

APPROVED (August 18, 2008)
**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. JULY 21, 2008**

The meeting was called to order by President Doug Sorenson. Managers Alvin Nybladh, John W Nelson, Doug Sorenson, Loren Zutz, and Elden Elseth were present. Managers Ben Kleinwachter and Arlyn Stroble were not present. Nick Drees, Connie Kalinowski, Ronald J Adrian, Wallace Diedrich, Jeff Hane, Nate Dalager, Brian Dwight, Dean Danielski and Ernest Pribula were also present.

Wallace Diedrich taped the meeting with two recorders.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh, that Connie Kalinowski 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.

Mr. Arlyn Stroble joined the meeting at approximately 4:02 p.m.

Mr. Elden Elseth requested to add to the agenda Committee meetings and the press release of the ACLU on the Stengrim lawsuit.

Motion by Mr. Loren Zutz, seconded by Mr. Elden Elseth to approve the agenda as amended with agenda item #15 Legal Counsel Report to include (4) Committee Meetings and (5) ACLU press release. Motion unanimously carried.

Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson that the minutes of the June 16, 2008 meeting be approved as amended. Motion unanimously carried.

Myron Jesme and Jeff Langen joined the meeting at approximately 4:07 p.m.

Mr. Doug Sorenson reported that check number #13859, from the District's Admin Fund account, to Brian Bye is not listed in the Treasurer's Report.

Mr. Loren Zutz questioned the liability issue of District employee's using their personal vehicles while performing works for the District.

Mr. Ben Kleinwachter joined the meeting at approximately 4:10 p.m.

The financial report was reviewed and filed for audit purposes.

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Mr. Elden Elseth stated he has been opposed to the Stengrim litigation in the past and continues to be opposed to the lawsuit filed by the District against Jim Stengrim.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that the bills of the District be paid with the exception of check #1492 to Rinke-Noonan. Motion failed.

Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson that the following bills be paid: from the Administrative funds: that payroll checks numbered 4724 through 4736 inclusive for a total of \$14,494.26 and checks numbered 13727 through 13859 inclusive, including the service charge for a total of \$24,967.32; from the Project funds that checks numbered 1484 through 1502 inclusive for a total of \$649,928.98; from the RRWMB fund that check #122 for \$19,165.52; and from the Ditch Funds that checks numbered 2258 through 2262 inclusive for a total of \$21,651.00 be paid. Motion carried, with Mr. Elden Elseth and Mr. Loren Zutz voting no.

Myron Jesme, Administrator of the Red Lake Watershed District and Jeff Langen of HDR Engineering presented the Preliminary Engineers Report for the Grand Marais Creek Outlet Restoration Project #60. They discussed the benefits of the project and the funding of the project.

Danny Omdahl joined the meeting at approximately 4:37 p.m.

It was reported that a Joint Powers Agreement is being prepared between the Red Lake Watershed District and the Middle-Snake-Tamarac Rivers Watershed District.

Myron Jesme and Jeff Langen left the meeting at approximately 5:02 p.m.

A discussion was held with Ernest Pribula regarding his dissatisfaction with the construction of his ring dike constructed under the District's Farmstead Ring Dike program, by Holte Contracting.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that the District contact Sam Holte of Holte Contracting to determine what improvements can be made to the farmstead ring dike constructed for Ernest Pribula. Motion unanimously carried.

Ernest Pribula left the meeting at approximately 5:35 p.m.

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

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1. Permit (08-021) to Kay Anderson to remove 2 crossing and the 18" culverts and replace with one crossing with an 18" culvert in the NE4, NW4, of section 10, McCrea Township;
2. Permit (08-025) to Enbridge Energy to install a crossing with an 18" culvert, on the West side of MCH #34, in the NE4 NE4 of section 21 of Wanger Township;
3. Permit (08-026) to Enbridge Energy to install a crossing with an 18" culvert on the east side of the township road, in the NW4 SW4, of section 17 of Foldahl Township.

Motion unanimously carried.

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

4. Permit (08-026) to Dwight Peterson to install an 18" centerline culvert on the township road draining into Judicial Ditch #20, Branch A, in the SW4 SE4 ,of section 16 of Warrenton Township, provided the 24" CSP in the SE4 SE4 of section 16 of Warrenton Township is removed.

