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2 DRAFT Minutes of the workshop and regular meeting of the Brown's Creek Watershed District  
3 Board of Managers, Wednesday February 8, 2023  
4

5 ROLL CALL

<b>Managers Present:</b>	<b>Others Present:</b>
Klay 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
	Paul Nation, EOR, BCWD engineer
	Ryan Fleming, EOR, BCWD engineer
	Joe Pallardy, EOR
	Andy Weaver, Stillwater Area High School
	Abbey Kuntz, Washington Conservation District
	Aaron DeRusha, Washington Conservation District
	Adam McDonald, Stillwater Area High School
	Grace Grant, Stillwater Area High School

- 6  
7 **1) Single-family home permitting workshop**  
8 President Klayton Eckles called the workshop meeting to order at 5:03 p.m.  
9 **a) Legal framework and rule revision process**  
10 BCWD legal counsel Michael Welch provided background on watershed districts'  
11 jurisdiction and authority to regulate to protect water resources and mitigate flood  
12 risk.  
13  
14 Mr. Welch stated that the managers' options to regulate single-family home  
15 properties include: keeping the rules as-is but streamlining the permitting process,  
16 adjusting the rules with specific provisions for single-family home properties, or  
17 exempt single-family home properties.  
18  
19 **b) Engineering – Minimal Impact Design Standards primer**  
20 Ryan Fleming gave an overview of two different approaches to stormwater  
21 management: Minimal Impact Design Standards (MIDS) and pre/post-settlement  
22 analysis.  
23

1 BCWD applies MIDS, which requires best management practices that capture 1.1  
2 inches of runoff from impervious areas, within the diversion drainage area. MIDS  
3 provides stormwater best management practice options as well as flexible treatment  
4 options for areas with site constraints. The MIDS volume requirement of 1.1 inches  
5 was developed through a scientific analysis that captures 90% of rainfall events  
6 frequency and 68% of rainfall events volume. This depth is also based on data that  
7 75% of the pollutant load is contained in the first 1.5 inches of rainfall. Mr. Fleming  
8 noted that MIDS does not account for changes to pervious portions of the site  
9 including soil compaction during construction or conversion of vegetation type.

10  
11 BCWD requires an applicant to provide runoff-volume management equivalent to  
12 that from the pre-settlement condition of the subject property in the rest of the  
13 watershed district. This standard was chosen by the board to protect Brown's Creek, a  
14 trout stream, which relies on baseflow, groundwater recharge, and minimizing surface  
15 water inputs from developed areas. Pre/post settlement uses an analysis of  
16 vegetative/ecosystem types based on the public land survey, and hydrologic soil  
17 groups, which creates a curve number which is then used to determine rate and  
18 volume treatment requirements. BCWD requires volume control for the two-year  
19 storm event, the event found to most directly determine the character and stability of  
20 a natural stream channel. This type of analysis also accounts for soil compaction and  
21 vegetative conversions during construction and development.

22  
23 President Eckles said that he participated in the state task force that developed MIDS.  
24 He explained that the task force chose 1.1 inches of volume retention because the  
25 cost, practice-size and effort to provide additional treatment outweighed the resource-  
26 protection gained.

27  
28 Manager Wirth asked about the impact of various types of vegetation on retaining  
29 water. Mr. Fleming explained that deep-rooted plant species retain more water than  
30 turf grass, but soil de-compaction is still necessary after construction so that the roots  
31 are able to penetrate the soil beneath the surface.

32  
33 **c) Review of BCWD rule history and comparison of other watershed district rules**

34 Administrator Karen Kill gave an overview of the BCWD's approach to rules as they  
35 apply to single-family home properties. Single-family home properties were exempt  
36 from BCWD rules from 2000 to 2007. From 2007 to 2017 they were not specifically  
37 excluded, but a trigger was added for disturbance of 5,000 square feet within an area  
38 contributing to a groundwater-dependent natural resource. In 2018 the board changed  
39 the stormwater management triggers to 10,000 square feet and 6,000 square feet  
40 within the contributing area to groundwater-dependent natural resource.

