



1
2 Approved Minutes of the Regular Meeting of the Brown's Creek Watershed District Board of
3 Managers, Wednesday, September 8, 2021 at 6:30 PM
4

5 *Based on the Brown's Creek Watershed District president's determination pursuant to*
6 *Minnesota Statutes 13D.021, subdivision 1, that it was not prudent to meet in person because of*
7 *health concerns raised by the COVID-19 pandemic, the meeting was held electronically, via*
8 *webcast.*

9
10 **ROLL CALL**

Managers Present:	Others Present:
Klayton Eckles, President	Karen Kill, Administrator
Gerald Johnson, Treasurer	Carmen Simonet, Recorder
Charles LeRoux, Secretary	Michael Welch, Smith Partners, BCWD counsel
Celia Wirth, Vice President	Camilla Correll, EOR, BCWD engineer
	Cameron Blake, BCWD staff
	Ryan Fleming, EOR, BCWD engineer
	Bill Howell, The Lakes at Stillwater
	Arthur Shelley, The Lakes at Stillwater
	Delbert Miske, Grace Baptist Church
	Lee Miller & Ann Maule Miller, residents

11
12 **1) Call Regular Meeting to Order @ 6:30PM**
13 President Eckles called the Regular Meeting to order at 6:30PM.
14

15 **2) Approve Regular Meeting Agenda and Discussion Agenda**
16 One additional item was added to the agenda under new business: 8e) Kimbro Basin
17 Piezometers.

18 **Manager Johnson moved, seconded by Manager LeRoux, to approve the Regular**
19 **Meeting agenda and discussion agenda as amended.**

	Yea	Nay	Abstain	Absent
<u>Manager Eckles</u>	<u>X</u>			
<u>Manager Johnson</u>	<u>X</u>			
<u>Manager LeRoux</u>	<u>X</u>			
<u>Manager Wirth</u>	<u>X</u>			
<u>Motion carried 4/0.</u>				

20
21
22
23
24
25
26
27

1 3) **Public Comments**
 2 There were no public comments.

3
 4 4) **Consent Agenda**
 5 **Manager Johnson moved, seconded by Manager Wirth, to approve the consent**
 6 **agenda:**

- 7 • **Approve minutes of August 11, 2021 Regular Meeting as presented.**
- 8 • **Accept the permit fee statement as presented.**

	Yea	Nay	Abstain	Absent
9 <u>Manager Eckles</u>	<u>X</u>			
10 <u>Manager Johnson</u>	<u>X</u>			
11 <u>Manager LeRoux</u>	<u>X</u>			
12 <u>Manager Wirth</u>	<u>X</u>			
13 <u>Motion carried 4/0</u>				

14
 15
 16 5) **Treasurer's Report**
 17 a) **Review Authorized Funds Spreadsheet**

18 Administrator Kill presented the authorized funds spreadsheet.

19 **Manager Johnson moved, seconded by Manager Wirth, to approve the**
 20 **authorized funds spreadsheet as presented.**

	Yea	Nay	Abstain	Absent
21 <u>Manager Eckles</u>	<u>X</u>			
22 <u>Manager Johnson</u>	<u>X</u>			
23 <u>Manager LeRoux</u>	<u>X</u>			
24 <u>Manager Wirth</u>	<u>X</u>			
25 <u>Motion carried 4/0.</u>				

26
 27
 28 b) **Current Items Payable – Board Action**

29 **Manager Johnson moved, seconded by Manager Wirth, to approve payment of**
 30 **bills as presented in the amount of \$61,016.47.**

	Yea	Nay	Abstain	Absent
31 <u>Manager Eckles</u>	<u>X</u>			
32 <u>Manager Johnson</u>	<u>X</u>			
33 <u>Manager LeRoux</u>	<u>X</u>			
34 <u>Manager Wirth</u>	<u>X</u>			
35 <u>Motion carried 4/0.</u>				

36
 37
 38 6) **Permits**

39 a) **BCWD Permit 17-04 The Lakes of Stillwater – Three Year Permit Extension**
 40 **Request – Board Action**

41 Administrator Kill reported The Lakes at Stillwater is requesting a three-year permit
 42 extension. Their most recent permit is in good standing and a public notice was sent
 43 to surrounding neighbors.

