, easy-to-read report. Next
16 steps were outlined: inform Mr. Regan that the plan, which has implications for the
17 rules, has been written and representatives from the District (Administrator Kill, Ms.
18 Olson, President Leiser and Manager Vanzwol with Manager Taillon as an alternate
19 for the managers) would like to meet with him in mid July (after the July 13 board
20 meeting) to discuss the fen management standards. Rule implications will be
21 discussed at the July board meeting. Legal counsel advised against staff or managers
22 providing advice to Mr. Regan on tax implications of easements and noted that the
23 plan establishes a strong basis for the fen as a unique resource meriting additional
24 regulatory protection..
25

26 *Recess from 9:27 -9:36*
27

28 **d) Kern Center Retrofit Study – Board Action**

29 Administrator Kill stated that the Kern Pond is achieving a 1.1-inch storm event
30 volume standard; it was designed to meet the District rules of a 2.6-inch storm event.
31 An investigation by EOR seemed to point to a perched groundwater system. There is
32 an opportunity to explore retrofits and maintenance agreements with property owners.
33

34 **President Leiser, seconded by Manager Vanzwol, moved to authorize the**
35 **expenditure of up to \$5,000 from line item 924-0002 for a Kern Center retrofit**
36 **study by EOR. Motion carried, Vote: 4/0.**
37

38 **e) Homeowner BMP Projects – Board Action**
39

- 40 • **Manager Vanzwol, seconded by Manager Taillon, moved approval of the**
41 **Lande residence BMP cost share not to exceed \$2,200 from line item 914-**
42 **0000. Motion carried, Vote: 4/0.**
43
- 44 • **Manager Taillon, seconded by Pundsack, moved approval of the Parendo**
45 **residence BMP cost share not to exceed \$575 from line item 914-0000.**
46 **Motion carried, Vote: 4/0.**
47

- 1 • President Leiser, seconded by Manager Vanzwol, moved to amend the Ostlie
2 residence BMP cost-share contract by \$200 from the previous approved
3 \$1,350 to the new limit of \$1,550 from line item 914-0000. Motion carried,
4 Vote: 4/0.
5
- 6 • President Leiser, seconded by Manager Vanzwol, moved to terminate the
7 Filandros BMP cost share contract and reallocate \$660.25 to line item 914-
8 0000. Motion carried, Vote: 4/0.
9
- 10 • President Leiser, seconded by Manager Pundsack, moved to reallocate \$5000
11 from the Dick/Shayegan BMP cost share to line item 914-0000. Motion
12 carried, Vote: 4/0.
13
- 14 • President Leiser, seconded by Manager Taillon, moved to reallocate \$550
15 from the Brown/Drommerhausen BMP cost share to line item 914-0000.
16 Motion carried, Vote: 4/0.
17

18 f) **THPP Monitoring Scope – Board Action**

19 Manager Vanzwol, seconded by Manager Pundsack, moved to approve \$8,200
20 for the monitoring scope of services from line item 903-0001. Motion carried,
21 Vote: 4/0.
22

23

24 g) **Baseline Monitoring Report**

25 Manager Vanzwol, seconded by Manager Taillon, moved to accept the Baseline
26 Monitoring Report as amended. Motion carried, Vote: 4/0.
27

28 **7. Permitting**

29 a) **BCWD Permit #05-12 Sanctuary LLC**

30 Administrator Kill reported that the letter to Case Arkell and Dwight Harvey had
31 been hand delivered. She will discuss the terms of releasing the surety with Mr.
32 Arkell. It was suggested that the permittees sign the agreement first.
33

34 b) **Permit Review #03-09**

35 Manager Vanzwol noted that the permittee has failed three inspections. A notice of
36 probable violation has been submitted. The next step is a violation hearing.
37

38 **8. New Business**

39 a) **Wetland Remote Sensing—Board Action**

40 Administrator Kill reported that the MPCA requested District help with a wetland
41 remote sensing project.
42

43 Manager Vanzwol, seconded by Manager Taillon, moved to appropriate up to
44 \$1,284 for 12 hours of work from line item 912-0000 for EOR's participation in
45 the remote sensing project. Motion carried, Vote: 4/0.
46

