

CALL TO ORDER

At 7:00 PM, Chairman Foster called the January 12, 2016 Regular Board Meeting of the Moses Lake Irrigation and Rehabilitation District to order. The record shows that all Board Members were present, as well as General Manager, Chris Overland and Legal Counsel, Brian Iller. The record indicates that this meeting was recorded. The Pledge of Allegiance was then recited.

DISCUSSION OF AGENDA ITEM(S)

Chairman Foster called on the board members and the audience for discussion on any agenda items and nothing was brought forward.

DISCUSSION OF NON-AGENDA ITEM(S)

Chairman Foster called on the board members and the audience for discussion on any non-agenda items and Lloyd Peterson asked to discuss re-establishing the boat launch at the Moses Lake North Dam. Chairman Foster added Mr. Peterson to the agenda under Public Comments. Troy White also wanted to discuss docks on the lake. Chairman Foster asked if he has talked with staff about his concerns or questions. Mr. White said that he was fine with just re-directing his questions to staff at a later time.

ELECTION OF BOARD OFFICERS

Chairman Foster called on the board members for nominations for the 2016 MLIRD Board Officers. Vice Chairman Bailey nominated Mr. Jeff Foster as Chairman of the Board. Director Perry seconded the nomination. Being that there were no other nominations for Chairman of the Board, the Nominations were then closed. The motion was then carried unanimously. Chairman Foster then opened the nominations for Vice Chairman of the Board. Director Perry nominated Mr. Bill Bailey as the Vice Chairman of the Board. Director Teals seconded the nomination. Being that there were no other nominations for Vice Chairman of the Board, the Nominations were then closed. The motion was then carried unanimously.

APPROVAL OF THE AGENDA

Chairman Foster called on the board members to approve the agenda. Director Teals then made a motion to approve the agenda as amended. Vice Chairman Bailey seconded the motion. The motion was then carried unanimously.

APPROVAL OF CONSENT AGENDA

Chairman Foster called on the Board of Directors to approve the consent agenda. The consent agenda consisted of the meeting minutes from 12/08/15, the Bills/Checks (#15384 - #15424) and Vouchers (#1000148 - #1000151) totaling in \$56,688.00. Director Dexter then made a motion to approve the meeting minutes from the 12/08/15 Regular Board Meeting. Director Perry seconded the motion. The motion was then carried unanimously. Vice Chairman Bailey made a motion to approve the Bills/Checks/Vouchers and abstained from voting on any items related to Basin Property Management, Inc. Director Dexter seconded the motion. The motion was then carried unanimously.

MLIRD STAFF REPORTS

General Manager, Chris Overland reported the following:

- Lake elevation was at 1041.32 feet as of 10:00 AM on January 12, 2016, which is 18 inches lower than on January 12, 2015. Vice Chairman Bailey asked if the Bureau of Reclamation was comfortable with the lake getting that low. General Manager, Chris Overland said he has been in contact with the Bureau of Reclamation and they do not seem to have an issue with it being as low as it is. General Manager, Chris Overland said that the Bureau of Reclamation is currently flowing approximately 100 C.F.S. coming in from Crab Creek.
- Resolutions 2016-001 through 2016-003 need to be discussed. Resolution 2016-001 is to amend the Small Works Roster process. Resolution 2016-002 is to accept bids for the sale of 10,000 cubic yards of Spoils, and Resolution 2016-003 is for the sale or trade of the Soil Compactor for a Dozer.
- The 2016 Assessment Roll needs to be adopted. The MLIRD value for the 2016 Assessment Roll is currently \$1,751,664.
- The 2016 Budget needs to be adopted. Within the 2016 budget is funding for a new harvester transport barge and funding to relocate the dredge spoils. There is also \$1,000,000 in reserves going into 2016. General Manager, Chris Overland tentatively plans on doing two weed treatment phases again for the 2016 year as the approach appears to have worked well for the 2015 year.
- General Manager, Chris Overland has had more contact recently with the Washington State Department of Transportation (DOT) in regards to cleaning out the I-90 culverts. The DOT engineer asked General Manger, Chris Overland what MLIRD was doing to fill the culverts up and if MLIRD was willing to contribute support to the project. DOT estimates the project to cost at approximately \$60,000. Vice Chairman Bailey indicated that beavers or people throwing rocks down there may be the cause of part of the problem. The DOT engineer said that if DOT does the project, they will only clean the inside of the culverts out and will not do any excavation in front of each culvert. Vice Chairman Bailey suggested MLIRD work to obtain permits to clean in front of the culverts if DOT is going to clean the inside. Chairman Foster is frustrated with the fact they are the DOT culverts and that Legal Counsel, Brian Iller and General Manager, Chris Overland drafted and sent a letter to DOT saying the culverts needed to be cleaned out. Director Teals says for DOT to be even talking with MLIRD is a big step up. Director Teals said if DOT gets all the permits about cleaning the inside of the culverts and in front of the culverts, then he believes it would be a good idea for MLIRD to clean in front of the culverts using DOT's permits. Vice Chairman Bailey agreed that MLIRD has the equipment to do so, and if DOT gets the permits, it won't take much for MLIRD to go in with an excavator and a dump truck and clean in front of the culverts. Chairman Foster said to continue to work in that direction with DOT and keep the Board of Directors updated on any information.
- Discussion was then had regarding the Spoils. General Manager, Chris Overland said there has been conversation about putting a certain amount of Spoils up for bid to try and establish a market value. General Manager, Chris Overland said that regardless of where the spoils are moved to, they may have to be relocated to get the dredge renewal permit back on track. He suggested at some point a solid path forward needs to be established for the future of dredging as it relates to handling of spoils. Also mentioned was the opinions of people that are knowledgeable in soils which have said the market value is all over the board so General Manager, Chris Overland would like to take a certain quantity and put it up for bids in an effort to establish a market value for this point in time.

