

UNAPPROVED
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. FEBRUARY 26, 2007

The meeting was called to order by President Doug Sorenson. Managers Elden Elseth, Loren Zutz, John W Nelson, Arlyn Stroble, Alvin Nybladh, Ben Kleinwachter and Doug Sorenson were present. Attorney Jeff Hane, Nick Drees, Connie Kalinowski, Ronald J Adrian, LeRoy Vonasek, Curtis Carlson and Tracy Anderson were also present.

Mr. Elden Elseth stated that he is recording the meeting for a 3rd party.

Motion by Mr. Arlyn Stroble, seconded by Mr. Loren Zutz, that Connie Kalinowski be appointed the recording secretary for purposes of keeping the minutes of the meeting. Motion unanimously carried.

It was the consensus of the Board, that upon the request of the District Administrator, that the agenda be amended to add Legal Counsel to item (#19) Other.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that the request of Mr. Elden Elseth to add Adrian Weslowski to the agenda item (#17) PL-566, for purposes of discussing the PL-566 waterline issue, be granted with a time limit not to exceed 5 minutes, Motion unanimously carried.

Motion by Mr. Ben Kleinwachter, seconded by Mr. Alvin Nybladh to approve the agenda as amended. Motion unanimously carried.

Brian Dwight joined the meeting at approximately 3:40 p.m.

David Bakke joined the meeting at approximately 3:52 p.m.

Motion by Mr. Loren Zutz, seconded by Mr. Elden Elseth that the minutes of the January 22, 2007 be amended to add "upon advice of legal counsel, due to possible conflict of interest," to page 5, paragraph 6. Motion carried, with Mr. John W Nelson voting no.

Motion by Mr. Elden Elseth, seconded by Mr. Loren Zutz, to amend the minutes of January 22, 2007, with changes addressed by Mr. Elden Elseth. Motion failed.

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Motion by Mr. John W Nelson, seconded by Mr. Arlyn Stroble to approve the minutes of the January 22, 2007 meeting as amended. Motion carried, with Mr. Arlyn Stroble, Mr. Alvin Nybladh, Mr. Ben Kleinwachter and Mr. John W Nelson voting yes, and Mr. Loren Zutz and Mr. Elden Elseth voting no.

The financial report was reviewed to be filed for audit purposes.

Motion by Mr. John W Nelson, seconded by Mr. Arlyn Stroble that the following bills be paid: from the Administrative funds: that payroll checks numbered 4494 through 4513 inclusive for a total of \$24,244.36, and checks numbered 13272 through 13303 inclusive for a total of \$25,587.25; and from the Project funds that checks numbered 1321 through 1327 inclusive for a total of \$140,430.10; and from the Ditch Funds that checks numbered 2183 and 2184 inclusive for a total of \$312,549.50 be paid. Motion unanimously carried.

Nick Drees reported that the District advertised for the position of a Registered, Professional Engineer, and that no applicants applied.

A discussion was held concerning the Engineering and Administrative Services provided to the District by Houston Engineering.

Ronald J Adrian, Houston Engineering, stated that more detail could be provided on the billings of Houston Engineering, for Administrative Services.

Motion by Mr. John W Nelson, seconded by Mr. Alvin Nybladh that the District retain the services of Houston Engineering for in-house advice and for projects currently in progress, with the contention that future projects could be delegated to other Engineering firms, as directed by the District. Motion carried with Mr. Arlyn Stroble, Mr. Alvin Nybladh, Mr. Ben Kleinwachter, Mr. John W Nelson and Mr. Doug Sorenson voting yes, and Mr. Elden Elseth and Mr. Loren Zutz voting no.

Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson that permit (07-001) be granted to Dacian Bienek to clean intermittent areas on a 1400' stretch of an unnamed coulee in the northeast quarter of section 10 of McCrea Strip Township. Motion unanimously carried.

Motion by Mr. Loren Zutz, seconded by Mr. Arlyn Stroble that the permit (07-002) request of the Marshall County Highway Department to replace the open span bridge on County State Aid Highway #17, on section line 34/3 of Big Woods/ Oak Park Townships, be tabled pending additional information. Motion unanimously carried.

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Nick Drees was directed to invite the Marshall County Highway Department Engineer to attend the next regular meeting of the Board of Managers to discuss the County's bridge replacement application.

Brian Dwight, of the Minnesota Board of Soil and Water Resources, provided information on exempt activity permits under the Wetland Conservation Act.

Motion by Mr. Arlyn Stroble, seconded by Loren Zutz that permit (07-003) be granted to Wade Forsberg, as amended, to remove the beaver dams and that the ditch grade be restored only in the vicinity of the beaver dams on Judicial Ditch #21, Branch 1, in the Northwest quarter of section 1 of New Main Township, and that the applicant contact the Soil and Water Conservation District and apply for an exempt activity permit under the Wetland Conservation Act. Motion unanimously carried.

Adrian Weslowski joined the meeting at approximately 4:30 p.m.

Tracy Anderson discussed the erroneous statements made in regards to his data practice request, his concerns of interference and obstruction of the public's request for data, and 3rd party recording of District meetings by Board members.

