

February3(a)2014.min

**APPROVED (as corrected February 18, 2014)**  
**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. FEBRUARY 3, 2014**

The meeting was called to order by President Roger Hille. Managers John W Nelson, Roger Hille, David Bakke, Tom Neibauer and Ben Kleinwachter were present. Manager Marvin Hedlund was not present. Nick Drees, Connie Kujawa, Heidi Hughes, Tony Nordby, Rolland Miller, Ron Adrian, Danny Omdahl, and LeRoy Vonasek were also present.

Motion by Mr. John W Nelson, seconded by Mr. Tom Neibauer to accept the agenda, as amended, with the addition of the Health Insurance Refund added to Item #14. Motion unanimously carried.

Manager Mr. Alvin Nybladh joined the meeting at 4:03 p.m.

Motion by Mr. David Bakke, seconded by Mr. John W Nelson that the minutes of the January 21, 2014 meeting be approved, as corrected. Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Alvin Nybladh to approve payment of the following checks: from the Administrative Funds: that payroll checks numbered 5608-5611 inclusive for a total of \$5,210.54; and check number 16066 for a total of \$1,829.80; and from Ditch funds that check numbered 2701 for a total of \$424.83 be paid. Motion unanimously carried.

Heidi Hughes reported:

1. That an article on the Snow Owls, in the vicinity of the Agassiz Valley Water Resource Management Project, was featured in the February 1, 2014 edition of the Grand Forks Herald;
2. That a story will be aired on the WDAZ-TV Great Outdoors featuring Snowy Owls;
3. That she met with Fred Wood of the University of Minnesota and discussed the possibility of collaborating with the District on a Field Biological Station at the Agassiz Valley Water Resource Management Project;
4. That a meeting with Laurie Fairchild with the Partners for Fish and Wildlife Service, is being scheduled, to discuss options available to manage the cattails and also to discuss the possibility of a grant that might be available to remove invasive willows at the Audubon Sanctuary;
5. That digital camera workshops will be held in Crookston, Warren and Greenbush regional libraries;

Arlyn Stroble joined the meeting at approximately 4:20 p.m.

Ron Adrian presented a draft property owners report on the Redetermination of Benefits of Judicial Ditch #14. It was the consensus of the Board, that the Engineer proceed with scheduling an informational meeting on the Draft Viewers Report for the Redetermination of Benefits of Judicial Ditch #14, and that the Draft Property Owners Report be mailed to each individual along with the notice of the informational meeting.

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Motion by Mr. Tom Neibauer, seconded by Mr. John W Nelson, that the District purchase a Permanent Easement, on approximately 20 acres, along the outlet of the Agassiz Valley Water Resource Management Project (South Branch of the Snake River), at a cost of \$2,700 per acre. Motion carried, with Mr. David Bakke voting against.

The Red River Watershed Management Board meeting is scheduled for February 18, 2014, with the location to be determined.

Perry Vogel joined the meeting at approximately 4:55 p.m.

Arlyn Stroble left the meeting at approximately 4:57 p.m.; and Jeff Hane joined the meeting approximately 4:57 p.m.

Nick Drees reported that the Polk County Commissioners have requested the Minnesota Board of Soil and Water Resources defer their determination on the Redistribution of Managers until March 2014.

Motion by Mr. Ben Kleinwachter, seconded by Mr. David Bakke that the District observe the Martin Luther King Holiday, effective January 2015 and in the future. Motion unanimously carried.

Nick Drees reported:

1. That Ernest Pribula, his daughter and another individual reviewed the files regarding his farmstead ring dike;
2. That the District received a letter from Houston Engineering stating Mark Deutschman will be assuming the duties on the Tamarac River WRAP project;
3. That the District received a refund on the Employee Health Insurance from the Minnesota Service Cooperative.

Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson that the Northwest Service Cooperative health insurance refund be distributed by the percentages in which it was contributed and any future refunds be distributed the same. Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Tom Neibauer that the District retain the legal services of Brink Sobolik, Severson and Malm, et al as the legal counsel for the District. Motion carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Tom Neibauer that Houston Engineering be designated the Engineering firm for the District. Motion unanimously carried.

Jeff Hane reported that a hearing on the Open Meeting Lawsuit, in regards to Loren Zutz seeking reimbursement for Attorney Fees, was held, and that the Court has 90 days to rule in this matter.

Tim Baker and Stephanie Klamm joined the meeting at approximately 5:27 p.m.

Jeff Hane discussed the Memorandum of Understanding and Fee For Services Agreement with the Agassiz Audubon Sanctuary.

APPROVED (as corrected February 18, 2014)

Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson that the District execute the Memorandum of Understanding and Fee For Services with the Agassiz Audubon Sanctuary, effective February 3, 2014. Motion unanimously carried.

