



Minutes of the regular meeting of the Brown's Creek Watershed District Board of Managers, Wednesday April 13, 2022 at 6:30 p.m., Family Means, 1875 Northwestern Avenue South, Stillwater.

ROLL CALL

Managers Present:	Others Present:
Klayton Eckles, President	Camilla Correll, EOR, BCWD engineer
Gerald Johnson, Treasurer	Karen Kill, BCWD Administrator
Charles LeRoux, Secretary	Michael Welch, Smith Partners, BCWD counsel
Rob McKim	Cameron Blake, BCWD staff
Celia Wirth, Vice President	Mike Majeski, EOR, BCWD engineer
	Tyler See, Abdo

1) Call Regular Meeting to Order

President Eckles called the regular meeting to order at 6:32 p.m.

2) Approve Regular Meeting Agenda and Discussion Agenda

Manager Johnson requested to add hybrid meeting discussion to the agenda under item 7b. Manager Wirth moved, seconded by Manager Johnson, to approve the agenda as amended. Motion carried, vote 5/0.

3) Public Comments

There were no public comments.

4) Consent Agenda

Manager McKim moved, seconded by Manager Johnson, to approve the consent agenda as presented:

- Approve minutes from March 16, 2022 regular meeting as presented.
- Accept the permit fee statement as presented.
- Authorize President Eckles to execute the amended and restated Washington Conservation District agreement.
- Approve 2022 BCWD newsletter scope, not to exceed \$3,300 from account 910-0000 (Education).
- Approve annual report for distribution.
- Approve the EOR scope of services for Iron Enhanced Sand Filter 2022 O&M not to exceed \$10,170 from account 948-0000.

- **Authorize the administrator to execute the Watershed Outlet Monitoring Program contract with Metropolitan Council on advice of counsel.**

	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
<b>Manager Eckles</b>	<b>X</b>			
<b>Manager Johnson</b>	<b>X</b>			
<b>Manager LeRoux</b>	<b>X</b>			
<b>Manager McKim</b>	<b>X</b>			
<b>Manager Wirth</b>	<b>X</b>			
<b><u>Motion carried 5/0.</u></b>				

5) **Treasurer’s Report**

a) **Review Authorized Funds Spreadsheet**

Administrator Kill explained that the \$66,800 revenue line item under budget category 100-3630 (Washington County Cost Share Applewood Reuse) represented the county’s contribution to the project cost. Ms. Kill explained that BCWD has budgeted \$401,000 for the project, but bids were substantially lower than expected. In response to a question from Manager McKim, Ms. Kill said any remaining funding would be available for a different project.

**Manager Johnson moved, seconded by Manager LeRoux, to accept the authorized funds spreadsheet as presented. Motion carried 5/0.**

b) **Current Items Payable – Board Action**

**Manager Johnson moved, seconded by Manager Wirth, to approve payment of bills as presented in the amount of \$77,615.**

Manager Johnson presented the treasurer’s report. Manager McKim confirmed with Manager Johnson that as treasurer, he would bring forward any anomalies in the items-payable list for discussion with the other board managers. Manager Johnson said yes, but that he has not had any such issues since the board created the current financial management structure some years ago.

	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
<b>Manager Eckles</b>	<b>X</b>			
<b>Manager Johnson</b>	<b>X</b>			
<b>Manager LeRoux</b>	<b>X</b>			
<b>Manager McKim</b>	<b>X</b>			
<b>Manager Wirth</b>	<b>X</b>			
<b><u>Motion carried 5/0.</u></b>				

Manager Eckles explained his view that the board’s role is to set policy direction and the budget, then authorize the administrator to implement its direction. He noted that the board could be less engaged in details. Manager McKim said he appreciated detail in financial management because the board is accountable for BCWD’s spending. This provides oversight and upholds the responsibility to watershed taxpayers.

1           **c) 2021 Audit Presentation**

2           Tyler See, an accountant with BCWD’s contracted auditor, Abdo, presented the 2021  
3           audit report.

4           The audit found no noncompliance and Abdo has drafted a clean, unmodified  
5           opinion. The one recurring finding for BCWD related to internal control is a common  
6           finding for entities like BCWD that don’t hire an auditor to audit the auditor.  
7

8           Administrator Kill explained that Abdo has provided a draft management response to  
9           the audit finding, which notes that the board has accepted the risk associated with the  
10          finding. The board concurred in the response. Manager LeRoux asked if past audits  
11          have resulted in findings. Ms. Kill said the implementation of internal-control  
12          measures addressed past findings.  
13

14          The audit must be submitted to the state by June 30. BCWD uses the audit numbers in  
15          its annual report, which is due to the Board of Water and Soil Resources by April 30.  
16          The audit is submitted electronically by Abdo.

