

**REGULAR MEETING OF THE BOARD OF MANAGERS OF THE  
MIDDLE- SNAKE-TAMARAC RIVERS WATERSHED DISTRICT  
HELD AT 453 NORTH MCKINLEY STREET, WARREN, MN  
3:30 P.M. DECEMBER 20, 2004**

The meeting was called to order by President Doug Sorenson. Managers Alvin Nybladh, David Bakke, Arlyn Stroble, Tracy Anderson, and Doug Sorenson were present. Managers John W Nelson and Carl Green were not present. Ronald Adrian, Blake Sobolik, Kelly Nelson, Nick Drees, Adrian Weslowski, Jim Stengrim, John Omdahl, Brian Jadeke, and Eldon Elseth were also present.

Motion by Mr. Arlyn Stroble, seconded by Mr. Alvin Nybladh that Ronald Adrian be appointed the recording secretary for purposes of keeping the minutes of the meeting. Motion unanimously carried.

Motion by Mr. David Bakke, seconded by Mr. Alvin Nybladh to approve the agenda as amended, to include a discussion of a plaque honoring Jim Johnson. Motion unanimously carried.

Manager Carl Green joined the meeting at approximately 3:37 p.m.

It was announced that Attorney, Blake Sobolik, will be leaving the meeting at approximately 6:20 p.m., and that it will be necessary to close the meeting at approximately 6:00 p.m. for purposes of discussing litigation strategy and litigation concerning the Agassiz Valley Water Management Project.

Motion by Mr. Tracy Anderson, seconded by Mr. David Bakke to approve the minutes of the November 15, 2004, as presented; to approve the minutes of the November 22, 2004 meeting as presented; and to approve the minutes of the November 29, 2004 meeting as presented. Motion unanimously carried.

Jim Novak joined the meeting at approximately 3:42 p.m.

Motion by Mr. Tracy Anderson, seconded by Mr. Alvin Nybladh to approve the treasurer's report, subject to audit. Motion unanimously carried.

Wally Diedrich joined the meeting at approximately 3:44 p.m.

Motion by Mr. Arlyn Stroble, seconded by Mr. Carl Green, that the bills be paid including the following: from the Administrative Funds, that payroll checks numbered 4070 through 4074 inclusive, and 4076 through 4085 inclusive for a total of \$17,227.92; that checks numbered 12482 through 12487 inclusive for a total of \$7,697.16; that checks numbered 12480, 12481, and 12488 through 12525 inclusive, for a total including the service charge of \$608,942.88; that petty cash checks numbered 3129 through 3141 inclusive, for a total including the

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service charge of \$199.82; and from the ditch funds that checks 2055 through 2060 inclusive for a total of \$59,234.50. Motion unanimously carried.

Ralph Larson, Rhonda Larson and two others joined the meeting at approximately 3:57 p.m.

A discussion was held concerning the permit request of Marshall County to replace the Morkassel bridge. Adrian Weslowski and Eldon Elseth each made a presentation to the Board concerning the Morkassel bridge.

Loren Zutz joined the meeting at approximately 4:57 p.m., and Paul Aakre joined the meeting at approximately 5:00 p.m.

Motion by Mr. Tracy Anderson, seconded by Mr. Arlyn Stroble that the permit request (04-66d) of the Marshall County Highway Department to replace the Morkassel bridge be denied. Motion unanimously carried.

Motion by Mr. Tracy Anderson, seconded by Mr. Carl Green that a request be made to Marshall County that the County Highway Engineer, and representatives of the County, be asked to attend the Board meeting if the permit request for the Morkassel bridge is re-submitted. Motion unanimously carried.

Motion by Mr. Arlyn Stoble, seconded by Mr. Alvin Nybladh that permit (04-67) to Robert Honek to install additional field inlet culverts into Watershed Ditch #5 be modified to allow him to move or relocate existing field inlet culverts, and not to allow the addition of any additional culverts. Motion unanimously carried.

Motion by Mr. Tracy Anderson, seconded by Mr. David Bakke, that permit (04-68) be issued to Gary Pulkrabek to remove sediment from the east township road ditch along the west side of section 23 of Tabor Township, and to install on the quarterline a culvert with a trap on the south end. Motion unanimously carried.

Earl McGregor, Mike Knoll, and Larry Laudal joined the meeting at approximately 5:30 p.m.

Jim Novak, Ralph Larson, Rhonda Larson and Eric Larson discussed with the Board the drainage into Polk County Ditch #175, in the vicinity of section 7 of Tabor Township. It was agreed that they would discuss the issue with Polk County and request that Polk County submit a permit request to remove the flap gate on the culvert.

