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2 Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of Managers,  
3 Wednesday, July 12, 2017 at 6:30 PM  
4

5 Family Means, 1875 Northwestern Avenue south  
6 Stillwater, MN 55082  
7

8 **ROLL CALL**

Managers Present:	Others Present:
Craig Leiser, President	Karen Kill, Administrator
Sharon Schwarze, Vice President	Carmen Simonet, Recorder
Gerald Johnson, Secretary	Michael Welch, Smith Partners, BCWD counsel
Anne Maule Miller, Vice President	Camilla Correll, EOR, BCWD engineer (arrived 6:45pm)
	Paula Kalinosky, EOR, BCWD engineer
Managers Absent:	Kevin Biehn, EOR, BCWD engineer
Connie Taillon, Treasurer	Jared Fabian, EOR, BCWD engineer
	Barb Medinger, Stillwater resident
	Don Mckenzie, Stillwater resident
	Joe Schneider, Stillwater resident
	Tom Meyer, Landform Professional Services
	Bill Howell, The Goodman Group
	Del Miske, Grace Baptist Church
	Larry Timmerman, Stillwater resident
	Dione Miesterling, Stillwater resident
	Bruce & Margie Schwartzbauer, Stillwater residents
	John & Mary Jo Feely, Stillwater residents

- 9
- 10 **1) Call Regular Meeting to Order**  
11 President Leiser called the Regular Meeting to order at 6:37 p.m.  
12
- 13 **2) Approve Regular Meeting Agenda and Discussion Agenda**  
14 Michael Welch, Smith Partners suggested reversing the items under 7) b) Diversion  
15 Drainage Headcut and have the engineering scope come before Resolution 17-01.  
16 **Manager Schwarze moved, seconded by Manager Johnson, to approve the Regular**  
17 **Meeting agenda and discussion agenda as amended. Motion carried, vote 4/0.**  
18

1 **3) Public Comments**

2 Barb Medinger, Stillwater resident reported on her observations of the McKusick Road  
 3 construction work, a joint project with the City of Stillwater. She noted erosion and lack  
 4 of erosion control and shared pictures of the problem with the managers. Ms. Medinger  
 5 expressed disappointment in the quality of the project, the lack of oversight, and the cost  
 6 to taxpayers. The managers thanked her for bringing this issue to the attention of BCWD  
 7 and noted they will look into it further and will have a follow-up on next month's agenda.  
 8

9 **4) Treasurer's Report**

10 **a) Review Authorized Funds Spreadsheet**

11 Administrator Kill presented the authorized funds spreadsheet.

12 **Manager Maule Miller moved, seconded by Manager Schwarze, to approve the**  
 13 **authorized funds spreadsheet as presented. Motion carried, vote 4/0.**  
 14

15 **b) Norell Ave Pond – Closeout – Board Action**

16 Administrator Kill reported the punch list items on the Norell Avenue Pond Outlet  
 17 project have been completed. EOR has performed the final inspection, has reviewed  
 18 the as-built and confirms the work conforms to the plans and specifications, and  
 19 recommends payment of retainage to Sunram Construction.

20 **Manager Johnson moved, seconded by Manager Maule Miller, to authorize**  
 21 **payment in the amount of \$2,118.50 to Sunram Construction for payment of**  
 22 **retainage from account 929-0009 (Long Lake - OPH Retail Subwatershed**  
 23 **Implementation). Motion carried, vote 4/0.**  
 24

25 **c) Brown's Creek Rock Crib – Pay Request #3 – Board Action**

26 Michael Welch noted that the administrator approved the \$250 change order for the  
 27 restocking fee for erosion control materials that were not used. The final invoice for  
 28 the project will show a change order reducing the price of the project by the cost of  
 29 the materials.

