

June19(a)2017.min

APPROVED (as corrected July 3, 2017)
**REGULAR MEETING OF THE BOARD OF MANAGERS OF THE
MIDDLE- SNAKE-TAMARAC RIVERS WATERSHED DISTRICT
HELD AT 453 NORTH MCKINLEY STREET, WARREN, MN
8:30 A.M. June 19, 2017**

The meeting was called to order by President Ben Kleinwachter. Managers John W Nelson, Roger Mischel, Robert Kovar, Ben Kleinwachter, Bill Petersen and Brad Blawat were present. Connie Kujawa, Brent Silvis, Tony Nordby, Christina Slowinski, Danny Omdahl, Kyle Schломann, Dillon Nelson, Shawn Bubb and Rolland Miller were also present.

Motion by Mr. Roger Mischel, seconded by Mr. Robert Kovar that the agenda be approved, as amended, with the addition of Mowing. Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Brad Blawat that the minutes of the June 5, 2017 meeting be approved, as corrected. Motion unanimously carried.

The financial report was reviewed and filed for audit purposes.

Motion by Mr. John W Nelson, seconded by Mr. Bill Petersen that the following bills be paid: from the Administrative Funds, that payroll checks numbered 6083 through 6094 inclusive for a total of \$15,989.23; that checks numbered 17467 through 17514 inclusive, for a total of \$41,741.08; from the Project funds that checks numbered 2755 through 2764 inclusive, for a total of \$59,168.23; from the RRWMB Fund, check #180 for a total amount of \$276,383.29; and from the Ditch Funds that checks numbered 3073 and 3086, including the service charge, for a total of \$29,961.76 be paid. Motion unanimously carried.

The following permits were unanimously approved:

1. Permit (17-028) to Shawn Bubb to install 74 acres drain tile; 3/8" coefficient, 10 HP (511 GPM) lift station; in the NW corner of the property to outlet into 170 St NW south ditch, in the E2 NE4 section 32 Sandsville Township. A tile pump ditch override switch must be installed to control the amount of water released from the pump during high water events. Conditions: The switch shall be set at the elevation of 816.0'. If needed, the District Managers may change the elevation at which the switch shall be set to. (Motion by Mr. Robert Kovar, seconded by Mr. John W Nelson)
2. Permit (17-029) to Shawn Bubb to construct a levee south of the 170th St NW Right of Way to a height of 1' less than 170th St NW height, in the E2 NE4 section 32 Sandsville Twp. Conditions: The levee cannot be higher than the elevation of 817.5'. To match the current elevation of the levee around the farm yard, the elevation would need to be at 817.3'. (Motion by Mr. Bill Petersen, seconded Mr. Brad Blawat)

Shawn Bubb left the meeting at approximately 8:50 a.m.

Jeff Hane joined the meeting at approximately 8:53 a.m.

Chairman Kleinwachter recessed the meeting at approximately 8:55 a.m., for purposes of conducting the Hearing on the Repair of Judicial Ditch #75, scheduled for 9:00 a.m., at the Bremer Bank in Warren, Minnesota.

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The hearing on the Repair of Judicial Ditch #75 was held, today, at 9:00 a.m., at the Bremer Bank. The hearing was recorded. The Board of Managers, Attorney Jeff Hane, Administrator Silvis and approximately 14 interested individuals were present. The attendance sheet and recording is made a part of the Hearing record and will be filed at the District office. After presentation of the Engineers Report by Tony Nordby, of Houston Engineering, and after hearing comments from those in attendance, on a motion by Mr. Bill Petersen, seconded by Mr. John W Nelson and upon unanimous vote, the Board ordered the Repair of Judicial Ditch #75. Also, a motion was made by Mr. Bill Petersen, seconded by Mr. Roger Mischel and upon unanimous vote, the resolution adopting the Findings and Order on the Repair Report, Appointment of Viewers and Staying Repair Proceedings under MN Statutes 103E.715., subd 6 was adopted. A copy of the Findings and Order is attached.

Chairman Kleinwachter reconvened the meeting at approximately 9:45 a.m. All managers except David Bakke were present. Lon Aune, Tony Nordby, Connie Kujawa, Brent Silvis, Christina Slowinski, Danny Omdahl and Kyle Schlomann were also present.

