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## Approved Minutes

The Waseca SWCD Board of Supervisors meeting was held at the Waseca Soil and Water Conservation District's meeting room on November 10, 2011. The meeting was called to order at 6:30 p.m. by Jurgen Peters, Chairman.

### Members Present

Jurgen Peters, Chair  
Wayne Cords, Vice Chair  
Ron Purcell, Treasurer  
Bob Drager, Secretary

### Staff Present

Marla Watje, District Manager  
Darlene Kukuczka, Office Assistant

### Others:

Amy Mace, Ratwik, Roszak, & Maloney, P.A.      Paul Dressler, County Attorney  
Dan Kunz, Co. Commissioner                      LeeRoy Cain  
Marie Borglum    Tom Davison  
Richard Borglum

Motion by Ron, second by Wayne to approve the agenda as distributed.

Motion carried. Affirmative: All Opposed: None

Richard Borglum addressed the board with questions concerning the "Landowner Statement and Contractor's Responsibility Form for Work in Wetlands or Public Water."- He inquired as to who completes the form, how do you know when they are working in a wetland area, and who is responsible for returning and to which agency. He was informed that it is the landowner's responsibility to completed and return the form. Items #4 and #5 on the form answers the questions that were mentioned. The WCA LGU in Waseca County is Waseca SWCD. It was recommended to him that landowners and contractors should each keep copies of the signed form.

Closed session pursuant to the attorney-client Privilege:

Member Ron Purcell introduced the following Resolution and moved its adoption:

## **RESOLUTION CLOSING BOARD MEETING**

WHEREAS, the Minnesota Open Meeting Law, Minnesota Statutes Section 13D.05, subdivision 3(b), provides that meetings may be closed if the closure is permitted by the attorney-client privilege;

WHEREAS, Richard and Marie Borglum petitioned the Minnesota Board of Water and Soil Resources ("BWSR") for a review of the Waseca County Soil and Water Conservation District ("SWCD")'s denial of their requests for a no-loss determination, approved development exemption, agricultural exemption, and/or incidental wetlands exemption, In re: Wetland Conservation Act Appeals of Exemptions and No-Loss Determinations and Restoration Orders, Waseca County, BWSR File Nos. 11-2 and 11-3;

WHEREAS, the BWSR issued a decision which is adverse to the SWCD;

WHEREAS, the Board seeks to meet with its attorney to discuss the attorney's analysis of the BWSR's decision, the strengths and weaknesses of the SWCD's position, and litigation strategy, including whether to appeal the decision;

WHEREAS, it would be detrimental to the interests of the SWCD for the SWCD to hold a public discussion with its attorney where an opposing party or opposing counsel could listen to or be made aware of the SWCD's positions; and

WHEREAS, it is in the best interest of the SWCD for the Board of Supervisors to obtain legal advice in a confidential setting to maintain the attorney-client privilege.

BE IT RESOLVED by the Board of Supervisors of the Waseca County Soil and Water Conservation District, as follows:

1. The Board hereby closes this meeting based upon the attorney-client privilege pursuant to Minnesota Statutes Section 13D.05, subdivision 3(b).
2. The specific subjects to be discussed, pursuant to Minnesota Statutes Section 13D.01, subdivision 3, are the decision of the BWSR and the SWCD's attorney's analysis of the same, the strengths and weaknesses of the SWCD's case, and litigation strategy, including whether to appeal the decision.

The motion for the adoption of the foregoing Resolution was duly seconded by Wayne Cords and upon a vote being taken thereon, the following voted in favor thereof:

Purcell, Drager, Cords, Peters

and the following voted against the same:

Whereupon said Resolution was declared duly passed and adopted.

The Board reconvened from the closed session at 7:50 p.m.

Member Ron Purcell introduced the following Resolution and moved its adoption:

### **RESOLUTION AUTHORIZING APPEAL**

WHEREAS, the Waseca County Soil and Water Conservation District has received a copy of the BWSR's decision in the case of In re: Wetland Conservation Act Appeals of Exemptions and No-Loss Determinations and Restoration Orders, Waseca County, BWSR File Nos. 11-2 and 11-3:

WHEREAS, the SWCD Board of Supervisors has met with its attorney in closed Session to discuss the decision, the attorney's analysis of the same, and litigation strategy; and

WHEREAS, in light of the purposes of the Wetland Conservation Act, the applicable law, and the facts of the case, the SWCD has decided to appeal the BWSR's decision.

BE IT RESOLVED by the Board of Supervisors to authorize the law firm of Ratwik, Roszak, & Maloney, P.A. to appeal the decision of the Board of Water and Soil Resources.

