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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 June 14, 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
Charles LeRoux, Secretary	Michael Welch, Smith Partners, BCWD counsel
Gerald Johnson, Treasurer	Cameron Blake, BCWD staff
	John Sarafolean, EOR, BCWD engineer
	Patricia Schaber, Curio Dance Studio
	Dario Mejia, Curio Dance Studio
	Camillo Mejia, Curio Dance Studio

- 6
7 **1) Call Regular Meeting to order**
8 President Klay Eckles called the regular meeting to order at 6:30 p.m.
9
- 10 **2) Approve Regular Meeting Agenda and Discussion Agenda**
11 **Manager Johnson moved, seconded by Manager Wirth, to approve the agenda as**
12 **presented. Motion carried, vote 4/0.**
13
- 14 **3) Public Comments**
15 There were no public comments.
16
- 17 **4) Consent Agenda**
18 On the administrator's recommendation, the managers pulled items 4c, 4d and 4e from
19 the consent agenda.
20 **Manager LeRoux moved, seconded by Manager Wirth to approve the consent**
21 **agenda as amended:**
22 **a) Approve minutes of the May 10, 2023, regular meeting**
23 **b) Accept permit fee statement**
24 **Motion carried 4/0.**
25
- 26 **5) Treasurer's Report**
27 **a) Review Authorized Funds Spreadsheet**
28 **Manager Wirth moved, seconded by Manager Johnson, to accept the authorized**
29 **funds spreadsheet as presented. Motion carried, vote 4/0.**

1
2 **b) Current Items Payable**

3 **Manager Johnson moved, seconded by Manager Wirth, to approve the payment of**
4 **bills as presented in the amount of \$177,226.68**

	<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 **6) Permitting**

13 **a) BCWD Permit 23-10 Curio Dance Studio**

14 Camilla Correll presented the engineers’ analysis of the application for BCWD
15 regulatory approval. For background, she explained that the project location is within a
16 Drinking Water Supply Management Area for both Stillwater and Oak Park Heights.
17 Under the state Construction Stormwater General Permit stormwater infiltration is not
18 allowed in an Emergency Response Area if the DWSMA if it is classified as having high,
19 very high or moderate vulnerability nor is it allowed outside of the Emergency Response
20 Area if the DWSMA is classified as having high or very high vulnerability. Stillwater has
21 classified the DWSMA here as having moderate vulnerability while Oak Park Heights’
22 Wellhead Protection Plan classifies it as having high vulnerability. Both cities’
23 Wellhead Protection Plans have been approved by the Minnesota Department of Health.
24 Given that the site is located within the City of Stillwater which has classified its
25 DWSMA as having moderate vulnerability, stormwater infiltration would be allowed
26 under the Construction Stormwater General Permit. Ms. Kill said she will meet with the
27 cities and Minnesota Department of Health to address the conflict.

28 Ms. Correll presented the engineers’ review and recommended conditions on
29 approval. The board discussed the engineer’s recommendation that the applicant be
30 required to provide information on the type of roofing material it would use. Ms. Correll
31 explained the main concern is that the commercial roof runoff is entering the infiltration
32 basin without pre-treatment; confirming the roof material to ensure no pretreatment is
33 necessary is consistent with the BCWD rules.

34 Patricia Schaber, the applicant, confirmed that she understood the condition and
35 agreed to provide information on the roofing material.

36 **Manager LeRoux moved, seconded by Manager Johnson, to approve permit #23-10**
37 **under all conditions and stipulations from the engineer’s report, with the addition of**
38 **the applicant submitting data on roofing materials. Motion carried 4/0.**

39
40 **b) BCWD Permit 23-03 Boutwell Farms**

41 Ms. Kill provided an update on staff efforts to secure compliance of GreenHalo
42 Builders with permit 23-03. She said GreenHalo has restored the stormwater basin on the
43 property at 2545 Boutwell Farm Road North, and has provided a plan for plant
44 establishment. But GreenHalo has not submitted the \$5,000 permit fee as required by the
45 May 24, 2023, order. Michael Welch explained the district could issue an amended order
46 requiring work to stop on the property until the fee has been received, but he does not

1 recommend this. The managers asked if the district could decline to approve any future
2 permits from this developer. Mr. Welch said the board could be take past performance
3 into account in assessing new permit applications. Ms. Kill noted this was already an
4 after-the-fact permit. The managers discussed the benefits of keeping the city informed
5 about issues with individual builders and developers. President Klayton Eckles said the
6 permitting process should clearly make the developer responsible for the end results
7 achieved by individual builders within a development.

8 The managers directed Mr. Welch to send a letter documenting the failure to provide the
9 required fee, copying the city, and noting that a lien could be placed on the property.

10
11 **c) Resolution 23-02 Permit Fee Schedule**

12 Ms. Kill noted that the managers have expressed interest in simplifying the permitting
13 process, especially for single-family residential property applicants. Staff has prepared a
14 resolution with two changes to be considered by the board. One would double fees
15 associated with after-the-fact permits because they are significantly more costly for the
16 district, she explained, and doing so would incentivize completing the permitting process
17 before starting a project. The second change is a flat fee for single-family residential
18 projects, as the cost to those applicants has been one of the concerns the board has
19 expressed. Mr. Welch explained that state law requires that fees cannot be punitive and
20 the district must charge only to offset costs. The flat-fee proposal could be nuanced in
21 that no more funds would be requested but they also wouldn't be returned. Ms. Kill noted
22 the district keeps a detailed permit fee database, which could be used to adjust fee values
23 based on what the district has learned about these kind of reviews. There was discussion
24 around what would be considered a single-family residential project. Staff will revise the
25 resolution and bring it back for further consideration. Ms. Kill explained that the district
26 is likely to see more of applications for infill projects, as most of the space for larger
27 developments have been permitted.