The following permits were unanimously approved:

3. Permit (17-042) to the Marshall County Highway Department to replace existing culverts and remove sediment from the ditch for maintenance purposes, in section 13, New Solum Township and sections 18 and 17 of Excel Township. Condition: the pipe at station 50+92 must be installed as an 18" CSP. (Motion by Mr. Roger Mischel, seconded Mr. Brad Blawat)

Lon Aune left the meeting at approximately 10:01 a.m.

4. Permit (17-044) to Steve Goodwin to install 300 acres drain tile; 10 HP VFD (1400 GPM) pump, 1/4" coefficient; 60' spacing; outletting into CD #44, Branch 1; W2, Section 29, Angus Township. (Motion by Mr. John W Nelson, seconded Mr. Bill Petersen)

The following permit was Administratively approved and reviewed:

5. Permit (17-043) to Neil Peterson to install field crossing with a 48" culvert, at ditch grade, South line SE4 SE4, Section 9, Newfolden Township.

Administrator Silvis reported he contacted Cenex of Oslo and Larson Helicopter regarding when they would be available to begin spraying the cattails in the legal drainage ditches within the District. He stated Cenex of Oslo have indicated they would not begin until sometime in August and Larson Helicopter would not be available until late July. Administrator Silvis asked the Board to let him know if they see areas that are in need of spraying or if they know of other sprayers that may be available.

Brady Johs, of Brady-Martz, joined the meeting at approximately 10:10 a.m.

Rolland Miller joined the meeting at approximately 10:21 a.m.

Brady Johs, Brady-Martz and Associates, presented and reviewed the 2016 financial audit performed on the District finances.

Brady Johs left the meeting at approximately 10:45 a.m.

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Motion by Mr. Roger Mischel, seconded by Mr. Robert Kovar to accept the 2016 Auditors Report as prepared and presented by Brady-Martz and Associates and to forward copies of the Auditor's report to those individuals required to receive it and to those individuals known to be interested in receiving it. Motion unanimously carried.

Administrator Silvis reported the bids for the Repair of Judicial Ditch #75 were publically received and opened on June 14, 2017, at 1:00 p.m., at the District office. The following bids were received:

Davidson Construction	\$297,695.00
Zavoral Construction	278,651.00
Triple D Construction	276,235.50
Gladen Construction	228,904.50
Olson Construction TRF, Inc	233,903.64

The Board deferred awarding the bid for the Repair of Judicial Ditch #75 until the July 3, 2017 board meeting.

Administrator Silvis reported that the Travis Plut, the contractor who was awarded the contract to bore the 18" steel casing pipe, in Section 12 of New Solum Township, does not have all the required insurance necessary to perform the work. The Board requested this matter be added to the next meeting agenda.

Administrator Silvis reported a meeting was held in Thief River Falls, Minnesota, on June 13, 2017 in regards to the Buffer Legislation and the Board will need to decide by June 28, 2017 if they will assume jurisdiction of the District's ditches.

Motion by Mr. Robert Kovar, seconded by Mr. John W Nelson that the following resolution accepting Jurisdiction for the Minnesota Buffer Law be adopted:

WHEREAS, provisions in Minnesota Statute 103F.48 (Buffer Law) allow a county or watershed district to affirm jurisdiction to carry out the compliance provisions regarding riparian vegetated buffers and alternative water quality practices for those waterbodies identified on the Department of Natural Resources' Buffer Protection Map; and

WHEREAS, a watershed district with jurisdiction over a noncompliant site shall enforce corrective actions through a coordinated approach under the authority granted in the Minnesota Statute 103B.101, subd. 12a, the Buffer Law and Minnesota Chapter 103D; and

WHEREAS, the Middle Snake Tamarac Rivers Watershed District agrees to carry out corrective actions on a parcel basis to ensure compliance with the buffer requirements, which may include an Administrative Penalty Order (APO) plan under the authority provided in Minnesota Statutes 103B.101, subd. 12a and 103F.48; and

WHEREAS, the Middle Snake Tamarac Rivers Watershed District is electing jurisdiction on all public drainage ditches for which it is the drainage authority identified on the Department of Natural Resources' Buffer Protection Map located in the individual counties as follows:

County Name	Marshall County	Pennington County	Polk County
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APPROVED (as corrected July 3, 2017)

