

APPROVED (July 16, 2007)
REGULAR MEETING OF THE BOARD OF MANAGERS OF THE
MIDDLE- SNAKE-TAMARAC RIVERS WATERSHED DISTRICT
HELD AT 453 NORTH MCKINLEY STREET, WARREN, MN
7:00 P.M. JUNE 18, 2007

The meeting was called to order by President Doug Sorenson. Managers Arlyn Stroble, Loren Zutz, Alvin Nybladh, John W Nelson, Doug Sorenson, Elden Elseth and Ben Kleinwachter were present. Attorney Jeff Hane, Nick Drees, Connie Kalinowski, Ronald J Adrian, Danny Omdahl and Ron Harnack were also present.

Tracy Anderson, Wally Diedrich, Ransel Anderson, Joel Anderson, Cecil Deshene, Jon Gordhammer, Pat Crummy, Jeff Nelson Alan Pietruszewski, Jim Larson, Jeff Beaudry, Zachary Beaudry, Ken Pawlowski, Earl Pawlowski, Eric Erdahl, Marshall Fulks and Tim Mortenson were also present.

Wallace Diedrich recorded the meeting with two recorders.

Motion by Mr. John W Nelson, seconded by Mr. Arlyn Stroble, that Connie Kalinowski be appointed the recording secretary for purposes of keeping the minutes of the meeting. Motion unanimously carried.

Some discussion was held on listing the person(s) who are recording the Board meeting, and how many recorders are being used.

Mr. Loren Zutz stated that he has not recorded the meetings.

Motion by Mr. Ben Kleinwachter, seconded by Mr. John Nelson to approve the agenda as presented, with the clarifications noted. Motion unanimously carried.

Motion by Mr. Arlyn Stroble, seconded by Mr. Alvin Nybladh to approve the minutes of the May 21, 2007 meeting as corrected. Motion unanimously carried

Motion by Mr. Ben Kleinwachter, seconded by Mr. Arlyn Stroble to approve the minutes of the June 4, 2007 meeting as presented. Motion carried, with Mr. Loren Zutz and Mr. Elden Elseth voting no.

The financial report was reviewed to be filed for audit purposes.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the following bills be paid: from the Administrative funds: that payroll checks numbered 4551 through 4564 inclusive for a total of \$14,775.62, and checks numbered 13406

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through 13440 inclusive, and including the service charge for a total of \$24,719.72; and from the Project funds that checks numbered 1364 through 1376 inclusive, and checks numbered 1377 and 1378 for a total of \$48,279.61; and from the Ditch Funds that checks numbered 2195 through 2199 inclusive for a total of \$35,271.78 be paid. Motion unanimously carried.

Nick Drees distributed the gross salary payroll review sheets, and the total overtime hours worked, per month, for each employee.

Jeff Hane reported on the status of the Breach of the Settlement Agreement of Jim Stengrim, regarding the Agassiz Valley Water Resource Management Project, and distributed a letter he received from Jim Stengrim.

Mr. Doug Sorenson appointed Nick Drees, John W Nelson and Ben Kleinwachter, with Arlyn Stroble as an alternate, to schedule a meeting with Jim Stengrim, to discuss this issue.

Jeff Hane reported on the telephone scheduling hearing that was held on June 8th, 2007, concerning the appeal of Loren Zutz regarding the PL566 project.

Mr. Loren Zutz excused himself from the Board meeting.

Jeff Hane distributed a Memorandum he prepared. He stated that Mr. Loren Zutz directed him to prepare a Memorandum setting forth points and authorities as to why the Board of Managers could not settle this appeal.

A discussion was held concerning the inability to get the contractors for Phase 2 and Phase 3B of the PL-566 project, to sign a release of claims to receive the retainage still being retained.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that Attorney, Jeff Hane, prepare the necessary documents to begin the proceedings to deposit the retainage funds of KGM Contractors, and Riley Brothers, in the District Court. Motion unanimously carried.

Mr. Jeff Hane stated that he has not received the documents he requested from Mr. Loren Zutz pertaining to Kathy Docter, of the State Auditor Office.

Mr. Jeff Hane reported that the District court denied both Summary Judgement motions regarding the Drewes lawsuit, on the Angus Oslo #4 Project, and that it appears it will be set for trial this fall.

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A letter sent by Mr. Elden Elseth to the Army Corps of Engineers requesting a public hearing on the District's 404 permit application on the Agassiz Valley Water Resource Management Project was distributed.

A lengthy and heated discussion ensued.

Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson that the following Motion to Censure be adopted:

WHEREAS, the Middle Snake Tamarac Rivers Watershed District Board of Managers ordered the establishment of the Agassiz Valley Water Resource Management Project;

WHEREAS, the District entered into a Settlement Agreement with appellants who agreed to support the construction of the Project;

WHEREAS, the Army Corps of Engineers permit is required for the Project to be constructed;

WHEREAS, Elden Elseth, a Manager of the Middle Snake Tamarac Rivers Watershed District Board of Managers, without authorization submitted a letter requesting a hearing to challenge certain aspects of the Project, which is contradictory to the Order of the Board and Settlement Agreement;

NOW THEREFORE, BE IT RESOLVED, that the Middle Snake Tamarac Rivers Watershed District Board of Managers hereby censure Elden Elseth for his actions.

