



BROWN'S CREEK WATERSHED DISTRICT

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Minutes of the Annual and Regular Meeting of the Brown's Creek Watershed District Board of Managers, December 13, 2004.

Washington County Government Center, 14949 62nd Street North, Stillwater, MN 55082

APPROVED

ROLL CALL

Present:	Craig Leiser, President	Others Present:	Karen Kill, WCD, Administrator
	Connie Taillon, Treasurer		Louis Smith, Legal Counsel
	Gerald Johnson, Secretary		Smith Parker, P.L.L.P.
Absent:	Gail Pundsack, Vice President		Pat Conrad, EOR
			Ryan Fleming, EOR
			Jay Liberacki, Orrin Thompson
			David Evans, Applicant
			Eric Johnson, OPH Administrator
			Dennis Postler, Bonestroo
			David Beaudet, Mayor OPH

1. Call Annual Meeting to Order

President Leiser called the Annual Meeting to order at 6:33 p.m.

a) Approve Agenda

Manager Johnson, seconded by Manager Taillon, moved to approve the annual meeting agenda as stated. Vote: 3/0.

b) Review of 2004 Activities

President Leiser reviewed a list of 2004 accomplishments and 2005 goals.

BCWD 2004, The Record

- Personnel Changes
 - Departed Managers
 - Barb Medinger
 - Karen Kilberg
 - Ned Gordon
 - New Managers
 - Connie Taillon
 - Gail Pundsack
- Permits and Enforcement
 - 22 New permits issued
 - 10 Permits completed
 - 2 Permits withdrawn
 - Bradshaw Property corrective action ongoing, erosion issues

- One permit enforcement reached legal
- Two non-permits in violation
- Technical Projects and Tools
 - Hydrologic & Hydraulic II Completed
 - GIS tools added to evaluation
 - 2 foot contours available and in use
 - Flood plain mapping for county & FEMA
 - Evaluated and commented on City of Hugo local Water Management Plan
 - Continued Baseline Monitoring efforts
- Public Relations and Community
 - Continued Monitoring program with Stillwater HS students
 - Prepared and Circulated 1st Newsletter
 - Highway 36 issues
 - County Water Consortium
 - County Groundwater Advisory Committee
 - Continued use of BCWD Website
- Stillwater & Long Lake
 - Sediment and bottom contour profile
 - Permitted outlet construction to Jackson WMA, construction completed by city
 - Evaluation of in-flow water sources
 - Reviewed North Hill project
 - Dramatic improvement in lake clarity during spring sampling period
- Oak Park Heights & Kern Center
 - Completed the Cooperative Agreement
 - Completed the O & M agreement
 - Designed and purchased signage
 - Completed Monitoring Plan
 - OPH went to bid and awarded
- MAWD
 - 3 Managers attended Dec. 2-4, 2004
 - Brown's Creek THPP was selected as the WD project of the year for the State of Minnesota. Award made at MAWD

BCWD 2005 Ongoing Efforts

- Budget remains at the same amount, no increase
- Must find a fifth manager
- Continue active permit processing
- Continue aggressive permit enforcement
- Continue support of HS monitoring
- THPP & Kismet O & M commitment
- Continue to apply H & H II to all permit applications
- Add one additional automated monitoring station
- Continue monitoring with Met Council
- Prepare and distribute 2nd newsletter
- Maintain presence in H36 project, per South Washington County study
- Oak Park Heights and Kern Center
 - Shortfall in funds for construction
 - BCWD Involvement in funding?
 - Monitor construction to design
 - MPCA Well Monitoring Project with additional sites for BCWD/Wash. CO.
 - Incorporate ground water elements into BCWD Rules, per GWAC
- TMDL Notice from PCA on Long Lake, S. School Section Lake and north BC

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- 1 ▪ Long Lake Management Plan (TMDL)
- 2 ▪ Invasive species eradication program
- 3 ▪ Bradshaw property BMP monitoring
- 4 ▪ Feasibility studies
- 5 ▪ Highway 36 culvert
- 6 ▪ Benz Lake analysis
- 7 BCWD 2005 & BeyondGood stewardship
- 8 ▪ Prudent finances
- 9 ▪ Community
- 10 ▪ Employ science
- 11 ▪ Be proactive
- 12

13 **c) Approve 2005 Budget and Levy**

14 The 2003 Audit and 2005 budget are located at the District office and are available for
15 public review. **Manager Johnson, seconded by Manager Taillon, moved to approve**
16 **the September tax levy Resolution without change. Vote: 3/0**

17

18 **2. Adjourn Annual Meeting**

19 The annual meeting was adjourned by President Leiser at 6:53 p.m.

20

21 **3. Call to Order**

22 President Leiser called the regular meeting to order at 7:00 p.m.

23

24 **4. Approve Agenda and Discussion Agenda**

25 The approval of the November 8, 2004 minutes was tabled. Administrator Kill requested to
26 remove item D “BCWD Permit #04-08 Meister Berm Potential Violation Hearing” under
27 Permit/Rules because the applicant was now in compliance with BCWD Rules.

