



BROWN'S CREEK WATERSHED DISTRICT

1825 Curve Crest Boulevard,
Stillwater, MN 55082

Tel: 651-430-6826 Fax: 651-430-6819

Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of Managers, October 14, 2002

Washington WCD Offices 1825 Curve Crest Boulevard
Stillwater, MN 55082

APPROVED

ROLL CALL

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

Others Present: Mark Doneux, WCD,
Administrator
Louis Smith, Legal Counsel,
Smith Parker, L.L.P.
Cecilio Olivier, EOR
Pat Conrad, EOR
Camilla Correll, EOR
Ryan Fleming, EOR
Mitch Johnson, EOR
Lee Miller, Citizen
Carol Palmquist, Citizen

- 1. Call to Order:**
The meeting was called to order at 6:37P.M.
- 2. Approval of Agenda:**
Manager Leiser suggested the following additions to the agenda: Old Business - Resolution of Annual Report, Manager Gordon and Mark speak to bookkeeping issue and finish last month's transition of treasurers functions; New Business - Letter proposal from Trout Resource Association. Manager Gordon asked that the TSMP - Long Lake Status Report under Old Business be moved under Item 5, Rules/Permits and Camilla's report on H & H follow the TSMP. Manager Leiser moved to approve the amended agenda, seconded by Manager Gordon. Vote: 5/0
- 3. Reading of Minutes and Approval:**
September 9 meeting minutes were not approved pending changes from Manager Gordon. They will be presented at the next meeting for approval.

Manager Freeman moved to approve the Special Meeting Minutes for September 24, seconded by Manager Medinger. Vote: 3/0/2.
- 4. Treasurers Report - Manager Gordon**
Manager Gordon presented a list of payables and moved to pay these bills, seconded by Manager Leiser. Vote: 5/0

After payment of these bills, the bank balance is \$40,482.64. The second half of tax levy will be coming to the BCWD week of December 9.

The bill from K Fence Systems will be deferred until Kismet Basin discussion.

Manager Gordon sent a letter to Tautges Redpath explaining that because the BCWD is a governmental agency we do not accept late fees.

5. Rules and Permits

a) Zintl Building Project #02-14

The BCWD received an application from Mr. Zintl for a permit. Todd Erickson attended the meeting, representing Mr. Zintl.

The discussion centered on the 01-03 Resolution that the BCWD had passed. The Resolution states that projects approved before our rules were in force would be waived in application of BCWD rules. The BCWD rules went into effect in January 2000. The applicant received PUD approval in May 2000, after the BCWD rules were in force. Louis questioned whether Resolution 01-3 applies to this project. Mark Doneux is researching the PUD approvals.

Manager Freeman stated that he will not vote on this issue but will participate in the discussions. He stated that until a few months ago the property in question was located in the VBWD. This project has an owner using his property up to its limit per the VBWD rules.

Manager Kilberg questioned how the City of Oak Park Heights upgraded the Kern Center Pond in 1999 for 80% impervious and now the BCWD is helping them to redesign the pond in 2002. Mark Doneux responded that Oak Park Heights (OPH) rules do not meet the BCWD volume control rules. Mark Doneux explained in 1989 and 1999 OPH ran storm sewer and water lines into the Kern Center. At that time, there were still some lots to be developed. OPH expected to have more money coming in to complete these improvements. When the Kern Center Pond is improved, the Kern Center properties will meet the BCWD rules.

Manager Gordon moved to approve this permit application as presented, seconded by Manager Leiser. Mark Doneux - we are assuming this impervious surface was included in the Kern Center Pond improvements. Todd Erickson - this project is zoned industrial, so they would probably have included 80% imperviousness. Manager Kilberg - What is the precedence here? If this is just one with a potential of many, then we must adopt some guidelines. Mark Doneux - we need to clearly define which properties are going to have to be reviewed for storm water. Manager Leiser asked if this is any different than what we asked the City of Stillwater to do in Marketplace? If we give a permit in Marketplace, it is contingent upon the pond design including this property on the basis of 80% impervious.

Louis Smith - In 1999 OPH thought their standards were appropriate. When we adopted our rules, January 1, 2000, we adopted new standards, and the Kern Center Pond was developed but not in the way that meets our present rules. If a property is approved for construction after the BCWD rules have been in force, then our rules should apply. Manager Freeman - in 2001 this property met the rules of the day from VBWD. Manager Gordon stated the BCWD should look at fairness - we discussed this during our rules discussions. Manager Freeman stated if OPH goes along with the increased size of the pond this will take care of meeting BCWD rules. If not, then OPH will have to pay for the AUAR and send the water under Highway 36.

