

**APPROVED (May 18, 2009)**  
**REGULAR MEETING OF THE BOARD OF MANAGERS OF THE**  
**MIDDLE- SNAKE-TAMARAC RIVERS WATERSHED DISTRICT**  
**HELD AT 453 NORTH MCKINLEY STREET, WARREN, MN**  
**4:00 P.M. APRIL 20, 2009**

The meeting was called to order by President Doug Sorenson. Managers John W Nelson, Alvin Nybladh, Loren Zutz and Elden Elseth were present. Manager Ben Kleinwachter was not present. Marvin Hedlund, Nick Drees, Connie Kalinowski, Jeff Hane, Wallace Diedrich, Ron Adrian, Scott Kostmatka, Tom Kallock, Milt Gowan, and Don Narlock were also present.

Wallace Diedrich recorded the meeting with two recorders.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh, that Connie Kujawa be appointed the recording secretary for purposes of keeping the minutes of the meeting. Motion carried, with Mr. Elden Elseth and Mr. Loren Zutz voting no.

Chairman, Doug Sorenson, introduced Marvin Hedlund, Middle Snake Tamarac Rivers Watershed Management manager, appointed by the Polk County Commissioners. Mr. Marvin Hedlund took the oath and signed the oath of office.

Mr. Ben Kleinwachter joined the meeting at approximately 4:04 p.m.

Nominations for the Assistant Secretary/Treasurer position were entertained. Mr. John W Nelson nominated Mr. Marvin Hedlund and Mr. Elden Elseth nominated Mr. Loren Zutz. The voting resulted in a tie, with the Chairman casting the deciding vote for Mr. Marvin Hedlund. Mr. Marvin Hedlund will assume the Assistant Secretary/Treasurer position on the Middle Snake Tamarac Rivers Watershed Board of Managers.

Nate Dalager joined the meeting at approximately 4:05 p.m.

Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson that the signatories on the District accounts be those of the President, Treasurer and Assistant Secretary/Treasurer. Motion carried, with Mr. Elden Elseth voting no.

Motion by Mr. Marvin Hedlund, seconded by Mr. Alvin Nybladh that the agenda be accepted as presented. Motion unanimously carried.

Motion by Mr. Elden Elseth, seconded by Mr. John W Nelson that the minutes of the March 16, 2009 meeting be approved, as presented. Motion unanimously carried.

## UNAPPROVED

The financial report was reviewed and filed for audit purposes.

Mr. Doug Sorenson stated that check #1678 to KGM Contractors, in the amount of \$90,000.00 is not included on the Treasurer's report.

Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson that the following bills be paid, including check #1678 to KGM Contractors, from the Administrative funds: that payroll checks numbered 4839 through 4851 inclusive for a total of \$15,433.56; and checks numbered 14116 through 14151 inclusive, including the service charge and safe deposit box rent for a total of \$41,558.62; from the Project funds that checks numbered 1668 through 1678 for a total of \$119,394.28; and from the Ditch Funds that checks numbered 2306 through 2310 for a total of \$2,536.57 be paid.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz to amend the motion, to exclude payment of the attorney bills and vote on them separately. Motion to amend failed, the motion to pay the bills carried, with Mr. Elden Elseth and Mr. Loren Zutz voting no.

Don Narlock discussed the letter written by Jerry Narlock concerning property in Section 16 of Warrenton Township. The letter was reviewed and is on file in the District office.

Roger Hille of the Minnesota Department of Transportation discussed the erosion issues occurring on the West side of township road on section line 2/1 of McCrea (Strip) Township at the outlet of Judicial Ditch #25-1. It was the consensus of the Board that the District Administrator and Roger Hille meet and discuss possible solutions and costs for the repair of the erosion problem.

Mike Sweeney joined the meeting at approximately 4:37 p.m.

Roger Hille of the Minnesota Department of Transportation discussed the damages caused by flood waters along Minnesota Trunk Highway #1, east of Oslo. He stated that the Minnesota Department of Transportation would like to repair the damages of the grade of the Trunk Highway #1.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that the District Administrator, work with the Minnesota Department of Transportation and the North Dakota Water Commission to establish a short term fix to repair the roadway, which would not include milling the road, and equalize the culverts under MN Trunk Highway #1 with the Northern Plains railroad. Motion unanimously carried.

Roger Hille, Scott Kosmatka, Tom Kallock, Milt Gowan, Don Narlock and Mike Sweeney left the meeting at approximately 5:05 p.m.

## UNAPPROVED

A review and discussion of the permit requests was held.

Motion by Mr. Elden Elseth to approve the permit requests (09-008; 09-010) and to amend permit (09-005), Mr. John Nelson amended the motion of Mr. Elden Elseth to vote on permit (09-005) separately. Mr. Elden Elseth and Mr. John W Nelson withdrew their motions.

