



BROWN'S CREEK WATERSHED DISTRICT

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**Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of Managers,
March 11, 2002**

Washington SWCD Offices
1825 Curve Crest Boulevard
Stillwater, MN

APPROVED

ROLL CALL

Present: Craig Leiser, President
Barbara Medinger
Ned Gordon, Treasurer
Tim Freeman, Secretary

Others Present: Matt Doneux, SWCD,
Administrator
Chuck Holtman, Legal Counsel,
Smith Parker, P.L.L.P.
Mitch Johnson, EOR
Pat Conrad, EOR
Camilla Correll, EOR
Dave Dupay, rep. Will Zintl
Ron Pierce, Citizen
Keith Klemz, Citizen
Jean Schuldt, Goldridge Group
Brad Coats, Goldridge Group

Absent: Karen Kilberg, Vice President

Call to Order

Meeting was called to order at 6:30P.M.

Approval of Agenda

The following additions were made to the agenda: Addition of report on Water Consortium meeting under Communications, Update on Indian Hills under Rules and Permits, Add possible LCMR grants for implementing watershed plan and distribution of plans under Watershed Management Plan, Trout Stream Mitigation Program (TSMP) under Old Business. Manager Gordon moved to approve the amended agenda, seconded by Manager Medinger. Motion passed. 4/0, 1 absent.

Reading of Minutes and Approval

Manager Leiser moved to approve the amended minutes for February 25, 2002 meeting, seconded by Manager Medinger. Motion failed due to two abstentions from managers not present at specific meeting. Motion will be held over until there is a meeting with Manager Kilberg, Manager Medinger and Manager Leiser present.

Manager Leiser moved to approve the amended minutes for February 25, 2002, seconded by Manager Gordon. 4/0, 1 absent.

Treasurer's Report – Ned Gordon

No payables proposed for this evening. Present balance is \$177,492.05. The final check from DNR for Natural Resources Inventory has been received.

Rules/Permits

a) Purcell Pond improvement #02-01

Mitch Johnson stated that this is a favorable project. He recommended issuing a permit with some conditions. The recommended permit conditions are silt fence as part of grading, and permit fees. Mitch listed in his memo three areas he recommends some additional actions. The BCWD rules require a 2-foot freeboard. This can be accomplished by raising the berm between Paul Mayhew's property (permit requestor) and his neighbor to the east. Manager Gordon moved to approve Permit 02-01, Purcell Pond Improvement) with conditions, seconded by Manager Medinger. The excess taken out of the pond is to be added to berm to increase height. Motion carried. 4/0, 1 absent. The memo is to be attached to the permit. There were two neighbors present who wanted to get an understanding of what this project was about. They were satisfied.

b) Oak Park Station – Permit 01-12

Mark Doneux asked the Goldridge Developers to speak first, then Dave Dupay, Will Zintl's representative.

Jean Schuldt stated that the Goldridge Developers believe that Oak Park Heights owns the holding pond and is therefore able to authorize work within the boundaries. Jean Schuldt produced an attorney's title opinion reaching this conclusion. She showed a letter from the City of Oak Park Heights giving Goldridge permission to do pond work. Chuck Holtman asked Jean Schuldt if the title opinion found that the fee interest passed to the City through annexation as a matter of law or as an actual finding in the annexation authorization. She responded that the attorney's opinion is based on the conclusion that the fee interest passed as a matter of law. Goldridge's Developers Agreement with the City of Oak Park Heights gives them the right to excavate the holding pond.

Dave Dupay, representing Will Zintl stated that Mr. Zintl has no objections to the Goldridge Developers building their roads and developing up to 65% impervious. He stated that Mr. Zintl wants everyone in the Kern Center to receive the same treatment and all should be able to develop if they maintain the 65% without any additional ponding. He maintained that Mr. Zintl owns the property in question and any easements on the property are still intact. Mr. Zintl feels there is an equitable solution to this problem. Manager Leiser stated that one of the stipulations of the BCWD rules states title of property where construction is being done should be owned by the persons doing the construction. He also stated that the BCWD wants to take care of any water issues for the south side of Hwy. 36 on the south side, rather than making the situation of water levels on Long Lake becoming any worse.

