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3 **Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of**  
4 **Managers, September 13, 2010**

5  
6 WCD Offices, 1380 W. Frontage Road, Hwy. 36  
7 Stillwater, MN 55082

**APPROVED**

8  
9 **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	Andrea Plevan, EOR
Gail Pundsack, Vice-President	Camilla Correll, EOR
	Jim Martin, resident
	Dave Pundsack, resident
	Don McKenzie, resident

- 10  
11 **1. Call Regular Meeting to order @ 6:30**  
12 President Leiser called the meeting to order at 6:32 PM.  
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14 **2. Approve Regular Meeting Agenda and Discussion Agenda**  
15 **Manager Johnson, seconded by Manager Vanzwol, moved to approve the Regular**  
16 **Meeting agenda and discussion agenda as amended. Motion carried, vote 5/0.**  
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18 **3. Public Comments**  
19 Jim Martin, candidate for Minnesota House of Representatives, introduced himself. He is  
20 unaffiliated and is running for District 56A.  
21  
22 **4. Approve Board Meeting Minutes – Board Action**  
23 **a) August 16, 2010 Special Meeting—Board Action**  
24 **Manager Vanzwol moved, seconded by Manager Johnson, to approve the**  
25 **August 16, 2010 Special Meeting minutes as presented. Motion carried, vote 5/0.**  
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27 **b) August 16 Regular Meeting – Board Action**  
28 Manager Taillon requested the minutes reflect that she voted on the Stillwater  
29 Country Club BMP because she is not the contractor or supplier for this project.

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2 **Manager Vanzwol moved, seconded by Manager Taillon, to approve the August**  
3 **16, 2010 Regular Meeting minutes as amended. Motion carried, vote 5/0.**  
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5 **5. Treasurer's Report**

6 a) **Review Authorized Funds Spreadsheet**

7 Administrator Kill summarized the changes approved at last month's meeting that are  
8 reflected in the spreadsheet.  
9

10 **Manager Vanzwol moved, seconded by Manager Taillon to accept the**  
11 **September 13, 2010 spreadsheet as presented. Motion carried, vote 5/0.**  
12

13 b) **Permit Fee Statements Review**

14 Administrator Kill reported that Fairway Villas paid its fee and now has a positive  
15 balance.  
16

17 c) **Current Items Payable — Board Action**

18 **Manager Taillon moved, seconded by Manager Johnson, to approve the current**  
19 **items payable in the amount of \$35,657.99. Motion carried, roll call vote 5/0.**  
20

21 **6. Projects/Programs**

22 a) **Brown's Creek Composite Samples — Board Action**

23 Administrator Kill summarized the Brown's Creek TMDL Implementation Plan  
24 development process to date. Andrea Plevan reported that while completing further  
25 analysis of the monitoring data a potential problem with the data was noticed. When  
26 reviewing baseflow TSS data, composite samples collected by the automatic sampler  
27 were on average higher than similar samples taken through grab sampling. These  
28 results seem to be consistent with samples taken at other District monitoring sites and  
29 with recent research at St. Anthony Falls Laboratory. Administrator Kill added that  
30 WCD monitoring staff also noticed this phenomenon and are no longer doing  
31 composite sampling at baseflows. Possible reasons for the differences in the sampling  
32 results were discussed including sampler set up, possible mislabeling of baseflow  
33 versus stormflow and biotic activity that can stir up sediments during composite  
34 sampling. If the data is biased high, this can unduly burden MS4 permit requirements  
35 and TMDL implementation plans.  
36

37 **Manager Vanzwol moved, seconded by Manager Pundsack, to approve**  
38 **reevaluating base and storm flows and additional monitoring to compare grab**  
39 **and composite samples taken at the same time not to exceed \$4,000 from the**  
40 **contingency fund. Motion carried, vote 5/0.**  
41

42 Ms. Correll stated that there may be a request for additional funds based on the  
43 additional data.  
44

45 Ms. Correll outlined anticipated steps to completing Phase 1 of the Brown's Creek  
46 TMDL Implementation Plan and presented an outline of Phase 2 tasks and their  
47 associated costs. Administrator Kill noted that Phase 2 tasks are not included in the

1 2011 draft budget, but funds from contingency and account 947-0003 can be moved  
2 to the Brown's Creek TMDL Implementation Plan account without changing the  
3 budget's overall bottom line.  
4