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

1. Permit (09-008) to Mark Yutrzenka to install a trap on the south end of a 24" field crossing culvert on the east side of MN Trunk Highway #75 in the NW4 of section 2 of Warrenton Township;
2. Permit (09-010) to Como Township to install the equivalent of 29 square feet of pipe in Judicial Ditch #19 and to fill in the township road spillway between the SE4 NE4 of section 6 and the SW4 NW4 of section 5 of Como Township.

Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Loren Zutz that the request to amend the following permit be denied:

3. Permit (09-005) of the Marshall County Highway Department to replace the existing bridge and replace with (2) lines of 12' x 16' box culverts on County Road #15 in the NE4 NE4, Section 2 of Boxville Township. The permit issued (February 23, 2009) was approved with the installation of (2) lines of 12' x 14' box culverts.

Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that Nick Drees, Administrator, be authorized to grant permits for the emergency replacement of culverts provided the culvert size remains the same and that they are replaced on the established grade. Motion unanimously carried.

It was the consensus of the Board to address agenda item 14 (1) (Projects- Nate Dalager) before agenda item 11 (Communications).

Nate Dalager, HDR Engineering, reported on the status of the proposed Brandt/Angus project. He stated that a hearing would need to be held to initiate the project.

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Motion by Mr. Alvin Nybladh, seconded by Mr. Ben Kleinwachter that the District schedule the hearing to initiate the proposed Brandt/Angus project for May 18, 2009, at 7:00 p.m., at the District office, with notification of the hearing being sent to the adjacent landowners and published in the designated newspapers of the District for two weeks. Motion unanimously carried.

Nate Dalager gave a brief report on the sub-watershed meetings held on the District's 10 year Overall Plan update.

Correspondence was distributed from the Minnesota Board of Soil and Water Resources concerning the Minnesota Waters, 2009 Lakes and River Conference, scheduled for May 7-8, 2009, in Rochester, Minnesota; and from the Minnesota Association of Watershed Districts concerning the March 17, 2009 Legislative Update.

The following data practice requests were distributed:

1. From the Office of the Legislative Auditor requesting documentation related to expense reimbursements received under the Flood Hazard Mitigation Grant Agreement;
2. From an anonymous post office box in Borup, Minnesota requesting copies of settlement offers or proposed settlement offers on the District's litigation cases;
3. From an anonymous person in Park Rapids, Minnesota requesting information provided by the District's Attorney regarding the "Stengrim bridge issue on Judicial Ditch #25-1";
4. From an anonymous post office box in Borup, Minnesota requesting the gross pension amount contributed by the District on a named employee;
5. From an anonymous post office box in Borup, Minnesota requesting information on modifications or changes made to the Engineer's Report and the Preliminary Construction Plans on the Agassiz Valley Water Resource Management Project;
6. From an anonymous person in Park Rapids, Minnesota requesting copies of "all" meetings, minutes, agendas, and copies of the notes of the Administrator, Chairman and the Recording Secretary taken during the Board meetings.

Connie Kujawa inquired if the data practice request to furnish "all" copies of the minutes (approved and unapproved), the agenda's (draft and final), notices of District meetings and the notes of the Administrator, Chairman and the Recording Secretary were subject to copy charges.

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Jeff Hane informed Connie Kujawa to keep record of the time and the amount of copies made and he would address this issue at the next regular meeting of the Board.

Nick Drees reported that the Engineer for the District is determining the amount of right-of way needed for the repair of Judicial Ditch #75. He also stated that to limit the number of culverts installed on Judicial Ditch #75 that the possibility of header ditches is being addressed with landowners.

It was the consensus of the Board, that Nick Drees, be directed to contact the affected landowners along Judicial Ditch #75 to see if there is interest in header ditch's.

Nick Drees reported on the drainage issues of Judicial Ditch #15.

Nick Drees stated that he has been contacted by Ed Honek requesting the spoil of Watershed Ditch #5 be raised at the Helen Honek residence. Nick Drees was directed to contact Ed Honek to see if they have fill available to raise the spoil.

Nick Drees stated that a culvert on the crossing on Judicial Ditch #15, Branch B under the township road, on section line 5/4 of Viking Township had washed out. Nick Drees was directed to work with the Township to re-install the culvert.

Nick Drees reported that Mr. Arlyn Stroble was the District's representative on the Project 60 Joint Power Board and that since his term has expired a replacement would need to be made.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Loren Zutz that Mr. Marvin Hedlund be appointed to serve as one of the District's representative's to the Project 60 Joint Power Board. Motion unanimously carried.

Nick Drees reported that bids were received and publicly opened at the District office on April 16, 2009 for Phase 2 of the Agassiz Valley Water Resource Management Project. The audited bid results were distributed.