28 **Manager Johnson, seconded by Manager Taillon, moved to approve the Agenda as**
29 **amended. Vote: 3/0**

30

31 **5. Approve Minutes of the November 8, 2004 Regular Meeting - tabled**

32

33 **6. a) Current Items Payable**

34 Manager Taillon reported that the total bank balances were \$232,946.37. **Manager**
35 **Taillon, seconded by President Leiser, moved to approve payables in the amount of**
36 **\$36,520.16. Roll call vote: 3/0**

37

38 **7. Rules/Permits**

39 **a) BCWD Permit #01-15 Settler’s Glen Second Addition – Buffer Variance Request**

40 Administrator Kill presented the project history for Settler’s Glen Second Addition.
41 When the permit was approved, the applicant had used buffer averaging and was
42 required to have an average of a 100-foot buffer from the highly susceptible wetland.
43 To use the buffer averaging, no area shall have less than half of the required buffer.

1 The permittee has informed the District that the buffer has been encroached upon in
2 Settler's Glen Second Addition Lot 5. This lot has been built out and sold without the
3 wetland buffer being properly recorded with Washington County.
4

5 Jay Liberacki, Orrin Thompson, explained that they accept responsibility for lack of
6 communication within their company and with the buyer. He understands that the
7 District's goal is for a maximum buffer and the buyer's goal is for a maximum size
8 yard. He would like the District to consider a variance from the buffer rule. He has
9 proposed an option to the landowner which shows a buffer encroachment of 1,271
10 square feet. The permittee is willing to plant whatever the District wishes in the
11 remaining buffer area to maximize the buffer benefits.
12

13 The Managers questioned the possibility of adding some best management practices
14 such as a rain water garden to pretreat some of the runoff from impervious surfaces on
15 the property. Mr. Liberacki will discuss the possibilities and come back to the Board in
16 January with a request.
17

18 **b) BCWD Permit #04-19 Evans' Marina**

19 Ryan Fleming, EOR, presented the permit review for Evans Marina. The project is
20 located at the former Rumpf Marina on the St. Croix River in Stillwater, MN. The
21 project proposed to replace twenty-nine slips at their existing marina, dredge part of the
22 marina, replace approximately 3,000 square feet of rip rap along the banks and replace
23 the boat ramp. The project is subject to BCWD Rules 3.0 Erosion Control, and Rule 5.0
24 Shoreline and Streambank Alterations. **President Leiser, seconded by Manager**
25 **Johnson, moved to approve BCWD Permit #04-19 Evans Marina with the**
26 **condition that the applicant indicate on the plans that sweeping of the roadway**
27 **will occur as needed for the duration of the project and that the applicant consider**
28 **a dredging method that may reduce the amount of re-suspension of material into**
29 **the St. Croix River, such as vacuum dredging. Vote 3/0.**
30

31 **c) BCWD Permit #04-07 Parr Residence – Violation Hearing**

32 Administrator Kill presented a chronology. The Parr residence received a building
33 permit from the city of Grant but has never received a permit from the District. As of
34 the meeting, no application materials had been submitted. The need for a District
35 erosion control permit came to the District's attention on April 8, 2004 when erosion
36 concerns were noted by Ryan Fleming, EOR. Mr. Parr was contacted both by phone
37 and in writing and notified of the need to obtain a District erosion control permit.
38 Subsequently, a site visit was conducted by Ryan Fleming at Mr. Parr's request and
39 three more written notifications were send to Mr. Parr indicating the need to obtain a
40 permit and pay the outstanding fees of \$588.59 incurred by the District for
41 administration and erosion control inspections. December 9, 2004, Mr. Parr contacted
42 the District by telephone and writing indicating that he felt the after-the-fact permitting

1 process was unjust and he would not apply for a District permit. However, he offered a
2 \$400 donation to support the District's cause.
3