30 **Manager Maule Miller moved, seconded by Manager Johnson, to transfer**  
 31 **\$20,000 from account 947-0012 (Brown's Creek – McKusick Rd Stormwater**  
 32 **Retrofit) to account 947-0016 (Brown's Creek – BC Trails Park Parking Lot)**  
 33 **and to authorize payment #3 to Peterson Companies in the amount of \$4,445.77**  
 34 **from account 947-0016 (Brown's Creek – BC Trails Park Parking Lot). Motion**  
 35 **carried, vote 4/0.**  
 36

37 **d) Current Items Payable – Board Action**

38 **Manager Schwarze moved, seconded by Manager Maule Miller, to approve**  
 39 **payment of bills as presented in the amount of \$128,361.93.**

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
40				
41	Manager Johnson	x		
42	Manager Leiser	x		
43	Manager Maule Miller	x		
44	Manager Schwarze	x		
45	Manager Taillon			x

46 **Motion carried 4/0/1.**

1 Administrator Kill reported a total balance of \$837,647.53 after payables.

2 **5) Consent Agenda**

3 **Manager Maule Miller moved, seconded by Manager Schwarze, to approve the**  
4 **consent agenda:**

- 5 • **Approve minutes from June 14, 2017 Regular Meeting as presented.**
- 6 • **Accept the permit fee statement as presented**

7 **Motion carried, vote 4/0.**

8  
9 **6) Permits**

10 **a) BCWD Permit 16-04 Schneider Pool – Permit Amendment – Board Action**

11 Paula Kalinosky, EOR reported on a request for a permit amendment for the  
12 Schneider residence. The district engineer recommends approval of the  
13 amendment with conditions. The review was conducted for grading and drainage  
14 alteration for a proposed raingarden on the applicant’s property in Lake Elmo.  
15 The initial permit was for erosion control and drainage alteration associated with  
16 the installation of a pool. The approved grading plan for the initial design could  
17 not be fully executed due to a conflict in the utility easement. The revised plan  
18 addresses the drainage from the increased impervious surface to a low area near  
19 the south boundary of the lot with the potential to increase stormwater volumes  
20 discharging to the neighboring property.

21  
22 Michael Welch, Smith Partners noted the raingarden is a new feature and asked  
23 the district engineer to clarify whether a condition for maintenance should be  
24 added.

25 **Manager Leiser moved, seconded by Manager Johnson, to add a condition to**  
26 **record a maintenance declaration for the raingarden for permit application**  
27 **16-04. Motion carried, vote 4/0.**

28  
29 **Manager Johnson moved, seconded by Manager Schwarze, to approve the**  
30 **modification to permit 16-04, with conditions listed in the engineers report**  
31 **dated July 5, 2017, including the submission for approval, then recording**  
32 **after approval of a raingarden maintenance declaration. Motion carried,**  
33 **vote 4/0.**

34  
35 **b) BCWD Permit 17-04 The Lakes at Stillwater– Board Action**

36 Jared Fabian, EOR reported on the permit application for the Lakes at Stillwater,  
37 a senior living redevelopment project proposed for the south side of County Road  
38 12, about a half mile east of Manning Avenue North. It is a 58 acre site that  
39 covers six parcels including a portion of the former Jackson Wildlife Management  
40 Area. Tom Meyer with Landform Professional Services and Bill Howell with The  
41 Goodman Group are the project representatives and were introduced.

42  
43 The development of the site will be done in phases. Phase one includes clearing  
44 and grubbing, temporary stormwater management practices, site grading and  
45 construction of a 139-unit senior living building. Future phases may utilize  
46 stormwater management facilities and buffer areas constructed under the initial

1 permit but will need to be the subject of subsequent permit applications and will  
2 be assessed against the rules in effect at time of submission.

3 Approximately 2/3 of the site drains north into the ditch along County Road 12.  
4 The remaining portion of the site drains to Northland Pond via Long Lake and  
5 Jackson Pond.  
6

7 The applicant has requested a variance from compliance with the steep slope and  
8 buffer disturbance provisions of BCWD's buffer rule. EOR recommends that the  
9 managers consider the variance request and approve the application with  
10 conditions and stipulations as outlined in the engineer's report.  
11

12 Michael Welch, Smith Partners stated that it is important that the record for the  
13 permit before the managers this evening include an exhibit showing which  
14 elements of the project are included in phase one. Camilla Correll, EOR  
15 recommended adding this as a condition of the permit approval.  
16

