

APPROVED (September 22, 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. SEPTEMBER 8, 2008

The meeting was called to order by President Doug Sorenson. Managers John W Nelson, Arlyn Stroble, Alvin Nybladh, Ben Kleinwachter, Doug Sorenson, Loren Zutz, and Elden Elseth were present. Nick Drees, Connie Kalinowski, Danny Omdahl, Ron Adrian, Jeff Hane and Wallace Diedrich were also present.

Wallace Diedrich recorded the meeting with two recorders.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter, 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.

Motion by Mr. Loren Zutz, seconded by Mr. Elden Elseth to remove item #5 (Election of Officers) from the agenda and address it at the next regular meeting. Motion failed. Mr. Loren Zutz called for a roll call with Mr. Elden Elseth and Mr. Loren Zutz voting yes; Mr. Arlyn Stroble, Mr. Alvin Nybladh, Mr. John W Nelson and Mr. Ben Kleinwachter voting no.

Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson to approve the agenda as presented. Motion carried, with Mr. Loren Zutz and Mr. Elden Elseth voting no.

Mr. Elden Elseth and Mr. Loren Zutz discussed the investigation performed by RoughRider Investigations, stating that it appears they have been cleared of any wrong doing, and questioned if the investigation covered all managers or if a follow up has been received.

Mr. Doug Sorenson presented each Manager with the Oath of Managers for signature.

Motion by Mr. Doug Sorenson, seconded by Mr. John W Nelson that Jeff Hane conduct the election of officers. Motion unanimously carried.

Nominations for President were entertained with Mr. Loren Zutz nominating Mr. Elden Elseth; Mr. John W Nelson nominating Mr. Doug Sorenson; and Mr. Elden Elseth nominating Mr. Ben Kleinwachter. Mr. Ben Kleinwachter declined.

Motion by Mr. Arlyn Stroble, seconded by Mr. Ben Kleinwachter that nominations for President cease. Motion unanimously carried.

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By a vote of 4 to 1, Mr. Doug Sorenson was appointed President.

Nominations for Vice President were entertained with Mr. Elden Elseth nominating Mr. Ben Kleinwachter and Mr. Ben Kleinwachter nominating Mr. John W Nelson.

Motion by Mr. Arlyn Stroble, seconded by Mr. Alvin Nybladh that nominations for Vice President cease. Motion unanimously carried.

By a vote of 3 to 2, Mr. John W Nelson was appointed Vice President.

Nominations for Secretary were entertained with Mr. Arlyn Stroble nominating Mr. Ben Kleinwachter.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that nominations for Secretary cease. Motion unanimously carried.

By a unanimous vote, Mr. Ben Kleinwachter was appointed Secretary.

Nominations for Treasurer were entertained with Mr. John W Nelson nominating Mr. Alvin Nybladh.

Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson that nominations for Treasurer cease. Motion carried.

By a vote of 4 to 1, Mr. Alvin Nybladh was appointed Treasurer.

Nominations for Assistant/Secretary were entertained with Mr. Elden Elseth nominating Mr. Loren Zutz and Mr. John W Nelson nominating Mr. Arlyn Stroble.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Alvin Nybladh that nominations for Assistant/Secretary cease. Motion carried.

By a vote of 3 to 2, Mr. Arlyn Stroble was appointed Assistant/Secretary.

Motion by Mr. Ben Kleinwachter, seconded by Mr. John W Nelson to recess the regular meeting and open the 2009 Budget Hearing. Motion unanimously carried.

A discussion was held concerning the project fund levy, the administrative fund levy, and the project construction fund.

Mr. Doug Sorenson entertained the audience if they wished to comment on the proposed 2009 budget. There were no comments from the audience.

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Motion by Mr. Arlyn Stroble, seconded by Mr. Ben Kleinwachter that the following resolution be adopted as follows:

RESOLUTION ADOPTING BUDGET & LEVIES

1) the 2009 Administrative Funds Budget be set at:

Building Maintenance	11,000	Miscellaneous	1,000
Utilities	7,000	Insurance	18,000
Supplies/Equipment	25,000	Legal/Professional & Administrative Services	60,000
Telephone	5,000	Managers Per Diem & Expenses	15,000
Publication & Printing	5,000	Association Dues	2,200
Postage	3,500	Employee Mileage & Expenses	2,000
Employee Payroll & Fringes	296,000	Vehicle Expenses	15,000
USGS Stream Gage & Cost Share	8,000	Contingency	0
Property Taxes	22,000	Stream Maintenance	10,000
		Project Construction	42,000
		Total	547,700
		Less Estimated Project Expenses (1)	297,700
		Net Administrative Fund Budget	250,000

and that the Secretary certify to the Auditors of Marshall, Polk, Pennington, Kittson and Roseau Counties a proposed Administrative Fund Levy of \$250,000. Motion unanimously carried.