44
 45 Bill Howell, the executive director of the senior living facility reported final costs for
 46 construction of the trail project came in high and they are postponing the work to see

1 if costs will come down. They hope to complete the project next year, construction
 2 should take about three months.

3 **Manager Wirth moved, seconded by Manager Johnson, to approve an extension**
 4 **of BCWD permit 17-04 Lakes of Stillwater Senior Living to December 31, 2024.**

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
5 <u>Manager Eckles</u>	<u>X</u>			
6 <u>Manager Johnson</u>	<u>X</u>			
7 <u>Manager LeRoux</u>	<u>X</u>			
8 <u>Manager Wirth</u>	<u>X</u>			
9 <u>Motion carried 4/0.</u>				

10
 11
 12 **7) 2022 Budget**

13 **a) Review Draft Budget**

14 Administrator Kill gave an overview of the proposed budget and levy and noted
 15 there is no increase to the levy from 2021.

16
 17 President Eckles asked about potential funding sources for reuse projects noting a
 18 sizable grant the city of Hugo received for reuse projects. Ms. Kill identified
 19 potential resources and noted she will contact the city of Hugo to learn more about
 20 their project funding. Ms. Kill also noted an upcoming webinar, September 21st, by
 21 the Minnesota Climate Adaptation Partnership on new grant opportunities and
 22 making communities resilient. She will send webinar information out to the Board.

23
 24 Karen Kill reported the county board budget presentation will follow the regular
 25 county board meeting on October 26th. It will be live web-streamed and at least one
 26 Board member is requested to attend. Prior to the county presentation, the
 27 administrator reported she will meet with two of the commissioners to go over the
 28 BCWD proposed budget. President Eckles and Manager Wirth will also attend.

29
 30 **b) Public Hearing**

31 President Eckles closed the regular meeting and opened a public hearing for the
 32 2021 budget and levy at 7:11pm.

33
 34 President Eckles asked the public if there were any comments. No member of the
 35 public was present to comment.

36
 37 **Manager Wirth moved, seconded by Manager Eckles to close the public hearing**
 38 **at 7:13pm.**

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
39 <u>Manager Eckles</u>	<u>X</u>			
40 <u>Manager Johnson</u>	<u>X</u>			
41 <u>Manager LeRoux</u>	<u>X</u>			
42 <u>Manager Wirth</u>	<u>X</u>			
43 <u>Motion carried 4/0.</u>				

1
2 **c) Resolution 2021-04 Budget and Levy**

3 Michael Welch noted the public will have another opportunity to comment on the
4 BCWD budget and levy at the December regular meeting.

5 **Manager Wirth moved, seconded by Manager Johnson, to adopt resolution 21-**
6 **04, adopting an operating and capital budget totaling \$2,019,357, including**
7 **\$1,814,957 for management plan implementation and \$204,000 for operations;**
8 **with 2021 carryover and certain non-levy revenues totaling \$897,080, resulting**
9 **in a levy of \$1,122,277 including \$152,900 for the general fund as provided by**
10 **Minnesota Statutes section 103D.905 and \$969,377 for the management**
11 **planning fund as provided by the Minnesota Statutes section 103B.241.**

	Yea	Nay	Abstain	Absent
12 <u>Manager Eckles</u>	X			
13 <u>Manager Johnson</u>	X			
14 <u>Manager LeRoux</u>	X			
15 <u>Manager Wirth</u>	X			
16 <u>Motion carried 4/0.</u>				

17
18
19 **8) New Business**

20 **a) Watershed District Walking Tour – September 15th 4-6pm (rain date**
21 **September 29th 4-6pm)**

22 Ms. Kill confirmed the dates for the BCWD walking tour September 15th and rain
23 date September 29th. Ms. Kill will send out invitations with details.

