

APPROVED (July 20, 2009 as corrected)
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. JUNE 15, 2009

The meeting was called to order by President Doug Sorenson. Managers Doug Sorenson, Alvin Nybladh, John W Nelson, Loren Zutz, Elden Elseth, Marvin Hedlund and Ben Kleinwachter were present. Nick Drees, Connie Kalinowski, Jeff Hane, Wallace Diedrich, Ron Adrian, Ernest Pribula, Don Buckhout, and Alice Whitehead were also present.

Wallace Diedrich recorded the meeting with two recorders.

Motion by Mr. Alvin Nybladh, 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.

Mr. Loren Zutz requested to add to agenda item 15, Legal Counsel, (8) the Motion by Mr. Hane.

Motion by Mr. John W Nelson, seconded by Mr. Elden Elseth that the agenda be approved as amended to include the Motion by Mr. Hane to agenda item #15 (8) Legal Counsel. Motion unanimously carried.

Motion by Mr. Marvin Hedlund, seconded by Mr. John W Nelson that the minutes of the May 18, 2009 meeting be approved as corrected. Motion unanimously carried.

Nate Dalager joined the meeting at approximately 4:10 p.m.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that the treasurer's report be included in the Managers packet for review prior to the Board meeting.

A discussion was held, with Mr. Ben Kleinwachter objecting to the motion of Mr. Elden Elseth. It was stated that the bills are available to the Board members for review, prior to the Board meeting.

Mr. Elden Elseth called for a roll call of votes on the motion, with Mr. Elden Elseth and Mr. Loren Zutz voting in favor of and Mr. Ben Kleinwachter, Mr. John W Nelson, Mr. Doug Sorenson, Mr. Alvin Nybladh and Mr. Marvin Hedlund voting no. Motion failed.

The financial report was reviewed and filed for audit purposes.

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Motion by Mr. Alvin Nybladh, seconded by Mr. John W Nelson that the following bills be paid, from the Administrative funds: that payroll checks numbered 4863 through 4878 inclusive for a total of \$19,380.52; and checks numbered 14193 through 14222 inclusive, including the service for a total of \$31,950.75; from the Project funds that checks numbered 1689 through 1701 for a total of \$219,051.81; from the RRWMB fund that check number 128 for a total of \$98,471.01 and from the Ditch Funds that checks numbered 2314 through 2320 for a total of \$14,450.38 be paid.

There were no individuals present for the open forum.

Joe Martin of Brady, Martz and Associates presented and reviewed the District's 2008 Annual Report and Audit Report. It was announced that any questions regarding the report be set forth in writing to the District to be submitted to Joe Martin.

Lloyd and Brian Kasprick joined the meeting at approximately 4:45 p.m.

Joe Martin left the meeting at approximately 4:57 p.m.

Don Buckhout, with the Minnesota Board of Soil and Water Resources, inquired of the status of the agreement with the UND Conflict Resolution Center, and questioned why some Managers had not signed the agreement. He was informed that not all the Managers signed the agreement due to a conflict of some wording in paragraph 7. The latest version of the agreement, less paragraph 7, was distributed, with Mr. Loren Zutz, Mr. Elden Elseth and Mr. Ben Kleinwachter signing the Agreement. Don Buckhout inquired if the Board would be willing to participate without a signed agreement and recommended that the District Administrator hold the agreement for one week in case any other Board member was willing to sign.

Arlyn Stroble joined the meeting at approximately 5:00 p.m.

Arlyn Stroble, Lloyd Kasprick and Brian Kasprick discussed the water issues east of Angus.

A discussion was held on the impact the proposed Brandt/Angus Impoundment Project could have to help alleviate some of the water issues plaguing the Village of Angus, and the surrounding cropland.

Arlyn Stroble also discussed the centerline culvert on section 17/16 of Tabor Township, apparently plugged by the township. He stated the drainage North along the township road is a problem because the ditch gets blocked by snow caused by the adjacent trees and that the township is unwilling to remove the

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trees. He would like a new culvert installed in place of the plugged culvert, that he is willing to pay for.

Mr. Jeff Hane was directed to send a letter to the Tabor Township Board of Supervisors, addressing the issue of the plugged culvert in section 17/16 of Tabor Township. It was also suggested that a meeting be scheduled with the affected landowners and the Tabor Township Officials.

Arlyn Stroble, Lloyd Kasprick and Brian Kasprick left the meeting at approximately 6:25 p.m.

Ernest Pribula was present to discuss the results of the "as built" survey performed by the District staff on the farmstead ring dike constructed on his property in the SW4 of section 7 of Northland Township.

Nick Drees distributed and reviewed the results of the survey.

After much discussion, it was the consensus of the Board that Mr. Pribula's ring dike conforms to the specifications as required by the State of Minnesota Farmstead Ring Dike Grant Program, and that no additional work would be provided by the District.