17          **Manager Wirth moved, seconded by Manager Eckles, to accept the audit report**  
18          **and direct submission to the state. Motion carried 5/0.**  
19

20          **6) Projects**

21           **a) Brown’s Creek Biological Monitoring – Board Action**

22           EOR biologist Mike Majeski presented the results of the 2021 macroinvertebrate  
23           survey of Brown’s Creek. BCWD conducts macroinvertebrate surveys annually and  
24           fish surveys biennially. These data are used to support and inform district projects  
25           and the data are provided to the Minnesota Pollution Control Agency. Mr. Majeski  
26           noted that the portion of Brown’s Creek upstream of Manning Avenue was given a  
27           new designation as “cool/warm water habitat,” which came with a new impairment  
28           listing for fish. In response to a question from Manager Wirth, Administrator Kill  
29           explained that there was no observed impact to Brown’s Creek from the 2008  
30           Millbrook development. Mr. Majeski explained that water quality in South Twin  
31           Lake has improved after development of the surrounding watershed because the  
32           treatment standards imposed improved runoff from the historic agriculture use  
33           around the lake.  
34

35           Manager Eckles asked if Brown’s Creek tributaries were still designated as a trout  
36           stream. Administrator Kill explained that the Department of Natural Resources  
37           defines any tributary in the same section line as a trout stream has the same  
38           designation. Mr. Majeski noted trout can migrate through barriers in high-water  
39           events and have been found in the tributaries.  
40

41           Mr. Majeski stated that the scope of work in the packet for the meeting provides for  
42           continued collection of macroinvertebrates data. In response to a question from  
43           President Eckles, Mr. Majeski explained that data on macroinvertebrates in the creek  
44           do not exist prior to 2015 when BCWD begin collecting data. The MPCA collects  
45           data in wide increments which does not produce data that can be used to detect  
46           trends. Administrator Kill explained that these data are needed to understand if

1 district projects and activities are working. The board discussed the sighting of a  
2 Louisiana waterthrush in the Brown's Creek gorge.

3 **Manager McKim moved, seconded by Manager Wirth, to approve not to exceed**  
4 **\$6,005 from account 947-0018 for the macroinvertebrate scope as presented.**  
5 **Motion carried 5/0.**  
6

7 **b) South School Section and Goggins Lakes Aquatic Vegetation Management–**  
8 **Board Action**

9 Administrator Kill explained that with the unpredictable spring this year the curly-  
10 leaf pondweed survey has not been completed but there is a risk that the treatment  
11 window may pass by the May board meeting. Treatment must be done before water  
12 temperature reaches 60 degrees due to how the herbicide works and to avoid harm to  
13 native species of vegetation.

14 Manager Wirth disclosed that one of the companies considered for the work is a  
15 customer of hers, but is not the one who was selected for the proposed contract.

16 **Manager Wirth moved, seconded by Manager LeRoux, to authorize the**  
17 **engineer to provide regulatory and project oversight for curly-leaf pondweed**  
18 **treatment of South School Section and/or Goggins lakes, if needed, at a cost not**  
19 **to exceed \$2,400, and authorize the administrator, on advice of counsel, to enter**  
20 **an agreement with Lake Management Inc. for curly-leaf pondweed treatment**  
21 **of South School Section and/or Goggins lakes, if needed, at a cost not to exceed**  
22 **\$7,675 from account 950-0001. Motion carried 5/0.**  
23

24 **c) Flood Risk Management Policy**

25 **(1) Management Plan Amendment Scope – Board Action**

26 Administrator Kill updated the board that the Board of Water and Soil Resources  
27 agreed that BCWD's amendment of its watershed plan to better address flooding  
28 could follow the minor-amendment protocol. The administrator, engineer and legal  
29 counsel have drafted the scope of work for completing a draft amendment that is in  
30 the packet for tonight's meeting.

