



1
2 FINAL Minutes of the regular meeting of the Brown's Creek Watershed District Board of
3 Managers, Wednesday January 11, 2023
4

5 ROLL CALL

Managers Present:	Others Present:
Klay Eckles, President	Karen Kill, BCWD Administrator
Celia Wirth, Vice President	Camilla Correll, EOR, BCWD Engineer
Gerald Johnson, Treasurer	Michael Welch, Smith Partners, BCWD counsel
	Cameron Blake, BCWD staff
	Ryan Fleming, EOR, BCWD Engineer
Manager Absent:	Brett Stoplestad, Washington Conservation District
Chuck LeRoux, Secretary	

6
7 1) **Call Annual Meeting to order**

8 President Klay Eckles called the annual business meeting to order at 6:33 p.m.
9

10 a) **Approve Annual & Regular Meeting Agenda**

11 Administrator Karen Kill updated the board that Manager Rob McKim would not
12 continue to attend board meetings this year, as he had been since his managerial term
13 officially ended. She also noted that the report from the vegetative survey of Benz,
14 South School Section and Goggins lakes will be rescheduled, as the presentation was
15 going to be remote and there are technical issues with the system. Ms. Kill asked to
16 add the 2023 Family Means waiver and the League of Minnesota Cities Insurance
17 Trust 2023 waiver to the regular meeting agenda as items 8d and 8e.

18 **Manager Johnson moved, seconded by Manager Wirth, to approve the agenda**
19 **as amended. Motion carried, vote 3/0.**

20
21 b) **Election of Officers**

22 **Manager Johnson moved, seconded by Manager Wirth, to elect Klayton Eckles**
23 **as president, Celia Wirth as vice president, Gerald Johnson as treasurer, and**
24 **Chuck LeRoux as secretary. Motion carried, vote 3/0.**

25
26 c) **Committee Appointments**

27 The managers reviewed the existing committee appointments. Manager Wirth
28 volunteered to serve as Minnesota Watersheds liaison and proposed the existing
29 appointments be extended at least until BCWD has a full board.

- 1 • Citizen Advisory Committee Liaisons – Celia Wirth, alternate Charles
2 LeRoux
- 3 • Technical Advisory Committee Liaison – Klayton Eckles
- 4 • East Metro Water Resources Education Program Liaison – Karen Kill
5 primary, Gerald Johnson as necessary
- 6 • Best Management Practices Program Subcommittee – Gerald Johnson
- 7 • Bylaws and Policies – Celia Wirth
- 8 • MAWD Board Liaison – Celia Wirth
- 9 • Metro MAWD Liaison – Celia Wirth; alternate Charles LeRoux
- 10 • Lower St Croix One Watershed One Plan – Klayton Eckles; alternate Gerald
11 Johnson

12 **Manager Wirth moved, seconded by Manager Johnson, to approve the**
13 **committee appointments and per diems for committee attendance. Motion**
14 **carried, vote 3/0.**

15

16 **d) Annual Selection of Bank and Financial Assurance Depository**

17 **Manager Johnson moved, seconded by Manager Wirth, to retain US Bank as the**
18 **BCWD bank and the depository for permit fees and cash escrows and Royal**
19 **Credit Union for certificates of deposit, with letters of credit and bonds to be**
20 **held at the BCWD office. Motion carried, vote 3/0.**

21

22 **e) Annual Selection of Official Newspaper(s)**

23 **Manager Wirth moved, seconded by Manager Johnson, to retain White Bear**
24 **Lake Press and the Stillwater Gazette as the official newspapers.**
25 **Motion carried 3/0.**

26

27 **f) Schedule of Regular and Special 2023 meetings**

28 Ms. Kill noted all meetings will be held at 6:30 p.m. at Family Means, 1875
29 Northwest Ave. S. Stillwater:

30 January 11, 2023

31 February 8, 2023

32 March 8, 2023

33 April 12, 2023

34 May 10, 2023

35 June 14, 2023

36 July 12, 2023 – 5 p.m. 2023 Budget Workshop and 6:30 pm Regular Meeting

37 August 16, 2023 – 5 p.m. 2023 Budget Workshop and 6:30 p.m. Regular Meeting

38 September 13, 2023

39 September 16, 2023 – 2023 Community Event at Brown’s Creek Park in Stillwater
40 10am-1pm

41 October 11, 2023

42 November 8, 2023

43 December 13, 2023

44

45 **Manager Johnson moved, seconded by Manager Wirth, to approve the schedule**
46 **of the regular meetings and workshops as presented. Motion carried, vote 3/0.**

1
2 **g) Citizen Advisory Committee Membership**

3 Ms. Kill reported the Citizen Advisory Committee remains a dedicated group of
4 members. Staff is working on bringing in new members to grow and maintain the size
5 of the committee. The committee meets the second Monday of the even months at
6 6:30pm. President Eckles requested a thank you letter be sent to CAC members that
7 he would sign.