Chairman Foster asked for clarification on why the dredge spoils need to be moved. General Manager, Chris Overland explained that the City of Moses Lake has indicated that they will not continue the process of the dredge permit renewal until MLIRD provides a plan for the dredge spoils because reportedly, stockpiling is not permitted on that parcel. Chairman Foster is under the impression that the property the dredge spoils is currently on is zoned "Heavy Industrial" and where the dewatering takes place is conditionally permitted. Chairman Foster believes that if MLIRD is looking at spending any money on moving MLIRD's share of the dredge spoils, he would like to get a second opinion on what the City of Moses Lake in the planning department is telling MLIRD. Legal Counsel, Brian Iller asked if there was previously a conditional use permit issued for storage of the dredge spoils. General Manager, Chris Overland said the first time through would have relatively been the same set of documents. He also added the City of Moses Lake was under the impression that MLIRD was going to be moving the spoils. Since the bulk of the spoils have not been moved, the City of Moses Lake is questioning whether the spoils will be moved or not.

Vice Chairman Bailey said a conversation needs to take place with the other two parties to the lease and get a written letter from them saying what they are going to do with their portion of dredge spoils. Chairman Foster asked if the Board of Directors wants MLIRD held accountable for the other two parties if they do not follow through with having their share removed. Legal Counsel, Brian Iller asked to see the conditional use permit from the original dredging permit application because that may tell MLIRD what the idea was back then.

General Manager, Chris Overland said that an engineering company measured the pile and assumed there is 30,000 cubic yards plus about 15% due to compression. Director Teals suggested taking a few truckloads to Connelly Park to show the City of Moses Lake that MLIRD is in good faith of relocating the dredge spoils, put the rest up for sale and let the other parties know that they need to come and get their share of the dredge spoils. Director Perry asked if the two other parties to the lease have removed some spoils from the pile and General Manager, Chris Overland said that both parties have had some spoils removed at different times. Chairman Foster announced that as long as MLIRD takes the position that both parties are only removing their share of the spoils. He also included that someone should be monitoring how much is taken from both parties if MLIRD assumes there is any value to the spoils. Legal Counsel, Brian Iller said if the Spoils do have value, then MLIRD will need to know how much is being taken because how else would you calculate each party is getting 1/3 of the dredge spoils that is mentioned in a lease.

General Manager, Chris Overland said he has spoken with people who have the opinion that the dredge spoils have low to no value and that they will haul it out for you for nothing but aren't willing to pay anything for it. Vice Chairman Bailey said again that MLIRD needs to get in writing what the other two parties intentions are with their portion of the Spoils, as it needs to be moved to proceed with the dredge permit renewal. Legal Counsel, Brian Iller would like in writing saying that the dredge spoils have no value. Legal Counsel, Brian Iller also said if you put the Spoils up for bid, and you get no bids back on it, then that is probably the best evidence you could have for the auditor showing the Spoils have no value. It was then discussed that all the City of Moses Lake was asking for was a plan for the removal of the Spoils. Vice Chairman Bailey reiterated that they needed to get a letter from the other two parties

stating what they were going to do with their share of the dredge spoils. Director Teals believes that a letter from both parties stating their plan for their portion and MLIRD's resolution for the sale of its 1/3 portion of the dredge spoils is a sufficient plan for the removal of the dredge spoils to give to the City of Moses Lake. Chairman Foster asked Legal Counsel, Brian Iller to draft the letter with General Manager, Chris Overland to send to both lease parties.

