

APPROVED (as corrected Sept 21, 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. AUGUST 17, 2009**

The meeting was called to order by President Doug Sorenson. Managers Doug Sorenson, John W Nelson, Loren Zutz, Marvin Hedlund, Ben Kleinwachter, and Elden Elseth were present. Manager Alvin Nybladh was not present. Nick Drees, Connie Kalinowski, Danny Omdahl, Jim Stengrim, Roger Hille, Jerry Narlock, Don Buckhout, Brian Dwight, Don Loeslie, Dale Loeslie and Jeff Hane were also present.

Jim Stengrim taped the meeting and Loren Zutz taped the meeting.

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. Loren Zutz and Mr. Elden Elseth voting no.

Wallace Diedrich and Don Narlock joined the meeting at approximately 4:05 p.m.

Wallace Diedrich recorded the meeting with two recorders.

Mr. Loren Zutz requested to add to agenda item #15 Managers, (3) term issues; to agenda item #17 Legal Counsel, (8) VonKorff Questions and (9) Overtime; to agenda item #18 Other, (1) Checks issued and (2) Censor.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Elden Elseth that the agenda be approved as amended to include the agenda items requested by Mr. Loren Zutz. Motion unanimously carried.

Don Loeslie joined the meeting at approximately 4:22 p.m.

Arlyn Stroble joined the meeting at approximately 4:26 p.m.

Jim Foltz, Jay Johnston, Brian Kasprick, Dave Gary and others joined the meeting at approximately 4:28 p.m.

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

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Motion by Mr. Marvin Hedlund, seconded by Mr. Ben Kleinwachter that the minutes of the August 3, 2009 meeting be approved as corrected. Motion unanimously carried.

The financial report was reviewed and filed for audit purposes.

Motion by Mr. Loren Zutz, seconded by Mr. Elden Elseth that payment of the employee overtime checks be voted on separately. Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Loren Zutz that the following bills be paid, from the Administrative funds, excluding the overtime checks: that payroll checks numbered 4893 through 4903 inclusive for a total of \$14,588.55; and checks numbered 14252 through 14264 and checks numbered 14270-14282 inclusive, including the service charge for a total of \$27,314.64; from the Project funds that checks numbered 1716 through 1730 for a total of \$640,939.40; and from the Ditch Funds that checks numbered 2326 through 2334 for a total of \$22,567.50 be paid. Motion unanimously carried.

Eric Johnson, Neil Johnson and others joined the meeting at approximately 4:30 p.m.

Jim Stengrim addressed the Board during the Open Forum portion of the meeting. He distributed the coversheet of the Supplemental Dam Breach Report for the Agassiz Valley Water Resource Management Project. It was his opinion that the public was not informed of the downstream damage should the Agassiz Valley Water Resource Project breach, and stated he wanted to go on record stating that no other Board member has seen the report, with the exception of Elden Elseth, and inquired why it was never discussed and he requested a written explanation of why the public was not informed of the report.

Arlyn Stroble addressed the Board on the 24" culvert that had been replaced by the Angus Township Board of Supervisors, with a 30" culvert in the SW SW of section 2 of Angus Township. Jim Foltz, Angus Township Supervisor, and others stated that something had to be done with the culvert, due to safety issues, and a 30" culvert was available.

Nate Dalager joined the meeting at approximately 4:50 p.m.

After discussion, Mr. Ben Kleinwachter requested the Watershed District staff review the culvert sizing in section 2 of Angus Township.

Don Narlock, Jerry Narlock, Eric Johnson, Neil Johnson, and Don Loeslie discussed the drainage issues in sections 15 and 16 of Warrenton Township.

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The Board heard comments from the interested individuals in this matter, and it was the consensus of those present that the landowners would meet and confer to discuss possible remedies and report back to the Board.

Neil Johnson, Eric Johnson, Jerry Narlock and Don Loeslie left the meeting at approximately 6:02 p.m.

Nick Drees reported on the permit (09-043) issued to Gowan Construction to remove sediment from the ditch along Minnesota Trunk Highway #1, in the vicinity of the American Crystal Sugar beet piling station, in section 31, Vega Strip. He stated that Gowan Construction had gone beyond the parameters of the permit by lowering and excavating the highway ditch to the Snake River. The Minnesota Department of Transportation requested the excavated slopes to be flattened, as the excavated ditch presented a safety hazard. The Minnesota Department of Transportation is apparently satisfied with the work.