The motion for the adoption of the foregoing Resolution was duly seconded by Robert Drager and upon a vote being taken thereon, the following voted in favor thereof:

Wayne Cords, Ron Purcell, Robert Drager

and the following voted against the same: Jurgen Peters

Whereupon said Resolution was declared duly passed and adopted.

Motion by Ron, second by Wayne to approve the October 13, 2011 Board minutes.  
Motion carried. Affirmative: All Opposed: None

The treasurer's report dated October, 2011 was presented to the Board for review. Motion by Wayne, second by Bob to approve the Treasurer Report as presented and file for audit.  
Motion carried. Affirmative: All Opposed: None

Invoices: Motion by Ron, second by Wayne to approve the payment of the invoices.  
Motion Carried: Affirmative: All Opposed: None

Supervisors Reports:

Jurgen reported on the November 1, 2011 Conservation Drainage event sponsored by GBERBA, MDA and the SWCD held at the SROC in Waseca. The morning was spent visiting two sites where drainage control structures have been installed. Approximately 90 people attended the event.

Staff Reports:

Marla – Work activities included field work, Drainage event, many drainage and ditch cleaning requests.

Darlene – Reported on GBERBA and RC&D activities.

NRCS report: Jim's written report was noted. See addendum to minutes.

Credit card use and policy: A notice was received by the State Auditor's office recommending all SWCDs to include a policy on credit card use in their operations handbook. Motion by Wayne, second by Bob to appoint the treasurer to provide examples of state and county policies addressing credit card use to the next meeting. Motion carried. Affirmative: All Opposed: None

FY2012 BWSR Grant Agreement: Motion by Wayne, second by Bob to authorize the treasurer to sign the FY12 grant agreement. All FY12 cost share contract applications will be reviewed by the Board in April 2012.  
Motion Carried: Affirmative: All Opposed: None

Cost share payment:

Janet Rudolph: Sediment Basin Payment request: \$5850.00

Motion by Wayne, second by Ron to forward the Janet Rudolph cost share payment request of \$5850.00 to GBERBA for payment; completion of a sediment basin project.

Motion Carried: Affirmative: All Opposed: None

Katherine Kerekes: Rain garden Payment request: \$2475.00

Motion by Wayne, second by Ron to forward the Katherine Kerekes cost share payment request of \$2475.00 to GBERBA for payment; completion of a rain garden project.

Motion Carried: Affirmative: All Opposed: None

Cost share applications - GBERBA

Lundquist Bros.: Sediment Basins Request to encumber \$ 2000.00

Motion by Bob, second by Ron to forward the cost share contract application submitted by Lundquist Bros to GBERBA for funding. Motion Carried: Affirmative All Opposed: None

Wetland Conservation Act- Technical Evaluation Panel (TEP): Motion by Wayne, second by Ron to appoint Hugh Valiant as a member of the TEP and retain Todd Javens as an alternate. Hugh recently received his Wetland Delineator Certification. Motion Carried: Affirmative All Opposed: None

Misc: The 1999 Chevrolet truck has been sold to Bob Drager at blue book value.

Ron moved to adjourn the meeting. Meeting was declared adjourned at 8:40 p.m. by Jurgen Peters.

The Next Board Meeting will be December 8, 2011 at 6:30 P.M. at the Waseca SWCD office.

Addendum to Nov 10, 2011 Minutes – USDA NRCS Report

DC Report  
November 10, 2011

Things are moving along with the closing of the Area Office in St Peter. Kasey is working in Area 7 and we will have our first meeting on the 16<sup>th</sup> of this month. The counties of Blue Earth, Faribault and Waseca will be part of Area 7 and the other counties will go north and west. There has not been an official closing date decided and decisions have not been made for all the present staff.

We will have EQIP training on November 17<sup>th</sup>. We will have more information after that and I will be sending a news release from what is learned at the meeting. We are going to have to really promote EQIP this year if we get the same anticipated allocation as last year.

We started the CSP payment process today with letter to all participants. They will be scheduling appointments to come to the office and update the progress they have made in completing CSP enhancements. They will again be given the option of a payment this year or after the calendar year. Payments must be processed by our office prior to December 16th to insure that it will be in this calendar year. We are hoping that many opt for next year to spread out the workload.

There will not be a DC meeting like last year at the convention. Budget constraints are the main reason that we could not attend.

There is another CSP sign-up that will be coming. Details are not yet available but will be coming soon.

Construction will soon be ending. Most of the jobs have been completed. We have some concern about compaction due to things being so dry. The remaining mortality composters will hopefully be completed in the next couple weeks to avoid having to put additives in the concrete for cold temps.

Thank you.

James R Jirik  
District Conservationist  
Waseca NRCS  
District Conservationist

Encl: CSP folder