Jeff Hane, District Attorney, was directed to draft a sample policy concerning the District's position on Managers recording meetings, whether for themselves or for a 3rd party.

Wallace Diedrich joined the meeting at approximately 4:43 p.m.

Motion by Mr. John W Nelson, seconded by Mr. Ben Kleinwachter that the Districts' Administrator advertise for the position of an Engineer's Technician with the required minimum skills as those outlined in the job description, with a salary range of \$32,000-40,000. After discussion, Mr. Loren Zutz, seconded by Mr. Alvin Nybladh moved to amend the motion of Mr. John W Nelson, with the salary range to be \$32,000 and up depending upon qualifications. Motion unanimously carried.

Nick Drees reported that he has been in contact with a representative from North Dakota State University who would be able to provide 4 days of in-house training of the Districts employees on computer aided drawing programs, at a cost of \$3,000.00.

It was the consensus of the Board to delay staff training for one month, until a possible new staff person can be hired.

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Mr. Loren Zutz voiced his opinion on the recent IPAD opinion and his request to review correspondence provided by the District's Administrator regarding data practice requests.

Correspondence was distributed from the Minnesota Association of Watershed Districts concerning the Legislative Breakfast scheduled for March 15, 2007, in St. Paul; from various agencies regarding a Red River Basin Water Quality Monitoring Training scheduled for March 7, 2007 at the University of Minnesota, Crookston; and a letter from the Polk County Commissioners concerning operational actions of the Watershed District.

After discussion, Mr. Arlyn Stroble, will meet with the Polk County Commissioners and report back to the Board at the next regular meeting.

Nick Drees reported that the final Engineer's report on the Completion of Angus Oslo #4, has been completed by JOR Engineering, and that it will be forwarded to the Department of Natural Resources and the Army Corps of Engineers.

Nick Drees reported that a meeting of the project work team for the Brandt/Angus Coulee was held on February 1, 2007, and that the next project work team meeting is scheduled for March 1, 2007, at 10:00 a.m., at the Warren City Council Meeting Room. He stated that there could be a possible boundary change issue with the Red Lake Watershed District in the area of the Brandt/Angus Coulee Project.

Brian Dwight discussed the criteria the Board of Water and Soil Resources is implementing in the prioritization of flood control projects.

After discussion it was decided that Mr. Loren Zutz and Mr. Alvin Nybladh would be the District's representatives on the Brandt/Angus Project Work Team, and that the Board would identify the landowner representation at the next project work team meeting, which is yet to be scheduled.

Nick Drees reported that the Red River Watershed Management Board meeting was held on February 20, 2007. The News and Views of the Red River Watershed Management Board and the Activity Report of the District was distributed.

David Bakke and Tracy Anderson left the meeting at approximately 6:00 p.m.

Nick Drees reported on the Agassiz Valley Water Resource Management Project work team meeting held on February 1, 2007. He stated that the next project work team meeting is scheduled for March 1, 2007 at 1:00 p.m., at the Warren City Council Meeting room; that he has been contacted by a landowner who wishes to rent the pasture land on the properties acquired by the District in

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section 12 of Brislet Township; and that the approved Wetland Conservation Act permit has been received from the West Polk Soil and Water Conservation District.

It was the consensus of the Board, that after the Project Work Team meeting scheduled for March 1, 2007 the District would decide if rental of the lands acquired by the District for the construction of the Agassiz Valley Water Resource Management Project would be put up for bids.

Mr. John W Nelson and Mr. Alvin Nybladh will be the District's representative's on the Agassiz Valley Water Resource Management Project Work Team.

Nick Drees reported that he would be attending the Agassiz Audubon Sanctuary meeting on February 27, 2007.

Mr. Loren Zutz requested that the District send a letter to George Hess stating that Mr. Zutz is not breaking his land rental contract with him, but the lands the District acquired for the Agassiz Valley Water Resource Management Project, would be excluded from his contract. Mr. Jeff Hane was directed to get additional information on this issue before any action will be taken by the Board of Managers.

By consensus of the Board, Wallace Diedrich will replace Don Diedrich as the landowner representative on the Agassiz Valley Water Resource Management Project.

Nick Drees reported that the District is still awaiting word from the Minnesota Department of Revenue on the issue of the property taxes on the Agassiz Valley Water Resource Management Project. He also stated that the District has received notice from Marshall County and Polk County stating that the property taxes are delinquent.

Tracy Anderson joined the meeting at approximately 7:20 p.m.

Motion by Mr. Alvin Nybladh, seconded by Mr. John W Nelson that the District pay the damages for the bridges and crossings as outlined in the Appraisers Report for the Construction of the PL-566 Floodway and Off Channel Storage Site as follows:

Damages for Bridges (Crossings) Floodway Snake River PL-566 Flood Control Project

Responsibility of	Location	Description	Damages (15%)
State of Minnesota	sec 31/6 McCrea	TH #1 & Northern Plains RR	131,390

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State of Minnesota	Sec 1/6 Boxville	TH #75	63,070
Project	Sec 1/6 Boxville	BNSF	na
Marshall County	Sec 2/1 Boxville	CSAH #15	60,030
Totals			254,490

**Damages for Bridges (Crossings) Off Channel Floodwater Storage Site
 Snake River PL-566 Flood Control Project**

Responsibility of	Location	Description	Damages (15%)
Comstock Township	sec 15/22 Comstock	Twp Rd	6,580
Project	NW4 NW4 sec 22 Comstock	Northern Plains RR	na
Project	W2 sec 22 Comstock	private crossing	na
Totals			6,580

Motion unanimously carried.

