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Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of Managers, March 8, 2010

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, Smith Partners
Gerald Johnson, Secretary	Cecilio Olivier, EOR
	Ryan Fleming, EOR
	Denise and Michael Stephens, residents
	Bryce Fossand, MnDOT
Gail Pundsack, Vice-President, absent	Haytham Ibrahim, MnDOT

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 Award Presentation under item 3.

Manager Taillon, seconded by Manager Johnson, moved to approve the regular meeting agenda and discussion agenda as amended. Motion carried, vote 4/0.

3. Public Comments—Conservationist of the Year Award Presentation

President Leiser recognized Denise Stephens on behalf of the District for her active fostering of water resources in the community. As an early adopter, she identified and pursued small projects that when added together make a significant contribution. He presented a picture by a local artist. Manager Vanzwol presented Ms. Stephens with a handmade birdhouse. Ms. Stephens thanked the District for the recognition and introduced her husband Michael who is the labor behind her projects.

- 1 **4. Approve Board Meeting Minutes February 8, 2010 Regular Meeting – Board Action**
2 **Manager Johnson moved, seconded by Manager Taillon, to approve the minutes of**
3 **the February 8, 2010 Regular Meeting as amended. Motion carried, vote 3/0/1.**
4 **President Leiser abstained.**
5

6 **5. Treasurer’s Report**

7 a) **2010 Budget – Changes to Reflect 2009 Actual Carryover – Board Action**

8 Administrator Kill presented the 2010 budget with the actual carryover. The higher
9 than anticipated carryover included a \$62,000 grant, funds not spent for the Long
10 Lake Plan implementation, lower administrative and equipment expenses, plus
11 prudent spending and implementation.

12 **Manager Vanzwol moved, seconded by Manager Taillon, to approve the final**
13 **budget spreadsheet dated February 8, 2010 as presented. Motion carried, vote**
14 **5/0.**
15

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

17 **Manager Taillon moved, seconded by Manager Vanzwol, to pay bills in the**
18 **amount of \$4,388.40. Motion carried, roll call vote 4/0.**
19

20 c) **Permit Fee Statements Review**

21 Administrator Kill reported that some fees were collected from Lennar for Millbrook
22 and Settler’s Glen. Late fees have been applied to overdue accounts, except those in
23 collection. The District is now holding about \$43,000 in permit fees and sureties. The
24 District has expended a fair amount of energy on collections and is still unable to find
25 a collection agency willing to pursue these small accounts. Manager Vanzwol stated,
26 that as a matter of principle, the District needs to continue with these collections.
27 Manager Leiser suggested that a letter could be drafted to the city that is the location
28 of a permit-fee dilatory party, noting that the District must cover expenses with
29 taxpayer dollars when permittees do not pay fees due.
30

31 **6. Permit**

32 a) **BCWD Permit #09-10 TH96 – Board Action**

33 Ryan Fleming provided an overview of the permit application for the resurfacing of
34 Highway 96 and addition of drainage improvements in the right of way. He reviewed
35 the project as it relates to District Rules and recommended eight permit conditions
36 and two suggestions for further enhancement of the project. Legal counsel stated that
37 since the applicant is a government entity, execution of a maintenance agreement
38 should be a recommended condition, as opposed to recordation of a declaration. The
39 MnDOT representatives stated that the conditions are fine. Administrator Kill
40 reported that outlet to Masterman Lake is completely buried in sediment. The pipe
41 will be replaced. It will be the same size and at the same elevation, but will tilt away
42 from the lake toward the ditch. This will improve access for maintenance.
43

44 **President Leiser moved, seconded by Manager Taillon, to approve permit No.**
45 **09- 01 with the eight conditions recommended in the EOR memo dated March 4,**
46 **2010 with condition 1. requiring a maintenance agreement (not declaration) and**

1 **with the two considerations for further enhancement suggested in the memo**
2 **being recommendations and not requirements. Motion carried, vote 4/0.**
3

4 President Leiser thanked Mr. Fleming for the lucid report and Administrator Karen
5 for facilitating the work.

6 **7. Projects/Programs**

7 a) THPP

8 o Scope for Infiltration Analysis—Board Action

9 Mr. Fleming presented two modeling scenarios for the infiltration analysis--
10 incorporating as-built information and running the worst-case scenario. Two
11 concerns were raised: the need to ensure that the pipe is fixed and the value of
12 doing this modeling. Administrator Kill responded that highway maintenance has
13 been contacted about the pipe and she is waiting for a response. Mr. Olivier stated
14 that right now we cannot answer how the system will operate under very wet
15 conditions. If modeling indicates it is not performing up to the standards, then the
16 Board can consider other projects and project sites.