24
25 **b) Flood Risk Reduction Policy Discussion**

26 Karen Kill reported the Board has talked about creating a policy or potential project
27 to provide assistance with flood risk reduction, but have not yet established a policy.
28 Lee Miller, a resident on Long Lake sent a letter to BCWD requesting design
29 assistance on flood prevention and is here this evening to discuss the potential for
30 flood risk reduction assistance.

31
32 Mr. Miller thanked BCWD for providing information on flood risk on Long Lake.
33 The Millers learned from that meeting that their home is currently below the 100-
34 year storm elevation. They would have a flooded basement if such a storm occurred
35 and there are potential home improvements they could make to reduce flood risk to
36 their home. The Millers are seeking advice on how to proceed with developing a
37 design and finding a contractor to perform the work.

38
39 Ann Maule Miller asked President Eckles about the Woodbury flood assistance
40 project he participated in as a city engineer for Woodbury. Manager Eckles stated
41 that Woodbury had a 100-year event and several million dollars of damage
42 throughout the city. Flooding happened not only in low areas, but also in unexpected
43 places from storm pipes plugging and lack of emergency overflow on some of the
44 ponds. The city developed an assistance program where it offered to subsidize
45 engineering services and the homeowner contracted directly with the consultant for
46 services.

1
2 Ms. Miller asked about the city of Stillwater's role in managing lake water level.
3 Manager Eckles provided context by describing the challenges the city faced in the
4 past in attempting to reduce high water risks. The city proposed lowering the level of
5 Long Lake. Homeowners at lower elevations liked the solution, but homeowners on
6 high ground did not because they were concerned it would reduce property values.
7 They successfully lobbied to maintain a higher lake level.
8

9 Michael Welch reviewed legal considerations in developing a flood-risk reduction
10 program. BCWD projects have focused on improvements to water quality in public
11 water resources, where a flood assistance program would address projects on private
12 property to benefit that property. Flood risk management is within the statutory
13 purposes of BCWD. But a decision to undertake flood-risk reduction needs to be
14 based on a record showing that the benefit sought needs to primarily serve public
15 purposes. He also noted that a flood program would need to be supported by and
16 support the BCWD watershed management plan, which presently does not identify a
17 relevant program or policy beyond continuing to implement flood-risk protections in
18 the rules.
19

20 The Millers request for design assistance raises the issue of liability if BCWD serves
21 as a consultant. Manager Eckles noted the homeowner could agree to take on the
22 liability using a cost-share agreement.
23

24 Manager Eckles asked what else should be considered in developing a pilot program.
25 Michael Welch pointed out the public purpose doctrine is a framework to address the
26 issue. BCWD can identify questions and criteria in developing a policy and bring it
27 to a meeting to be adopted and start a pilot program. Administrator Kill noted an
28 amendment to the watershed management plan would also very likely be needed
29 because presently the plan does not identify a relevant program or policy beyond
30 continuing to implement flood-risk protections in the rules. She noted that the
31 amendment process would take a few months.
32

33 The Board agrees a policy is needed and discussed next steps toward developing a
34 program, including:

- 35 • Staff could gather resources and make them available, such as a list of
36 businesses providing design services or construction services for the
37 homeowner to hire.
- 38 • Staff could talk with EOR and other engineering firms to determine what is
39 involved in a flood-risk design consultation, including what the tasks and
40 costs are for various levels of service.
- 41 • The information could be gathered into a resource manual.
42

43 Manager Eckles proposed using the Millers' project as a pilot project to inform the
44 development of a flood assistance program. It would be a useful step to gauge the
45 hours and costs to perform a flood risk reduction design consultation with alternative
46 design concepts and cost estimates. This information could be utilized to create a

1 request for services to identify design firms interested and capable of doing the work
 2 at a reasonable rate.