8 **Manager Johnson moved, seconded by Manager Wirth, to approve Anne Maule-**
9 **Miller and George Vania as co-chairs, Jyneen Thatcher, and Yihong Gao to 2023**
10 **membership in the Citizen Advisory Committee.**
11 **Motion carried 3/0.**
12

13 **h) Board Training Plan**

14 Ms. Kill reviewed a list of education opportunities for the managers:

- 15 • Washington County Water Consortium monthly meetings
- 16 • Legislative Water Commission monthly Meetings
- 17 • MAWD Day at the Capitol (Feb), Summer Tour (June), and Annual Meeting
18 (Dec)
- 19 • Metro MAWD quarterly meetings
- 20 • Water Resources Conference (Oct)
- 21 • Internal Trainings
- 22 • The new proposed federal Waters of the United States rule – effects in/on BCWD
- 23 • Managers’ FAQs – what questions do you have about your role?
- 24 • Review of the Reasonable Use Doctrine
- 25 • Diversity, Equity, and Inclusion
- 26 • Board Communication

27 Ms. Kill asked if managers had other training requests to add to the list. President
28 Eckles asked for a Minimal Impact Design Standards training for managers to better
29 prepare them for single-family lot permitting policy decisions. The board also
30 requested training on water resource acronyms, governmental jurisdiction over water
31 resources, land-use authority, and an overview of stormwater engineering. The board
32 asked for these trainings to be ready for when the new board manager is appointed.
33 Manager Wirth also expressed interest in internal trainings from legal counsel.

34 **Manager Wirth moved, seconded by Manager Johnson, to support the training**
35 **opportunities. Motion carried 3/0.**

36 Manager Wirth expressed interest in attending the Minnesota Watersheds day at the
37 capital, the summer tour, and the annual meeting. Manager Johnson also expressed
38 interest in the Minnesota Watersheds summer tour.
39

40 **i) Bylaws and Policies Review**

41 Ms. Kill noted that bylaws and policies were reviewed and no changes are proposed.

42 **j) Adjourn Annual Meeting**

43 **Manager Johnson moved, seconded by Manager Wirth, to adjourn the annual**
44 **meeting at 7:04pm. Motion carried, vote 3/0.**

45
46 **2) Call Regular Meeting to Order**

1 President Eckles called the regular meeting to order at 7:05PM.

2
3 **4) Public Comments**

4 There were no public comments.

5
6 **5) Consent Agenda**

7 **Manager Wirth moved, seconded by Manager Johnson, to approve the consent**
8 **agenda:**

- 9
- 10 • **Approve minutes of the December 14, 2022 Regular Meeting**
 - 11 • **Accept Permit Fee Statement**
 - 12 • **Approve water monitoring equipment repair scope**
 - 13 • **Authorize Administrator to execute Minnesota Pollution Control Agency**
14 **grant agreement for \$320,705.50 upon advice of counsel**

15 **Motion carried 3/0.**

16 **6) Treasurer's Report**

17 **a) Review Authorized Funds Spreadsheet**

18 Ms. Kill reported the authorized funds spreadsheet had been updated to reflect the
19 \$1,100 change order for the Millbrook project noted at the December board meeting.
20 She explained that next month there will still be items from 2022 but the full carry
21 forward and 2023 budget numbers should be ready by the March board meeting.

22 **Manager Wirth moved, seconded by Manager Johnson, to approve the**
23 **authorized funds spreadsheet as presented. Motion carried, vote 3/0.**

24
25 **b) Current Items Payable – Board Action**

26 **Manager Johnson moved, seconded by Manager Wirth, to approve payment of**
27 **bills as presented in the amount of \$68,055.44. Motion carried 3/0.**

28
29 **7) Service Agreements**

30 **a) Washington Conservation District service agreement 2023-24**

31 Ms. Kill explained that the two-year agreement with Washington Conservation
32 District for administrative and technical services runs from January 2, 2023.
33 However, no payment has been issued yet. The agreement includes one year of
34 chloride monitoring as only one year of data are needed. After discussion of the
35 insurance provisions in the agreement, the managers directed counsel and the
36 administrator to secure and provide the board with documentation of WCD's
37 insurance.