Jim Novak, Ralph Larson, Rhonda Larson and Eric Larson left the meeting at approximately 5:45 p.m.

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Paul Aakre discussed with the Board the drainage in the vicinity of the Pennington/Polk county line, in the vicinity of Judicial Ditch #25-2.

The meeting was closed at approximately 6:07 p.m., for purposes of discussing litigation strategy and litigation concerning the Agassiz Valley Water Management Project.

Jim Stengrim, Loren Zutz, Brian Jadeke, Mike Knoll, Wally Diedrich, Larry Laudal, Earl McGregor, Nick Drees, and Kelly Nelson left the meeting at approximately 6:07 p.m.

The meeting was reopened to the public at approximately 6:21 p.m.

Blake Sobolik left the meeting at approximately 6:21 p.m.

Paul Aakre and Nick Drees rejoined the meeting at approximately 6:21 p.m.

Brian Jadeke rejoined the meeting at approximately 6:25 p.m., Jim Stengrim, Loren Zutz, and Wally Diedrich rejoined the meeting at approximately 6:34 p.m.

Paul Aakre continued with his discussion concerning the drainage of Judicial Ditch #25-2 in the vicinity the Pennington/Polk County line.

It was decided that the issue should be discussed further with the landowners and townships involved.

Correspondence was reviewed from the Red River Basin Board concerning a meeting being held on January 12-14, 2004; and from the Board of Soil and Water Resources concerning a Watershed Training Program.

Nick Drees left the meeting at approximately 7:00 p.m.

It was reported that the District has received an advisory opinions from the Informational Policy Analysis Division of the Minnesota Department of Administration concerning requests of Adrian Weslowski to review data.

Correspondence from Jim Stengrim concerning data requests dated October 8, 2004; and from Eldon Elseth dated September 16, 2004 and December 11, 2004, were distributed. In addition correspondence dated December 13, 2004, to the MN Department of Administration was distributed.

It was reported that a hearing was held by the Board of Water and Soil Resources on the Watershed Management Plan Amendment on December 13, 2004, in Stephen, Minnesota.

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Mr. Adrian reported that the extension of the permits for the Angus Oslo Site #4 has been received from the Corps of Engineers and that the mitigation features for this project should be finalized this winter.

Motion by Mr. Alvin Nybladh, seconded by Mr. Arlyn Stroble, that Mr. Adrian be authorized to sign on behalf of the District, the grant agreement time extension for the Agassiz Valley Water Resource Management Project. This extension extends the Grant Agreement to December 31, 2007. Motion unanimously carried.

Motion by Mr. David Bakke, seconded by Mr. Tracy Anderson, that the Chairman be authorized to sign the mediation agreement in the matter of the Agassiz Valley Water Management Project. Motion unanimously carried.

It was reported that the construction of Phase 2 has been halted for the winter, and that additional information from one of the sub-contractors concerning the prevailing wages has been received; that the release has been signed by the Contractor for the installation of the culverts under Trunk Highway #75 and that the final payment for this project is included in the treasurers report; that the BNSF has essentially completed construction of their bridge on the floodway and that Triple D Construction has removed most of the material required for the construction of the floodway on the railroad right-of-way; that construction of Phase 3b, has been halted for the season, as of December 17, 2004; that communication with the Canadian Pacific Railroad concerning the bridge on Trunk Highway #75 is underway and they have indicated they will have the required information for us.

It was reported that the draft version of the mitigation plan for the PL-566 project has been completed and that meetings with the agencies involved will be scheduled as soon as possible.

Motion by Mr. Tracy Anderson, seconded by Mr. Alvin Nybladh that the District sign the monitoring agreement with the US Geological Survey concerning monitoring of the PL-566 project. Motion unanimously carried.

A draft copy of the gate management plan for the Snake River PL-566 project was distributed.

It was reported that the executed agreement for the cost share agreement with the State of Minnesota for the construction of Farmstead Ring Dikes has been received.

It was reported that 2 of the reaches on the Ag Levees, determined by the State of Minnesota to be high have been lowered and that the status of the 3<sup>rd</sup> reach is not known.

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It was agreed that the discussion of the enforcement of the rules would be put on the agenda for the next meeting.

Motion by Mr. Alvin Nybladh, seconded by Mr. Carl Green that the following by-laws be adopted:

**By-Laws**  
**Middle-Snake-Tamarac Rivers Watershed District**  
**Portions of Marshall, Polk, Pennington, Kittson & Roseau Counties**

INTRODUCTION

These By Laws are established to govern the conduct and procedure of the Managers of the Middle-Snake-Tamarac Rivers Watershed District.