4 The Board discussed the need to have a permit application on record and the possibility
5 for setting precedent. The Board felt that a letter should be written to Mr. Parr by legal
6 counsel indicating that it is the landowner's responsibility under MN State Stat. to
7 obtain a permit from the District, regardless of lack of information from the city of
8 Grant. The Board felt it was important to establish a precedent and reject Mr. Parr's
9 offer. **President Leiser, seconded by Manager Taillon, moved to deny Mr. Parr's**
10 **offer of a \$400 donation and proceed with legal action to be paid in full for all costs**
11 **incurred to the District and for Mr. Parr to submit a permit application. Vote 3/0.**
12

13 **d) Permitting Information Sheet**

14 Administrator Kill presented a permit information sheet that Rice Creek Watershed
15 District (RCWD) has developed to heighten awareness of their district's permitting
16 program. RCWD has presented the information sheet to all the to the municipalities
17 within RCWD and requested them to distribute the information to all permit applicants.
18 Administrator Kill requested that the District develop a similar permit information sheet
19 in order to reduce the number of after-the-fact permits. The Manager's could present
20 the information to each of their respective communities. **President Leiser, seconded**
21 **by Manager Johnson, moved to authorize the administrator to work with EOR to**
22 **develop a permit information sheet for the District. Vote 3/0.**
23
24

25 **8. Project Review and Updates**

26 **a) Kern Center Agreement**

27 Eric Johnson, Oak Park Heights Administrator, presented a request for BCWD financial
28 contributions to the Kern Center Pond Expansion Project. Mr. Johnson explained that
29 the low bid came in at \$288,462.85 and a total of \$321,662.85 will be spent for the
30 project. The City of Oak Park Heights has approximately \$450,000 for storm sewer
31 projects in this area derived from connection charges; however, there are outstanding
32 bond payments of \$150,000-160,000. If the city pays for the entire project, they will
33 only have approximately \$7,000 remaining for long term maintenance. The City is
34 looking for some financial assistance from the District. The City has requested
35 approximately one third of the total project costs, but are open to discuss what the
36 District is willing to commit.
37

38 The Board discussed the original cost estimates made for the project three years ago and
39 why the low bid is significantly higher. One option discussed to reduce costs was to
40 investigate alternative locations for the excavated pond material. The City will talk
41 with Park Construction to determine is any cost reductions are possible.
42

1 The Board discussed that the City has included approximately \$32,000 above and
2 beyond the construction bid. The District has expended approximately \$40,000 to date,
3 including \$8,000 from a BWSR Challenge Grant for the project design, educational
4 materials such as signage and the cooperative agreement. The BCWD 2005 budget was
5 passed at this meeting. Any financial contribution towards the construction of the
6 project would be a capital improvement project; this would require an amendment to the
7 District's Second Generation Watershed Management Plan. The amendment process
8 would take six to nine months to complete. If the District made a financial contribution
9 to the construction of the project, the earliest would be in the 2006 budget. The Board
10 felt that if a subwatershed levy was used to fund this project, that these property owners
11 would be taxed double in that they were already subjected to the City's Stormwater
12 Connection fees. Administrator Johnson stated that the watershed benefits as a whole
13 from the project, not just the subwatershed. The City can be flexible and allow the
14 District to pay over five to seven years or whatever is necessary.

15
16 The City has approved the project and construction of the project is possible for early
17 January 2005 once some frost has formed.

18
19 President Leiser stated that although the Board would not vote on the issue at this
20 meeting, the District agreed in principal to support the project financially. However, the
21 Board would take a closer look at the details in future meetings when a full Board was
22 present. The Board will need to decide on the funding mechanisms, timing, and amount
23 of the contribution. The District will begin to examine these steps at the next meeting.

24
25 **b) THPP – Craig and Marcia DeWolf Flowage Agreement**

26 Louis Smith, Smith Parker, presented a flowage agreement between the District and the
27 DeWolf's. Mr. Smith had two issues in the agreement to bring to the Board's attention.
28 The first was that both parties can agree that the purpose of the agreement is to allow
29 flowage over the property as a consequence of the Trout Habitat Protection Project
30 (THPP). This will not burden a specific location on the property but rather is
31 determined by the structure. The second issue is that both parties will agree the District
32 will compensate the DeWolf's \$7,500. **President Leiser, seconded by Manager
33 Johnson, moved to approve the agreement and authorize the payment of \$7,500 to
34 Craig and Marcia DeWolf upon execution by both the District and the DeWolf's
35 and recordation with Washington County. Vote 3/0.**

36
37 **c) Kismet Basin Update**

38 Pat Conrad, EOR, stated that the seeding had been completed at Kismet Basin the week
39 after Thanksgiving 2004.

40
41 **d) Hugo CSMP Review Update**

42 Pat Conrad, EOR, stated that the District is still waiting for a response to the District's
43 comments from the City of Hugo.