38 **Manager Wirth moved, seconded by Manager Johnson, to approve the**
39 **Washington Conservation District's 2023-2024 service agreement and**
40 **authorize the president to execute on advice of counsel. Motion carried 3/0.**

41
42 **b) Selection of Services**

43 Ms. Kill explained the district is required to solicit letters of interest from professional
44 and technical service providers every two years. The responses from BCWD's current
45 service providers include price increases, but she feels they are reasonable and
46 recommends the district reengage the current providers.

1 **Manager Wirth moved, seconded by President Eckles, to authorize contracts with**
2 **David McCord's for 2023-24 accounting services; with Abdo for 2023-24 auditing**
3 **services; Smith Partners for 2023-2024 legal services, and EOR for 2023-24**
4 **consulting engineering services; and to authorize the administrator on advice of**
5 **counsel to enter each contract on behalf of BCWD. Motion carried 3/0.**

6 President Eckles asked for more detail on the engineering services included in the
7 EOR contract. Ms. Kill explained the \$10,000 monthly retainer covers 66 hours of work
8 including board meeting preparation and attendance, scope preparation, invoicing, and
9 answering inquiries from the public and managers. Work is typically done by engineers,
10 though work is allocated to technicians when possible. President Eckles asked if rates
11 charged were comparable to other watershed district engineering companies with
12 exclusive contracts. Ms. Kill explained the BCWD is one of EOR's longest customers
13 and still gets preferred rates. Each time BCWD solicits proposals, EOR comes in lowest.
14

15 **8) Projects**

16 **a) Best Management Practices Program: Stewardship Grants and Maintenance**
17 **Presentation**

18 Cameron Blake and Brett Stoplestad from the Washington Conservation District
19 presented a summary of the 2022 stewardship grant, and inspections and maintenance
20 programs. The board discussed cost-share projects and what requirements there are for
21 landowners. Ms. Kill explained the landowner agreement associated with cost-share
22 projects does not transfer to a new owner if a property is sold. President Eckles explained
23 he had done an inventory of practices in his neighborhood that were installed through a
24 Neighborhood Wilds grant through the Department of Natural Resources. He noticed that
25 when ownership changes, knowledge of the practices did not always transfer to the new
26 owner and wondered if there was something the watershed district could do to engage
27 them. Ms. Kill explained the district does require notice of the property being sold, so this
28 provides an opportunity to connect with the new residents. Another new process the
29 district is beginning is mailing the district's New Homeowner Packet to properties that
30 have been sold in the last year. Manager Wirth would like to see the New Homeowner
31 Packet, which was created by the BCWD CAC.
32

33 **b) Iron Enhanced Sand Filter**

34 **(1) Harvest Pond Cleanout: contractor selection**

35 Ryan Fleming explained that the BCWD iron-enhanced sand filter harvest pond
36 was last dredged in 2018 and is due for another clean out. Testing determined the
37 sediment is high in arsenic and polycyclic aromatic hydrocarbons, so it will need
38 to be landfilled, which is expensive. The board asked why the arsenic levels are
39 high and Mr. Fleming explained the most likely cause in this case was
40 background from material eroding from the Brown's Creek tributary system. The
41 tributary rock check project the district completed in 2021 should start to improve
42 this issue but it will take time for that effect to be clear. President Eckles inquired
43 as to the performance of the filter, noting the higher cost associated with active
44 systems such as this one. This analysis will be done and presented to the board at
45 a future meeting.

1 The board discussed the contractor proposal cost estimates and where
2 disadvantaged business entities came in at. Mr. Fleming explained that after
3 drafting the memo analyzing the quotes submitted for the work, he spoke with
4 Dimke, who submitted the lowest quote, and determined that they would be
5 subcontracting with a qualified disadvantaged business for hauling, which is 10 to
6 12 percent of the cost.

7 **Manager Wirth moved, seconded by President Eckles, to award the contract**
8 **for the Settlers Glen Pump harvest pond maintenance to Dimke Excavating**
9 **Inc., on the condition that Dimke subcontract with MBE Trucking for**
10 **hauling, and to authorize the administrator to enter into contract on advice**
11 **of legal counsel not to exceed \$39,471.25, with funds to be drawn from**
12 **account 948-0000. Motion carried 3/0.**
13

14 **(2) 2023 Operation and Maintenance Engineering Scope – Board Action**

15 Mr. Fleming presented the operations and maintenance scope for 2023 for the
16 iron-enhanced sand filter, which included coordination with a specialist to
17 evaluate the pump and sending media samples to the lab to evaluate if the binding
18 capacity of the media has degraded. The original estimate for lifespan of the
19 media was five years and was based on initial phosphorus concentration
20 measurements. The St. Anthony Falls Laboratory requested monitoring data to be
21 shared for a study they are completing which will be available to the district once
22 completed. Mr. Fleming explained the 2022 report will be in progress this winter
23 but sampling cannot occur until thaw.