17
18 **Manager Vanzwol moved, seconded by Manager Taillon, to approve the**
19 **scope of work presented by EOR for THPP infiltration analysis not to exceed**
20 **\$712 from account 903-0001. Motion carried, vote 4/0.**
21

22 **b) Fen Trolley Line Repair—Additional Analysis — Update from February**

23 Administrator Kill stated that this was put on agenda to see if there are any other
24 questions or updates. A meeting with Mr. Regan will be scheduled. After meeting
25 with him and getting his approval, a meeting with the Gundersons will be scheduled.
26 Mr. Fleming stated that the concern analyzed was whether there would be an
27 alteration of flow, but EOR's review indicates that existing flow to wetlands will not
28 be affected by the proposed repair.

29
30 **c) BMP Program**

31
32 **1.) BMP Subcommittee**

33 Administrator Kill reported that the subcommittee meets prior to the Board
34 meetings when there are projects to discuss. Currently the subcommittee is made
35 up of the Administrator, a representative of EOR, and Manager Taillon, as the
36 Board representative. Manager Taillon asked to place Subcommittee discussion
37 on the agenda because she is starting a new business selling native plants and rain
38 barrels and providing rain garden care and consulting services. She would like to
39 be added to the Washington Conservation District vendor list and is concerned
40 that this might be a conflict of interest and wishes to continue to help, but only if
41 there is no conflict. She suggested abstaining from voting on cost-share projects.
42 Manager Vanzwol expressed concern with losing her expertise and experience
43 and stated that he would like to see her continue in some capacity. Legal counsel
44 stated that **at this time Manager Taillon is not on the vendor list so any question of**
45 **an actual conflict is not yet at hand.** The present concern is an appearance of a
46 conflict of interest, especially when ranking projects as a member of the
47 subcommittee. He further stated that there is no difference between participating

1 and voting. If there is a conflict it is in both. The District bylaws address the
2 appearance of conflict. President Leiser suggested the Board authorize Manager
3 Taillon to continue, but knowing that the conflict of interest could arise and to be
4 aware of this and recuse herself from discussion and voting if there is a perceived
5 conflict of interest. He also suggested that the Board appoint a second Manager to
6 serve on the Subcommittee. Manager Johnson noted his discomfort with such an
7 approach and suggested tabling the discussion until Manager Pundsack can be
8 involved. It was agreed that either Manager Johnson or Vanzwol will attend the
9 Subcommittee meetings until Manager Taillon determines how to ensure that no
10 conflict of interest or appearance of conflict is created. Legal counsel stated that
11 no action on the matter by the Board is necessary. Rather, Manager Taillon has
12 sought the Board's counsel on the matter and has taken a critical step by advising
13 the Board of the facts related to a potential conflict.
14

15 **Manager Vanzwol moved, seconded by Johnson, to table discussion on the**
16 **BMP Subcommittee until next meeting. Motion carried, vote 3/0/1, with**
17 **Manager Taillon abstaining.**
18

19 **2.) Projects – Board Action**

20 Administrator Kill reported that while Manager Taillon participated on the project
21 reviews and recommendations, she is not on the contractor list.
22

23 **Manager Vanzwol moved, seconded by Manager Johnson, to approve**
24 **America's Best Value Inn BMP cost-share not to exceed \$2,375 from account**
25 **914-0000. Motion carried, vote 4/0.**
26

27 **Manager Vanzwol moved, seconded by Manager Johnson, to approve the**
28 **Zemcuznikov residence BMP cost-share not to exceed \$2,500 from account**
29 **914-0000. Motion carried, vote 4/0.**
30

31 Mr. Olivier suggested the Zemcuznikov include a retaining wall on the eastside
32 rain garden to facilitate drainage. Administrator Kill will confirm the location of
33 the rain garden and, if necessary, suggest a retaining wall. Manager Taillon
34 suggested hosting a BMP tour.
35

36 **i. Stillwater Cost-share Request – Oak Glen Neighborhood Road**
37 **Reconstruction Area—Board Action**

38 Administrator Kill reported that this is a proposal under the LGU Community
39 Demonstration Project. While the street improvements will not add impervious
40 surfaces and so do not require further stormwater management by BCWD, the
41 City of Stillwater is proposing to install 23 rain gardens to capture 0.5-inch rain
42 events at an approximate total cost of \$57,500. The District suggested a cost-
43 share agreement on a per rain garden basis incase a resident pulls out. The
44 District also raised concerns about some of the plants and EOR asked for the
45 drainage and amount of treatment per rain garden.
46