Manager Medinger asked about the 65% impervious requirements. Dave Dupay stated that in the past all developers for the Kern Center have been required to maintain 65% impervious according to Baytown Township's ordinance, and the existing pond should take care of any

water issues if it is maintained. Manager Gordon agreed with Dave Dupay that this is true. Manager Gordon expressed concerns with any water crossing under Hwy. 36 and flowing into Long Lake. Manager Freeman stated that he was not fully convinced of with the ownership as laid out by the Goldridge Group but the BCWD should be able to issue this permit because the permit makes clear that it does not relieve the applicant of the need to possess all the property interests necessary to do the work, there is not a basis to withhold the permit..

Brad Coats, Goldridge Group asked to say a few words. Mr. Coats expressed willingness to work with the other businesses already located in the Kern Center on pond issues. He stated that this does not extend to starting over with another Developers Agreement. Mr. Coats stated that the Goldridge Group has met all the BCWD requirements and this meeting was not about fee title but about permit approval.

Chuck Holtman stated, in general, even though property issues are in dispute but there's sufficient information basis based on the title opinion that the applicant holds the necessary property interest when combined with additional conditions in the permit emphasizing that the permit does not give the applicant any property rights.

Jean Schuldt stated that Goldridge received approval for this work from Valley Branch Watershed District, and Bonestroo (the City of Oak Park Heights Engineers). Manager Leiser stated that he felt this permit could be issued with stipulations. Manager Leiser moved to issue BCWD Permit 01-12 with stipulations and typographical corrections, seconded by Manager Freeman. Chuck Holtman asked who would be responsible for pond maintenance? Jean Schuldt replied that the pond maintenance is included in their Development Agreement with Oak Park Heights. Chuck stated that the BCWD rules state that the landowner is required to maintain the pond. He requested an additional condition to the permit to include execution and recordation of a Maintenance Agreement. The Permit will have 2 special conditions and 6 general conditions. Motion Passed. 4/0, 1 absent.

c) Indian Hills - Pat Conrad

Mark, Pat and Camilla attended a meeting to go over all the EAW comments on this development. The developer has actually taken a few steps further than the BCWD had suggested. There have been some changes to the plan, which appear to offer the protection of the fens and their water source consistent with BCWD desires..

d) Permit Review – Update

Mitch Johnson reported on the Hwy. 15 turn lane project - between 61 and 7. It looks like an erosion control permit. Chuck Holtman was asked if there is water sitting up against the road, should there be a stormwater permit? There will be further discussion on this issue.

Watershed Management Plan – Implementation Activities

a) Hydrologic & Hydraulic Update

Mark reported that the County finished burning CD's with the 2' topographic data and the photography. The photography looks great.

b) Camilla Correll provided Mark with 18 copies (hardcopies) of the BCWD Second Generation Plan to distribute to BWSR, communities and a few committee members. Pat presented his

CD-Rom with the Second Generation plan to the BCWD. Each manager, Chuck Holtman and Mark Doneux received a CD.

Camilla gave Mark a few distribution letters for review. Chuck will craft the requirements for plan adoptions. Mark will work with Chuck and Camilla in the next few weeks to complete these plans.

- c) LCMR Grants - Camilla and Cecilio have been looking at the Second Generation Plan to see what would make sense to write up for an LCMR Grant. The proposals should only be three pages each. Their suggestions were for 1) Volume Control Study, 2) Buffer Study, and 3) Stillwater Phase 3. March 28 is the deadline for submittals. The BCWD decided the Volume Control and Buffer Studies would be their best submittals. Manager Leiser did not believe that the Stillwater Phase 3 would be as interesting to the LCMR.

Project Review and Updates

- a) Kismet Basin – Update – Mitch Johnson

At this time we have a 0.9-foot of bounce above the normal water elevation where the water will flow toward the north saddle. EOR's intention is to remove an erosion channel from the saddle. McKenzie's situation would then be improved.