17 Larry Timmerman lives south of the proposed development and had questions and  
18 concerns: Will there be additional variances and encroachments on the buffer?  
19 Tom Meyer responded no, they are not anticipating additional variances or  
20 encroachments on the buffer. Mr. Timmerman asked if there would be a trail and  
21 the consultant noted there is a trail within the development. Mr. Timmerman is  
22 also concerned about the encroachment within the buffer area of the wetland and  
23 believes other community members are concerned about this encroachment too.  
24 Administrator Kill noted the proposed buffer averaging has shown there is an  
25 overall gain to the size of the wetland buffer; the encroachment impacts 8,757  
26 square feet, while the area that would be added is 42,377 square feet. Mr.  
27 Timmerman noted his main concern is not having a full picture of the impacts  
28 from the whole development upfront before moving forward, instead of reviewing  
29 just a piece of it. Ms. Kill noted that BCWD can only evaluate what is presented  
30 in an application for permit approval.  
31

32 Dione Miesterling lives southwest of the site and is also concerned about the  
33 variance and the impacts on the buffer from disturbing the steep slope.  
34

35 Legal counsel pointed out a portion of 72<sup>nd</sup> Street is in the buffer. This is a public  
36 street and not a part of this development. It was also noted the landowners of all  
37 six parcels have signed an agreement but the developer does not own any of the  
38 lots yet. The managers asked about the timeline for the project. Tom Meyer  
39 anticipates securing land and completing agreements and permitting with the City  
40 of Stillwater in August, beginning construction in the fall, and completing the  
41 Phase I work in about 14 months. Legal noted the applicant might consider  
42 requesting approval of the permit for longer than the standard one-year term since  
43 the construction period will be longer than that.  
44

45 **Manager Schwarze moved, seconded by Manager Maule Miller, to approve**  
46 **permit application 17-04 and the variance requests for The Lakes at**

1 **Stillwater with conditions and stipulations listed in the engineers report**  
2 **dated July 10, 2017, and to require as a condition of approval submission of**  
3 **an exhibit to show the extent of phase one, and to approve the permit for 18**  
4 **months. Motion carried, vote 4/0.**  
5

6 Recess 8:01 pm – 8:08pm  
7  
8

- 9 c) **BCWD Permit 17-01 Farms of Grant – Not on agenda for approval - Add to**  
10 **July 25th Special Meeting**  
11 **Manager Schwarze moved, seconded by Manager Maule Miller to add the**  
12 **Farms of Grant permit application to the special meeting agenda. Motion**  
13 **carried, vote 4/0.**  
14

15 7) **Projects**

16 a) **110th Street**

17 (i) **Management Plan Workshop**

18 Kevin Biehn EOR reviewed the draft plan which includes both the natural  
19 areas management and usage plan. He discussed what was covered in the  
20 plan and items needing clarification.  
21

22 President Leiser tabled the review until after the public hearing.  
23

24 b) **Diversions Drainage Headcut – Board Action**

25 President Leiser recessed the regular meeting at 8:29 pm and opened the public  
26 hearing for the Diversion Drainage Headcut project.  
27

28 (i) **Public Hearing to Order Project**

29 Kevin Biehn EOR provided a summary of the project. EOR and the District  
30 Administrator have met with the landowners adjacent to the project area a  
31 number of times to discuss the headcut and solutions to mitigate the erosion.  
32 It is located on a tributary that flows from Long Lake to Lake McKusick and  
33 is about 500 feet downstream of Boutwell Road North in Stillwater. The  
34 engineer clarified that the diversion structure directs the water from Long  
35 Lake to Lake McKusick but during large rain events the water will top over  
36 the diversion structure and drain to Brown's Creek.  
37

38 The plan is to stabilize the headcut using a series of rock grade control  
39 structures which will help remove approximately 22 tons of sediment and 24  
40 pounds of phosphorus from the water annually. During the planning  
41 meetings with the landowners, tree thinning was discussed as a method to  
42 increase sunlight to help revegetate the groundcover and further prevent soil  
43 erosion. Landowners support the project but one is opposed to tree removal  
44 because of the loss of screening that would happen and two other residents  
45 have not attended any meetings. The engineer does not recommend moving  
46 forward with a partial tree thinning.

John Feely addressed the managers and noted he has watched this area since 1990 transition from farm land to the present canopy of boxelder and other fast growing trees. Mr. Feely endorses the project and believes the tree canopy thinning would be beneficial in stabilizing the soil and would like to see it happen.

Bruce & Margie Schwartebauer also live adjacent to the tributary and agree with Mr. Feely’s statement and support the tree thinning to establish the groundcover. They noted they saw the erosion when they moved in and appreciate that BCWD is addressing the problem and strongly feels that both the rock structures and the canopy thinning should occur.