Mr. Elden Elseth questioned if additional administrative or project funds are needed or if we are building up a slush fund and inquired if the Red River Watershed Management Board is required under MN Statutes 103D.911 to prepare a budget and hold a budget hearing.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh to approve the Red River Watershed Management Board Levy and that the Secretary certify to the Auditors of Marshall, Polk, Pennington, Kittson and Roseau Counties a proposed Project Fund Levy of .04836 percent of the estimated Market Value of all the taxable property within the District and that the Secretary certify to the Auditors of Marshall, Polk and Pennington Counties the levies for the repair and maintenance of the Ditch funds as listed:

<u>Drainage System No</u>	<u>Percent (Benefits)</u>	<u>Levy Projected Receipts</u>
JD #1		
Marshall	0.00%	-
Polk	0.00%	-
WD #2		
Marshall	1.00%	400
SD #3		
Marshall	10.00%	9,840
WD #4		

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Marshall	0%	-
Polk	0%	-
WD #5		
Polk	0.25%	6,420
BRF	6.79%	174,320
WD #6		
Polk	1.00%	19,400
BRF	5.77%	111,980
WD #7		
Marshall	1.00%	3,040
Polk	1.00%	2,160
WD #7-Imp		
Marshall	3.00%	2,280
Polk	1.00%	540
JD #14		
Marshall	1.00%	440
Pennington	5.00%	1,010
JD #15		
Marshall	2.00%	30,710
JD #16		
Marshall	4.00%	37,170
JD #17		
Marshall	0.00%	0
Polk	.25%	1,560
JD #20		
Marshall	.25%	5,880
JD #21		
Marshall	0%	-
JD #24		
Marshall	.03%	60
Polk	.03%	20
JD #25-I		
Marshall	0%	-
Polk	0%	-
JD #25-II		
Marshall	0%	-
Polk	0%	-
Pennington	0%	-
JD #28		
Marshall	1.50%	840
JD #29		
Marshall	1.00%	22,370
CD #39		
Marshall	1.00%	1,250
CD #39 Improvement		
Marshall	6.22%	6,740
JD #68		
Polk	.03%	60
JD #75		
Polk	2.00%	73,060
BRF	3.50%	127,790
CD #175		
Polk	.03%	290
PL-566		
Lien (Marshall)	.352%	40,980

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Maintenance (Marshall)	.087%	10,140
Rebuild (Marshall)	.030%	3,460

Motion carried, with Mr. Loren Zutz and Mr. Elden Elseth voting no.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Elden Elseth that the budget hearing be closed and the regular meeting be reconvened. Motion unanimously carried.

The regular meeting was reconvened at approximately 5:47 p.m.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Elden Elseth that the hearing to add lands to the benefited area of Judicial Ditch #68 be reconvened and the regular meeting be recessed. Motion unanimously carried.

The hearing was reconvened at 5:50 p.m.

Ronald J Adrian, Houston Engineering, presented a spreadsheet detailing the total benefits and outlet charges and stated it appears the additional lands requested to be added to the benefited area of Judicial Ditch #68 would drain approximately 84 acres.

Motion by Mr. Loren Zutz, seconded by Mr. Elden Elseth that the following Findings and Order adding lands to the benefited of Judicial Ditch #68 be adopted:

FINDINGS AND ORDER

The above-entitled matter came on before the Board of Managers for an evidentiary hearing pursuant to a Petition filed Under Minn. Stat. 103.401 by Dennis Mack, which Petition sought to use the established drainage system of Judicial Ditch #68 as an outlet, which Petition was received on May 18, 2008. Pursuant to Statute, and after due notice to all concerned, the Managers held an evidentiary hearing at the Oslo Community Center at 7:00 o'clock p.m., on Tuesday, July 22, 2008 at which time all interested persons were allowed to give testimony under oath, and also at which time the Engineer for the District presented his findings and recommendations concerning the same. Following the receipt of said testimony, the Board of Managers voted to leave the record of the hearing open for further submission of written materials, and also voted to recess deliberations and reconvene at the next regular meeting of the Board of Managers to be held Monday, August 18, 2008.

On Monday, August 18, 2008, during the regular monthly meeting, the Board of Managers reconvened its hearing on this matter, and after due deliberation, requested that the District Engineer supply the board with more information concerning the capacity of Judicial Ditch #68 to receive additional waters and act as an outlet for the petitioned lands. The Board directed the Engineer to prepare

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a report concerning the same and present it at the next permit meeting which was scheduled for Monday, September 8, 2008, where the hearing on this matter was to be reconvened. The Board then voted to recess the hearing again.

On Monday, September 8, 2008, the Board, during its meeting, reopened the hearing on this matter and received an additional report from Engineer, Ron Adrian.

