

September 18, 2023 (a)

APPROVED
REGULAR MEETING OF THE BOARD OF MANAGERS OF THE
MIDDLE-SNAKE-TAMARAC RIVERS WATERSHED DISTRICT
HELD VIRTUALLY USING MICROSOFT TEAMS AND AT THE DISTRICT OFFICE
8:30 a.m. **September 18, 2023**

The Meeting was called to order by President Bill Petersen, Managers Bill Petersen, Brad Blawat, Eric Johnson, Keith Szczepanski, Lein Schiller and Joey McGregor were present. Kyle Schломann, Danny Omdahl, Tyler Larson, Katrina Haugen, Tony Nordby, Don Loeslie, Doni Loeslie, Jim Duckstad, Jon Hams, were also in attendance. Jeff Hane attended virtually.

Motion by Mr. Lein Schiller, seconded by Mr. Keith Szczepanski to approve the agenda as amended with the addition of Permit 23-099, Move items 3 & 5 under managers up to numbers 1 & 2, and Neil Johnson under JD#16. Motion unanimously carried.

Gunner Bowman and Christian Erickson (virtual) joined the meeting at approximately 8:35 a.m.

Motion by Mr. Eric Johnson, seconded by Mr. Lein Schiller to approve the Minutes of the September 5, 2023, Regular Board Meeting as corrected. Motion unanimously carried.

The Treasurer's Report was reviewed and filed with the Auditor.

Motion by Mr. Brad Blawat, seconded by Mr. Lein Schiller to pay the following bills: Payroll checks #7002-7013 & 7024 in the amount of \$22,554.34; from Administrative Funds check # 19748-19770 inclusive of ACH withdrawal and service charge in the amount of \$33,638.61; from Project Funds Check #3433-3440 in the amount of \$72,606.88; From Ditch Funds check #3631-3637 in the amount of \$107,052.80. Motion unanimously carried

Jon Hams from New Solum township was in attendance to ask for assistance in replacing a failing 48" culvert along JD#14, 130th Ave NW. Staff reviewed the drainage area and recommend a 60" culvert be installed. The 48" was installed because it was what was available at the time.

Motion by Mr. Brad Blawat, seconded by Mr. Eric Johnson to pay for 50% of a 60" culvert or equivalent pipe up to \$6,000. Motion unanimously carried.

Discussion was held on a failing 48" culvert on Br. F of JD#14 in Section 5. The culvert is part of the ditch system. After staff review the 48" culvert is sufficient.

Dillon Nelson joined the meeting (virtual) at approximately 8:46 a.m.

Motion by Mr. Joey McGregor, seconded by Mr. Brad Blawat to replace the 48" culvert. Motion unanimously carried.

Motion by Mr. Eric Johnson, seconded by Mr. Lein Schiller to table the following permit and ask that the applicant work with the neighbor on a suitable pump location:

Permit (23-076) Van Hapka to install 323 acres of drain tile with 3/8 drainage coefficient; 20', 85', and 100' spacing to outlet into the Steiger Coulee via an 8" PVC inside a 15" dual wall pipe, with (2) 10 HP (2,294 GPM) VFD pumps in the NW4, S2 NE4 and N2 SE4 of Section 33 Brislet Township.

Motion unanimously carried.

Jeremy Misselhorn, Heidi Wesolowski, Matt Kasper, and Brian Voytilla joined the meeting at approximately 8:57 a.m.

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Jeremy Misselhorn asked for clarification on the permit deadline as they had submitted permits that were not on the meeting agenda. Clarification was given stating that staff do their best to get permits on the next meeting agenda when they are turned in before deadline (noon the Wednesday prior to the meeting) but sometimes they are missing information or there is not time to process them all due to other District priorities. It was mentioned that the Watershed District Rules states the timeline available to process a permit application (60 day). Misslehorn will communicate if there is any time sensitive permits from their point of view. Operations Manager Omdahl suggested holding a special meeting to address the permits that were turned in prior to the Wednesday deadline so that it is not holding up the projects.

Jon Hams left the meeting at approximately 9:10 a.m.
Neil Johnson joined the meeting at approximately 9:19 a.m.

It was the consensus of the board to hold a special meeting on Monday, September 25, 2023, at 8:30 a.m. at the District office for the purpose of reviewing and acting on Permits. No other district business will be discussed at this meeting. Administrative Assistant will have its notices in the Warren Sheaf and Middle River Honker if she is able to submit the notice before the deadline.

Jeremy Misselhorn, Heidi Wesolowski, Matt Kasper, and Brian Voytilla left the meeting at approximately 9:35 a.m.

Matthew Munger joined the meeting at approximately 9:45a.m.

Jarod Petersen joined the meeting at approximately 9:47 a.m.

Christian Ericson (virtual) left the meeting at approximately 9:49 a.m.

Christian Erickson (In person) and Keaton Laymon joined the meeting at approximately 9:50 a.m.

Keith Szczepanski left the meeting at approximately 10:00 a.m.