Barb Medinger asked for clarification on the \$50,000 cost identified in the resolution and the \$30,000 stated in the public notice. It was clarified that the estimated construction cost is \$30,000 and the estimated engineering and construction oversight will be \$20,000.

President Leiser declared the public hearing closed at 8:58 pm and called the regular meeting back to order.

- (ii) **Resolution 17-01 Order Diversion Drainage Headcut Repair – Board Action**  
Manager Johnson moved, seconded by Manager Maule Miller, to adopt Resolution 17-01, ordering the Diversion Headcut Repair Project, authorizing the administrator with consent of counsel to enter into property-access agreements with the Schwartzbauers and Warrens, authorizing expenditure of \$19,575 from budget 959-0002 (Resource Assessment - Diversion Tribs - Head cut Repair) for EOR to prepare plans and specifications and perform construction management and oversight, and for the administrator to obtain quotes for the work for presentation to the managers. Motion carried. Vote 4/0.

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Manager Johnson	x			
Manager Leiser	x			
Manager Maule Miller	x			
Manager Schwarze	x			
Manager Taillon				x
<u>Motion carried 4/0/1.</u>				

7) **Projects**

a) **110th Street**

(i) **Management Plan Workshop**

The managers resumed the discussion of the 110<sup>th</sup> Street project and discussed restricted uses, and potential information to convey on the main entry sign. Sensitivity and fairness in language was emphasized when

1 addressing restricting horses from the site. The Board gave general direction  
2 to restrict all domestic animals and to not maintain trails on the property.  
3 President Leiser noted no overnight use should be called out since there are  
4 no sanitary facilities planned for the site.  
5

6 It was noted removal of barbed wire along the east boundary is not  
7 accounted for in the budget. Administrator Kill said that she will coordinate  
8 this with Washington County and possibly use Sentence to Serve and will  
9 coordinate with the neighbor who is pasturing animals in the adjacent field.  
10 Kevin Biehn noted the usage plan can be modified in the future.  
11

12 Legal counsel explained BCWD's ability restrict access to land it owns and  
13 specifics required for signage.  
14

15 Manager Maule Miller asked for an update on discussions with neighbors on  
16 access and shared parking. Administrator Kill note she has been in touch  
17 with the business owner and will follow-up with Mr. Farnham on a potential  
18 access agreement. President Leiser asked the managers to review the plan  
19 before the August regular meeting and be prepared to make decisions.  
20

21 **(i) Property Boundary Signage**

22 Kevin Biehn, EOR reported the scope of work is for design, fabrication, and  
23 installation. The boundary points are currently marked by lath and EOR also  
24 has them as GIS digital points.  
25

26 **(ii) Neal Ave Raingardens – Board Action**

27 Administrator Kill reported that at the June regular meeting the managers  
28 had approved to permanently close the Neal Avenue raingarden at the Olson  
29 residence because of a lack of infiltration. Since the hydroexcavation in  
30 June, it appears to be draining following a number of large rain events and  
31 the Washington Conservation District staff recommends restoring the  
32 garden rather than removing it.

33 **Manager Schwarze moved, seconded by Manager Maule Miller, to**  
34 **revoke the previous motion to amend the agreement with All Weather**  
35 **Services to permanently close the raingarden for not to exceed \$2,500,**  
36 **and to authorize the administrator to proceed with an amendment of**  
37 **the agreement for not to exceed \$1,500 to restore the Olson raingarden**  
38 **from account 948-0000 (CIP Maintenance) Motion carried, vote 4/0.**  
39

40 **8) Discussion Agenda – No Action Required.**

41 **a) Administrator Updates**

42 Administrator Kill reported on current BCWD activities.  
43  
44  
45  
46

1           **b) Communications & Manager Reports**

2           President Leiser reported on the annual Minnesota Association of Watershed Districts  
3           (MAWD) meeting. Manager Maule Miller reported on presentations she attended at  
4           the annual MAWD meeting.  
5

6           **c) August 2017 BCWD Board Agenda**

7           No items were suggested.  
8

9   **10) Adjournment**

10           **Manager Johnson moved, seconded by Manager Maule Miller, to adjourn the**  
11           **Regular Meeting at 10:07PM. Motion carried, vote 4/0.**  
12

13   Respectfully Submitted by

14   Carmen Simonet, Recorder and Gerald Johnson, Recording Secretary