Having reviewed all of the filings and documents in this matter, and having heard the testimony of all the witnesses, and having received and considered the reports of its Engineer, the Board of Managers hereby makes the following:

FINDINGS OF FACT

1. The Petition presented conforms to the statutory requirements, and all parties entitled to notice have received due notice pursuant to the statutory requirements.
2. The Board of Managers has considered the capacity of Judicial Ditch #68 to act as an outlet.
3. The property to be benefited by Judicial Ditch #68 is greater than that originally requested by the Petitioner, consists of eighty-four (84) acres lying largely in the West Half of the Northwest Quarter (W $\frac{1}{2}$, NW $\frac{1}{4}$) of Section Thirty-six (36), Higdem Township, Polk County, Minnesota, and is more accurately reflected on the attached map.
4. That the amount of benefits to the property so described for the outlet is equal to that of the adjacent properties, and is \$70.00 per acre.
5. The Board's determination of the estimated outlet fee and benefits is reflected in the attached table.

Pursuant to the foregoing Findings, the Board of Managers hereby adopts the following:

CONCLUSIONS OF LAW

1. That Judicial Ditch #68 has the adequate capacity to act as a drainage outlet for the 84 acres owned by the Petitioner and the 84 acres owned by the Petitioner can and will drain into Judicial Ditch #68.
2. That the property described in the attached map and referenced above in the Findings of Fact, is granted express authority to use Judicial Ditch #68 as an outlet, provided the terms and conditions set forth below are met.

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3. That the amount of benefits for the 84 acres of benefited property shall be \$70.00 per acre for a total of \$5,880.00.
4. That the terms and conditions for use of Judicial Ditch #68 as an outlet for the benefited property shall be as follows:
 - a. Petitioner shall install an 18" corrugated steel pipe in the Northwest corner of his property which will allow the benefited property to drain water to the west. The exact elevation and alignment of this culvert shall be set by the Watershed District staff.
 - b. Petitioner shall install a dry crossing containing no culvert on the quarter corner line along the section line between sections 25 and 36, which dry crossing shall be located on the line between the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$). The dry crossing shall be installed pursuant to Watershed District staff instruction.
5. The Board of Managers hereby sets the amount to be paid as an outlet fee of \$766.08. After said payment, the Petitioner will be assessed for continuing use of the ditch based on the benefited area, and Petitioner's lands based on the benefit of \$70.00 per acre shall be added to the assessment rolls for Judicial Ditch #68.

Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Alvin Nybladh that the following terms and conditions be set to the addition of the lands to the benefited area of Judicial Ditch #68:

- 1) that an 18" culvert be installed on the South side of the Township road in the NW4 of section 36 of Higdem Township;
- 2) that outlet charges be assessed for \$766.08;
- 3) that a dry crossing be maintained along the North side of section 36, approximately $\frac{1}{4}$ mile East of the section corner in Higdem Township; and
- 4) that the benefits be assessed for the additional lands the same as the adjacent landowners.

Motion unanimously carried.

Motion by Mr. Loren Zutz, seconded by Mr. Elden Elseth that the hearing on Judicial Ditch #68 be adjourned and the regular meeting reconvened. Motion unanimously carried.

The regular meeting was reconvened at 6:15 p.m.

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Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the following permits be approved:

1. Permit (08-033) be issued to Doug Schindele to remove the existing 36" and 31"x 56" township road culverts and replace with a 36" and 31"x 56" culverts in the north ditch of MCSAH #5 and to replace a 36" driveway culvert with a 36" driveway culvert in the SW4 SW4 in section 31 of Augsburg Township;
2. Permit (8-036) be issued to Neil Johnson to install a crossing with a 24" x 35" culvert in the east ditch of MCSAH #21 in the SW4 NW4 of section 7, Boxville Township;
3. Permit (08-037) be issued to Tony Johnson to install a crossing with an 18" culvert in the east ditch of MCSAH #21 in the NW4 SW4 in section 6 of Warrenton Township;
4. Permit (08-038) be issued to Gary Rivard to install a crossing with an 18" culvert in the west ditch of MCSAH #10 in the SE4 NE4 in section 6 of Vega Township;
5. Permit (08-039) be issued to Holt Township to remove a 51" x 60" concrete bridge and to replace with a 42" culvert and to widen the crossing on Marshall County Ditch #25, Lateral 4, between the NE4 NE4 of section 11 and the NW4 NW4 of section 12 of Holt Township.

Motion unanimously carried.

Nick Drees reported that the District had been contacted by the Minnesota Department of Transportation stating that the culvert installed by Bill Szczepanski along Minnesota Trunk Highway #75, in Stephen, Minnesota would have to be removed unless permission was granted by the Watershed District.

A discussion was held concerning granting "after-the-fact" permits and assessing a monitoring fee for works done without a permit.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz that the District approve the permit previously denied to Billy Szczepanski and that a monitoring fee of \$200.00 be imposed for the work done without a permit.

After discussion, Mr. Elden Elseth withdrew the motion.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh the Nick Drees be authorized to sign the grant agreement with the Minnesota Board of Soil and Water Resources, in the amount \$60,000.00, for preparing the District's Overall Plan. Motion unanimously carried.

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Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that the meeting be adjourned. Motion unanimously carried.

The meeting was adjourned at approximately 7:10 p.m.

Connie Kalinowski
Recording Secretary

Ben Kleinwachter
Secretary