Tim Baker, Stephanie Klamm and Perry Vogel left the meeting at approximately 5:55 p.m.

Attorney, Jeff Hane, recommended the Board close the meeting, pursuant to MN Statutes 13D.05 subd3(b) to discuss litigation strategies and legal theories concerning Judicial Ditch #25-1 litigation and the potential settlement.

Rolland Miller, LeRoy Vonasek, Tony Nordby, Ron Adrian and Heidi Hughes left the meeting at approximately 5:55 p.m.

Motion by Mr. John W Nelson, seconded by Mr. Tom Neibauer that the meeting be closed pursuant to MN Statutes 13D.05 subd3(b) for purposes stated by Jeff Hane. Motion unanimously carried.

The meeting was closed at approximately 5:57 p.m.

Connie Kujawa left the meeting at approximately 5:57 p.m.

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

The meeting was reopened at approximately 6:33 p.m.

Motion by Mr. John W Nelson, seconded by Mr. Tom Neibauer to approve settlement of the appeals according to the terms set forth in the attached mediated settlement agreement. Motion unanimously carried.

The next regular meeting was scheduled for February 18, 2014 and March 3, 2014, at 4:00 p.m., at the District office.

By unanimous consent, the meeting was adjourned at approximately 6:39 p.m.

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Connie Kujawa  
Recording Secretary

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David Bakke  
Assistant Secretary/Treasurer

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Danny Omdahl  
Recording Secretary

Resolution # \_\_\_\_\_

STATE OF MINNESOTA  
MIDDLE-SNAKE-TAMARAC RIVERS WATERSHED DISTRICT

**Resolution of the Board of Managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) regarding the partition of funds for watershed projects within the District and public drainage systems managed by the District.**

**Whereas, during recent appeals of the redetermination of benefits for Judicial Ditch 25-1 concerns were raised by the appealing landowners over the use of funds derived from drainage system assessments to pay costs associated with the Agassi Valley Flood Control Project; and**

**Whereas, the concerns highlighted confusion over the MSTRWD's role as Drainage Authority under Minnesota Statutes Chapter 103E and as Watershed District under Statutes Chapter 103D; and**

**Whereas, in its role as Drainage Authority, the MSTRWD Board of Managers is charged to manage public drainage systems under its authority for the benefit of lands assessed for the construction and maintenance of those drainage systems; and**

**Whereas, according to Statutes Chapter 103E, the basic obligations of the Drainage Authority are to (1) ensure the drainage systems are properly maintained; (2) prevent damage to the drainage systems; (3) prevent unauthorized use of the drainage systems; (4) ensure that each owner of property benefited by the drainage systems is paying his or her share of costs of the drainage systems according to benefits determined for such property; and (5) administer the rights of the owners of benefited lands as exercised under Statutes Chapter 103E; and**

**Whereas, Statutes Chapter 103E sets forth the manner in which revenues may be raised from benefitted lands assessments to pay the costs of managing the drainage systems and sets forth the limitations on the use of such revenues; and**

**Whereas, in its role as Watershed District, the Board possesses authority to establish and construct water management projects within the District's boundaries according to Statutes Chapter 103D; and**

**Whereas, Statutes Chapter 103D sets forth the manner in which revenues may be raised to construct and maintain watershed projects (other than public drainage systems) and sets forth the limitations on the use of such revenues; and**

**Whereas, both Statutes Chapters 103D and 103E prevent the comingling of funds between projects established or governed under the individual statutory authorities. The net effect of**

this prohibition is that revenues raised from benefitted lands assessments under Statutes Chapter 103E may only be used to pay the costs of managing the drainage systems; and

Whereas, annual audits of the MSTRWD's accounts investigate the proper management of funds under the various statutory authorities and would disclose any inappropriate co-mingling or shifting of funds between public drainage systems and watershed projects.

Therefore, be it resolved by the Board of Managers of the Middle-Snake-Tamarac Rivers Watershed District, that the requirements of Statutes Chapters 103D and 103E related to the partitioning and safeguarding of funds by followed to ensure that revenues raised from benefitted lands assessments under Statutes Chapter 103E only be used to pay the costs of managing the drainage systems.

Manager John W Nelson moved adoption of the foregoing Resolution, Seconded by Manager Tom NEIBAUER. After discussion and upon a vote was taken as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
David Bakke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marvin Hedlund	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roger Hille	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Kleinwachter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Nelson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alvin Nybladh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Neibauer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution passed.

David Bakke  
David Bakke, Asst. Secretary

Dated: February 3, 2014

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I, David Bakke, Assistant Secretary of the Middle-Snake-Tamarac Rivers Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I hereunto set my hand this 3<sup>rd</sup> day of February, 2014.

David Bakke  
David Bakke, Asst. Secretary