A roll call of votes was taken with Mr. John W Nelson, Mr. Doug Sorenson, Mr. Alvin Nybladh and Mr. Arlyn Stroble voting in favor of; Mr. Ben Kleinwachter and Mr. Loren Zutz voted no, and Mr. Elden Elseth abstained.

Mr. Elden Elseth stated he is not opposed to the Agassiz Valley Water Resource Management Project.

Nick Drees stated that the District needs to provide a response to the Army Corps of Engineers in regards to the letter of Mr. Elden Elseth.

After much discussion, the following resolution was made:

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the Board of Managers of the Middle Snake Tamarac Rivers Watershed whole heartedly support the Agassiz Valley Water Resource Management Project and request that the Army Corps of Engineers expedite the issuance of the permit needed for the construction of the Agassiz Valley Water Resource Management Project.

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A roll call of votes was taken with Mr. Ben Kleinwachter, Mr. John W Nelson, Mr. Doug Sorenson, Mr. Alvin Nybladh, Mr. Loren Zutz, Mr. Arlyn Stroble and Mr. Elden Elseth voting in support of said resolution.

A discussion was held concerning the next steps to be taken to initiate proceedings of Breach of the Settlement Agreement on the Agassiz Valley Water Resource Management Project of Jim Stengrim and others.

Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson that the Attorney for the District, initiate proceedings against Jim Stengrim and others regarding the Breach of the Settlement Agreement on the Agassiz Valley Water Resource Management Project. Motion carried, with Mr. John W Nelson, Mr. Doug Sorenson, Mr. Alvin Nybladh and Mr. Arlyn Stroble voting yes, Mr. Ben Kleinwachter voted no, Mr. Loren Zutz and Mr. Elden Elseth abstained. Motion carried.

Jeff Beaudry, Zach Beaudry and others discussed the permit (07-025) application of Jeff and Zach Beaudry, to lower the culverts under Marshall County Road #19 and under the field crossing along Minnesota Trunk Highway #75, in section 22 and 27 of Middle River Township. The permit was denied at the regular meeting of the Board of Managers held on June 4, 2007.

After discussion, no motion was offered to change the Board's actions of June 4, 2007, and the permit stands denied.

Motion by Mr. Elden Elseth, seconded by Mr. John W Nelson, that the following permit be issued:

1. Permit (07-026) be issued to the Marshall County Highway Department to replace (1) 36" CSP under Marshall County Road #19, with (1) 36" culverts in the SW4 SE4 of section 22 of Middle River Township, at the same elevation.

Motion carried, with Mr. Arlyn Stroble abstaining.

Motion by Mr. John W Nelson, seconded by Mr. Elden Elseth that the following permit be issued:

2. Permit (07-027) be issued to Jeff Nelson to relocate a field inlet crossing and to install a 24" culvert, 600' north of the section corner, in the SW4 of section 12 of Sinnott Township

Motion unanimously carried.

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Motion by Mr. Arlyn Stroble, seconded by Mr. Elden Elseth that the following permit be issued:

3. Permit (07-028) be issued to John Nelson to move the field crossing $\frac{1}{4}$ mile east to the NE corner of the SE4, and install an 18" CSP, in section 29 of Oak Park Township.

Motion carried, with Mr. John W Nelson abstaining.

No action was taken on the permit (07-029) application of Gary Gruhot.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Elden Elseth that the following permit be issued:

4. Permit (07-030) be issued to Earl Jorgenson to clean the sediment in a part of the Swift Coulee in the northwest corner of the NW4, of section 9 of McCrea Township, provided that a protected waters permit is received from the Minnesota Department of Natural Resources.

A roll call of votes was taken with Mr. Ben Kleinwacher, Mr. Elden Elseth, Mr. Alvin Nybladh voting yes, Mr. John W Nelson and Mr. Arlyn Stroble voting no, Mr. Loren Zutz abstaining. Motion carried.

Ransel Anderson and Joel Anderson discussed the non permitted ring dike constructed on the Leland Anderson and Joel Anderson properties in section 7 of Vegas (Strip) Township in violation of the Marshall County Zoning Ordinance.

Nick Drees reported that he has been in contact with the Marshall County Water Planning Coordinator and the Minnesota Department of Transportation regarding the ring dike on the Leland Anderson property, and that they would be agreeable to approving the construction of the ring dike, so long as it is built to the criteria of the Watershed District's ring dike program.

Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson, that the District provide specifications and engineering of the Leland Anderson ring dike in section 7 of Vegas (Strip) Township, provided that the dike meets the criteria set forth by the ring dike program of the District. Motion unanimously carried.

Eric Erdahl discussed his desire to purchase approximately 10 acres of property owned by the District in Section 18 of Brandt Township.

Nate Dalager provided information on the Dam Safety issues associated with structures in close proximity to the proposed Brandt/Angus Project in section 18 of Brandt Township.

