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2 FINAL Minutes of the regular meeting of the Brown's Creek Watershed District Board of
3 Managers, Wednesday September 14, 2022
4

5 ROLL CALL

Managers Present:	Others Present:
Klayton Eckles, President	Karen Kill, BCWD Administrator
Celia Wirth, Vice President	Camilla Correll, EOR, BCWD Engineer
Charles LeRoux, Secretary	Michael Welch, Smith Partners, BCWD counsel
Gerald Johnson, Treasurer	Cameron Blake, BCWD staff
Rob McKim, 2 nd Vice President	Ryan Fleming, EOR, BCWD Engineer (attended remotely)
	Sandy Johnson, Resident
	Harry Pearson, Resident
	Mary Ruck, Resident
	Mark Lindsay, Resident
	Kevin Heichel, Resident

- 6
7 **1) Call Regular Meeting to Order**
8 Manager Klayton Eckles called the regular meeting to order at 6:30 p.m.
9
- 10 **2) Approve Agenda**
11 Manager Celia Wirth proposed an addition to the agenda as 8c: Charles LeRoux oath.
12 **Manager Wirth moved, seconded by Manager Johnson, to approve the agenda as**
13 **amended. Motion carried, vote 5/0.**
14
- 15 **3) Public Comments**
16 None
17
- 18 **4) Consent Agenda**
19 **Manager Johnson moved, seconded by Manager Wirth, to approve the consent**
20 **agenda as presented:**
21 **a) Approve board meeting minutes of the August 10, 2022 regular meeting**
22 **b) Accept permit fee statement**
23 **Motion carried 5/0.**
24
25
26

1 **5) Treasurer’s Report**

2 **a) Review Authorized Funds Spreadsheet**

3 Administrator Karen Kill had one item to address in the spreadsheet; transferring
 4 funds to fund a previous board motion action regarding Groundwater Trends
 5 Measuring.

6 **Manager McKim moved, seconded by Manager Wirth, to transfer \$1,936 from**
 7 **account 300-4950 to 942-0004. Motion carried 5/0.**

8
 9 **Manager Johnson moved, seconded by Manager Wirth, to accept the authorized**
 10 **funds spreadsheet as amended. Motion carried 5/0.**

11
 12 **b) Current Items Payable**

13 **Manager Johnson moved, seconded by Manager LeRoux, to approve payment of**
 14 **bills as presented in the amount of \$78,609.10.**

15 Manager Jerry Johnson presented the treasurer’s report, and recommended payment
 16 of the bills as presented.

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
17 <u>Manager Eckles</u>	<u>X</u>			
18 <u>Manager Johnson</u>	<u>X</u>			
19 <u>Manager LeRoux</u>	<u>X</u>			
20 <u>Manager McKim</u>	<u>X</u>			
21 <u>Manager Wirth</u>	<u>X</u>			

22 **Motion carried 5/0.**

23
 24
 25 Manager Rob McKim inquired, with regard to the EOR invoice, where he could find
 26 the percentage breakdown of operations versus project and program implementation.
 27 He requested this information be made more clear. Administrator Kill explained the
 28 BCWD 10-year management plan outlines a target of 25% of the BCWD budget
 29 going to project implementation; this has been met or exceeded each year. The budget
 30 breakdown is listed in the annual report each year but this information could be listed
 31 elsewhere if the board requests.

32
 33 The managers discussed how they have chosen to review invoices and financial
 34 information and the amount of detail that is included in the board packet based on the
 35 current board’s preference. Currently the detailed invoice with the time breakdown is
 36 reviewed by the treasurer, but the rest of the board could receive that as well if they
 37 wish. This discussion could be added as an agenda item at a future board meeting.

38
 39 Manager Johnson stated that BCWD is in good fiscal shape and as treasurer he does
 40 not have concerns.