1 **President Leiser moved, seconded by Manager, to approve the Stillwater 50**
2 **percent cost-share for 23 rain gardens at a rate not to exceed \$1,250 per**
3 **garden from account 940-0000 with the condition that the City provide the**
4 **design for and maintenance of the rain gardens. Motion carried, vote 4/0.**
5

6 Administration Kill with find out about the maintenance agreement and the
7 design contractor for the rain gardens.
8

9 **3). BMP Backyard Signage—Board Action**

10 Administrator Kill provided sign samples from Vackers, a Roseville company and
11 AZ, an online company. Both signs are digitally produced. The AZ signs are
12 \$10.24 each. Vackers will be about \$12 per sign. About 100 signs will be needed.
13 Administrator Kill will continue to evaluate signs and bring information to the
14 Board.
15

16 **d) Brown’s Creek Trails Park Management Plan—Board Action**

17 **Manager Vanzwol moved, seconded by Manager Johnson, to table the Brown’s**
18 **Creek Trails Park Management Plan action item. Motion carried, vote 4/0.**
19

20 **e) Baseline Monitoring Contract Amendment—Board Action**

21 **a. Lynch Lake Monitoring Location**

22 Administrator Kill recommended amending the monitoring contract to include
23 monitoring of the deeper area of Lynch Lake, while continuing to monitor the
24 north end of the lake because the two areas are separate basins that are not
25 hydrologically connected.
26

27 **President Leiser moved, seconded by Manager Johnson, to add water**
28 **monitoring of the second lobe of Lynch Lake in 2010 not to exceed \$2,300**
29 **from account 300-4710. Motion carried, vote 4/0.**
30

31 **2.) Kern Center Wetland Elevation**

32 Administrator Kill reported that one additional monitoring of the Kern Center
33 wetland was added, with the reading being done by a volunteer.
34

35 **f) Iron Enhanced Sand Filtration**

36 Mr. Olivier presented an overview of the chemistry behind the iron enhanced sand
37 filtration system and respond to questions. He reported that Ramsey-Washington Metro
38 Watershed District has installed an iron-enhanced sand filtration system at the
39 Maplewood Mall. Monitoring has been ongoing for six months and it is hoped that 70-90
40 percent of the phosphorous will be removed. This system cannot remove chlorides
41 because they are too soluble, but it can remove heavy metals. At some point the iron
42 enhanced sand will become saturated and will need to be replaced. How often this will
43 happen is unknown, but current estimates state that the filter will be effective for
44 approximately 30 years. Also unknown is if the salt laden top layer can be precipitated,
45 leaving an unsaturated next layer for adsorption. This system works best in a slow
46 moving area or as a secondary or tertiary treatment. The sand can be mixed with mulch
47 for use in rain gardens. Because the ferrous phosphate by-product is inert, disposal is not

1 an issue. Other demonstration projects such as linear projects where infiltration is not an
2 option or the Stillwater Country Club were suggested. Mr. Olivier will get a cost
3 estimate for incorporating this into the Oak Glen rain gardens.
4

5 **8. Old Business**

6 a) **BCWD Credit/Debit Card Policy & Resolution —Board Action**

7 Administrator Kill presented a proposed credit card policy and resolution. It was
8 noted that the balance limit can be changed by passing a new resolution.
9

10 **President Leiser moved, seconded by Manager Taillon, to adopt Resolution 10-**
11 **01, adopting the credit card policy as written, directing that the policy be**
12 **incorporated into the District’s internal financial controls manual and the**
13 **manual updated accordingly; and establishing a balance-due limit of \$5,000.**
14 **Motion carried, roll call vote 4/0.**
15

16 Administrator Kill will update the Internal Controls Manual. It was also agreed that
17 she will get a business Visa card through US Bank with a minimal annual fee and
18 with any flex-perk points accruing to the benefit of the District.

19 **9. New Business**

20 a) **Insurance Liability Coverage Waiver Form—Board Action**

21 **Manager Vanzwol moved, seconded by Manager Johnson, to not waive the**
22 **municipal tort liability limit established by Minnesota Statutes 466.04. Motion**
23 **carried, vote 4/0.**
24

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

26 a) **Administrator Updates**

27 Administrator Kill reported the following:

28 ○ **April 5th Shallow Lakes Forum**

29 **Manager Vanzwol moved, seconded by President Leiser, to authorize funds**
30 **for the Administrator and any Managers choosing to attend. Motion carried,**
31 **vote 4/0.**
32