Miles of 103E Public Drainage Ditch	205.5	9.5	107.9
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And;

NOTE: *Under BWSR Policy 8: Election of Jurisdiction, a watershed district may elect jurisdiction over public ditches and public waters within its boundary if the county has not elected jurisdiction.*

WHEREAS, the Middle Snake Tamarac Rivers Watershed District is electing jurisdiction on all public drainage ditches for which it is not the drainage authority, located within its boundaries, if the county has not elected jurisdiction for the Buffer Law; and

WHEREAS, the Middle Snake Tamarac Rivers Watershed District is electing jurisdiction on all public drainage ditches for which it is not the drainage authority and public waters located within its boundaries if the county has not elected jurisdiction for the Buffer Law; and

WHEREAS, the Buffer Law requires that each Local Government Unit provide notice affirming jurisdiction and identify rule, ordinance, or other official controls that will be used to carry out the compliance provisions of the buffer requirements to the Board of Water and Soil Resources, including a copy of the adopting resolution;

THEREFORE BE IT RESOLVED, that the Middle Snake Tamarac Rivers Watershed District hereby accepts the authority and administrative responsibility to implement the Buffer Law as the Local Government Unit within the legal boundaries of the Middle Snake Tamarac Rivers Watershed District for the water features identified above as of June 19, 2017 in accordance with Minnesota Statute 103F.48. Motion unanimously carried.

Administrator Silvis stated that due to his upcoming resignation from employment, BWSR is requesting a point of contact. The Board stated they will address this matter after Administrator Silvis's employment is done.

Danny Omdahl reported he has identified two culverts on Polk County Ditch #175 that have failed or are failing, approximately 1 mile E of Minnesota Trunk Highway #220, in the SW4 SE4 of Section 4, Northland Township. The culvert located at station 378+28 is a 3.7'x5.7' x 37' CSPA and the other culvert located at station 355+44 is a 4.3' x 5.5' x 36" CSPA.

Motion by Mr. John W Nelson, seconded by Mr. Bill Petersen that the District repair and replace the two failed culverts on Polk County Ditch #175 at stations 378+28 and 355+44, with the length of the culverts to be lengthened to 40' and that Northland Township be requested to cost share on the replacement of the culvert at station 355+44. Motion unanimously carried.

Tony Nordby stated he has viewed the repair to the road, where cracks had occurred after the culvert and slough repair work was done in 2016, along Judicial Ditch #25-2, and is satisfied with the results. He requested the Board approve final payment to Olson Construction TRF, in the amount of \$2,823.56.

Motion by Mr. Roger Mischel, seconded by Mr. Brad Blawat that the final payment of \$2,823.56 be issued to Olson Construction TRF for the slough repair work on Judicial Ditch #25-2. Motion unanimously carried.

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Chairman Kleinwachter inquired if the District should contact landowners to see if they would be interested in mowing the ditches along their property. After discussion, the Board determined it was not a good idea due to liability issues.

Administrator Silvis reported the following bids were received and publically opened on June 16, 2017, at 1:00 p.m. at the District office, for the rental of the hayland at the Agassiz Valley Water Resource Management Project.

Parcel 1: N ½ Sec 7, T154N R46W (Comstock Strip) Marshall County (~200 acres)	
Arlyn Stroble	\$ 8,750.00
Darrel and Julie Peterson	\$ 30,001.00

Parcel 2: SW ¼ Sec 12, T154N R47W (Brislet Twp) Polk County (~70 acres)	
Stroble Farms	\$ 11,025.00
Darrel and Julie Peterson	\$ 9,601.00
David Jadeke	\$ 5,250.00

Motion by Mr. Robert Kovar, seconded by Mr. Brad Blawat that the bid of Darrel and Julie Peterson, in the amount of \$30,001.00, for a 3 year term be accepted, under the condition that the first payment is received on or before June 22, 2017 and if payment is not received then the bid of Arlyn Stroble will be awarded. Motion unanimously carried.

Motion by Mr. John W Nelson, seconded by Mr. Robert Kovar that the bid of Stroble Farms, in the amount of \$11,025.00, for a three year term, be accepted, with the first payment due July 1, 2017. Motion unanimously carried.