28
29 Manager Eckles said he wanted to simplify the district's rules to reduce the time and cost
30 for applicants. He does not feel like these changes accomplish this bigger goal. The board
31 discussed making these changes in the meantime which would improvement to the
32 system while the board continues to consider larger changes to the rules and permitting
33 process. Mr. Welch said staff will clarify the scope of the resolution and bring it back for
34 consideration.

35
36 **7) Projects**

37 **a) Stillwater Cost-Share Request – 62nd Street Trail Flood Risk Reduction**

38 Ms. Kill explained the proposed cost-share project was among those
39 recommended by the BCWD in the Long Lake flood-risk assessment. The City of
40 Stillwater is requesting cost-share assistance to raise the 62nd Street trail, which acts as an
41 overflow outlet of the stormwater pond. Since the request was made, Stillwater received
42 one quote that exceeded its construction estimate, so the city is planning to seek new
43 quotes in 2024. The board expressed agreement in partnering in these type of projects and
44 will consider cost-share in the 2024 budget.

45
46 **b) Nagle Residence Cost-Share Project**

1 Ms. Kill presented the request for \$5,000 in cost-share assistance for construction of a
2 swale and rain garden, along with planting native species for a single-family home
3 property on Bass Lake. She noted that BCWD shifted its cost-share program to small
4 amounts last year and has not adjusted since then, but this presents an opportunity she
5 wanted to present. She noted that BCWD has budgeted funds that could be allocated to
6 the project. The managers agreed this project creates a stewardship example that could
7 result in neighboring properties also installing water-quality practices. The board clarified
8 there would be a 10-year maintenance agreement and this practice will be inspected
9 annually for that time, with guidance provided to the landowner on its care. The
10 landowner is also willing to participate in district stormwater tours in the future.

11 **Manager Wirth moved, seconded by Manager LeRoux to approve not to exceed**
12 **\$5,000 in cost-share funding for basin installation, turf conversion to native prairie,**
13 **and other eligible activities highlighted in the ‘Nagle Native Landscape’ concept**
14 **plan from account 914-0000. Motion carried 4/0.**
15

16 **c) Applewood Hills Reuse Project Change Order No. 2**

17 Mr. Welch noted that he requested that the change order be removed from the consent
18 agenda just to clarify the extension of the timeline for substantial completion and final
19 completion to July 15, 2023 and July 31, 2023 respectively. He said the order will be
20 edited the order to remove the number of days because the date range listed is clear.

21 **Manager Eckles moved, seconded by Manager Johnson to approve change order**
22 **No. 2 for the Applewood Hills Reuse Project. Motion carried 4/0.**
23

24 **d) Approve registration and expenses for administrator and managers, as well as**
25 **per diem for managers, for the Minnesota Council of Nonprofits annual conference**
26 **in Duluth, September 20-21, 2023**

27 Ms. Kill explained the BCWD will be starting the next 10-year management plan process
28 next year and the conference would provide relevant training to staff and interested board
29 managers.

30 **Manager Eckles moved, seconded by Manager Johnson to approve registration and**
31 **expenses for administrator and managers, as well as per diem for managers, for the**
32 **Minnesota Council of Nonprofits annual conference in Duluth, on September 20-21,**
33 **2023. Motion carried 4/0.**
34

35 **8) Discussion Agenda**

36 **a) Updates**

37 **(1) Administrator**

38 **(a) Budget meeting – July 12, 2023 prior to regular meeting 5-6:30pm**

39 There will be a presentation about the 4M fund at the next board meeting
40 which the managers can consider for the BCWD. The Brown’s Creek
41 Restoration project is moving forward and the public hearing will be
42 scheduled later this summer. Ms. Kill is working with the Department of
43 Natural Resources on the district’s reuse permit for the Oak Glen project.
44 The project may fall under the exception for stormwater management.
45 Manager Eckles asked for there to be more promotion for the district’s
46 community event. The managers discussed the current promotional

1 activities occurring and Manager Eckles said he would be supportive of
2 spending money on promotion.
3

4 **(2) Legal**

5 **(a) Sackett decision from the US Supreme Court**

6 Mr. Welch explained a recent decision made by the United States Supreme
7 Court which greatly reduces the scope of federal wetland protections. The
8 district will likely not see much of an impact because Minnesota has its
9 own laws for wetland protection. The Open Meeting Law was modified to
10 allow remote attendance from a nonpublic location up to three times
11 annually for medical reasons. The \$250,000 levy cap for rural watershed
12 districts was lifted. There is now legal language to allow managed natural
13 landscapes across the state regardless of local ordinances. More funding
14 was provided to supply replacement landscapes.
15

16 **(3) Engineer**

17 **(a) Permit Inspection Update**

18 John Sarafolean explained the lack of rain has helped with erosion and
19 sediment control compliance across the district.
20

21 **9) Adjournment**

22 **Manager Johnson moved, seconded by Manager Wirth, to adjourn the regular meeting at**
23 **8:38 p.m. Motion carried 4/0.**
24

25 Respectfully submitted by

26 Cameron Blake, BCWD staff and Charles LeRoux, Secretary