41  
42 Ms. Kill presented a comparison of metro-area watershed district's rules and triggers.

43  
44 **d) Board activities and discussion**

45 Camilla Correll guided the board discussion of priorities for regulation of single-  
46 family home properties. The managers noted that their primary goal is to make the

1 regulatory process easier to navigate for owners of single-family properties. The  
2 managers stressed streamlining while continuing to protect watershed resources  
3 The managers noted additional goals for the regulatory program, including fostering  
4 long-term sustainable practices, and ensuring that long-term operation and  
5 maintenance costs are reasonable.

6 The managers indicated that they feel that the rules are reasonable or very effective in  
7 protecting water resources and preventing flooding but they wonder whether  
8 compliance is uniform across all regulated activity.

9 With regard to suggested changes to the permitting program, the managers suggested  
10 consideration of a 1.1-inch volume standard where appropriate, and further  
11 assessment of cost/benefit fairness. Again, simplification of the permitting process  
12 was suggested, with an example of process and steps including estimated timeline to  
13 set expectations. The managers suggested that the rules are only as effective as the  
14 long-term outcomes achieved and societal buy-in and community support are  
15 achieved.

16 The managers' feedback and notes were captured for consideration by staff in  
17 developing and presenting options for changes to the regulatory program at a future  
18 meeting.

19  
20 The workshop was adjourned at 6:33 p.m.

21  
22 President Eckles called the regular meeting to order at 6:38 p.m.

- 23  
24 **3) Approve Regular Meeting Agenda and Discussion Agenda**  
25 **Manager Wirth moved, seconded by Manager Johnson, to approve the agenda as**  
26 **presented. Motion carried, vote 4/0.**  
27

- 28  
29 **4) Citizen Advisory Committee Appointments**  
30 **Manager Wirth moved, seconded by Manager Johnson, to appoint Ron Johnson,**  
31 **Patty Johnson, and Steven Merchant to the Citizen Advisory Committee. Motion**  
32 **carried 4/0.**  
33

- 34 **5) Stillwater Area High School Collaboration**  
35 Adam McDonald and Grace Grant, students at Stillwater Area High School, presented the  
36 school's macroinvertebrate sampling program in Brown's Creek, which can be used as an  
37 indicator of water quality. The class found conditions favorable to trout. SAHS is also  
38 helping the University of Minnesota develop a micro-plastics testing protocol that can be  
39 used to create a testing kit that can be distributed to other high schools. which They also  
40 presented on the rainbow trout their classroom is raising that they will release into  
41 Brown's Creek in the spring as part of the Trout-in-the-Classroom program.

42  
43 The board thanked the students and their teacher, Andy Weaver, for their work.

- 44  
45  
46 **6) Public Comments**

1 There were no public comments.

2  
3 **7) Consent Agenda**

4 **Manager Wirth moved, seconded by Manager LeRoux, to approve the consent**  
5 **agenda as presented:**

6 **a) Approve Board Meeting Minutes of the January 11, 2023 Regular &**  
7 **Annual Meeting**

8 **b) Accept permit fee statement**

9 **c) Approve administrator expenses and managers per diem and expenses for**  
10 **attendance for Minnesota Watersheds Day at the Capitol Feb 15-16, 2023.**

11 **Motion carried 4/0.**

12  
13 **8) Treasurer's Report**

14 **a) Review Authorized Funds Spreadsheet**

15 Ms. Kill reminded the board that next month will include the 2023 budget with carry-  
16 forward from the 2022 fiscal year.