41
 42 **6) a) BCWD Permit #13-10 Brown’s Creek Preserve – Permit Amendment Flood**
 43 **Protection**

44
 45 Ryan Fleming presented the request, noting that permittee Jon Whitcomb has requested
 46 closeout of permit 13-10 and return of the \$9,000 financial assurance. In reviewing the

1 submitted as-built drawings, the BCWD engineer discovered that the constructed
2 stormwater-management system did not match the system as proposed. In addition, the
3 engineer discovered an error in the modeling that was, in part, the basis for the permit
4 approval. Fleming (EOR) presented the engineers memo and recommendation to the
5 board to reconstruct the outlet of Basin B to provide one foot of freeboard for lot 11 of
6 the development. This would entail lowering the seven-foot wide berm overflow 1.4 feet
7 and keeping the same 3:1 foot side profile. EOR's survey confirmed that if this option is
8 pursued, excavation to lower the overflow will need to extend approximately 33 feet
9 behind the basin to match the grade at an existing north-south drainage ditch. This outlet
10 modification would maintain existing flood protection for downstream properties. EOR
11 also recommends requiring an as-built survey of the reconstructed outlet. On acceptance
12 of the amendment by the permittee and approval of the as-built drawings by the BCWD
13 administrator, permit 13-10 will be closed and the remaining \$9,000 financial assurance
14 would be returned to the permittee. This recommendation was discussed with Mr.
15 Whitcomb prior to the board meeting and he has verbally agreed to reconstruct the outlet
16 of Basin B as recommended.

17
18 Administrator Kill explained the BCWD does not always require that a permittee
19 demonstrate performance of stormwater practices, but does require as-builts to confirm
20 construction as designed. In this case, the basin was not built to the approved design.

21
22 Sandy Johnson, who lives in the home on lot 11, asked what this all meant for her home
23 and the managers explained that the model was showing her property has one inch of
24 freeboard during a 100-year storm event under current conditions. The standard is two
25 feet of freeboard. The recommended modification would provide one foot of freeboard.

26
27 Michael Welch explained that BCWD engineers explored solutions that would benefit
28 both flood control and water quality, but the water-quality performance cannot readily be
29 improved, so the engineer is recommending the flood control option. BCWD is working
30 with the developer to address the issue, but is retaining financial assurance so if that is
31 not successful the district can pursue other options -- possibly working with the city).

32
33 Ms. Johnson thanked the district for identifying this issue and asked what kind of
34 timeline the residents could expect. Administrator Kill explained the current
35 recommendation is the original developer address the issue. The board is making a
36 decision now so that there could be time for the issue to be addressed by the developer
37 this fall. It will be the developer's responsibility to acquire access rights necessary to
38 complete the improvement.

39
40 Manager Eckles requested EOR look into what condition assumption is being used in
41 modeling stormwater best-management practices -- dry or full. Manager Wirth inquired
42 as to the software issue that occurred and Mr. Fleming explained he had not seen the
43 issue occur in other circumstances.

44 **Manager McKim moved, seconded by Manager Wirth, to approve an amendment of**
45 **the permit allowing the applicant to elect to reconstruct the outlet of Basin B as**
46 **recommended in the engineer's memo to improve flood protection from existing**

conditions and provide an as-built survey of the reconstructed outlet. Motion carried 5/0.

b) Resolution 22-02 Delegation of Permitting Authority to Administrator

Administrator Kill noted that the board recently proposed increasing administrative delegation for financial-assurance reductions and single-family stormwater permits, with the board retaining sole authority to approve variance requests. Also a permit applicant can request that the managers consider their request.

The managers clarified that they would still see stormwater permits for developments.

Manager Johnson moved, seconded by Manager Wirth, to adopt Resolution 22-02 delegating permit-approval authority to the administrator as presented.

	Yea	Nay	Abstain	Absent
<u>Manager Eckles</u>	X			
<u>Manager Johnson</u>	X			
<u>Manager LeRoux</u>	X			
<u>Manager McKim</u>	X			
<u>Manager Wirth</u>	X			

Motion carried 5/0.

