

**APPROVED**

(as corrected June 15, 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. MAY 18, 2009**

The meeting was called to order by President Doug Sorenson. Managers Loren Zutz, John W Nelson, Doug Sorenson, Ben Kleinwachter, Elden Elseth and Marvin Hedlund were present. Manager Alvin Nybladh was not present. Nick Drees, Connie Kalinowski, Jeff Hane, Wallace Diedrich, Ron Adrian, Ernest Pribula and Danny Omdahl were also present.

Wallace Diedrich recorded the meeting with two recorders.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter, 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.

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

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that the minutes of the April 20, 2009 meeting be approved as presented. Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Marvin Hedlund that the minutes of the May 4, 2009 meeting be approved as presented. Motion unanimously carried.

The financial report was reviewed and filed for audit purposes.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that action on payment of the legal bills be voted on separately. Motion failed.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that the following bills be paid, from the Administrative funds: that payroll checks numbered 4852 through 4862 inclusive for a total of \$13,975.31; and checks numbered 14152 through 14192 inclusive, including the service for a total of \$67,526.08; from the Project funds that checks numbered 1679 through 1688 for a total of \$38,8443.11; and from the Ditch Funds that checks numbered 2311 through 2313 for a total of \$5,483.00 be paid. Motion carried.

There were no individuals present for the open forum.

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Ernest Pribula discussed the settlement letter he received from the District regarding the farmstead ring dike constructed on his property in the SW4 of section 7 of Northland Township. Ernest Pribula declined the District's offer to reimburse him his portion of the cost share for the ring dike.

A discussion was held, and again, it was the consensus of the Board, that the District would survey and prepare an "as-built" of the ring dike.

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

1. Permit (09-012) of Mark Knutson to regrade approximately ½ mile of the West ditch of County Road #11, in the SE4 of Section 10 of Marsh Grove Township.

Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Loren Zutz that the following portion (B) of the permit be issued:

2. Permit (09-014) of Tom Ritoch to install an access road to the bins at or below the elevation of the cartway and to install a 12" or 15" culvert to drain waters from the bin site into the east ditch of MN Trunk Highway #220, in the SW4, of section 17 of Sandsville Township be permitted;

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that the following portion (A) of the permit be tabled pending additional information:

3. Permit (09-014) of Tom Ritoch to build a dike on the west, north and east sides of the SW4 and to install culverts with traps to drain water from the quarter, n the SW4 of Section 17 of Sandsville Township be tabled.

Motion carried, with Mr. John W Nelson abstaining.

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

4. Permit (09-015) to American Crystal Sugar to remove a 30" CSP and install a 30" CSP (at the west end of the piling station) and to install a new crossing near the east end of the property with a 30" CSP, in the SW4, of Section 9 of Bloomer Township;
5. Permit (09-016) to Warrenton Township to remove a 24" and 30" CSP and install a 33" x 49" CSPA, on the north side of MN Trunk Highway #1, on

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County Ditch #41, on section line 31 and 32 of Warrenton Township.

Motion unanimously carried.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that the following permit be issued:

6. Permit (09-017) to the Minnesota Department of Transportation to equalize the road culverts with the railroad culverts, section by section, in concert with the 1.5" increase in road height, from Marshall County Road #17 westerly to the Oslo dike.

Motion unanimously carried.

Correspondence from the Minnesota Association of Watershed District's concerning the 2009 Summer Tour was distributed.

The following data practice requests were distributed:

1. From post office box 467 Park Rapids, Minnesota requesting engagement agreements with Toren Appraisal Services;
2. From Jim Stengrim requesting supporting documentation that a report from Toren Appraisal Services be classified as "public" data;
3. From post office box 56 Borup, Minnesota requesting copies of the Grant Agreement between the MSTRWD and the State of Minnesota for the Agassiz Valley Water Management Project; and any and all data that identifies payment of Attorney fees are reimbursable expenses;
4. From 400 Birch Briar Lane Park Rapids, Minnesota requesting information provided by the District's Attorney regarding the "Stengrim bridge issue on Judicial Ditch #25-1;
5. From post office box 467 Park Rapids, Minnesota requesting any and all data in the Engineer's Report for the Agassiz Valley Water Resource Management Project addressing the breach analysis of the dam;
6. From post office box 56 Borup, Minnesota requesting an explanation of redacted documents regarding employee fringe benefits;

Nick Drees reported that the work limits had been staked for the FEMA repair of Judicial Ditch #75.