5 **b) Former Jackson WMA Property—Update/Possible Board Action**

6 Administrator Kill reported that the minimum bid price is \$177,950. The City of  
7 Stillwater notified the Department of Natural Resources (DNR) it will not be bidding.  
8 Washington County's interest is still unknown. An initial assessment of the  
9 application of the District buffer requirements to the property—if the rule were to be  
10 triggered by development activity—indicates two buildable areas on the property—  
11 3.2 acres in southern area and 1.1 acres in the western side. An endangered orchid  
12 species has been identified on the property. But it is not clear whether state legal  
13 protections will restrict or preclude development.  
14

15 The Managers discussed the pros and cons of bidding on the property including the  
16 cost compared to the small buildable areas, the question of whether building is  
17 possible at all based on Stillwater's zoning the property as open space, the  
18 educational opportunity, the potential to sell off a piece of the property with  
19 restrictions, the opportunity to protect habitat in an urban area (the property ranked  
20 high on the District land conservation matrix), the potential to fund the purchase  
21 through bonding and the tight timeline (the public auction is October 21). The  
22 managers discussed special legislation, passed in 2007, authorizing the DNR to sell  
23 property to a government entity at below market cost. The purchasing entity must  
24 maintain the property for public use.

25 The managers asked counsel to review and report on how state endangered species  
26 protections may apply to the orchids on the property.  
27

28 **President Leiser moved, seconded by Manager Vanzwol, to authorize the**  
29 **Administrator and Legal Counsel to prepare a bid referencing the special**  
30 **legislation and offering \$10,000 from the 2011 budget for the property for the**  
31 **public purpose of a natural education area in an urban center and protection of**  
32 **endangered species. Motion carried, vote 5/0.**  
33

34 President Leiser and Manager Pundsack agreed to talk with the County  
35 Commissioners about the project and potential funding.  
36

37 ***Recess from 8:12-8:20 PM***  
38

39 **c) SSTEMP Thermal Modeling Results**

40 Administrator Kill reported that primarily in preparation for the grant application to  
41 install a stream buffer at the Oak Glen Golf Course, EOR has completed the SSTEMP  
42 modeling. Results indicate that the estimated maximum temperature with the existing  
43 channel and a 40 percent shaded buffer using tall grasses and forbs, would be in the  
44 range trout can tolerate. There is a possibility that the channel would be changed in  
45 some locations, providing even lower estimated temperatures. Additional grant  
46 opportunities are available.  
47

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3 **d) BMP Program—Board Action**

4 Administrator Kill summarized the four recommended projects. Manager Taillon  
5 recused herself from discussion and voting on the first three BMP projects.  
6

7 **Manager Vanzwol moved, seconded by Manager Johnson, to approve the Pine**  
8 **Hollow –Liberty Townhomes BMP cost share not to exceed \$1,600 from account**  
9 **914-0000. Motion carried, vote 4/0/1. Manager Taillon abstained.**

10  
11 **Manager Johnson moved, seconded by Manager Vanzwol, to approve the**  
12 **McMichael BMP cost share not to exceed \$1,900 from account 914-0000. Motion**  
13 **carried, vote 4/0/1. Manager Taillon abstained.**

14  
15 **Manager Vanzwol moved, seconded by Manager Pundsack, to approve the**  
16 **Tahtinen-Pacheco BMP cost share not to exceed \$855 from account 914-0000.**  
17 **Motion carried, vote 4/0/1. Manager Taillon abstained.**

18  
19 **President Leiser moved, seconded by Manager Johnson, to approve the licensed**  
20 **application of herbicide on the purple loosestrife in the wetland in 2010 through**  
21 **a BMP cost share not to exceed \$1,400 from account 914-0000 and with a \$100**  
22 **contribution from the adjacent landowners. Motion carried, vote 5/0.**

23  
24 Leiser recessed the Regular Meeting at 8:47 p.m. and opened the budget hearing at 8:48  
25 p.m. The public hearing was recorded.  
26

27 **7. Public Hearing Proposed 2011 Budget and Levy**

28 **a) 2011 Budget Discussion**

29 President Leiser, seeing no public to comment, closed the hearing at 8:50 p.m. and  
30 continued the Regular Meeting.  
31