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

1. Permit (09-050) of Don Loeslie to remove an 18" culvert and replace with a 30" culvert in the NW4 of section 15 of Warrenton Township. The Board tabled this permit until the landowners in sections 15 and 16 of Warrenton Township could meet and possibly come up with a solution to remedy the drainage issues.

Motion unanimously carried.

Correspondence was distributed from the Minnesota Association of Watershed District concerning the 2009 MAWD Annual Meeting Resolution Process; from John W Johnson expressing a desire to have the South inlet ditch of the Agassiz Valley Water Resource Management Project extended to the east to improve drainage; from the Minnesota Viewers Association concerning a seminar scheduled for August 27, 2009 in Fergus Falls, Minnesota; and from the Minnesota Association of Watershed Districts concerning a Leadership Workshop scheduled for September 11 and September 12, in Alexandria, Minnesota.

There were no data practice requests.

Nick Drees reported that the bids received were favorable for the FEMA repair of approximately 4 ½ miles of Judicial Ditch #75. He requested that the Board consider splitting the repair between Davidson Construction and Zavoral Construction, the two low bidders.

Motion by Mr. John W Nelson, seconded by Mr. Marvin Hedlund that Nick Drees be authorized to award the contract, and split the FEMA repair work on

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approximately 4 ½ miles of Judicial Ditch #75 between Davidson Construction and Zavoral Construction, for a total cost of approximately \$300,000.00. Motion unanimously carried.

Nick Drees reported that the sloughing of the township road, along Judicial Ditch #29, Main, on section line 16/21, in Parker Township has been completed by Art Laudal & Son. He stated that this repair was done on a 50/50 cost share with Parker Township.

Nick Drees stated that he had approached the Red River Watershed Management Board on advancing the District funds to purchase the property for the Brandt/Angus Project. The Red River Watershed Management Board suggested providing the monies on an installment basis. The landowners had been contacted and they agreed to receiving payment for the properties in installments. He further stated that he would address the Red River Watershed Management Board at their meeting, scheduled for August 18, 2009, for funding of the properties.

John W Nelson and Marvin Hedlund reported on the Project 60 meeting they attended. They stated that the project is moving forward.

Nick Drees stated that the CAC and TAC committees on the Overall Plan are scheduled to meet on August 26, 2009, at 1:00 p.m., at the Bremer Bank in Warren.

Nick Drees reported that there are a few minor touch-ups remaining on Phase 1 of the Agassiz Valley Water Resource Management Project; that approximately 2 miles of Phase 2 has been completed and that the Army Corps of Engineers have amended the permit to extend the inlet ditch through the ridge, in the NW4 of section 11 of Comstock Strip. He also stated approximately 4 ½ acres of property would need to be purchased from Jadeke's and Doug Safar; and that Zavoral Construction is close to completing the Wetland Mitigation portion of Phase IV.

Motion by Mr. John W Nelson, seconded by Mr. Marvin Hedlund to authorize payment, in the amount of \$707.00 per acre, on approximately 5 acres to Brian Jadeke and Doug Safar. Motion unanimously carried.

Nick Drees distributed a revised sketch of the PL-566 monument. Some possible options for the base were discussed with the possibility of contacting an Eagle Scout or the River Watch Participants to design the base.

A discussion was held concerning the NRCS Equip Ring Dike Program. It was the consensus of the Board that the District would like additional clarification on the program before entering into a cost share with the landowner.

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Joel Anderson discussed the ring dike constructed on his property, south of Alvarado. He stated there are a couple areas, on the side slope, that will not meet the state criteria of a 3:1 slope and asked the Board for possible alternatives. The Board informed Joel Anderson that since the dike is not eligible for participation in the District's farmstead ring dike program that no state criteria has to be met. Nick Drees was directed to inquire with Marshall County what they are requiring of Joel Anderson in regards to the dike.

It was announced that the Red River Watershed Management Board is scheduled to meet on August 18, 2009, at 9:30 a.m., at the Wild Rice Watershed District, in Ada, Minnesota.