Motion by Mr. Loren Zutz, seconded by Mr. John W Nelson that the District pay Ernest Pribula, \$11,650.00, for his portion of the cost share and for the traps built by Mr. Pribula, and that Mr. Pribula fix the dike to his specifications so long as it stays in conformance with the ring dike specifications of the District, and that the District Attorney, prepare a document releasing the District from any further claims. Motion unanimously carried.

Ernie Pribula left the meeting at approximately 7:45 p.m.

Danny Omdahl reported that Tom Ritoch stated that he wants the Board to deny Part A of permit (09-014) which was to build a dike on the west, north and east sides of the SW4 and to install culverts with traps, in the SW4 of Section 17 of Sandsville Township and that he wants to amend Part B of permit (09-014) to allow the un-constructed driveway to be raised to an elevation of 815.0'; to install (1) 12", 15" or 18" culvert under the driveway; and to lengthen the existing 36" cartway culvert in the east ditch of MN Trunk Highway #220, in the NW SW, of section 17 of Sandsville Township.

Dave Lind stated his opposition to the driveway being raised 3' above the elevation of the cartway and proposed that Tom Ritoch build the driveway further south, on the east ditch of MN Trunk Highway #220.

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Motion by Mr. Ben Kleinwachter, seconded by Mr. Loren Zutz that the amendment of permit (09-014) Part B, of Tom Ritoch, to raise the un-constructed driveway to an elevation of 815.0'; to install (1) 12", 15" or 18" culvert under the driveway; and to lengthen the existing 36" cartway culvert, in the NW SW, of section 17 of Sandsville Township be denied. Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Elden Elseth that the permit (09-014) Part A, 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, in the SW4, of Section 17, of Sandsville Township be denied. Motion unanimously carried.

Dave Lind left the meeting at approximately 8:30 p.m.

Jim Johnson and Eric Johnson discussed the drainage issues in section 10 and 11 of Angus Township. They were informed that the Board of Managers discussed this earlier in the meeting and that the District Administrator was directed to contact Polk County and see if they would clean the trees and possibly reslope County Ditch #43. Eric Johnson requested from Mr. Loren Zutz a copy of the tape of the meeting, which Mr. Loren Zutz acknowledged.

Jim Johnson and Eric Johnson left the meeting at approximately 8:50 p.m.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Alvin Nybladh that the following permits be issued:

1. Permit (09-019) of Dennis Erickson to install a crossing with an 18" culvert in the west ditch of Marshall County Road #3, in the NE4 SW4, of section 3 of Foldahl Township, provided approval is granted from Marshall County;
2. Permit (09-020) of Thomas Peterson to remove a 24" x 30' culvert and install a 24" x 40' culvert, north to the ¼ mile line, in the west ditch of Marshall County Road #22, in the NE4, of section 34, of Donnelly Township, provided approval is granted from Marshall County; and
3. Permit (09-021) of Brian Jadeke to install an 18" culvert with a trap on the south side in an existing dry crossing and to widen the crossing, in the SE4 SE4, of section 2, of Comstock (Strip) Township.

Motion unanimously carried.

The following data practice requests were distributed:

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1. From post office box 467 Park Rapids, Minnesota requesting any and all data in the Agassiz Valley Water Resource Management Project Engineer's Report, addressing the breach analysis of the dam;
2. From post office box 56 Borup, Minnesota returning the Grant Agreement between the MSTRWD and the State of Minnesota for the Agassiz Valley Water Management Project; and requesting only the section or pages that identify what types of payment of Attorney fees are reimbursable expenses;
3. From Jim Stengrim, 400 Birch Briar Lane Park Rapids, Minnesota requesting any and all data that was used to classify the appraisal data of his real property as public data;
4. From post office box 56, Borup, Minnesota requesting all "proposed" settlement offers of litigation cases;
5. From post office box 56 Borup, Minnesota requesting an explanation of the meaning of data provided;

Nick Drees reported that the District is in the process of seeking quotes for the FEMA repair of Judicial Ditch #75; that a landowner has requested that the sediment be removed from the culverts along Watershed Ditch #5 and Watershed Ditch #6; that a portion of the road, along Judicial Ditch 29, Main, in Parker Township is sloughing; and that the culverts in Judicial Ditch #14 are sized inconsistently.

Nick Drees was directed to contact Parker Township and see if they would be willing to cost share with the District, on a 50/50 basis, to repair and stabilize the sloughing of the bank of Judicial Ditch #29, Main.

A discussion was held concerning the culvert sizing on Judicial Ditch #14.

Motion by Mr. John W Nelson, seconded by Mr. Loren Zutz that the District Engineer be directed to resize the culverts on Judicial Ditch #14, so they are consistent with the design of the ditch. Motion unanimously carried.

Nick Drees reported that he has been in contact with Sonny Chruszch and Alice Whitehead, regarding the purchase price of the lands for the Brandt/Angus Project.

After discussion, Nick Drees was directed to offer Sonny Chruszch and Alice Whitehead \$1,600/acre, and they would retain the CRP payments.