31  
32 President Eckles asked if the plan policies could be amended first, with work items  
33 to be developed later. Administrator Kill explained that implementation items have  
34 been identified that the board will want included in the amendment. Following a  
35 request from Ms. Kill, the managers discussed the potential benefits of additional  
36 community engagement in the amendment-drafting process. President Eckles noted  
37 the process would provide a good opportunity for the member communities and staff  
38 to interact. Manager McKim suggested the board approve the full list of tasks  
39 presented in the scope.  
40

41 **Manager McKim moved, seconded by Manager Wirth, to approve the plan-**  
42 **amendment drafting scope at a cost not to exceed \$12,387 from fund 927-0000**  
43 **Management Plan Update. Motion carried 5/0.**  
44

45 The managers discussed whether to schedule a community review of the plan-  
46 amendment issues before initiating the required review-and-comment period and

1 agreed that the administrator should discuss the subject of flood preparedness with  
2 watershed city representatives again to help inform the managers' decision at a  
3 subsequent meeting. President Eckles said he would rather the amendment be done  
4 right than push it out in time for the 2023 budget cycle.  
5

6 **(2) Climate Resiliency Planning – Next Steps**

7 Administrator Kill reported that BCWD did not receive a state climate-resiliency  
8 grant, applied for in partnership with Carnelian Marine St. Croix Watershed District,  
9 Comfort Lake Forest Lake Watershed District, and Middle Str. Croix Water  
10 Management Organization. Two of the organizations are moving forward with their  
11 planned activities without the state funding. Administrator Kill asked for board  
12 direction.  
13

14 President Eckles asked if the grant funding cycle is known. Administrator Kill said  
15 this was the first time the grant was offered so it is not known if it will be offered  
16 again. The state prioritized less affluent areas for the first round of funding.  
17 President Eckles asked when results would be available from the awarded  
18 communities. Mr. Correll said EOR is doing the type of work proposed in the City of  
19 Rochester and could share the detailed subwatershed flood hazard layer created for  
20 this project with the BCWD board in a month or two. Ms. Correll noted there are  
21 many benefits to collaborative efforts for this work such as cost savings and  
22 avoiding replicative work within communities that are in multiple watershed  
23 districts. The board asked for a report on EOR's work in Rochester to better  
24 understand what BCWD would get out of these efforts beyond what federal flood  
25 maps show.  
26

27 **7) Discussion Agenda – No Action Required**

28 **a) Updates**

29 **(1) Administrator -**

30 The managers directed staff to develop options and prices for ordering BCWD  
31 apparel.  
32

33 Administrator Kill discussed revisiting efforts to connect with communities in  
34 BCWD now that meetings are possible again with COVID restrictions lowered.  
35 This may be a good opportunity to discuss the plan amendment and potential  
36 rule revisions.  
37

38 **(2) Legal – EOR Service Contract**

39 Mr. Welch explained that the board approved modification of the terms of  
40 EOR's contract as the BCWD engineer. The hourly rates approved would have  
41 resulted in a retainer amount that was greater than what had been proposed by  
42 EOR. He did not discover this until actually drafting the amendment, and  
43 wanted the managers to be aware that the lower retainer amount was used in  
44 amending the contract. The managers concurred in this decision.  
45

1 Mr. Welch updated the managers on the growing sense of watershed  
2 organization representatives, especially in the metro area, that the Board of  
3 Water and Soil Resources is routing Watershed-Based Implementation  
4 Funding to soil and water conservation organizations, and that the One  
5 Watershed, One Plan framework is increasing being viewed as subsuming  
6 watershed organizations plans.  
7

8 President Eckles said the joint powers agreements among One Watershed, One  
9 Plan partners articulate the terms of their partnerships, and should be definitive.  
10 Administrator Kill said the Lower St. Croix partners are also discussing  
11 whether to move from a partnership model to the creation of a new entity for  
12 implementing the Lower St. Croix plan.  
13

14 Manager McKim asked counsel and staff to keep the managers apprised on  
15 developments that directly affect BCWD.  
16

17 **(3) Engineer** – No additional reports.

18 **(4) Managers** – No additional reports  
19

20 **b) May 11, 2022 Regular Meeting BCWD Board Agenda and Location/Hybrid**  
21 **Meeting Discussion**

22 The managers discussed the legal and practical difficulties of hybrid online/in-person  
23 meetings and agreed to revisit the option if necessary, but meanwhile to  
24 hold the May meeting in person.  
25

26 **10) Adjournment**

27 **Manager McKim moved, seconded by Manager LeRoux, to adjourn the regular**  
28 **meeting at 9:05 p.m. Motion approved 5/0.**  
29

30 Respectfully Submitted by

31 Cameron Blake, BCWD Staff and Charles LeRoux, Recording Secretary  
32