1 **b) Conservation Center -- Discussion**

2 President Leiser reported that he has attended some of these meetings and recommended
3 at least one manager attend. Administrator Kill is planning and Manager Vanzwol
4 volunteered to attend the June 9 meeting.
5

6 **c) "A View from the River" – Board Action**

7 Manager Vanzwol, seconded by Manager Taillon, moved to pay the \$15
8 registration fee for board members and/or the administrator attending "A
9 View from the River". Motion carried, Vote: 4/0

10
11 **d) Lake St. Croix Impairment Community Meetings**

12 Administrator Kill reported that the MPCA is hosting this initial meeting regarding
13 Lake St. Croix impairment. She is planning on attending.
14

15 **e) File Retention System**

16 Administrator Kill and Manager Vanzwol will meet about the file retention system
17 and gather information about the initial cost and time to scan documents for budget
18 discussions.
19

20 **f) Bradshaw Properties**

21 President Leiser reported that he would like to talk with Rusty Schmidt about a
22 possible cost share for rain gardens on the former Bradshaw properties.
23

24 **9. Old Business**

25 **a) Lake Management Implementation Policy – Board Action**

26 President Leiser presented a draft Lake Management Implementation Policy. Legal
27 counsel suggested adding an eleventh policy statement calling for annual review
28 during the planning process.

29 President Leiser, seconded by Manager Vanzwol, moved acceptance of the
30 Lake Management Plan Board Policy as amended. Motion carried, Vote: 4/0

31
32 **b) Grant LWMP – Resolution – Board Action**

33 President Leiser, seconded by Manager Vanzwol, moved approval of the City
34 of Grant LWMP resolution. Motion carried, Roll call Vote: 4/0.

35 Administrator Kill will notify the city that the plan has been approved.
36

37 **c) Stillwater Maintenance Agreement – Board Action**

38 Administrator Kill reported that the agreement has been reviewed and meets all
39 requirements except the execution of the stormwater maintenance agreement. The
40 City would like a caveat stating it has a year to correct problems and if a longer
41 time is needed, it will come to the District with an explanation.

42 Manager Vanzwol, seconded by Manager Pundsack, moved to authorize
43 President Leiser to execute the Stillwater Maintenance Agreement as amended
44 by Legal Counsel and the District Administrator. Motion carried, Vote: 4/0.
45

1 d) **Stillwater LWMP Resolution – Board Action**

2 **President Leiser, seconded by Manager Vanzwol, moved to approve the**
3 **Stillwater LWMP contingent on approval and execution of the maintenance**
4 **agreement. Motion carried, Roll call Vote: 4/0.**
5

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

7 a) **Administrator Updates**

8 Administrator Kill reported that the auditor corrected the report and re-sent the
9 amended audit to the proper entities. Administrator Kill also thanked the many
10 volunteers who helped place, plant and mulch the 55 trees on the DNR property
11 along Brown’s Creek on June 5th and 6th.
12

13 Administrator Kill noted that she will be out of town from June 19 to July 5 and will
14 send proper notice of the joint board-city council meeting before leaving.
15

16 • **Project/Program Status Report**

17 i. **Land Conservation Program**

18 Administrator Kill reported that Steve Hobbs will attend the July board meeting to
19 discuss the Land Conservation Program and answer questions on the scoring
20 matrix, definitions, values, etc.
21

22 b) **Communications & Manager Reports**

- 23 • **MAWD Summer Tour – June 25-27, 2009**
24 President Leiser will attend.
25

26 c) **Information on Valley Branch WD**

27 President Leiser reported that the BWSR board approved the dissolution of Lower St.
28 Croix WMO and approved expansion of the Valley Branch WD and South
29 Washington WD. A copy of the resolution should be provided to the city of Stillwater.
30

31 d) **July 2009 BCWD Board Agenda**
32

33 **11. Adjournment**

34 **Manager Pundsack, seconded by Manager Vanzwol, moved to adjourn at 11:30 PM.**
35 **Motion carried, Vote: 4/0.**
36

37 Respectfully Submitted by
38 Debbie Meister, Recorder