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The Board informed Eric Erdahl that the District is not interested at this time, to sell the property located in section 18 of Brandt Township.

Ron Kmecik, Tabor Township Supervisor, discussed the culvert that Tabor Township plugged through the township road in the NW4 of section 17 of Tabor Township.

After discussion, it was decided that more information was needed, and that this would be looked into at the next meeting.

Correspondence was distributed from the Marshall County Water and Land Office to Leland Anderson concerning a ring dike constructed in section 7 of Vegas (Strip) Township; from Leland, Joel and Ransel Anderson to the Middle Snake Tamarac Rivers Watershed District concerning the issuance of an "after the fact" permit; from the Natural Resources Conservation Service regarding flood protection levels for the City of Warren regarding the Snake River PL-566 project; from KGM Contractors concerning a change of material order on Phase 3B of the Snake River PL-566 project; and a letter from Jeff Hane to Jim Stengrim.

Data Practice Requests from Danny Omdahl, Elden Elseth and Tracy Anderson were distributed.

Nick Drees reported that the documents and/or materials he requested from Mr. Loren Zutz and Mr. Elden Elseth have not been received.

A lengthy and heated discussion took place concerning the actions of Mr. Loren Zutz and Mr. Elden Elseth regarding employee and board relations.

Mr. Arlyn Stroble suggested that Mr. Loren Zutz and Mr. Elden Elseth refrain from dealing with the employee's of the District, and deal only with Nick Drees, the District's Administrator.

Nick Drees reported that the seeding has been completed on Judicial Ditch 15, Branch B; that the driveway of Jerry Knute is in jeopardy for approximately 3/8 mile, along the south spoil on Judicial Ditch #75.

Nick Drees reported that the next project team meeting on the Brandt/Angus Coulee is scheduled for June 28, 2007 and a tour of the site will be held; that a tour of the proposed Brandt/Angus Coulee project is planned with representatives of the Red River Watershed Management Board on June 19, 2007; and that a the Step 1 submittal to the Red River Watershed Management Board will be presented on June 19, 2007.

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Nick Drees reported that the Project Work Team on the Agassiz Valley Water Resource Management Project will not meet in June, but the vegetation sub-committee is scheduled to meet on June 21, 2007.

Nick Drees reported that the assessment statement has been filed with Marshall County. They have informed us that a \$5.00/parcel charge will be levied against the project.

Nick Drees reported that the Army Corps of Engineers have approved the Snake River PL-566 Mitigation Plan dated April 6, 2007; and that Burlington Northern Railroad would allow the construction of an access road on their property in the SE4 of Section 1 of Boxville Township, provided a lease was agreed upon. The consensus of the Board was to drop the matter.

Nick Drees reported that the Red River Watershed Management Board meeting is scheduled for June 19, 2007, at the Warren City Council Meeting Room and a tour of the Brandt/Angus Coulee, for the step 1 submittal, will be conducted.

The activity report of the District was distributed.

Nick Drees reported on the status of the ring dikes currently under construction.

Ron Harnack stated that there is \$200,000 this year and \$200,000 for next year appropriated by the Minnesota State Legislature for the State Ring Dike Cost Share Program.

Nick Drees stated that the Joe River Watershed District has asked for assistance in constructing a farmstead ring dike.

It was mentioned that an informational meeting on the Middle River will be held in Newfolden on June 21, 2007. This meeting is for landowners up and downstream to discuss flooding issues on the Middle River.

Nick Drees stated that the problem with drainage in the SE corner of the Southwest quarter of section 25 of Vega Township, along Marshall County State Aid Highway #21 may be resolved.

The remapping of Marshall County Flood Plain by FEMA and the Department of Natural Resources is continuing with local agencies requested to provide information to FEMA's contractor.

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Mr. Elden Elseth stated he had some questions on the 2006 audit. He was instructed to put them in writing and give to the Administrator to forward to Brady, Martz and Associates.

Mr. John Nelson, seconded by Mr. Arlyn Stroble to accept the 2006 Financial Report, prepared by Brady Martz & Associates, and that the 2006 Annual Report be published and forwarded to those required by Minnesota Statute 103D.351, and to those persons known to be interested in receiving it. Motion unanimously carried.

A discussion was held concerning the dikes along Polk County State Aid Highway #23, in section 10 of Angus Township. Mr. Hane was instructed to correspond to the parties asking what they proposed to do about the issue.

Motion by Mr. Arlyn Stroble, seconded by Mr. Alvin Nybladh that the regular board meeting times be changed from 7:00 p.m. to 4:00 p.m., beginning July 16, 2007, and that the time could be changed to accommodate a specific meeting. Motion unanimously carried.

Motion by Mr. Elden Elseth, seconded by Mr. Ben Kleinwachter to cancel the permit meeting scheduled for July 2, 2007. Motion unanimously carried.

The next regular meeting of the Board of Managers was scheduled for 4:00 p.m., July 16, 2007, at the District office.

Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson that the meeting be adjourned. Motion unanimously carried.

The meeting was adjourned at approximately 12:48 a.m.

Connie Kalinowski
Recording Secretary

Ben Kleinwachter
Secretary