24 **Manager Johnson moved, seconded by Manager Wirth, to approve the 2023**
25 **IESF Operations and Maintenance scope of services for an estimated cost of**
26 **\$28,125 from account 948-0000. Motion carried 3/0.**
27

28 **c) 2023 Family Means Waiver**

29 Ms. Kill explained the use of the Family Means space for district board meetings is
30 free but requires the district to sign an annual waiver. Mr. Welch confirmed that he
31 recommends that the managers decline to sign the waiver because its liability release
32 is too broad. He noted that Family Means has not been interested in revising their
33 waiver.

34 **Manager Wirth moved, seconded by Manager Johnson, to authorize the**
35 **administrator to execute the 2023 Family Means waiver. Motion carried 3/0.**
36

37 **d) Minnesota Counties Intergovernmental Trust (MCIT) 2023 Waiver**

38 Mr. Welch recommends that BCWD decline to waive the statutory liability limits of
39 \$1.5 million per incident and \$500,000 per claimant.

40 **Manager Wirth moved, seconded by Manager Johnson, to decline to the waive**
41 **statutory liability limits. Motion carried 3/0.**
42

43 **9) Discussion Agenda**

44 **a) Updates**

45 **(1) Administrator – Boundary Revision Status, Conservation Partners Legacy**
46 **Grant, District Large Ponds Community Meetings**

1 Ms. Kill explained that both May Township and Grant Township have approved
2 the boundary change resolution and letters of concurrence. She will be attending
3 Stillwater Township’s board meeting tomorrow and the City of Stillwater’s
4 meeting on the 17th at 7pm. Manager Wirth said she may be able to attend the City
5 of Stillwater meeting as well. Ms. Kill shared that May Township’s meeting was
6 well attended by the public, county staff, and Washington County Commissioner
7 Fran Miron. There was a good opportunity for feedback relevant to the BCWD
8 including strong opinions about the watershed board manager appointment
9 process. Commissioner Miron explained the county manager appointment process
10 and invited community representatives to attend the county and watershed budget
11 workshops. A member of the public shared positive feedback of working with the
12 BCWD permitting process. The final petition for the boundary update will be
13 brought to the board next month for submission to the Board of Water and Soil
14 Resources.

15 Ms. Kill introduced a grant opportunity that may be a good fit for the upcoming
16 Brown’s Creek restoration project. The Conservation Partners Legacy Grant could
17 be matched with state funding and she will be evaluating whether it is a good fit. If
18 so the board will see this at the next board meeting.

19 There are upcoming community meetings for the small scale management plans
20 for five of the districts large ponds: Kismet, Pat, July Ave, Brewers, Sinnet, and
21 Heifort. These meetings will be similar to the Bass Lake management plan
22 meetings in which the public can learn about shallow lake and wetland systems,
23 flood risk, and the BCWD stewardship programs. The ponds will be split between
24 three Zoom meetings with one in-person meeting for all five of them. These
25 meetings will occur at the end of February and more will be posted to the website.

26 Lastly, the BCWD is being migrated to a new platform over the month of
27 January with Manager Wirth’s assistance.

28
29 **(2) Legal**

30 Mr. Welch noted that in light of recent litigation around appoint of watershed
31 managers, he recommends that managers work with their cities to submit their
32 name and two others on a list to the county for reappointment

33 Mr. Welch stated that the new proposed federal definition of “waters of the
34 United States” will affect BCWD only in potentially lengthening federal
35 permitting timelines.

36 Minnesota Center for Environmental Advocacy is lobbying on behalf of the
37 chloride limited liability legislation.

38
39 **(3) Managers –**

40 President Eckles asked if the Powerpoint he shared with staff regarding his
41 permitting calculations on single family residences was received and noted his
42 personal version seemed to have formatting issues. Staff confirmed it had been
43 received with no issues and the next step was to schedule an internal meeting with
44 President Eckles, followed by a workshop with the board at 5pm ahead of the
45 February 8th board meeting. Dinner will be provided.

1 Manager Johnson thanked Ms. Kill and EOR for successful collaboration leading
2 to many successful grants. The board recognized Ms. Kill's 20th year of being the
3 BCWD administrator.
4

5
6 **9) Adjournment**

7 **Manager Johnson moved, seconded by Manager Wirth, to adjourn the Regular**
8 **Meeting at 9:00PM. Motion carried 3/0.**
9

10 Respectfully Submitted by
11 Cameron Blake, BCWD staff and Charles LeRoux, Secretary
12