17  
18 **b) Current Items Payable**

19 **Manager Wirth moved, seconded by Manager Johnson, to approve the payment of**  
20 **bills as presented in the amount of \$317,549.10.**

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
<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>			

26 **Motion carried 4/0.**

27  
28 **9) Projects**

29 **a) Vegetation Survey Results: Benz, South School Section & Goggins Lakes**  
30 **Presentation**

31 Joe Pallardy presented the 2022 Benz Lake vegetation survey results and  
32 recommendations to the board. He explained the background of Benz Lake as having  
33 flipped from a turbid water state to a clear water state in 2017 due to improving water  
34 quality. The lake is now an aquatic plant-dominated ecosystem rather than algae-  
35 dominated ecosystem, which benefits wildlife. Currently the lake is dominated by  
36 fernleaf pondweed, a native aquatic plant. Mr. Pallardy noted lake management is also a  
37 social science and the change has altered how the riparian residents view and use Benz  
38 Lake.

39  
40 The board discussed aquatic-plant harvesting on Benz Lake. Mr. Pallardy clarified there  
41 is not a standard cost per acre as there are many different variables to consider lake by  
42 lake, but the approximate cost is around \$10,000. However, the removal would need to be  
43 done more than just once. Mr. Pallardy noted that it would be difficult to access Benz  
44 Lake and it could be difficult to find someone willing to do the work without pairing it  
45 with another lake in the area. The board asked if there would be any public benefit to  
46 doing this as there is no public access on Benz Lake. Ms. Kill explained that the lake

1 does outlet to Brown’s Creek in high water years so there could be some downstream  
2 water quality benefit, but the primary benefit would be to the riparian residents. The  
3 managers agreed they would want to see support from the landowners as they would be  
4 the direct beneficiaries.

5  
6 Manager Eckles noted the improving water quality and wondered if the district should  
7 wait to see how conditions look for the next few years before taking action. The  
8 managers expressed concern about setting a precedent by paying for plant harvesting on  
9 Benz Lake and agreed that they wanted more information that harvesting is needed to  
10 make that decision.

11  
12 Ms. Kill suggested a Benz Lake community meeting to present the results of the study  
13 and update them that the board is not currently interested in funding an aquatic  
14 vegetation-harvesting program. She explained that she has received contacts from  
15 residents about the aquatic plants and she would like to follow up with this information.  
16

17 Mr. Pallardy then updated the board on the vegetation survey done on South School  
18 Section and Goggins lakes following intermittent years of treatments for Curly-leaf  
19 Pondweed (CLP). The native vegetative community in both lakes were present and in fair  
20 condition. The district responded quickly to CLP when it was discovered in Goggins  
21 Lake and reduced the initial population in South School Lake to levels that are no longer  
22 of great concern. Mr. Pallardy explained that moving forward there is not a high return on  
23 investment in continuing the current reactive process each spring. He recommended  
24 continuing to monitor CLP every three years and treating if it reaches a surface area of  
25 15% or more. In the meantime, he does not recommend attempting to treat the remaining  
26 few stands. Ms. Kill would like to share this information to riparian residents. Mr. Welch  
27 noted that there is a way of setting up the treatment process in the future to accommodate  
28 the permit timing more efficiently.  
29

30 **b) Brown’s Creek Restoration – concept design and collaboration scope**

31 Ms. Kill noted that during routine stream assessments conducted in Brown’s Creek  
32 between 2021 and 2022, EOR identified degraded stream conditions and eroded banks  
33 along an approximate 2,000-foot reach between McKusick Road North and the Brown’s  
34 Creek State Trail upstream of Oak Glen Golf Course. Degraded conditions identified  
35 included channel incision and subsequent floodplain abandonment, bank erosion,  
36 instream sedimentation, and poor riparian vegetation due to invasive species. Following  
37 board approval on November 9, 2022, EOR staff conducted a pre-project geomorphic  
38 survey of the project reach. In January 2023, BCWD secured a 319 grant from the  
39 Minnesota Pollution Control Agency for this project.  
40

41 Mike Majeski presented a scope of work that outlined the tasks and costs to determine the  
42 feasibility of conducting a project in this section of Brown’s Creek, and to develop a  
43 conceptual design and initial cost estimate necessary for the purpose of a public hearing  
44 and Board consideration of ordering the project. Project final design, permitting, and  
45 construction management will be part of a future scope.  
46