SECTION 1 MANAGERS TERMS, QUALIFICATION AND COMPENSATION

The term of office of each Manager shall be three years and until his successor is appointed and qualified. A Manager is deemed to have qualified after securing the necessary bond and taking the oath of office. The oath will be administered at the first regular meeting of the Board after the appointment. In no case shall a newly appointed Manager qualify before the end of his predecessor term has expired. Each Manager may be compensated at the rate as prescribed under Minnesota Statutes.

SECTION 2 MEETINGS

The Managers shall have regular monthly meetings and other meetings as may be required from time to time. The regular monthly meeting shall be scheduled for the third Monday of each month unless such Monday falls on a holiday, then the Regular meeting shall be scheduled on the following Monday. The date, time and place of the each regular meeting may be scheduled at the previous meeting.

- A. All meetings of the Managers shall comply with the Minnesota "OPEN MEETING LAW". Public notice for all regular meetings shall be given through publication in the "Warren Sheaf" and the "Stephen Messenger" and by posting a notice in the District Office the week prior to the meeting date and any other notice as may be required by law.
- B. Special meetings may be called as follows:
- 1) by the president,
  - 2) by any Manager provided that the meeting is approved by a majority of the Managers, or
  - 3) as provided by law.
- Notice for all meetings is given as required by law

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- C. ANNUAL MEETING - The Managers shall, in September of each year, hold an annual meeting. The Board shall adopt a budget, set levies to meet the expenses of the District for the next fiscal year and elect officers to serve until the next annual meeting.

### SECTION 3 QUORUM

For any business to be conducted, a quorum must be present. A quorum shall consist of at least a majority of the Managers.

### SECTION 4 MAJORITY RULE

All questions before the Board shall be decided by a majority vote of the members present and voting, unless otherwise required by statute.

- A. CONFLICT OF INTEREST - A Manager shall not vote on any matter in which he has a financial interest. Questions of whether a Manager has a conflict of interest shall be decided by a majority vote of the remaining Managers.
- B. Familiarity with Evidence Presented - Each Manager who participates in any decision on any matter before the Board shall be familiar with the evidence presented.

### SECTION 5 DISBURSEMENT OF FUNDS

Unless specifically authorized by a previous action of the Board of Managers, no warrants shall be paid or issued upon the funds of the District unless approved by a majority of the members present and signed by the President and Treasurer or their designates.

### SECTION 6 CONDUCT OF MEETINGS

- A. At the hour appointed for the meeting the members shall be called to order by the President or in his absence, by the acting chairman.
- B. Before speaking, each member shall address the chairman and shall not proceed until he has been recognized by the Chair. All remarks shall be limited to the subject under consideration.
- C. A member called to order shall immediately suspend his remarks until the point of order is decided by the Chair.
- D. Every motion, except to adjourn, postpone, reconsider, commit, lay on the table, or for the previous question, shall be reduced to writing if any member requests it when made and seconded.

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- E. All resolutions shall be in writing.
- F. When a question is under debate, no motion shall be entered unless to adjourn, to lay on the table, to act on the previous question, to postpone, to commit or to amend.
- G. When questions before the Board consist of several parts they shall be divided at the request of any member.
- H. The manner of voting on any question before the Managers shall be by voice, except that upon the request of any member such vote shall be taken by a secret written ballot. Any voice votes shall be entered in the minutes upon request by any member.
- I. In all points not covered by these rules, the managers shall be governed by Roberts Rules of Order.
- J. The rules in this section may be temporarily suspended by a majority of the Managers. They shall not be repealed, altered, or amended unless by a majority of the Managers and upon notice given at a preceding meeting.
- K. The foregoing rules are adopted to facilitate the transaction of business. Informal compliance and substantial performance shall be sufficient under the foregoing rules in the absence of timely objection by any of the Managers. Timely objections on procedural matters must be made no later than the next regular meeting following the occurrence of the irregular procedure.

## SECTION 7 OFFICERS

The Managers shall elect the following officers from among their membership:

- A. President - The President shall preside at all meetings of the Managers, preserve order and decide questions of order subject to appeal by the Managers. The President may make motions, second motions or speak on any questions provided that upon the demand of any Manager he shall vacate the chair and designate a temporary chairman. The President or acting chairman shall be entitled to vote the same as other members. The President shall have the authority to call special meetings and to set the time and date of the regular meetings.
- B. Vice-President - The Vice-President shall assume all duties and responsibilities of the President in the President's absence or when designated by the President to serve as President.
- C. Secretary - The Secretary shall be responsible for keeping the official record of all minutes and proceedings of the Board and for maintaining the records of the District, and shall designate an acting chairman in the absence of the President and Vice-President.