Motion carried with Mr. Arlyn Stroble abstaining.

Motion by Mr. Alvin Nybladh, seconded by Mr. Arlyn Stroble that the following permit be issued:

5. Permit (08-024) to Lawrence Veralrud and Jim Nelson to move a field crossing westerly to the property line and replace the 12" culvert and install a 24" culvert, on CD #44 Lateral #3, in the NE4 NW4, Oak Park Township.

Motion carried, with Mr. John W Nelson abstaining.

Motion by Mr. Loren Zutz, seconded by Mr. Alvin Nybladh that the following permit be issued:

6. Permit (08-027) to Neil Johnson to install a crossing with a 24" culvert in the SW4 SE4, of section 32 of Bloomer Township.

Motion carried, with Mr. Arlyn Stroble abstaining

Motion by Mr. Elden Elseth, seconded by Mr. Ben Kleinwachter that the following permits be tabled for further information:

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7. Permit (08-022) of Gerald Anderson to lower a 24" culvert one foot that drains into Judicial Ditch #20, Branch B, in the SW4 of section 1 of Oak Park Township;
8. Permit (08-028) of Neil Johnson to lower the culvert draining into CD #7, in the SE4, of section 14 of Sandsville Township.

Motion unanimously carried.

Nick Drees reported that the hearing on the Judicial Ditch #68 petition to add lands to the benefited area is scheduled for July 22, 2008 at 7:00 p.m., at the Oslo Community Center; that the hearing on the Watershed Ditch #7 petition to remove lands from the benefited area is scheduled for July 30, 2008 at 7:00 p.m., at the Oslo Community Center; that maintenance on Judicial Ditch #29 will begin after harvest; and that there is sloughing at the outlet of Judicial Ditch #17 and it is being repaired.

A discussion was held regarding the Request for Proposals for Professionals for completing the Middle-Snake-Tamarac Rivers Watershed District 10 Year Overall Plan update.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the District request written proposals from HDR Engineering and Houston Engineering for review by the Board at the August 4, 2008 meeting and that presentations be made at the August 18, 2008 regular board meeting. Motion carried, with Mr. Loren Zutz abstaining.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Arlyn Stroble that the Board of Managers set the completion date for the District's Overall Plan update for June 1, 2010. Motion carried, with Mr. Doug Sorenson casting a yes vote.

Nick Drees presented the Level 1 and Level 2 review of the District as requested by the Minnesota Board of Soil and Water Resources.

Brian Dwight reported that the Board of Soil and Water Resource's report on the Level 3 review of the District will be presented at the August 4, 2008 meeting.

Nick Drees reported that the groundbreaking ceremony for the Agassiz Valley Water Resource Management Project was held on June 24, 2008; that construction of Phase 1 of the Agassiz Valley Water Resource Management Project is proceeding on schedule; that he has not heard anything more from the Audubon Sanctuary; and sought the Boards advice as what to do with the bins located on the properties obtained by the District for Phase 2 of the Agassiz Valley Water Resource Management Project.

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Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson that the bins be destroyed or disposed of, as long as the former landowner does not retain possession of the bins. Motion carried, with Mr. Ben Kleinwachter voting no.

Nick Drees reported that a meeting was held of the grass committee regarding the Agassiz Valley Water Resource Management Project and that Eldor and Philip Omdahl have agreed to inter-seed native grass's on their CRP.

Nick Drees and Mr. John W Nelson reported that they met with Sonny Chruszch and his wife to discuss options for the properties located in section 19 of Brandt Township. All agreed to put land negotiations on hold for 2 years.

Nate Dalager, HDR Engineering, reported that the soil borings on the proposed Angus/Brandt site have been completed; and that the next Project Work team meeting has been scheduled for July 31, 2008, for 10:00 a.m., at the Bremer Bank in Warren. He also stated a request for an Acceleration Grant from the Flood Damage Reduction Committee has been submitted.

Nick Drees reported that bids for Phase 4, part 1 of the PL-566 project were received and publicly opened on July 9, 2008, at the District office and that he has awarded the contract to Olson Construction TRF, Inc. the low bidder for the project, in the amount of \$171,318.95; and that he would like to pursue purchasing a strip of land for access to the property on the east side of the Snake River on the Off-Channel storage site.