**Manager Wirth moved, seconded by Manager Johnson, to authorize the scope of services not to exceed \$30,714 from account 947-0022 and coordinate with the Department of Natural Resources to begin the project design approach.**

- 10) **Boundary Revision – Resolution 23-01 Petition for Boundary Change**  
**Manager LeRoux moved, seconded by Manager Wirth, to adopt Resolution 23-01, authorizing the president to sign and the administrator to submit a petition to the state Board of Water and Soil Resources to adjust the boundary between Brown’s Creek Watershed District and Carnelian-Marine-St. Croix Watershed District, with nonsubstantive changes as needed to effect the purposes of the petition.**

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

**Motion carried 4/0.**

- 11) **Board Training - Reasonable Use Doctrine – Legal Counsel**  
Mr. Welch provided a review of the reasonable-use doctrine, which allows a property owner to discharge a reasonable quantity of runoff to a downstream property. He explained that the doctrine would not be applicable to the Mendel wetland project, because work there will involve backing flow up onto upgradient properties.

- 12) **Discussion Agenda**  
a) Updates

**(1) Administrator**

**a. permits issued administratively**

Ms. Kill updated the board that permit #22-31 County Road 57 Culverts was issued administratively.

**b. Washington Conservation District insurance coverage**

At the January board meeting the board discussed the Washington Conservation District 2023-2024 Service contract. Ms. Kill provided the board with the details of the WCD’s insurance which is through the League of Minnesota Counties.

**c. Adopt-A-Drain report**

BCWD received the 2022 Adopt-a-Drain report which summarizes the number of adopted storm drains in the watershed district and the annual pollutant load reduction accomplished through the Adopt-a-Drain program.

**d. Learning from Place: Bdote**

1 Ms. Kill updated the board on a Dakota heritage learning opportunity  
2 directed towards teachers coming up this year; there will be one each  
3 season.

4 A partner meeting is coming up for the Washington Conservation District  
5 that will help guide the implementation of the organizations Diversity  
6 Equity and Inclusion plan; internal and programmatic goals have already  
7 been identified.  
8

9 **(2) Legal**

10 Mr. Welch said a new draft general construction stormwater permit has been  
11 issued by the Minnesota Pollution Control Agency, but the changes from the prior  
12 permit are minor and he does not recommend that BCWD comment on the draft.  
13 He explained there is legislation progressing that would allow remote  
14 participation more broadly for managers.  
15

16 **(3) Engineer- no comments**

17 **a. Emerging Stormwater Topics: Evapotranspiration Calculations for**  
18 **Volume Control**

19 Ms. Correll explained a current permit has led to EOR considering how  
20 evapotranspiration can be quantified and applied toward compliance with the  
21 BCWD volume standard. There is potential for this to be a future research effort,  
22 and the resulting calculator could be useful in quantifying non-native vegetation  
23 conversions to native vegetation.

24 Manager Eckles stated that he would think the Stillwater Oaks redevelopment  
25 should be able to provide infiltration or reuse onsite, given the size of the  
26 property. Mr. Welch wondered if other applicants would benefit from bringing  
27 projects to the board prior to an official request for approval, which would allow  
28 applicants to get feedback from the board. Staff will invite Stillwater Oaks to  
29 present its proposal prior to a request for board action.  
30

31 **(4) Managers**

32 Manager Johnson is doing advance vacation planning and will not be in  
33 attendance at the May 2024 board meeting.  
34

35 **b) March 2023 Regular Meeting BCWD Board Agenda**  
36

37 **9) Adjournment**

38 **Manager Wirth moved, seconded by Manager Johnson, to adjourn the regular meeting at**  
39 **8:35 p.m. Motion carried 4/0.**  
40

41 Respectfully submitted by

42 Cameron Blake, BCWD staff and Charles LeRoux, Secretary