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- D. Treasurer - The Treasurer shall be responsible for keeping an accurate record of all receipts and disbursements of the District and to report thereon to the Board. The Board of Managers shall be responsible for designating a depository for the funds of the District, and the Treasurer shall be responsible for the investment and security of these funds.
- E. Assistant Secretary/Treasurer - The Assistant Secretary/Treasurer shall have whatever duties and responsibilities the Secretary may delegate to him.

#### SECTION 8 VACANCIES

If for any reason an office becomes vacant the Managers shall at the next regular meeting or within 30 days meet and elect a successor to that office.

#### SECTION 9 ANNUAL REPORT/ANNUAL AUDIT

Each year, the Managers shall prepare a report and Audit as required by statute. Copies of said report shall be filed in the office of the Managers and shall be transmitted to the parties required by statute to receive a copy.

#### SECTION 10 ADVISORY COMMITTEE

The Managers shall appoint an Advisory Committee of at least fifteen persons who shall meet at least once each year to assist and advise the Managers in matters affecting the District. The terms of members of the Advisory committee shall be at the discretion of the Board.

#### SECTION 11 PUBLIC HEARINGS

All hearings before the Managers shall be conducted in accordance with the "Open Meeting Law". Hearings shall be conducted by the President or his designate. The Managers shall make and preserve a record of the proceedings at all hearings.

- A. Notice-The Managers shall give notice of public hearings as required by statute. In cases where a public hearing is held that is not required by Minnesota Statutes, notice shall be given by publication for two successive weeks, and notice shall be mailed to all persons known to be interested in or affected by the matter under consideration.
- B. Continuance-All hearings shall be continued in accordance with statute.
- C. Appearance-All persons who desire to offer testimony or evidence or make an appearance at a hearing shall indicate such desire by signing a register furnished by

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- the Managers. The Managers shall determine the order in which testimony or evidence will be presented.
- D. Taking Testimony and Examining Witnesses - The order and procedure to be followed in taking testimony and examining witness shall be:
1. Each witness shall be sworn by the chairman and shall furnish his name, address and occupation prior to offering testimony.
  2. Any person testifying may, but shall not be required to submit briefs or make an opening statement. Any person desiring to make an opening statement shall do so immediately prior to presenting evidence.
  3. Witnesses may testify in the narrative or by response to questions.
  4. Leading questions are permissible within the discretion of the chairman. Strict rules of evidence as to foundation and hearsay statements will not be observed. Evidence of probative value commonly accepted by reasonable men will be admitted. Hearsay testimony shall be admissible, but in assessing the value thereof the nature of such testimony will be considered by the Managers.
  5. Charts, documents, maps and other similar forms of evidence shall be accepted by the Managers.
  6. The Managers shall give effect to evidentiary rules of privilege.
  7. All objections not ruled on at the time the objection is raised shall be noted in the record.
  8. Cross examination of witnesses shall be permitted on conclusion of the direct testimony of each witness.
  9. The Managers may examine a witness at any time.
- E. Basis for Determination - The Managers in making their findings and order shall consider all evidence, testimony and all information provided at the hearing. In addition the Managers shall consider all policies and principles of the Minnesota Watershed Act, Watershed Management Plan of the District, the Rules and Regulations of the Managers and other governmental agencies, the results of investigations conducted by the Managers or their employees and by recourse to pertinent technical reference works and data studies. In so far as it is reasonably possible, the Managers shall seek all available pertinent information not presented at the hearing applicable to the subject under consideration and consider such in reaching their findings and order.

## SECTION 12 RULES AND REGULATIONS

- A. Adoption-The Managers shall comply with the following steps in the adoption of Rules and Regulation.