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3 **9. Old Business**

4 **a) Review of MAWD Meeting**

5 Managers Leiser, Taillon and Pundsack attended the 2004 MAWD Annual Meeting.
6 The District won the 2004 Project of the Year Award for the Trout Habitat Preservation
7 Project (THPP). The Managers indicated they would like to obtain the photo from Ray
8 Bohn and submit the photo and article to the Stillwater Gazette. President Leiser and
9 Manager Taillon reported on items discussed at the conference. Administrator Kill
10 reported on administrator's workshop which dealt with meeting facilitation and
11 involving the public in watershed issues.
12

13 **10. New Business**

14 **a) 2005 Contracts**

15 **1) Auditor 2005 Contract**

16 Manager Taillon, seconded by Manager Johnson, moved to approve the
17 contract for auditor services for the year ending December 31, 2004 by HLB
18 Tautges Redpath, Ltd, not to exceed \$2,750. Vote 3/0.
19

20 **2) Administrative Services 2005 Contract**

21 President Leiser, seconded by Manager Johnson, moved to approve the 2005
22 contract for Administrative Services by the Washington Conservation District
23 not to exceed \$60,000 in staff time and \$1,350 for workstation space. Actual
24 staff time for District permit activities, such as plan and site reviews, will be
25 added to the monthly invoices to the District and are estimated to be
26 approximately \$8,300. Vote 3/0.
27

28 **3) Baseline Water Monitoring 2005 Contract**

29 Manager Johnson, seconded by President Leiser, moved to approve the 2005
30 contract for baseline water monitoring by the Washington Conservation
31 District, not to exceed \$33,367 in staff time. Actual project expenses (supplies,
32 equipment and lab fees) will be added to the quarterly invoice to the District
33 and are estimated to be approximately \$4,550. Vote 3/0.
34

35 **4) Volunteer Stream Monitoring 2005 Contract**

36 President Leiser, seconded by Manager Taillon, moved to approve the 2005
37 contract for volunteer stream monitoring to be completed by volunteers from
38 Stillwater Area High School and over seen by the Washington Conservation
39 District, not to exceed \$4,200. Vote 3/0.
40

41 **b) Requests for Qualifications for Legal, Engineering & Accounting Services**

42 The District is required to send out requests for qualifications for legal, engineering, and
43 accounting services in 2005. The RFQ's will be due to the District by 4:30 P.M. on

1 February 7, 2005 so they can be reviewed at the regular board meeting on February 14,
2 2005.

3 **President Leiser, seconded by Manager Taillon, moved to authorize the**
4 **administrator to send notices for the requests for qualifications (RFQ) for legal,**
5 **engineering & accounting services to the Stillwater Gazette. Vote 3/0.**
6

7 **c) Minnesota Pollution Control Agency Groundwater Monitoring Wells**

8 Manager Leiser and Administrator Kill attended a meeting the previous week with the
9 MPCA and other local government contacts in Washington County. The MPCA is
10 trying to identify development impacts on groundwater quality. They have received
11 funding to install ten monitoring wells per year across the state. The wells will be
12 monitoring annually for water quality parameters. The MPCA is willing to allow
13 LGU's to incorporate these wells into their own groundwater monitoring network. The
14 MPCA would like local help in identifying areas that are transitioning from rural to
15 urban and act as the first point of contact with developers. The District is going to
16 supply the MPCA with a list of possible locations and contacts.
17

18 **d) January BCWD Agenda**

- 19 ▪ **Great River Greening Presentation regarding Metro Wildlife Corridor Project**
- 20 **Funds**
- 21 ▪ **Groundwater Rule Presentation by Camilla Correll, EOR**
- 22 ▪ **Long Lake Management Plan Proposal Presentation by Pat Conrad, EOR**
- 23

24 **11. Adjournment**

25 **Manager Johnson, seconded by Manager Taillon, moved to adjourn at 9:36 p.m.**
26 **Vote: 3/0**
27

28
29 Respectfully Submitted,
30

31
32
33 Karen Kill
34 District Administrator