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Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson that the following resolution be adopted:

**AUTHORIZATION FOR FEMA REPAIR**

BE IT RESOLVED that the District Administrator be authorized to repair Judicial Ditch #75 without advertising for bids and without regard to the \$1,000 mile of open ditch in the ditch system or the dollar amount requiring solicitation of sealed bids, because of the following finding:

- (1) the drainage system was destroyed or impaired by floods, natural disaster, or unforeseen circumstances;
- (2) the area of damage to Judicial Ditch #75 has been declared a disaster area by the President of the United States in 2002, 2006 and 2009, and federal funds are available for repair or reconstruction; and
- (3) the public interest would be damaged by repair or reconstruction being delayed, since a standard repair done under competitive bidding will result in construction in 2010, and further serious erosive damage will then likely occur, and the unrepaired ditch will expose the public to another year of hazard.

Motion unanimously carried.

Nick Drees briefly updated the board on Judicial Ditch #14.

Nick Drees reported that the hearing on the proposed Brandt/Angus project is scheduled to be held, tonight, at 7:00 p.m.; that Project 60 is progressing with most landowners enrolling in the RIM program; that the modeling portion of the District's Overall Plan is being worked on; that a pre-construction meeting on Phase 2 of the Agassiz Valley Water Resource Management Project, is scheduled for May 21, 2009, with Davidson Construction; that Zavoral Construction will commence works on Phase 1 of the Agassiz Valley Water Resource Management Project within the week; and that the farm lease agreements for the lands of the Agassiz Valley Water Resource Management Project have been signed and the first half of the rent has been received.

Nick Drees reported that there is some erosion problem on Phase IV, Part 1 of the PL-566 project; and that a meeting is scheduled with the City of Warren on May 20, 2009 to discuss the reimbursement of expenses to the District for the PL-566 project.

Nick Drees reported the Red River Watershed Management Board meeting is scheduled for May 29, 2009 at 9:30 a.m., at the Warren City Council meeting room, with the Flood Damage Reduction Work Group meeting in the afternoon.

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The News and Views of the Red River Watershed Management Board; the April highlights of the Red River Watershed Management Board and the District's activity report were distributed.

Nate Dalager and others joined the meeting at approximately 6:40 p.m.

Jeff Hane requested that the Board meet in closed session to discuss litigation strategies regarding the Agassiz Valley Water Resource Management Project-Stengrim case and the PL-566 Riley lawsuit; that the PL-566-Riley case was heard the week of May 4, 2009; that the District has forwarded the funds to KGM Contractors for settlement on Phase 3B of the PL-566 project; that the briefs in the Drewes, Inc lawsuit were due May 8, 2009 and the Attorney for Drewes Inc, has filed an extension; and that depositions are scheduled to begin on the Open Meeting Lawsuit of Jim Stengrim, in June 2009.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that the Board suspend the agenda and move to Agenda item #18, for purposes of holding the hearing on the Proposed Brandt/Angus project, as scheduled, and which was given by notice of mailing posting and publication. Motion unanimously carried.

Mr. Loren Zutz inquired if any bills have been submitted by Steve Anderson for legal fees and who is paying Steve Anderson. No bills have been received by the District.

The meeting was suspended at approximately 7:00 p.m., and the hearing on the Proposed Brandt/Angus project was convened.

Those in attendance for the hearing were: Marilyn Chruszch, Wally Diedrich, Ronald J Adrian, James E Johnson, Mary Ann Hermreck, Warren Hermreck, Ernest Taus, Donald Taus, Lloyd Kasprick, Terry Wolfe, Dorothy Kliner, Albert Chruszch, James Fanfulik, Bud Avery, Rodney Larson, Alice Whitehead, Jeff Hane, Ben Kleinwachter, John W Nelson, Doug Sorenson, Loren Zutz, Elden Elseth, Marvin Hedlund, Nick Drees, Connie Kujawa and Danny Omdahl.

Nate Dalager, HDR Engineering, presented a power point presentation on the preliminary Engineer's Report on the proposed Brandt/Angus Project, in section 19 of Brandt Township.

