



# Yellow Medicine River Watershed District

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## REGULAR BOARD MEETING Agenda

October 17th, 2022, Monday 9:00 a.m.

### Call to Order

- 1.1 Set Agenda **Volstad moved to approve. Buysse Seconded. Motion passed unanimously.**
- 1.2 September Regular Meeting Minutes. **Buysse moved to approve. Volstad seconded. Motion passed unanimously.**
- 1.3 Treasurer's Report **Buysse moved to approve. Volstad seconded. Motion passed unanimously.**

### Permits to Approve

- 2.1 David Loe – Mr. Loe submitted a permit application that had two projects on one application in Lucas 8 and 5. One project would drain to the north would connect to an existing private line that then drains into a county ditch. The project to the south would connect to an existing line that drains into the ditch on the golf course. The district would like Mr. Loe to split the application into two separate applications so that it may look at each project individually. **Buysse moved to request the application be split into two separate applications. Olsen seconded. Motion passed unanimously.**
  
- 2.2 John Jerzak – After the Fact- Ash Lake 15 – Mr. Jerzak submitted his after – the – fact permit. **Olsen moved to approve the permit and set the after-the-fact permit fee at \$250 and that any further after-the-fact fee's would be at \$750, which is the current maximum. If the board changes the rules and fee amounts in the future and permit infractions continue to happen, the board could impose a fee higher than \$750, if the rules allow for it. Buysse seconded the motion. Motion carried unanimously.**

### Public Comment and Reports

- 3.1 Public Comment - None
- 3.2 Manager Reports - None
- 3.3 Administrator's Report – Overholser reported on normal operation business.
- 3.4 Tech Report – Timm reported on Ditch inspections, and maintenance progress, and drainage permits.

### Old Business

- 4.1 Cottonwood Golf Course – The District engaged Smith Partners to represent them in this matter. Overholser consulted with Chuck Holtman regarding this matter. It is Mr. Holtman's view that "the District's decisions as to whether, and how, to take enforcement action for a permit violation are a matter for the managers' judgment and discretion, and that a court will not force the District to take action." He also states "In examining whether there is a permit violation here, and what to do about it, the District ought to treat this case like any other. If there's a harm to water resources, or if the integrity of the District's regulatory program warrants it, there may be a basis to take enforcement action. If the tile doesn't conform to what the District approved, but the District would have approved what was installed, had it been proposed, then it might not enforce, or it might require an after-the-fact permit to keep records clear, but it wouldn't require that the tile be removed or blocked."

The Manager's had previously determined that if Mr. Loe had included the 30" tile on his original permit application, the project would have been eligible for approval as the project posed no resource concerns, the only reason the permit for the 30" line was not approved when it was resubmitted was due to the dispute between the two landowners as to whether the easement granted access or not. In November of 2021 the District tabled the discussion of the permit until there could be clarification of the easement or the parties came to an agreement.

After Board discussion regarding the advice from the Districts attorney, the Board believes that this is a disagreement between private parties regarding property rights and is outside the scope of the District. The project that was completed does not pose any resource concerns and under other circumstances would have been approved. Mr. Loe did submit an after-the-fact permit, and paid the after-the-fact permit fee, as required by district rules and is therefore no longer in violation.

**Olsen moved that Overholser draft a response to the Golf Course's attorney outlining the Districts position that this matter is considered to be a property rights dispute between the landowners. Buysse seconded. Motion passed unanimously.**

#### **New Business**

5.1 MAWD Annual meeting – **Olsen moved to approve the attendance and cost for any staff or board member's that would like to attend.**

#### **YM1W1P Cost-Share Contracts**

6.1 Paluch – Marble 11 - \$5628 – **Volstad moved to approve the contract with number 2022-017. Olsen seconded. Motion carried unanimously.**

#### **YM1WIP Payments**

6.2 Fier – Alta Vista 24 #2022-004 - \$10,772.66 – **Olsen moved to approve the payment. Volstad seconded. Motion passed unanimously.**

6.3 Schreiber – Eidsvold 21 #2020-027 - \$1,124.89 – **Volstad moved to approve the payment. Buysse seconded. Motion passed unanimously.**

#### **Adjourn**

#### **Dates to Note:**

<b>Area II Meeting</b>	<b>November 3 3:30 P.M. Currie, MN</b>
<b>1W1P Policy</b>	<b>November 21 1:00 P.M.</b>
<b>Next Meeting</b>	<b>November 21 9:00 a.m. YMRWD</b>
<b>BWSR Academy</b>	<b>October 24<sup>th</sup> – 27<sup>th</sup></b>

*The goals of the Yellow Medicine Watershed Partners are to: (1) mitigate altered hydrology and work to reduce the potential for flooding; (2) minimize the transport of excess nutrients, sediment, and bacteria into our surface waters; and (3) preserve and protect groundwater quantity and quality.*