32 **b) Resolution 10-02 – 2011 Budget—Board Action**

33 **Manager Vanzwol moved, seconded by Manager Taillon, to approve 2011**  
34 **Budget Resolution 10-02 as amended. Motion carried, roll call vote 5/0.**

35  
36 **c) Resolution 10-03 Certified 2011**

37 **Manager Vanzwol moved, seconded by Manager Taillon, to approve the 2011**  
38 **Certified Tax Levy Resolution 10-03 as presented. Motion carried, roll call vote**  
39 **5/0.**  
40

41 **8. Permits**

42 **a) Permit #07-07 Fairway Villas – Status Update**

43 Administrator Kill reported that Fairway Villa submitted fees, a letter of intent and  
44 the revised calculations as of September 9. They are on track and their permit  
45 submittal will be reviewed.  
46

47 **b) Permit 10-16 – Knoll Culvert –Board Action**

1 Administrator Kill reported that Mr. Knoll has requested to plug (bulkhead) the  
2 culvert in his yard because he never sees water flowing through it and it is difficult to  
3 mow around. Mr. Knoll also has requested waiver of the District permit fee. Ryan  
4 Fleming inspected the property, and provided a memorandum analyzing the  
5 application of District rules to the project. Mr. Fleming determined that while this  
6 area does not appear to need a culvert, rule 7.0 is triggered. The memo concludes that  
7 there would likely be no adverse offsite impacts from the bulkheading of the culvert.  
8 The managers noted the need to collect permit fees to cover associated expenses,  
9 including the \$421 cost for Mr. Fleming's site visit. It was noted that an additional  
10 inspection will be needed if the culvert is plugged, totaling the \$500 permit fee.

11  
12 **President Leiser moved, seconded by Manager Vanzwol, to approve the Knoll**  
13 **culvert permit, conditioned on payment of the applicable \$500 permit fee.**  
14 **Motion carried, vote 5/0.**

15  
16 **9. New Business**

17 **a) BWSR Academy-- Board Action**

18 **Manager Vanzwol moved, seconded by Manager Johnson, to authorize the**  
19 **payment of the BWSR Academy registration fee and expenses for managers or**  
20 **the administrator interested in attending. Motion carried, vote 5/0.**

21  
22 **b) MN Water Resources Conference—Board Action**

23 **Manager Vanzwol moved, seconded by Manager Johnson, to authorize payment**  
24 **of fees and expenses for managers and the administrator attending the MN**  
25 **Water Resources Conference. Motion carried, vote 5/0.**

26  
27 **c) 2010 MAWD Resolution**

28 The Board does not wish to submit any resolutions for MAWD consideration at the 2010  
29 Annual MAWD meeting.

30  
31 **9. Discussion Agenda – No Action Required**

32 **a) Administrator Updates**

33 **• Permits**

34 There are just a few permits, but they look good.

35 **• Stillwater Country Club**

36 The Stillwater Country Club is starting construction. .

37 **• Brown's Creek Biota and Turbidity TMDL Plan**

38 The MPCA is holding off on the dissolved oxygen delisting at this time.

39 **• Fen Breach Repair**

40 Work on the contract is underway, with repair work expected to start in  
41 October.

42 **• Fish Baffles—Hwy 96 & 95 Culverts**

43 The MN Department of Transportation is in the process of determining  
44 what permits are needed.

45 **• CWF 2011 Grant Applications**

46 An application will be submitted for Brown's Creek restoration at Oak  
47 Glen Golf Course.

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**b) Communications & Manager Reports**

Managers reported that the Freshwater Society will be sponsoring a talk by Dr. Louis Guillette, Jr. on September 14 and the DNR will be purchasing Zephyr Line.

Legal Counsel provided background on the Nine Mile Creek Watershed District's permitting of a Normandale Community College project. The state Attorney General's office has issued a letter regarding the matter, stating that watershed districts do not have permitting jurisdiction over state entities such as the Minnesota State Colleges and Universities.

**c) October 2010 BCWD Board Agenda**

No items were suggested.

**10. Adjournment**

**Manager Johnson moved, seconded by Manager Taillon, to adjourn at 9:18 p.m.**  
**Motion carried, vote 5/0.**

Respectfully Submitted by  
Debbie Meister, Recorder