Nick Drees also reported that the next Brandt/Angus Project Work Team meeting is scheduled for June 25, 2009, and that the Board should appoint a Board

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Manager to replace Arlyn Stroble as the District representative on the Project Work Team.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Elden Elseth that Mr. John W Nelson be appointed the Board of Manager's representative on the Brandt/Angus Project Team. Motion unanimously carried.

Nick Drees reported that the next project work team meeting for Project 60 is scheduled for June 17, 2009; that the next planning team meeting for the District's Overall Plan is slated for mid-July; that Zavoral Construction is doing some finishing work on Phase 1 of the Agassiz Valley Water Resource Management Project and that the mitigation phase of the project was added to the contract of Zavoral Construction, as a change order, using the bid items on the original contract and changing the quantities.

A discussion was held on re-designing the North inlet channel of the Agassiz Valley Water Resource Management Project.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter to straighten the North inlet channel of the Agassiz Valley Water Resource Management Project and extend it easterly to the NW4 of section 11, contingent upon approval of the regulatory agencies. Motion carried, with Mr. Loren Zutz abstaining.

Nick Drees reported that Davidson Construction has begun construction on Phase 2 of the Agassiz Valley Water Resource Management Project; that he received a letter from Mike Peterka; and that Zavoral Construction would like to purchase approximately 7,000 cubic yards of dirt from the District's property.

Nick Drees was directed to negotiate with Zavoral Construction if they would exchange material for works needed along the District property in Brislet Township.

Nick Drees reported that the seeding remains to be finished on Phase IV of the PL-566 "Wetmore" site and that there is channel erosion at the inlet of Phase IV of the PL-566 project and that the NRCS is designing works to solve the problem and at the expense of the NRCS.

Nick Drees reported that the next Red River Watershed Management Board meeting is scheduled for June 16, 2009 at the Red Lake Watershed District in Thief River Falls, Minnesota. The News and Views were distributed.

Jeff Hane was directed to prepare purchase agreements with contingencies for the properties owned by Sonny Chruszch and Alice Whitehead for the Brandt/Angus Impoundment.

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Jeff Hane stated he had nothing to report on the Manager's lawsuit; that the Board of Managers received copies of the brief to the Minnesota State Supreme Court regarding the lawsuit of Jim Stengrim in the Agassiz Valley Water Resource Management Project; that the closing arguments in the PL-566 Riley case went out last week, and that the District's insurance carrier has covered the expenses associated with the lawsuit; that the issue with KGM Contractors regarding the PL-566 project is done; that the appeal of the Drewes Inc lawsuit is scheduled for briefing; and that he has filed 3 motions in regards to the Open Meeting Lawsuit of Jim Stengrim. He stated he filed a motion to deposit the \$5,000 received from the insurance company with the District court; that he filed an Order of Protection on himself; and a motion to identify and protect employees and managers of the District to limit discovery.

Mr. Elden Elseth initiated a discussion regarding dispensing of the \$5,000.00 insurance check among the defendants in the Open Meeting lawsuit of Jim Stengrim.

Mr. Elden Elseth entertained a motion to divide the insurance check 7 ways among the defendants. The motion died for lack of a second.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz to withdraw the previous motion made on April 20, 2009 to deposit the insurance check received for legal fees regarding the Open Meeting Lawsuit of Jim Stengrim with the District court, and instead divide the check 3 ways, among managers Mr. Loren Zutz, Mr. Elden Elseth and the other defendants. A roll call of votes was taken with Mr. Loren Zutz and Mr. Elden Elseth voting yes, and Mr. Ben Kleinwachter, Mr. John W Nelson, Mr. Alvin Nybladh, Mr. Marvin Hedlund and Mr. Doug Sorenson voting no.

Mr. Loren Zutz inquired, again, if the District is paying Attorney, Steve Anderson's attorney fees, who has paid him and if the District is going to pay him.

The District has received a check from Gladfether, Elan for \$2,428.86, representing the remainder of the \$5,000.00 the insurance carrier has provided for legal costs on the open meeting lawsuit.

A letter received from Jim Stengrim seeking the dismissal of the District Administrator, Nick Drees was distributed.

Jeff Hane stated he did not believe the Statute applied to the allegations of Jim Stengrim in his letter. Mr. Elden Elseth questioned Jeff Hane's response.

Jeff Hane was directed to respond to Jim Stengrim stating his opinion.

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The motions of Jeff Hane and the UND Conflict Resolution were previously discussed in the meeting.

Mr. Doug Sorenson directed the Managers to review the 2008 Annual Report and Audit and that it be added to the July 6, 2009 permit meeting agenda.

The next meeting of the Board of Managers will be held on July 6, 2009, at 4:00 p.m., to review permits, accept the 2008 Annual Report, and with the possibility the meeting may be closed to discuss land sales. The next regular meeting of the Board of Managers has been scheduled for July 20, 2009, at 4:00 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 10:50 p.m.

Connie Kujawa
Recording Secretary

Ben Kleinwachter
Secretary