Carol Palmquist - Will Zintl was going to only put up the front buildings. She was concerned with runoff from this new building site into a pond near her property.

Todd Erickson stated that the second pond by this property is a naturally occurring pond. Kern Center Pond is a constructed pond.

Louis Smith - The BCWD should state that given unique circumstance, you are giving a variance. Manager Gordon - The BCWD has the right to grant variances from our rules depending on the uniqueness. Manager Leiser - I would like the variance to be clarified as a stipulation. Manager Gordon amended his motion to approve the permit application and include a specific variance and the reason for the variance, seconded by Manager Leiser. Mark will get verification from city of OPH that storm water requirements have been met. Vote: 3/1/1. The BCWD's main consideration for this variance was the change in watershed jurisdiction.

b) Receive Public Comments regarding BCWD Permit #02-12

Bradshaw Permit - After mailing the notices for this permit it was discovered that the notices were not mailed to all the people within the required area. Mark stated a review memo and map was then sent to all people living within 600'. No one appeared and no comments were received. The BCWD assumes the permit was fairly granted.

c) Rule Revisions

Administrative review and approval process - possible action

Mark Doneux asked the BCWD which parts of the rules are they interested in revising? Once the decision is made, I can bring some redrafted language back to the BCWD for approval.

Technical Standard Changes - Discussion

Resolution 02-04 - Manager Kilberg moved to approve Resolution 02-04 to delegate certain approvals to administrator, seconded by Manager Gordon. Vote: 5/0 The BCWD asked Mark Doneux to notify the BCWD of permits approved.

d) Review of probable violations - BCWD Permits

Ryan Fleming and Mitch Johnson, EOR, presented the violations.

Manager Leiser asked if silt fence should be installed before any dirt is moved on construction sites. Maintenance is an issue.

#00-01 - Settler's Glen Phase I

Silt fence problems on 10/11. Orin Thompson and engineers are cooperative.

#01-07 - Stillwater Public Works Facility

10/1 inspection - main outlet went straight to Browns Creek. 10/11 - silt fence was open.

#10-11 - Stillwater Ford Parking Expansion - needs erosion control.

#02-06 - Curve Crest Extension - city project, Central Landscaping slated to work on this tomorrow.

#02-08 - Century Power - silt fence

Manager Leiser asked what action could we take? The owners have all been put on notice of the violations. The BCWD should give a deadline for compliance before a BCWD meeting. If the project is not in compliance then the owner should be notified to appear at the next meeting. If the situation is not remedied, then the BCWD should take measures to go to court. Louis stated that 1% of the watershed violations end up being filed in court and most are then taken care of without having to go to court. The BCWD agreed that the timetable for violations should be shortened up at this time of year.

Manager Leiser asked if the BCWD would be willing to have a special meeting to handle these violations. The BCWD agreed to have a meeting on the next Thursday at 4:30P.M. Manager Leiser asked Louis Smith to write up a step-by-step format. Legal counsel should be present at this special meeting. Mitch Johnson can be available if needed for this special violation meeting.

Break at 8:00P.M.

Reconvened at 8:15P.M.

e) **Permit Review Update - Mitch**

Mitch Johnson reported on a preconstruction meeting for Settlers Glen II. Some changes in lot lines previously issued, affects city permits. The owner is going back to the City of Stillwater for approval of lot changes.

6. **Watershed Management Plan - Implementation Activities**

a) **H & H Study II - Camilla Correll**

Phase I Long Lake Analysis

Camilla Correll presented the results and conclusions after modeling Long Lake. First EOR calibrated the model results. We tested three modifications to the system. 1) 72nd St. Culvert -lowered half foot and changed culverts from corrugated metal to concrete; 2) Clean channel and increased channel width from 2 feet. to 4 feet; and 3) Hwy 12 outlet - removing weir structures. The graphs showed that each modification alone did not make much difference, but the combination of all three made a big difference. The greatest impact came from excavation of the channel. Implementing all three provides 1.2 feet of freeboard. The diversion structure built by the City of Stillwater was included.