Ther regular Board meeting was recessed at 9:50 a.m. for the Public hearing on the Glenn Rivard Petition to add lands to the Benefit Areas of Watershed Ditch #4 scheduled for 10:00 a.m.

**ORDER ON PETITION TO ADD LANDS TO
THE BENEFITTED AREA OF
WATERSHED DITCH #4**

The above-entitled matter came on for hearing before the Board of Managers pursuant to Minn. Stat. § 103E.401 on Monday, September 18, 2023, at the District Offices located at 453 No. McKinley St., Warren, MN 56762. The matter was before the Board on a Petition by Glen Rivard as Trustee for Rivard Revokable Living Trust to add approximately 80 acres of land to the benefitted area of WD#4, said lands being located in the South East half of the South East quarter of Section 11 Farly Township parcel number 22.00010.01. Said Petition was dated June 20, 2023 and received on July 7, 2023 at the District Offices. After review and determination of the sufficiency of the Petition, a hearing was set for September 18, and due notice was given to all effected landowners by mail and to the general public by publication pursuant to statute.

After a review of the Record, the District Staff presented information outlining the location of the proposed lands to be added. Following said presentation, the engineer made a presentation to the Board outlining the impact of adding said lands to the drainage system. The Petitioners did not appear, and no other person appeared either in person or electronically to either support or oppose the Petition.

The Board, having reviewed the Petition, and having heard the presentation of the District staff and the District engineer, hereby makes the following:

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FINDINGS OF FACT

1. The capacity of the outlet drainage system is such that the channel is adequate.
2. The effect of adding the proposed lands to the drainage system is negligible.
3. The engineer specifically recommends approval of the Petition.
4. The lands proposed to be added are situated essentially identically to the surrounding acres.

Therefore, IT IS HEREBY ORDERED

a. The Petition is conditionally GRANTED. The addition of the lands to the benefitted area is conditioned upon payment by the Petitioners.

b. The outlet fee required by statute shall be as follows: the past 5 years of levy based on the per acre Benefits received for a total of \$168.00

The costs of the proceeding include the Engineering expense, the expense of Publication and the expense of written notice to all those in the benefitted area of WD#4 for a total of \$1,373.96

c. Upon payment to the District by the Petitioners of the outlet fee and the costs of the proceeding, the lands requested are deemed added to the benefitted area of Watershed Ditch #4, and the added lands may drain tiled water into the legal ditch.

d. Upon Petitioners' full payment of the fees and costs, the District shall amend the benefitted area rolls and the benefitted area map of WD#4 to reflect the addition of said lands.

Motion by Mr. Brad Blawat, seconded by Mr. Joey McGregor to close the Petition Hearing. Motion unanimously carried.

The Petition Hearing was closed at 10:15 a.m.

The regular board meeting was re-opened at 10:20 a.m.

This portion of the meeting was recorded for the record by the district

The Reconsideration of Permit 23-030

The above-named matter came on before the Board of Managers at their regularly scheduled meeting on Monday, September 18, 2023, after due notice to all parties. Keaton Laymon, Christian Erickson, Peter Erickson, Ronnie Zutz and Loren Zutz appeared in person. Prior to the hearing, written comments were received from Terrance Picha, Gerald Hermreck, and Ms. Nikki Kaasa on behalf of Zutz Farms.

The Board, having reviewed the submitted materials from the District Staff, and having reviewed all submissions from the parties to date, and having received additional verbal comments from those in attendance, made the following findings of fact:

- 1) The proposed drain tile does not appear to have an adequate outlet.
- 2) Culverts and conveyance channels downstream appear to lack sufficient capacity for a 2-year runoff event.
- 3) There appears to be an ongoing drainage issue downstream of the proposed outlet.
- 4) It is not clear that the proposed tile installation constitutes reasonable use under the factors of the reasonable use doctrine.

Based on said findings, it was motioned by Manager Joey McGregor, Seconded by Manager Brad Blawat, to uphold the denial of the following permit:

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Permit (23-030) Keaton Laymon to install 230 acres of drain tile in the N2 of Section 8 Viking Strip Township with 1/4" drainage coefficient; 80' & 100' tile spacings; gravity outlet into the South ditch of 210th St NW, in the northwest corner of Section 8 Viking Strip. Motion U.C. with Manager Eric Johnson abstaining as he was absent for the vote.

The Board encouraged the parties involved to work with District Administrator on possible solutions to the ongoing drainage concerns upstream of the South Inlet Channel of the Agassiz Valley Impoundment.

Recording of the meeting by the district stopped at this portion of the meeting.

Christian Erickson, Keaton Laymon, Peter Erickson left the meeting at approximately 11:45 a.m.

Motion by Mr. Joey McGregor, seconded by Mr. Brad Blawat to approve the following permit:

Permit (23-095) Johnson Family Farms (Tony Johnson) To install 239 acres of drain tile in the N2 of Section 23 Warrenton Township (W of Hwy 75) with a 1/4" drainage coefficient, 40' tile spacing, gravity outlet, into the Melgard Coulee.