Motion by Mr. John W Nelson, seconded by Mr. Loren Zutz to authorize the Administrator of the District to accept the apparent low bid of Davidson Construction, in the amount of \$559,958.30, and to award the contract, upon approval of the Bid Bond by the Districts Attorney and upon approval by the Engineer of the District. Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson that the District advertise for bids the rental of the following parcels of property, with bids to be accepted until 1:00 p.m., May 4, 2009, then publicly opened at the permit meeting scheduled for 4:00 p.m., May 4, 2009 at the District office.

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Parcel #1: NE ¼, Sec 12, McCrea Strip Township  
Parcel #2: N ½, Sec 7, Comstock Strip Township  
Parcel #3: SW ¼, Sec 12, Brislet Township

Motion carried, with Mr. Loren Zutz and Mr. Elden Elseth abstaining.

Nick Drees reported on the operation of the PL-566 Diversion structure and the Off Channel Storage Site during the 2009 spring flood event. He also reported that tours of the project were held with the Minnesota Department of Natural Resources, the Natural Resources Conservation Service and the media.

Nick Drees reported that he has been contacted by landowners in Section 13 and Section 14 of Comstock Township requesting that drainage water be kept North of the Great Plains Railroad.

Jeff Hane reported that he drafted a letter to Ernest Pribula regarding the farmstead ring dike constructed on his property in the SW4 of section 7 of Northland Township.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that Jeff Hane be authorized to send a settlement letter to Ernest Pribula. Motion unanimously carried.

Motion by Mr. Alvin Nybladh, seconded by Mr. John W Nelson that the District renew the Surface Water Assessment Grant with the Red River Watershed Management Board, for the remainder of 2009 and 2010, open water monitoring seasons (April through October). Motion unanimously carried.

Nick Drees reported that the next Red River Watershed Management Board meeting is scheduled for April 21, 2009 at the Wild Rice Watershed District, in Ada, Minnesota. The activity report of the District and the highlights of the March Red River Watershed Management Board were distributed.

Jeff Hane requested that the Board meet in closed session to discuss litigation strategies regarding the Agassiz Valley Water Resource Management Project-Stengrim case; that the PL-566-Riley case is scheduled for trial to begin on March 4, 2009; that the District received the funds for KGM Contractors from the Natural Resources Conservation Service; that Drewes, Inc has 60 days to file a brief with the Court of Appeals on the Angus Oslo #4 Project, and that the District received a letter from the insurance carrier, along with a check, for funds requested by Loren Zutz for Attorney fees incurred in the Open Meeting Lawsuit of Jim Stengrim.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that the District re-submit to the District's insurance carrier for reimbursement of legal costs

## UNAPPROVED

incurred in the Agassiz Valley Water Resource Management Project-Stengrim matter. Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Doug Sorenson that the insurance check received for reimbursement of expenses incurred in the proposed Open Meeting Lawsuit of Jim Stengrim be deposited with the District Court. Motion carried, with Mr. Loren Zutz abstaining, and Mr. Elden Elseth voting no.

Nick Drees reported that the Proposals for equipment rental for the 2009 construction season have been published and that the proposals will be publicly opened on May 18, 2009, at 1:00 p.m., at the District office.

Nick Drees reported that correspondence has been received from Kristine Parana, UND Conflict Resolution Center, stating that some managers have not signed the agreement for services.

The grievance letter of Danny Omdahl was distributed. A discussion was held in open session with Danny Omdahl and the Board of Managers.

Nick Drees reported that the firm of Brady-Martz will begin the 2008 audit of the District's finances on April 22, 2009; that the TMDL, MPCA meeting was held on April 14, 2009, in Alvarado; and that the District is preparing the 2008 Annual report.

Mr. Ben Kleinwachter, Mr. John W Nelson and Mr. Doug Sorenson briefly updated the Board on the Legislative Breakfast they attended in St. Paul, on March 17-March 19, 2009.

The next meeting of the Board will be held, May 4, 2009, at 4:00 p.m, to review permit applications and to open the land rental bids, and the next regular meeting of the Board be scheduled for May 18, 2009 at 4:00 p.m.

Jeff Hane requested that the meeting be closed pursuant to Minnesota Statutes 13D.05 subd 3(b) to discuss litigation strategies regarding the Agassiz Valley Water Resource Management Project Stengrim lawsuit and the PL-566 Riley lawsuit.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the meeting be closed. Motion unanimously carried.

The meeting was closed at approximately 9:17 p.m.

Motion by Mr. John W Nelson, seconded by Mr. Loren Zutz that the meeting be reopened. Motion unanimously carried.

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The meeting was reopened at approximately 10:08 p.m.

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

The meeting was adjourned at approximately 10:09 p.m.

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Connie Kalinowski  
Recording Secretary

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Ben Kleinwachter  
Secretary