Lee Miller stated – “I imagine that some of the new people will argue that the lake should remain at its height of 890.0.” Manager Leiser - I suggest we have a meeting with the DNR and City of Stillwater and put some of these changes in place. Manager Freeman asked if the system could work with a higher starting elevation? Lee Miller stated that EOR should show a 100-year level and start with the present level.

Camilla Correll will be preparing a letter report. Manager Leiser requested the same presentation be given to the DNR, City of Stillwater and the BCWD. Mark Doneux asked if a draft letter of this report could be sent to the DNR and City of Stillwater? Camilla Correll agreed.

b) **Phase II - Scope Timeline and Budget for Phase II**

Phase II could be finished this year. The budget for Phase I was \$39,500, Phase II \$23,500 by end of year, \$19,900 left in budget for next year. Manager Gordon moved to authorize expenditure of \$23,500 to continue H & H 2nd Phase, seconded by Manager Kilberg. Manager Kilberg asked if the BCWD is sure that this is the most important area to be modeled? EOR responded, “Yes, because we have the 2' contours for this area and this area is undergoing heavy development.” Vote: 5/0/0

7. **Project Review and Updates**

a) **Kismet Basin - Update**

Mitch Johnson arranged to get fencing done for Sterners. K Fence did the fencing at a very good price. Manager Gordon moved to approve payment to K Fence, seconded by Manager Kilberg. Vote: 5/0

Mitch Johnson has a punch list of items that need to be finished or cleaned up by the contractor on Kismet. He reported that there has been some activity. He set up a meeting to follow-up on these items but we then moved into another wet period. Manager Leiser suggested if the work was not completed by the end of the week the

BCWD would have to subcontract the remaining work and deduct the expenses from the retainage. Pat Conrad also mentioned the need to hold back on the retainage for some replanting next spring. Mitch Johnson thought we would be getting another pay request next month.

b) THPP

- Operational Update

The main discussion on this project was the water levels and the gate valve. The water levels at this time are high. Pat Conrad showed a graph demonstrating precipitation levels and water levels. Manager Leiser asked EOR if the project was working? Cecilio Olivier - this project was conceived as a stabilization project. We have had a significant amount of precipitation and a very heavy snowfall last spring. The water never went one foot over the invert. During months of winter infiltration, the water levels will be lower preparing for the spring thaw. The project is doing what it is supposed to do. Manager Kilberg stated that part of the problem is a misconception - everyone looked at the 970.5 as the stabilization height. Manager Gordon stated the county and state put a lot of money into this project. The BCWD should talk to these people. He suggested a presentation of the present data, precipitation that we have received and compare the results to what would have happened if we had not done this project. He suggested contacting the local newspaper for a story later this year.

- Discussion of Easement Issues - Cory Arkell

The BCWD held a special meeting on September 24, 2002 to consider the permit application of Mr. Cory Arkell for the 121st Street Extension project in May Township. Cory Arkell is planning to split his property. Cory Arkell is open to the BCWD using our regular route to the ponds and he may be receptive to moving that easement. Is the BCWD willing to pay to have the rest of the access surveyed, staked and putting in monuments? Manager Leiser asked if the BCWD have the right to survey and stake the easement on the DeWolf property? Louis Smith will check the easement agreement. If not, we can ask. Mark Doneux - how much will it cost to delineate all the easements? Mark Doneux will get an estimate.

Old Business

a) TSMP/Long Lake Status Report

This subject was discussed under the heading "H & H II Update for the Watershed Management Plan.

b) Kern Center Pond Design Update

Memo in packet. OPH is going to discuss this at the October 22 meeting. Dave Beaudet was very favorable. Camilla Correll thought that OPH might still want the model so they can look at the Menards Pond and see if they could do something similar. Camilla Correll will submit report and model to OPH.

c) VBWD/BCWD Joint Boundary Change - Existing Permits - Update

Mark Doneux will be getting a list of permits from the VBWD for OPH. Eleven permits are in the works. The BCWD will only need copies of the ones with construction in progress.

d) Marketplace Storm Water Management Plan - Update

Klayton Eckles, City of Stillwater Engineer, dropped off a map of Marketplace, showing which ponds need to be improved. Manager Leiser asked to hold off this discussion until the next meeting. The BCWD agreed. Manager Leiser stated he would like to see a draft memo to read more as a cooperative effort to sign with the City of Stillwater.