After testimony and comments were given by a few of the individuals present, Mr. John W Nelson motioned, seconded by Mr. Marvin Hedlund that the testimony portion of the Brandt/Angus project be closed. Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that the following resolution be adopted:

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**RESOLUTION OF THE BOARD OF MANAGERS  
OF THE MIDDLE SNAKE TAMARAC RIVERS WATERSHED DISTRICT  
ESTABLISHING AND APPROVING A FLOOD CONTROL PROJECT  
DESIGNATED AS THE BRANDT/ANGUS PROJECT**

WHEREAS, the Board of Managers of the Middle River Snake River Watershed District adopted a resolution initiating a project which has as its purpose the construction of a flood control impoundment area located in Brislet Township, Polk County, Minnesota, as provided for under Minnesota Statutes §103D.605; and

WHEREAS, that due and proper notice was given setting a time and location of a hearing, by mailing, publication and posting of said Notice of Hearing; and

WHEREAS, the required hearing was held on May 18, 2009, at 7:00 p.m., at the Middle Snake Tamarac Rivers Watershed District, at 453 N McKinley St, Warren, Minnesota, as required by law, and

WHEREAS, all managers of the Middle Snake Tamarac Rivers Watershed District were present at said hearing, except for Mr. Alvin Nybladh, together with their attorney, Jeff Hane, Brink, Sobolik, Severson, Malm & Albrecht, P.A., of Hallock, Minnesota who presided and conducted the hearing on behalf of the Board of Managers; and

WHEREAS, approximately 26 individuals were in attendance for the hearing;

WHEREAS, the purpose of the hearing was to hear all parties interested for and against confirming the Preliminary Engineer's Report; and

WHEREAS, Nate Dalager, HDR Engineering, of Thief River Falls, Minnesota, the Engineer appointed by the Middle Snake Tamarac Rivers Watershed District Board of Managers prepared a Preliminary Engineer's Report which advised the Board of Managers that the project is feasible and estimated the cost of said project; and

WHEREAS, the public hearing, having been held, and the Board of Managers having heard input from persons attending the hearing who might be affected by the proposed project or who may be interested in the proposed project, now determines that the proposed project is conducive to public health, promotes the general welfare, and is in compliance with the watershed management plan of the Watershed District;

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IT IS HEREBY RESOLEVED that the Board of Managers of the Middle Snake Tamarac Rivers Watershed District hereby approves the flood control project in the vicinity of Section 19 of Brandt Township (T153N, R46W), Polk County, Minnesota. The Board of Managers further determines that the proposed project promotes the public interest and welfare and is practicable and in conformity with the Watershed Management Plan of the Middle Snake Tamarac Rivers Watershed District. Said project shall be designated as "Brandt/Angus Impoundment Project". HDR Engineering, Inc. is hereby designated as the Engineer for this project and shall prepare the necessary surveys, maps and a report for this proposed project and said Engineer shall file a written report with the Board of Managers as more fully set forth in Minnesota Statutes.

Motion unanimously carried.

Motion by Mr. Loren Zutz, seconded by Mr. John W Nelson that the hearing on the Brandt/Angus Impoundment project be closed. Motion unanimously carried.

The hearing was adjourned at approximately 8:30 p.m.

The regular meeting was reconvened at approximately 8:40 p.m.

Nick Drees announced that the Equipment Rental Proposals for the 2009 construction season were publicly received and opened on May 18, 2009 at 1:00 p.m., at the District office.

A revised agreement with the UND Conflict Resolution Center, for mediation services, was distributed for the Manager's signatures. Due to the conflict of some wording in the agreement by Mr. Loren Zutz and Mr. Elden Elseth, no action of the Board was taken.

Nick Drees reported that the 2008 audit of the District's finances has been completed by the Auditors, Brady-Martz; and that the 2008 Annual Report is in the final stages of completion.

Nick Drees stated that the lands purchased from Wilbert McGregor are enrolled in the CRP program and the District is not entitled to the payments. A discussion was held on whether to lease the lands to Wilbert McGregor or another party or leave as is. It was the consensus of the Board to leave the lands as is.

Nick Drees briefly updated the Board on the plugged centerline culverts in the vicinity of section 17/18 and 19/20 of Tabor Township; that a culvert installed in Angus Township had not been permitted by the Board; and there appears to be an issue with a field dike on the south edge of Section 10 of Angus Township, along Polk County Highway #23.

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The next regular/permit meeting of the Board of Managers was set for Monday, June 1, 2009 at 4:00 p.m., and the regular meeting was set for Monday, June 15, 2009 at 4:00 p.m.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Marvin Hedlund that pursuant to Minnesota Statutes 13D.05 subd 3(b) the meeting be closed to discuss litigation strategies regarding the Agassiz Valley Water Resource Management Project Stengrim lawsuit and the PL-566 Riley lawsuit. Motion unanimously carried.

The meeting was closed at approximately 9:13 p.m.

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

The meeting was reopened at approximately 10:15 p.m.

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

The meeting was adjourned at approximately 10:16 p.m.

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Connie Kujawa  
Recording Secretary

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Ben Kleinwachter  
Secretary