3
 4 Manager Wirth noted the need for an adopted policy, the managers can answer
 5 property owners who come to BCWD with requests.
 6

7 **Manager Wirth moved, seconded by Manager Eckles, to authorize expenditure**
 8 **not to exceed \$2,000 from flood risk assessment fund 923-0002 for EOR to**
 9 **perform a pilot project homeowner flood risk reduction design consultation,**
 10 **with alternative concepts and probable costs.**

	Yea	Nav	Abstain	Absent
11 <u>Manager Eckles</u>	<u>X</u>			
12 <u>Manager Johnson</u>	<u>X</u>			
13 <u>Manager LeRoux</u>	<u>X</u>			
14 <u>Manager Wirth</u>	<u>X</u>			

15 **Motion carried 4/0.**
 16
 17

18 **c) MAWD Watershed Based Funding Policy**

19 Administrator Kill reported the Minnesota Association of Watershed Districts
 20 (MAWD) provided a policy review and recommendation for the Board of Water and
 21 Soil Resources (BWSR) watershed-based implementation funding. Ms. Kill noted
 22 BCWD participates in the Lower St. Croix One Watershed One Plan, likely reducing
 23 BCWD’s direct interest in the policy.
 24

25 The Board discussed the MAWD request and opted to not take a board position.
 26

27 **d) MAWD Resolutions**

28 Karen Kill reported that every year the Minnesota Association of Watershed
 29 Districts requests MAWD members to submit policy recommendations. Ms. Kill
 30 called attention to the established resolution supporting limited liability for certified
 31 salt applicators and stressed the importance of supporting this policy issue as a
 32 means of reducing the excessive use of salt on walks and parking lots by entities
 33 concerned about liability.
 34

35 Ms. Kill clarified for the Board that MAWD represents watershed districts with
 36 lobbying and advocacy services at the capitol. Supporting a resolution helps MAWD
 37 prioritize its legislative agenda and advocacy efforts at the capitol.
 38

39 The Board does not have any new resolutions to make. They agreed that BCWD
 40 delegates should express their support for the limited liability for certified
 41 commercial salt applicators resolution as an important policy issue at the MAWD
 42 Annual Meeting.
 43

44 **e) Kimbro Basin Piezometers**

45 Karen Kill reported two piezometers were installed near the Kimbro Basin in 2020.
 46 Stu Grubb has talked to the Department of Natural Resources about transferring

ownership and they are interested in taking over the piezometer (P-2) located in the right of way on the south side of County Road 12.

Manager Wirth moved, seconded by Manager LeRoux, to authorize the administrator with advice of legal counsel to transfer ownership of piezometer P-2 to DNR.

	Yea	Nay	Abstain	Absent
<u>Manager Eckles</u>	<u>X</u>			
<u>Manager Johnson</u>	<u>X</u>			
<u>Manager LeRoux</u>	<u>X</u>			
<u>Manager Wirth</u>	<u>X</u>			
<u>Motion carried 4/0.</u>				

9) **Discussion Agenda – No Action Required**

a) **Updates**

(1) **Administrator**

Karen Kill gave an update on current BCWD activities including the status of the water reuse projects.

(2) **Legal** - No additional reports.

(3) **Engineer** - No additional reports.

(4) **Managers**

Manager Eckles asked that a large sign be placed near the Brown’s Creek Trail during the BCWD Community Event to invite trail users to join the event. Karen Kill acknowledged the opportunity and that staff has signs prepared.

b) **October 2021 Regular BCWD Board Agenda**

No items were suggested.

10) **Adjournment**

Manager Johnson moved, seconded by Manager Wirth, to adjourn the Regular Meeting at 9:11PM.

	Yea	Nay	Abstain	Absent
<u>Manager Eckles</u>	<u>X</u>			
<u>Manager Johnson</u>	<u>X</u>			
<u>Manager LeRoux</u>	<u>X</u>			
<u>Manager Wirth</u>	<u>X</u>			
<u>Motion carried 4/0.</u>				

Respectfully Submitted by

Carmen Simonet, Recorder and Charles LeRoux, Recording Secretary