- e) **Craig and Marcia DeWolf - Update and Discussion**
Marsha DeWolf left a voice mail for Mark Doneux. They are seeing their attorney to draft a response.
- f) **Draft Washington County Groundwater Plan - Comments**
Comments on the draft Washington County Groundwater Plan were due within 60 days after receiving them. The BCWD will obtain a copy of this report for the managers.
- g) **Rice letter and possible actions**
The BCWD has taken the position that an offer was made once before. Manager Kilberg - once, a year ago, the DNR had some flood money. I think it would be worthwhile to try to work through the city again. The original grant monies stated that the property could only be used as a public entity. Manager Kilberg feels that the BCWD needs to go to the DNR and try to work with them. Louis Smith - it is not the role of the watershed to act as an insurer on flooded properties. Managers Leiser and Kilberg will talk to our legislators.
- h) **Annual Report**
Mark Doneux - the annual report is not completed. Manager Leiser stated he would like to get out report for 2001. A report from Mark Doneux will be presented at the next meeting.
- i) **Bookkeeping Service**
Manager Gordon asked for a decision by the BCWD, to turn over the books to a bookkeeping service or for him to continue until December 31, and then turn over to another entity. Manager Gordon felt we should turn this over to Mark Doneux and hire an outside firm to do the bookkeeping. At the last meeting, the BCWD approved Manager Freeman to be third signature on the checking account. Manager Gordon suggested the BCWD put Manager Medinger's name on the account as the Treasurer and remove Manager Freeman as a signatory. In the interim, the BCWD can divide payment and approval of invoices so that whoever cuts the checks can do it on an approved invoice. Manager Leiser stated the BCWD should take action on Manager Gordon's proposal. The BCWD needs to give approval to Manager Gordon and bring the name of the chosen bookkeeping service to the BCWD. For transition time, we need to pay Manager Gordon for his time. Manager Leiser moved to have Manager Gordon continue to do the books until December 31, work with Mark Doneux and a bookkeeping service, and pay Mr. Gordon \$55.00 per month until Dec. 31, 2002, seconded by Manager Kilberg. Vote: 4/0/1 Manager Gordon abstained.

New Business

- a) **Boutwell South Area Plan - City of Stillwater - Update**
Dave Beaudet would like us to look at new Boutwell's development using the BCWD buffer rules.
- b) **"Kern Center West" Annexation - Update**
Manager Freeman reported on a joint meeting between OPH and Lake Elmo. OPH was not going to go along with it if both were not in favor. The annexation is not going to happen.
- c) **BCWD TMDL's - Discussion**
Three bodies of water identified - whole TMDL process is a rather complicated issue and will be tabled. We can include this in our second generation plan.

d) US Fish & Wildlife Grants - Update

Manager Leiser found a Wildlife Grant on the Internet. Pat Conrad was asked to look at this grant and see if it was worthwhile pursuing. Manager Freeman asked why buckthorn was a problem in wetlands. Pat Conrad responded if plants friendly to wildlife replaced the buckthorn, the DNR would probably be interested. Manager Medinger asked about the fens. Pat Conrad answered that there is less chance for them to be protected.

e) November BCWD Board Agenda and Possible Meeting Date Change

The next meeting of the BCWD Board will be November 11, 2002.

10. Communications & Reports

Manager Medinger has been appointed for a three-year term on the BCWD.

The MAWD meeting will be held in Alexandria, December 5-7, 2002. There have been no comments to send into MAWD for resolutions. Manager Leiser expressed an interest in attending this meeting and asked if the BCWD would be willing to pay for Mark Doneux to attend.

Manager Gordon stated that this would be his last meeting as a Manager for the BCWD. It has been a unique and fun ride and I want to thank all the managers I have worked with and especially would like to thank the engineers, Mark Doneux and the lawyers. Thank you.

Cecilio Olivier announced EOR's 5th Year Anniversary and New Location Open House, November 1, 2002, 4:30 - 7:30P.M. and invited everyone to attend.

The annual Twin Cities River Summit meeting will be held on November 14, 2002 at the Minneapolis Convention Center.

11. Adjournment

Manager Gordon moved to adjourn the meeting, seconded by Manager Freeman. Vote: 5/0.
Meeting was adjourned at 11:44P.M.

Respectfully Submitted,

Dawn Hilde, Recording Secretary