Manager Eckles noted the value of the board being able to hear feedback from applicants and asked for administrative updates on single-family permits. Administrator Kill said new permits could be highlighted in the list the board receives each month with active permit inspections.

c) Single-Family Home Permitting – Schedule Task Force Meeting

Administrator Kill reviewed approaches the board has been discussing for streamlining the permitting process, including: amending the rules, creating a simplified template, applying the minimum impact design standards across the watershed, etc. More direction is needed from the board to ensure staff is moving in the right direction. This could occur as a special workshop with the full board or as a meeting with the permitting task force. The task force met previously to review other permitting processes and how usability could be increased. The board agreed on a task force meeting. Managers Eckles and McKim are the current managers on that task force and will provide their availability to schedule that meeting. Manager Wirth will be the alternate.

7) Projects

a) Public Hearing

The hearing was opened and no members of the public were present. The hearing was closed.

b) Resolution 22-03: 2023 Budget and Levy

Manager Eckles noted the public will have another opportunity to comment on the BCWD budget and levy at the December regular meeting.

Manager Wirth moved, seconded by Manager Johnson, to adopt resolution 22-03, adopting an operating and capital budget totaling \$2,336,365, including \$2,127,000 for management plan implementation and \$209,365 for operations; with 2022 carryover and certain non-levy revenues totaling \$1,185,950, resulting in a levy of \$1,150,415 including \$159,365 for the general fund as provided by Minnesota Statutes section 103D.905 and \$991,050 for the management planning fund as provided by the Minnesota Statutes section 103B.241.

	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>Manager McKim</u>	<u>X</u>			
<u>Motion carried 5/0.</u>				

8) Projects

a) Applewood Reuse Project – Change Order

The contractor (GM Contracting, Inc.) has requested the dates for substantial completion and final completion be extended to account for material lead times and to better accommodate the golf course schedule to install pipes after the primary golf season.

Manager Johnson moved, seconded by Manager LeRoux, to approve Change Order No. 1 to extend the dates for substantial completion and final completion of the Applewood Hills Golf Course Stormwater Reuse.

b) Manager LeRoux – Oath of office

Michael Welch administered the oath of office for Manager Chuck LeRoux.

9) Discussion Agenda

a) Updates

(1) Administrator

The Minnesota Association of Watershed Districts shared a draft strategic plan and invited comments.

Administrator Kill discussed the BCWD boundary update. The legal border in the Millbrook development has not yet been updated since the large agricultural parcels were split for the development. The process will involve BCWD creating the list of parcels to move to or from Carnelian-Marine-St. Croix Watershed District, concurrence of the City of Stillwater, then send a petition to the Board of Water and Soil Resources. There will not be a significant difference for residents’ taxes as the budgets for the two watershed districts are similar.

Administrator Kill said watershed communities have been supportive of the direction the BCWD is taking to simplify the single-family home

1 permitting. There is a new natural resource staff member at the City of
2 Stillwater with buckthorn removal coordination occurring. Administrator
3 Kill is also going to attend a homeowner’s association meeting to speak to
4 maintenance obligations.
5

6 **(2) Legal**

7 Recent open meeting law violation in other organizations provide an
8 opportunity to remind the board that it is against open meeting law to
9 discuss district business before or after meeting times.
10

11 **(3) Engineers**

12 No update.
13

14 **(4) Managers**

15 Manager Johnson is going to attend Stillwater meeting as the BCWD
16 liaison. The board asked if staff could develop community-specific talking
17 points as to watershed activities that managers can use when reaching out
18 to their liaison communities.
19

20 Manger Eckles recently spoke to the Hugo administrator. Hugo has been
21 widely using stormwater reuse as a solution to stormwater volume
22 requirements rather than infiltration.
23

24 Manager Eckles asked if there was planned restoration work as part of the
25 district’s tributary project near the diversion drainage structure.

26 Administrator Kill said the plan was to see how the native seedbank
27 responded to the buckthorn removal. The project is on city property, but
28 the district will be taking the lead on evaluation and guiding next steps.
29

30 **10) Adjournment**

31 **Manager Johnson moved, seconded by Manager Wirth, to adjourn the regular meeting at**
32 **8:50 p.m. Motion carried 5/0.**
33

34 Respectfully submitted by
35 Cameron Blake, BCWD Staff and Charles LeRoux, Recording Secretary
36