Administrator Silvis stated Sheila Hoerner of the Agassiz Audubon has requested the Board name a point of contact since Administrator Silvis is leaving employment with the District. The Board took no action on the request but stated the Agassiz Audubon should contact the District office and District staff will inform the Board on matters as they may arise.

Administrator Silvis reported an open house on the Snake River WRAPS is scheduled for July 27, 2017, from 4:00 p.m. to 7:00 p.m., at the City of Argyle mall, and inquired if refreshments could be served. It was the consensus of the Board to furnish refreshments at the Open House.

Administrator Silvis reported the committee of Mr. Roger Mischel and Mr. Bill Petersen reviewed the recruiting firms to determine which firm the District should utilize to recruit candidates for the Administrator position and it is their recommendation to use the Smith Consulting Group.

Motion by Mr. John W Nelson, seconded by Mr. Brad Blawat the District execute the Fee Agreement with the Smith Consulting Group to recruit candidates for the Administrator position. Motion unanimously carried.

APPROVED (as corrected July 3, 2017)

Connie Kujawa reported she contacted Dahlstrom Motors and they delivered a 2016 Chevrolet Equinox AWD LT and a 2017 Chevrolet Traverse AWD LT, to the office, for the Board to view and compare.

Motion by Mr. Bill Petersen, seconded by Mr. John W Nelson that the District purchase the 2017 Chevrolet Traverse AWD LT, in the amount of \$29,717.00, from Dahlstrom Motors of Oslo, Minnesota. Motion unanimously carried.

Administrator Silvis reported there is an online "Watershed Specialist Training Program" available from the University of Minnesota and all three of the District Technicians are interested in taking the course. He stated the cost is \$840 per individual and it is a 14 week course, with two different beginning dates. By consensus, the Board directed the Administrator to determine when the Districts Technicians enroll in the program.

It was announced that the Marshall County Commissioners are advertising for two Manager positions on the MSTRWD Board of Managers. Administrator Silvis reported that the terms of Mr. Ben Kleinwachter and Mr. Bill Petersen are up for appointment.

A discussion was held concerning the proposed Red River Watershed Management Board's Strategic Plan to hire an Executive Director and an Assistant Director (or Executive Secretary). Chairman Kleinwachter recommended the Board wait and see what happens in a year.

Motion by Mr. John W Nelson, seconded by Mr. Robert Kovar that the Middle Snake Tamarac Rivers Watershed hold off on partaking in the proposed Red River Watershed Management Board's Strategic Plan until more information is received. Motion unanimously carried.

Administrator Silvis reported that he is seeking quotes for Professional Liability Insurance from other insurance companies.

Administrator Silvis reported that NELD Johnson Farms, LLLP have filed a Summons and Complaint in District Court against the District, seeking damages in the Repair of Judicial Ditch #1.

The following meetings were announced:

- June 21-23, 2017-MAWD Summer Tour, Bemidji, MN
- July 3, 2017-Regular Meeting, 8:30 a.m., District Office
- July 17, 2017-Regular Meeting, 8:30 a.m., District Office

By unanimous consent, the meeting was adjourned at approximately 12:03 p.m.

Connie Kujawa
Recording Secretary

David Bakke
Secretary

**STATE OF MINNESOTA
MIDDLE-SNAKE-TAMARAC RIVERS WATERSHED DISTRICT
DRAINAGE AUTHORITY FOR POLK COUNTY JUDICIAL DITCH 75**

In the Matter of the Proceedings for the
Repair of Polk County Judicial Ditch 75

**FINDINGS AND ORDER ON REPAIR
REPORT, APPOINTING VIEWERS AND
STAYING REPAIR PROCEEDINGS UNDER
STATUTES SECTION 103E.715, SUBD. 6**

At a properly noticed hearing on the repair report for the repair of Polk County Judicial Ditch (JD) 75, on June 19, 2017, Manager Bill Petersen moved, seconded by Manager Roger Mischel to adopt the following Findings and Order:

FINDINGS

1. The Judicial Court of Polk County established JD 75 in 1927. Following establishment of the Middle-Snake-Tamarac Rivers Watershed District, jurisdiction over JD 75 was transferred to the District's Board of Managers as Drainage Authority under statutes chapter 103E.
2. Based on landowner and road authority complaints, and upon inspection, the Drainage Authority discovered deterioration of the ditch bank on the town lines between §36 Sandville, §1 Northland; §§31 and 34 Farley, §§6 and 3 Tabor Townships, Polk County.
3. Based upon the inspection, the Drainage Authority directed its engineer to prepare design plans and specifications for the repair of the deteriorated portions of JD 75.
4. As established in 1927, JD 75 included the construction of a public roadway on the northern spoil bank.
5. The JD 75 repair proposes to flatten the ditch bank (side slope) from a current 1:1 or 1.5:1 slope to a 4:1 slope in most locations. This will require additional right of way for the physical occupation of the ditch and will necessitate relocation and reconstruction of the road on the north spoil pile. The road re-location will occur solely in Sandville and Farley Townships, some of the resloping and work in the channel of JD 75 will occur in Northland and Tabor Townships.
6. The term repair in the drainage code (103E), means to restore all or a part of a drainage system as nearly as practicable to the same hydraulic capacity as originally constructed and subsequently improved, including resloping of ditches and leveling of spoil banks if necessary to prevent further deterioration. Statutes section 103E.715, subd. 6, addresses the procedure necessary when a repair is to occur by flattening side slopes

and acquiring additional right of way.

7. As part of the proposed repair, the drainage authority must acquire additional right of way, north of and adjacent to the existing roadbed, for ditch and road purposes. As part of the proposed repair the engineer has specified relocation and reconstruction of the road within the newly acquired right of way. This will facilitate flattening the side slopes of JD 75.
8. The Drainage Authority noticed and held a hearing on the repair report (plans and specifications) on Monday, June 19, 2017.
9. Notice of the hearing was given as provided in statutes section 103E.715.
10. At the hearing the Drainage Authority received comments regarding the proposed repair.
11. The engineer has identified the necessary repairs and the estimated cost of the repairs.
12. The engineer has provided all details, plans, and specifications necessary to prepare and award a contract for the recommended repairs.
13. Based on the proceedings, the public comment and the report of the engineer, the Drainage Authority make the following specific findings:
 - A. That the procedural requirements of statutes sections 103E.705 and 103E.715 have been followed. The record of notices, minutes of proceedings and other procedural records maintained by the Drainage Authority in this matter are incorporated herein by reference.
 - B. That the repairs recommended are necessary to make the drainage system efficient, to restore the as-constructed hydraulic capacity of the system and are necessary for the best interests of the affected property owners.
 - C. That because the nature of the repair will involve lands beyond those contemplated and included in the original proceedings to establish JD 75, the Drainage Authority must comply with the requirements of statutes section 103E.715, subd. 6.

Therefore, based on the foregoing findings, the drainage authority makes the following:

ORDER

- A. The proceedings for the repair of JD 75 are stayed pending the determination and award of damages as required by statutes section 103E.715, subd. 6.

- B. The following viewers are hereby appointed to determine the damages to property affected by the repair:

Rick Battles, Viewer

Roger Beiswenger, Viewer

Rod Knutson, Viewer

- C. The Secretary is directed to call an initial meeting of the viewers and to administer an oath as provided by statute.
- D. The viewers shall make a viewers' repair report to the drainage authority as provided by statutes sections 103E.315 and 103E.321.
- E. When the viewers' repair report is filed, the secretary shall prepare and deliver Owners' Reports as provided in statutes section 103E.323 and, upon the setting of a hearing date by the Drainage Authority, shall give notice of a hearing as required by statutes section 103E.325.
- F. Construction of the necessary repairs shall not commence until the repair damages proceedings are concluded.
- G. Nothing in the foregoing Order shall prevent the Drainage Authority from negotiating voluntary easements from affected property owners. Should voluntary easements be negotiated, the viewers' duties with regard to the property shall be eliminated.

After discussion, the President called the question. The question was on the adoption of the foregoing findings and Order and there were 6 yeas and 0 nays.

Upon vote, the President declared the Resolution Passed.




Robert Kovar, Acting Secretary

Dated: June 19, 2017

* * * * *

I, David Bakke, Secretary of the Middle-Snake-Tamarac Rivers Watershed District, do hereby certify that I have compared the above Findings and Order 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 19th day of June, 2017.



Robert Kovar, Acting Secretary