Motion unanimously carried.

Motion by Mr. Joey McGregor, seconded by Mr. Eric Johnson to renew the following permit:

Permit (23-098) Brian Jensen to install 221 acres of drain tile in the N2 of Section 29 Augsburg township with 1/4" drainage coefficient; 100' tile spacings. To tie into an existing 10-hp (1039GPM) VFD pump outletting to East Marshall County Road #5 Ditch.

Motion unanimously carried.

Motion by Mr. Eric Johnson seconded by Mr. Joey McGregor to approve the following permit:

Permit (23-101) Iverson Farms to install 155 acres of field pattern drain tile in the NE4 of Section 35 Vega Township with 1/4" drainage coefficient; 40' tile spacings; (2)-12" gravity outlets directly into JD#16 (729 GPM)

Motion unanimously carried.

Motion by Mr. Lein Schiller, seconded by Mr. Joey McGregor to approve the following permit:

Permit (23-099) Ron Loeslie & Wayne Malm to install 158 acres of field drain tile with 1/4" drainage coefficient, 5-hp (743GPM) VFD pump in the NW corner of field in the NW4 of Section 34 Bloomer Township. The outlet pipe will be a 15" dual wall on EoF.

Motion unanimously carried.

The following permits were reviewed and administratively approved:

Permit (23-088) Mike Rosendahl to lengthen an existing 36" culvert by adding 30' on the N line of NW NW Section 30 McCrea Strip.

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Permit (23-093) Big Woods Township to remove and replace a failed 18" CSP under 340th St NW in the East MN trunk Hwy #220, at the same elevation and location, in the NW NW of Section 4, draining into the SW SW of Section 24 Big Woods/Fork Townships.

Permit (23-094) Dean Peterson to expand an existing crossing and lengthen the in-place 18" CMP by ~30 feet to the North, on the East line of the SE SE of Section 18 Numendal Township.

Permit (23-096) Jason McGregor to install a new field crossing with an 18" culvert, in the North CSAH #14 ditch, in the SE SE of Section 1 Comstock Township.

Gunnar Bowman left the meeting at approximately 11:55 a.m.

This portion of the meeting was recorded by a member of the public.

Discussion was held on unbenefited waters flowing into JD#16 from the Melgard Coulee, the spoil bank height compared to the road height, water over topping the township road, and open swales. Both Neil Johnson and Don Loeslie provided written narratives to the board for consideration regarding what they feel the problems along JD#16 are. The Board took the information into consideration as well as reviewed the survey of the road and spoil bank that was provided by Houston Engineering in a previous meeting. It was the consensus of the board to hold off on making any decisions or plans until the township gets the road fixed so that the elevation of the road is known.

Recording by a member of the public was stopped at this point in the meeting.

Loren and Ronnie Zutz left the meeting at approximately 1:17 p.m.

There was a recess of the meeting from 1:17 p.m. until 1:32 p.m. for lunch.

Don and Doni Loeslie left the meeting at approximately 1:56 p.m.

Administrator Maher provided a presentation on outlet fees with two alternate ways to calculate them. The board asked Administrator Maher to provide information and calculations in a future meeting including construction costs into the calculations. Attorney Hane clarified that any calculation used must be tied to the benefits that the land receives. It cannot be a broad calculation.

Eric Johnson left the meeting at approximately 2:50 p.m.

There was discussion on a letter that was received from Loren Zutz on July 14, 2023. After speaking with legal counsel(s) Administrator Maher stated that there was no response to be provided as the letter is more of a narrative. If Mr. Zutz would like the board to address a specific concern that should be submitted in writing separate from the narrative.

A brief discussion was held on a letter that Mr. Joey McGregor submitted to the Watershed District on May 12, 2022, and the lack of a response to that letter.

Motion by Mr Joey McGregor, seconded by Mr. Lein Schiller to authorize Mr. Bill Petersen to sign the 2024 health insurance renewal agreement. Motion unanimously carried.

Information about the 2023 BWSR Academy being held in Brainard MN was distributed.

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The following items were tabled for a future meeting:

- 1) District Funds Presentation
- 2) Reconcile Project Balances
- 3) Memos from Attorney Jeff Hane (3)

The following meetings were announced:

1. RRWMB monthly meeting Tuesday, September 19, 2023 at 10:00 a.m. in Ada, MN
2. MSTRWD Regular Board of Managers meeting Monday, October 2, 2023 at 8:30 a.m. at the District Office in Warren, MN
3. MSTRWD Regular Board of Managers Meeting Monday, October 16, 2023 at 8:30 a.m. at the District Office in Warren, MN
4. RRWMB Monthly Meeting Tuesday, October 17, 2023 at 10:00 a.m. in Ada, MN

Motion by Mr. Brad Blawat, seconded by Mr. Joey McGregor to adjourn the Meeting. Motion unanimously carried.

The Meeting was adjourned at approximately 3:05 p.m.

Katrina Haugen
Recording Secretary

Brad Blawat
Secretary