33 ○ **Audit**

34 The audit should be completed by April.

35 ○ **Permit Updates**

36 There were two permits issued for erosion control—a Sanctuary Lot and a house
37 across from Long Lake.
38

39 ○ **St. Croix Bridge Crossing**

40 Federal funds are now available for the bridge so the process is starting again. The
41 environmental impact statement looked at several alternatives. The selected
42 alternative has extremely limited impact on BCWD; only about 50 feet of the
43 project area are in the District. It is anticipated that construction of the bridge
44 deck will begin in 2013 and the approaches in 2014.
45

46 ○ **Stakeholder Meeting on County Road 8**
47

1 Authority for the project rests with BCWD, Rice Creek WD and the City of Hugo.
2 A determination of culvert drainage areas is underway. It may be found that it
3 may be beneficial to have RCWD/Hugo permit the portions of the project that
4 drain from BCWD into RCWD. A letter of agreement for shared authority may
5 be drafted for the Board's approval.
6

7 ○ **Watershed Survey**

8 Manager Vanzwol reported that the Capital Region Watershed District polled
9 residents about their watershed knowledge. Administrator Kill will forward the
10 polling results.
11

12 ○ **Communications Plan/EMWREP**

13 EMWREP polled residents who attended a cost-share program workshop to those
14 who completed a cost-share project. Timeliness and staff accessibility were issues
15 raised. In response, residents at workshops wishing to have a site visit will sign up
16 for a specific date and time. Watershed district staff will then make visits at the
17 designated times. EMWREP will be hiring another staff member.
18

19 ○ **BWSR Clean Water Fund Grant – Stillwater Country Club**

20 Administrator Kill reported that since the last Board meeting she has met two
21 times with the Stillwater Country Club. Project plans should be completed by the
22 end of March. Because there is momentum for the project, the Club would like to
23 complete as much as possible in 2010. There is a lack of interest to perform
24 maintenance on the new project areas by the Club's subcontractor, which the Club
25 is addressing.
26

27 ○ **Jackson Wildlife Refuge**

28 The Department of Natural Resources is still in a holding pattern. The refuge was
29 vacated from the DNR's wildlife management system in 2007 and must be
30 liquidated for fair market value. The Commissioner, along with a legislator, is
31 looking at possible changes to this requirement.
32

33 ○ **Stone Arch Bridge**

34 Don Empson was notified that the bridge design is done and installation can begin
35 once Barb Medinger is willing. Stillwater Township donated \$10,000 to the
36 Restoration Group for this project.
37

38 ○ **Historic Tripoli Information**

39 Don Empson sent an information packet about the tripoli sands on the banks of
40 Brown's Creek including a tripoli sample.
41

42 ○ **Brown's Creek Biota TMDL**

43 With the Millbrook project, the District learned many lessons about what
44 stormwater safeguards, such as ponding and dewatering, are feasible during large
45 construction projects. These workable, yet stringent requirements were
46 incorporated into the draft TMDL. It appears that the MPCA would like these
47 requirements removed and put in the implementation plan, rather than in the

1 TMDL study, from where they could be made legally binding. The District will
2 convene a stakeholder meeting to get further input. Mr. Olivier stated the need to
3 have a discussion about why the MPCA is so afraid of these requirements. He
4 also stated that linear projects are of concern and dewatering is possible without
5 adding a significant cost to a project. Enforcement capacity at the state and local
6 levels was discussed.

7
8 ○ **Clean Water Listening Session**

9 Manager Taillon reported that the Water Resources Center is seeking participants
10 for an online survey as part of the listening sessions.

11
12 ○ **Masterman Lake Management Plan**

13 Manager Vanzwol is planning to attend the public meeting.

14
15 **b) Communications & Manager Reports**

16 President Leiser reported on a recent meeting of the Association of Minnesota Cities,
17 BWSR, soil and water conservation districts and counties to discuss legislative
18 proposals including requiring election of watershed district boards and consolidating
19 counties. A white paper on electing district boards has been circulating for about five
20 months. President Leiser recommended being proactive by proposing changes based
21 on what each agency does and does not do well. MAWD's board will discuss this.
22 Administrator Kill recommended having all the players, including cities and the DNR,
23 at the table.

24
25 Administrator Karen and President Leiser will be meeting with three of the four
26 District legislators. Manager Vanzwol provided a summary of web site hits.

27
28 **c) April 2010 BCWD Board Agenda**

29
30 **11. Adjournment**

31 **Manager moved Vanzwol, seconded by Manager Taillon, to adjourn at 10:32: PM.**
32 **Motion carried, vote 4/0.**

33
34 Respectfully Submitted by
35 Debbie Meister, Recorder
36