

**Minutes of the Special Meeting of the Board of Managers
of the Two Rivers Watershed District
Held: December 19, 2018 @ 8:00 a.m.**

The Board of Managers of the Two River Watershed District held a special meeting beginning at 8:00 a.m. on Wednesday, December 19, 2018 at the District Office located in the Kittson County Courthouse in Hallock, Minnesota.

Managers present included President Darrel Johnson, Secretary Daryl Klegstad, Treasurer Paul Olsonawski, Roger Anderson, Bruce Anderson, Rick Sikorski, and Joel Muir. None were absent.

Others present included District Administrator Dan Money, Head Technician Matt Thompson, and Attorney Jeff Hane (Brink, Sobolik, Severson, Malm & Albright, P.A).

The meeting was called to order at 8:00 a.m. by President D. Johnson. It was noted the purposes of the special meeting are to discuss 2019 employee salaries, permit issues, proposals for engineering services, and review the District's by-laws.

Salary Committee Report: The Salary Committee, consisting of Managers D. Johnson and Olsonawski, has met regarding the 2019 employee salaries. The District will be entering the 3rd year of the previously approved 3 years step scale. The only variable on the scale is a cost of living increase. The Committee reviewed the last 12 month Consumer Price Index, which indicates a 2.5% increase. After discussing the various items on the pay scale, a **motion** was made by Olsonawski, **seconded** by Muir, and **approved unanimously** to approve the 3rd year of the pay scale with a 2.5% increase in salary. It was noted that 2019 will be the final year of the current pay scale, and future pay rates will need to be considered prior to 2020.

Manager D. Johnson discussed the office hours. Currently employees work a flex schedule consisting of 9 hour days on Monday through Thursday, 8 hours on Friday, and every other Friday is off. Office hours are 7:00 am – 5:00 pm M-Th and 8:00 am – 4:30 pm Fri. Johnson would like to consider going to 8:00 am – 4:30 pm M-Fri. The Board of Managers discussed the pros and cons, and no action was taken by the Board.

Permit Issues:

The Board of Managers considered closing the meeting to address with their attorney a pending lawsuit. Attorney Jeff Hane addressed the Board as follows:

Members of the Board of Managers, it is my understanding that you now intend to take up the pending state District Court case of the appeal of Michael and Amy Jorgenson from your denial of a permit for drainage. I understand that your attorney, Jason Kuboushek of Iverson Reuvers Condon in Bloomington, has asked to speak with you in closed session concerning litigation strategies and theories.

Minnesota law provides that a public body can close a meeting for attorney-client privilege in situations where you believe the District needs to be able to talk freely and candidly with its attorney. Under the law, while openness and transparency in government is important, it is in the public interest to be able to conduct and possibly resolve a lawsuit in the best possible manner, which sometimes requires a closed meeting for information from your attorney.

Under Minn. Stat. 13D.05 Subd. 3 (b), which is the attorney/client privilege exception to the Open Meeting Law, you may close your meeting to take up the Jorgenson lawsuit with your attorney. To do so, first you should entertain a motion to close the meeting, and if it is seconded, you should decide if closing the meeting is in the public interest. Most public bodies close a meeting when discussing active litigation with their attorney for two reasons. First, they do not want to harm their chances of success by discussing theories or strategies in open session and thus making them available

to their opposing party. Second, public officials are more likely to freely and robustly discuss the issues in a case when they are in closed session. So I recommend the Chair entertain the following motion: I move to close the meeting to hold a closed session with the Watershed District's attorneys to have an attorney-client privileged discussion pursuant to Minnesota Statutes, section 13D.05, subdivision 3(b) regarding the *Michael Jorgenson and Amy Jorgenson v. Two Rivers Watershed District*, Ct. No. 35-CV-18-85 litigation matter.

Members of the Board, before you begin your closed session, please keep in mind that you must reopen your meeting to actually vote on and approve any settlement of the litigation or payment to the Petitioner. In other words, while you are free to discuss this matter with your attorney in closed session, you may not take official action (such as accepting an offer of settlement) during your closed session. You may discuss, recommend, or approve offers, counter-offers, strategies or courses of action, but any decision that finalizes the suit must be brought in open session.

Sikorski **motioned** the above language suggested by Hane, and a **second** was made by Olsonawski. Upon **unanimous vote** of the Managers, the meeting was closed to the public at 8:30 a.m.


Upon a **motion** by Olsonawski, **second** by B. Anderson, and **unanimous vote** of the Managers, the meeting was opened to the public at 9:30 a.m.

Review of Engineering Proposals: As has been discussed at previous meetings, the Managers have invited proposals to provide engineering services from several firms. D. Money indicated he has received information from six companies, and presented information from each, along with a spreadsheet matrix to aid in reviewing and ranking the proposals. The Board of Managers discussed the merits of either remaining as is, switching firms, or hiring engineering on an 'as needed' basis. Of the proposals received, the TRWD already works with two, and of the four remaining ones the Board ranked Houston the highest. Upon a **motion** by Sikorski, **second** by Olsonawski, and **unanimous vote**, the Board of Managers decided to ask Houston Engineering to analyze permit application 2018-02. The results will be used by the Board to compare with what was originally provided for the permit application by WSN Engineering. The matter was tabled pending the submittal of information requested from Houston Engineering.


By-Laws: D. Money handed out the current By-Laws of the TRWD. He noted that information was received at the recent MN Association of Watershed District's annual meeting regarding watershed district policy and procedure. It seems that with two brand new Board members, one new within the past year, and another new one coming up, now is a good time to review the District's by-laws, policy statements, rules, and other procedures. At each upcoming meeting a portion of the agenda will be focused on one of these items. J. Hane went through the By-Laws section by section, and discussion was held by the Board of Managers.

With no other matters to come before the Board of Managers, the meeting was adjourned.

Attest:



Darrel Johnson, President



Daryl Klegstad, Secretary