Motion by Mr. Arlyn Stroble, seconded by Mr. Ben Kleinwachter to purchase land for access to the District property at the shortest route and for the least cost, with Nick Drees to negotiate with the landowner. Motion carried, with Mr. Loren Zutz abstaining, due to conflict of interest.

Nick Drees reported that the bid opening on Phase 4, part 2 of the PL-566 project will be publicly opened on July 23, 2008, at 1:00 p.m., at the District office; that the Riley Brothers suit will be discussed in closed session, and that mediation regarding the Riley Brothers suit is scheduled for July 24, 2008 in St. Paul, Minnesota.

Nick Drees reported that the Steve Abbey farmstead ring dike constructed by Triple D Construction, has been completed, with seeding remaining; and that it appears there will be shortage of ring dike cost share funds for the construction of the Myron Larson ring dike.

A data practice request from an anonymous individual was distributed.

It was reported by Nick Drees, that he has been contacted by Senator Coleman's office offering congratulations on the Agassiz Valley Resource Management Project and offered assistance to the District in flood control measures.

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Nick Drees reported that he attended the Red River Watershed Board meetings held on June 19, 2008 at the Dakota Magic Casino and on July 15, 2008 at Casselton, North Dakota. The News and Views of the Red River Watershed Management Board were distributed.

At the request of Mr. Loren Zutz, the Administrator of the District, provided a drainage map of Judicial Ditch #25-1 for the Agassiz Valley Water Resource Management Project.

Jeff Hane reported that he has nothing to report on the suit against two managers; that the ACLU had filed a friend of the court brief regarding the Jim Stengrim lawsuit; that he would address the PL-566 Riley Brothers case in closed session; that he received notice from the Courts that 3 landowners have not cashed their checks for the PL-566 project; and that the Court will decide who is the prevailing party in the Angus Oslo #4 Drewes lawsuit.

Mr. Elden Elseth stated that the letter of Mr. Doug Sorenson cited several cases in reference to open meeting laws. He stated he is not practicing law, however, he is seeking clarification on whether the litigation committee should be given notice as to when they will meet in closed session.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz to direct Jeff Hane to meet with Jerry VonKorff to agree on the interpretation of open meeting laws. Motion failed.

Mr. Loren Zutz stated that in the ACLU brief filed on behalf of Jim Stengrim that the District is accused of violating the Minnesota Constitution on Freedom of Speech issues. He stated that he has never been in favor of the lawsuit filed against Jim Stengrim and that he has never been informed by the litigation committee of the status of the lawsuit.

Nick Drees announced that he is expecting a proposal from the architects of Widseth, Smith and Nolthing regarding the remodeling of the District office by the end of the week; and that the Warren Volunteer Fire Department conducted a training session and burnt 2 buildings on properties owned by the District.

Motion by Mr. Loren Zutz, seconded by Mr. John W Nelson that the District donate \$500.00 to the Warren Volunteer Fire Department for the services they provided in the burning of 2 buildings on the properties owned by the District on the Agassiz Valley Water Resource Management Project. Motion unanimously carried.

It was announced that the appointments to the Board of Managers are scheduled for July 24, 2008, by the Commissioners of Marshall and Polk Counties.

The next meeting was scheduled for August 4, 2008, at 4:00 p.m. and the regular meeting was scheduled for August 18, 2008, at 4:00 p.m.

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Jeff Hane stated that pursuant to Minnesota Statutes 13D.05 subd(3)b that the meeting be closed to discuss legal theories and strategies regarding the PL-566 Riley Brothers lawsuit. Following the meeting the litigation committee may meet to discuss pending litigation with Jim Stengrim regarding the Agassiz Valley Water Resource Management Project.

Motion by Mr. Arlyn Stroble, seconded by Mr. Alvin Nybladh that the meeting be closed. Motion unanimously carried

The meeting was closed at approximately 8:43 p.m.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Alvin Nybladh that the meeting be reopened. Motion unanimously carried.

The meeting was reopened at approximately 9:28 p.m.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Arlyn Stroble that the meeting be adjourned. Motion unanimously carried.

The meeting was adjourned at approximately 9:36 p.m.

The litigation committee did not meet.

Connie Kalinowski
Recording Secretary

Ben Kleinwachter
Secretary