Nick Drees reported that Roger Hille and David Bakke have been appointed by the Marshall County Commissioners to serve as Managers, to replace Loren Zutz and Elden Elseth, whose terms expire August 27, 2009.

Mr. Loren Zutz wished to amend the agenda and move agenda item #15 (3) Terms to agenda item #17 (Legal Counsel).

It was the consensus of the Board that the agenda item #15 (3) Terms be moved to item #17 (Legal Counsel).

Nick Drees announced that the 2010 budget hearing is scheduled for September 1, 2009, at 4:00 p.m., at the District office.

Jeff Hane reported that he is waiting for word from the Supreme Court on the Agassiz Valley Water Resource Management Breach of the Settlement Agreement (Stengrim lawsuit); that Kemper Insurance is covering the legal costs associated with the PL-566 (Riley) case; that he received notice from the Court of Appeals regarding the Drewes case, and that arguments are scheduled to be heard on September 24, 2009, at 10:40 a.m., in Moorhead, Minnesota; that he is waiting a ruling from the Courts regarding the alleged open meeting lawsuit filed by Jim Stengrim; that he has prepared a motion for judgment in the Tom Ritoch case. He also inquired if the Board had any objections with Denise Solland, an associate with Brink, Sobolik et al, handling the pleadings in the Ritoch case.

It was the consensus of the Board that Denise Solland, of Brink, Sobolik, et al, plead the Ritoch case.

Mr. Loren Zutz stated he has not received answers from Jerry VonKorff for the questions he has for him. Manager Doug Sorenson informed Loren Zutz that Mr. VonKorff informed him it is not prudent to address the questions unless the Board meet in closed session.

Loren Zutz and Elden Elseth inquired if they would be allowed to attend the closed meeting with Mr. VonKorff to address the questions of Loren Zutz, and

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also requested that the new managers do not take the oath of office until the questions are answered by Mr. Von Korff.

Motion by Mr. Loren Zutz, seconded by Mr. Elden Elseth that Loren Zutz and Elden Elseth remain on the Board of Managers after their term expires on August 27, 2009, until all their issues were resolved. Motion failed.

Loren Zutz called for a roll call of votes, with Mr. Loren Zutz and Mr. Elden Elseth voting in favor of and Mr. Marvin Hedlund, Mr. Doug Sorenson, Mr. Ben Kleinwachter and Mr. John W Nelson voting against.

Mr. Loren Zutz inquired of the overtime hours worked by the District employees and requested to see the daily diaries of the employees. Mr. Jeff Hane informed Mr. Zutz that the diaries could contain personal data and would need to be verified before such diaries could be made public.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that the overtime checks numbered 4904-4905 inclusive, for a total of \$1,153.76 be paid from the District Administrative funds. Motion unanimously carried.

Mr. Loren Zutz stated that his acquiring copies of the District's employee's payroll checks from Bremer Bank was not in violation of the data privacy act.

Mr. Loren Zutz stated the Board should consider censoring Chairman Doug Sorenson for making false allegations of Mr. Zutz and Mr. Elden Elseth, and suggested that the District's legal counsel start the proceedings.

Motion by Mr. Loren Zutz, seconded by Mr. Elden Elseth to censor Mr. Doug Sorenson for alleged allegations made against Loren Zutz and Elden Elseth. Motion failed.

Loren Zutz called for a roll call of votes with Mr. Loren Zutz and Mr. Elden Elseth voting yes, and Mr. John W Nelson, Mr. Ben Kleinwachter and Mr. Marvin Hedlund voting no, and Mr. Doug Sorenson, abstaining.

Mr. Loren Zutz requested a copy of the Agassiz Valley Water Resource Management Supplemental Dam Breach Report.

The next meeting of the Board of Managers will be held on September 1, 2009 at 4:00 p.m., at the District office, to hold the hearing on the 2010 budget and to review permit applications. The next regular meeting of the Board of Managers is scheduled for September 21, 2009, at 4:00 p.m., at the District office.

Motion by Mr. Marvin Hedlund, seconded by Mr. John W Nelson to adjourn the meeting. Motion unanimously carried.

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The meeting was adjourned at approximately 8:15 p.m.

Connie Kujawa
Recording Secretary

Ben Kleinwachter
Secretary