Nick Drees reported that he is working with the USGS, Weather Bureau, MPCA and DNR on moving the USGS stream gage from the Cooke Bridge on the Snake River upstream of the Off Channel Storage Site to the Morkassel Bridge upstream of the Diversion Structure on the Snake River.

Mr. Elden Elseth stated that in order for the District to avoid a lawsuit on the PL-566 Flood Control Project, the District should seek funds from the City of Warren, in the amount of \$137,600, to reimburse the five landowners who did not take the City of Warren offer in the waterline issue. He stated that he would remove himself as one of the five landowners pursuing these funds, and would not receive any monetary gain. He also stated that he would remove himself from voting as a member of the board and vote on behalf of the landowners on any motion entertained.

Motion by Mr. Loren Zutz, seconded by Mr. Ben Kleinwachter that the District bill the City of Warren, in the amount of \$137,600.00 for project expenses, for the PL-566 project, with regards to the relaying of the waterline. Motion failed, with Mr. Elden Elseth, Mr. Loren Zutz, Mr. Ben Kleinwachter voting yes, Mr. Alvin Nybladh, Mr. Arlyn Stroble, Mr. John Nelson voted no. With the vote tied, Mr. Doug Sorenson cast a no vote.

Nick Drees discussed the grass and shrub buffer strip program available to the property owners along State Ditch #3 on the Middle River. He stated the Marshall County Soil and Water Conservation District is asking the District to handle the contracts with the landowners and the disbursement of funds. He stated that this is a 3 year program, that the funds would be disbursed in 3

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annual payments, with the rates for each landowner set by the amount of acres enrolled.

Motion by Mr. Arlyn Stroble, seconded by Mr. Alvin Nybladh that the District be the contracting officer for the properties along State Ditch #3, who are participating in the grass and shrub buffer strip program. Motion unanimously carried.

Mr. Ben Kleinwachter was appointed as the Districts representative to the Marshall County Flood Plain Zoning Committee.

Nick Drees stated that the report from the Office of the State Legislative Auditor on Watershed Management, is available for review. A response to the State Legislative Auditor report from the Minnesota Association of Watershed Districts was distributed.

Connie Kalinowski sought clarification from the Board on what expenses can be billed by the Board of Managers.

Connie Kalinowski was directed to gather information from other Watershed Districts regarding this matter.

Manager Elseth inquired into the status of the meetings he called at last meeting. Mr. Jeff Hane stated that the Chairman of the Board can call meetings, and that one manager can not unilaterally call a meeting or schedule a meeting.

Mr. Jeff Hane stated that a Motion for Summary Judgment regarding the Drewes lawsuit for the Completion of the Angus Oslo #4 Project is scheduled for March 20, 2007 at 10:15 a.m. at the Marshall County Courthouse.

Mr. Jeff Hane reported that he reviewed the materials he received from Gerald Neil concerning the bridge on JD #25-I and could not find any information on who is the responsible authority of the bridge on section line 1/6 McCrea/Comstock Townships. Mr. Jeff Hane stated the jurisdiction of the bridge could be addressed thru a "redetermination of benefits" proceedings. This could be considered after the completion of the Agassiz Valley Water Resource Management Project.

Mr. Jeff Hane requested that the meeting be closed pursuant to Minnesota Statutes 13D.05 (subd. 3c) to develop or consider offers or counteroffers for the purchase or sale of real or personal property in section 19 of Brandt Township; and pursuant to Minnesota Statutes 13D.05 (subd. 3b) for purposes of discussing legal theories and strategies regarding the PL-566 litigation, Agassiz Valley Water Resources Management Project settlement agreement, and conflict of interest issues.

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Motion by Mr. Arlyn Stroble, seconded by Mr. John W Nelson that the meeting be closed. Motion unanimously carried.

Leroy Vonasek, Tracy Anderson and Brian Dwight left the meeting at approximately 8:57 p.m.

The meeting was closed at approximately 8:57 p.m.

Pursuant to MN Statutes 13D.05, (subd.3c) the portion of the closed meeting to develop or consider offers or counteroffers for the purchase or sale of real property in section 19 of Brandt Township was recorded.

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

The meeting was reopened at approximately 10:34 p.m.

The next regular meeting of the Board of Managers of the Middle Snake Tamarac Rivers Watershed District was set for March 19, 2007, at 3:30 p.m., at the District office.

Motion by Mr. Arlyn Stroble, seconded by Mr. Alvin Nybladh that the meeting be adjourned.

The meeting was adjourned at approximately 10:35 p.m.

Connie Kalinowski
Recording Secretary

Ben Kleinwachter
Secretary