Manager Leiser stated that prior to this construction project taking place, every time there was a reasonable amount of rain, water flowed from the pond onto McKenzie's property.

Manager Leiser requested that Mitch and Mark write a letter explaining the changes in the Johnson property and have Konrad Koosmann mail this to the McKenzies. This would be an informational letter only. The BCWD is not asking for permission from the McKenzies.

Manager Medinger asked Cecilio if EOR was planning to raise the levels in any way. Cecilio replied that Chuck Holtman had advised not changing anything that was in the original approved plans. If we have a 50-year rainfall, there will probably be some overflow on north saddle, maybe one inch on north, less than one inch on south. Manager Leiser stated that the BCWD is not changing elevations just stabilizing the area. In the event of a 50-year rainfall or more there may be some overflow. This situation reflects retaining run-off water for minor stream events in the pond and through the pipeline, while continuing to allow overland drainage across the saddle onto McKenzie property in the event of heavier rain events, just as it does today.

Old Business

- a) Long Lake/Kern Center Update

Mayor Beaudet, Oak Park Heights, dropped off the Kern Center Commercial Area Drainage Report last week. Mark has requested that the BCWD have 30 days to respond. He also asked Mayor Beaudet to reconsider the boundary issue.

Cecilio and Mark will prepare comments to this report and will present their comments and recommendations at the next meeting. Oak Park Heights is recommending expanding the Kern Center pond.

Manager Freeman stated that the City of Oak Park Heights may still have funds available for digging the pond left over from the area wide assessment. Manager Freeman stated that whoever digs out the pond could use the material for their building site. Manager Leiser suggested that the BCWD members consider what they would recommend as the most cost

effective thing to do. Manager Freeman asked that the engineers at EOR suggest what would be the best course of action. Cecilio suggested that a two-pond system would work well.

b) North Hill Legislation Update

Mark Doneux picked up the language on the legislative grant from the Internet. The city of Stillwater would like the BCWD to draft a resolution of support for the city of Stillwater. This grant is for a million dollars. Manager Leiser asked Mark to invite someone from the city of Stillwater to attend a future meeting to explain the grant being sought and the current design elements of the project. He suggested Klayton Eckles and Mr. Hanson.

c) TSMP – Mark Doneux.

Mark has seen the City taking action on the TSMP. Cecilio has received a set of plans. Mark asked that the BCWD write a letter to the city stating that the BCWD would like to be given time to review the plans before taking action on TSMP, per the cooperative agreement. Cecilio received a set of plans. Manager Medinger also requested that we ask for an updated map of the annexations.

Cecilio stated that there are some positive things in the plans, and the DNR is also reviewing the plans. Mitch and Cecilio showed a drawing explaining the design of the diversion.

Communications & Report

Mark Doneux reported on the Water Consortium meeting. Dale Setterholm presented the geologic study for Car-Mar. The ground water in the area was remapped and the study included determining how the ground water is working with their lakes. Mark will copy the PowerPoint presentation for the BCWD managers.

The meeting included a discussion of all the watershed district's rules. Cliff Aichinger gave a review of the Ramsey-Washington permit process. The Water Consortium would like to see a standardization of rules. Jon Michels will have a draft ready soon for the Ground Water Study in Washington County.

Commissioner Wally Abrahamson will be retiring this fall. He has been very supportive of the BCWD. Manager Leiser suggested that a resolution and letter be written to thank him for his support.

Manager Gordon stated that there is an Oak Park Heights meeting Tuesday, March 12 with the following subjects: 1) Middle St. Croix Assessment, 2) Brown's Creek Issues, and 3) Oak Park Station, Phase I. Manager Freeman cannot attend the meeting but he will make some phone calls and follow up.

Mark Doneux reported that Don Rice stopped in the office and picked up a copy of the annual meeting minutes.

Adjournment

Manager Freeman moved to adjourn the meeting, seconded by Manager Gordon. Motion Passed. 4/0, 1 absent. Meeting adjourned at 8:48P.M.

Respectfully Submitted,
Dawn Hilde, Recording Secretary