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1. A copy of the proposed Rules and Regulations shall be made available to each Manager at least 30 days before being considered for adoption by the Managers.
  2. Rules and Regulations or changes to the Rules and Regulations of the Board shall require a majority vote of the Managers.
  3. Rules and Regulations adopted by the Managers shall not become effective until such time as publication is made as required by Minnesota Statutes.
  4. The original copy of all Rules and Regulations adopted shall be kept on file in the office of the Managers and copies shall be prepared for distribution to those persons requesting the same.
  5. Every Rule and Regulation adopted by the Managers shall have the force and effect of law.
- B. Review - The Managers shall review all Rules and Regulations of the Board annually.
- C. Permits - All permits authorized by the Managers shall be in writing and signed by the President or his designated representative. Each permit issued shall include a description of the proposed work, the location of the proposed work, the length of time allowed for the proposed work to be completed and the conditions, if any are required by the Managers for the proposed work.
- D. Permit Denial-The Managers shall furnish each applicant for whom a permit request is denied a written statement containing the reasons the Board refused to authorize a permit for the works as requested.
- E. Violation of Rules and Regulations-All persons who violate any Rules or Regulations of the District shall be given written notice of the alleged violation and offered the opportunity to appear before the Board at the next regular meeting to be heard. No statements or testimony at said meeting or failure to appear shall be held as evidence against that person in subsequent criminal proceedings. Criminal prosecutions shall not be commenced unless the Board duly passes a resolution calling for prosecution and all the facts, reports and investigations concerning the alleged violation shall be furnished to the responsible law enforcement office and the responsible County Attorney for further investigation and proceedings.

### SECTION 13 EMPLOYEES

The Managers may retain any employees who they deem necessary for the conduct of the works of the District. Overseeing the conduct and work of all employees shall be the responsibility of the Engineer for the District or a person designated by the Managers to oversee the works of the District who shall be responsible to the Managers.

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#### SECTION 14 CHANGES TO BY-LAWS

These By-Laws may not be temporarily suspended except by a Majority vote of the Managers. They shall not be repealed, altered or amended unless by a majority vote of the Managers and upon notice given at a preceding meeting to all Managers of the intent to consider a change in these By-Laws. The Managers shall review these By-Laws annually.

#### SECTION 15 REPEAL OF FORMER BY-LAWS

These By-Laws Repeal any previous By-Laws and become effective on the 20<sup>th</sup> Day of December 2004.

Motion unanimously carried.

Motion by Mr. Tracy Anderson, seconded by Mr. Arlyn Stroble that the following categories of payments be authorized to be made between board meetings: 1) employee payroll, including withholding taxes and fringes, 2) ditch bond and interest payments, 3) payments into the petty cash fund, 4) payments for permit fees, 5) payments for registration fees for meetings and training sessions, 6) payments of recurring bills, including Cellular One, Cenex, and Visa, 7) payments for the PL-566 Contractor partial payments, and 8) transfers of funds from one bank to another. Motion unanimously carried.

Alvin Nybladh left the meeting at approximately 7:18 p.m.

It was announced that the Red River Watershed Management Board meets on December 22, 2004, at Fertile, Minnesota, and the activity report for this meeting was distributed.

A discussion was held concerning the annual meeting of the Minnesota Association of Watershed Districts.

It was reported that the Assistant Engineer, Kelly Nelson, has been working since December 6, 2004.

Larry Laudal, Mike Knoll, and Earl McGregor rejoined the meeting at approximately 7:30 p.m.

Earl McGregor, Mike Knoll, and Larry Laudal discussed with the Board the roadways and other issues concerning the township in the vicinity of the off-channel storage site.

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Earl McGregor, Mike Knoll, and Larry Laudal left the meeting at approximately 7:58 p.m.

Loren Zutz discussed with the Board the coulee in the vicinity of section 5 of McCrea Township. He reported that he has met with Chad Knocikson of the DNR and that it is his opinion that the work he is requesting in his permit application will solve the problem.

Loren Zutz also discussed data practices requests.

Loren Zutz, Jim Stengrim, Wally Diedrich and Brain Jadeke left the meeting at approximately 8:07 p.m.

A summary of the insurance policies in force for the District was reviewed.

Motion by Mr. Arlyn Stroble, seconded by Mr. Tracy Anderson that the employee compensation be increased by 5%, plus  $\frac{1}{2}$  of the increase in the Blue Cross and Blue Shield health insurance, which renews on April 1, 2005, to all employees except the Assistant Engineer. Motion unanimously carried.

A discussion was held concerning the presentation of an appreciation plaque to Jim Johnson for his years of public service on the Watershed District board. It was agreed that a plaque would be prepared for presentation to him at a future date.

The next regular meeting was scheduled for 3:30 p.m., January 24<sup>th</sup>, 2005, at the District office.

Motion by Mr. Tracy Anderson, seconded by Mr. David Bakke that the meeting be adjourned. Motion unanimously carried.

The meeting was adjourned at approximately 8:44 p.m.

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Ronald Adrian  
Recording Secretary

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Carl Green  
Secretary