EXECUTIVE SESSION

The Board went into Executive Session at 7:50 PM to discuss with legal counsel the legal risks of a proposed action and/or current practice as it relates to a lease as authorized by RCW 42.30.110(1)(i)(iii). The expected time was 20 minutes, and they were to return to Regular Session at 8:10 PM.

Chairman Foster entered back into the board room at 8:10 PM and extended Executive Session until 8:15 PM.

The Board entered back into Regular Session at 8:15 PM.

Vice Chairman Bailey then made a motion to instruct General Manager, Chris Overland to contact the parties associated with the lease on the dredge spoils and determine their time frame for the removal of their share of the dredge spoils. Also, Vice Chairman Bailey would like General Manager, Chris Overland to request that MLIRD gets an extension on the current lease for the settling ponds. He also would like to include in the letter the information that addresses the size of the dredge pile, the amount of spoils there is and indicate that MLIRD would like a 5 year lease if possible with the provision that if it benefits the lease holder, MLIRD will honor a clause giving the right to terminate the lease early with reasonable notice. Director Teals seconded the motion. The motion was then carried unanimously.

Vice Chairman Bailey made a motion to instruct Chairman Foster to contact City of Moses Lake officials and have a discussion about where they are with the MLIRD permit renewal process and to make sure that everyone is on the same page as far as the benefits of dredging, what part the City of Moses Lake plays in it, and the investment that MLIRD is making for the lake. Director Perry seconded the motion. The motion was then carried unanimously.

ACTION ITEMS

- The 2016 Assessment Roll was then reviewed and discussed. Director Dexter then made a motion to approve the 2016 Assessment Roll. Director Teals seconded the motion. The motion was then carried unanimously.
- The 2016 Budget was then reviewed and discussed. Vice Chairman Bailey asked if the Finance Committee has met and reviewed the 2016 Budget. Chairman Foster said no. Vice Chairman Bailey talked about doing this at the last Regular Board Meeting. Vice Chairman Bailey would like to see for the 2016 Budget and future Budgets, a side by side comparison of "Actual 2015 total costs" and "2016 proposed total costs". General Manager, Chris Overland said that he used the same format to create 2016 Budget as he did for 2015 Budget. He highlighted the "notables" which include, the purchase of a Harvester Barge, Spoils relocation, and a reduction of weed control funds within the 2016 Budget. Otherwise, he said it is pretty much the same as last year's budget. General Manager, Chris Overland said depending on what happens with the Spoils, the weed treatment budget may come back up. There was \$180,000 put into chemical weed treatment last year and he plans for about that much for the 2016 year. The first

phase will probably happen in June and the second phase in August. Vice Chairman Bailey would like to get a resolution ready to bid the Spoils and see if it can be sold. Chairman Foster had some concerns with the 2016 Budget and wanted to set up a Finance Committee Meeting to look over the budget before it is approved. Director Dexter volunteered to be a part of the Finance Committee. Chairman Foster said there were some major issues that may or may not have an impact on the 2016 Budget such as the union contract. Vice Chairman Bailey said he would like to see a financial justification for the purchase of a weed harvester barge such as how much is MLIRD going to save annually by having one. Director Teals moved to continue operations under the 2015 Budget. Director Perry seconded the motion. The motion was then carried unanimously.

- Resolution 2012-039 was then discussed. This resolution limited MLIRD's small works roster bids up to \$100,000. In the RCW's, the WA State limitation is to \$300,000. Legal Counsel, Brian Iller said Resolution 2016-001 increases the limit to what the State statute authorizes and that the board still has to approve the contracts issued under the process. Director Teals made a motion to adopt Resolution 2016-001. Director Perry seconded the motion. The motion was then carried unanimously.
- Discussion was then had on Resolution 2016-003. Legal Counsel, Brian Iller explained the resolution was for a trade-in situation similar to what was done last year for the D-6 Dozer and the Long Reach Excavator. He said last year, the WA State Auditor criticized MLIRD for not providing a record of the diligence in establishing the fair market value of two pieces of equipment. Legal Counsel, Brian Iller said if the Board adopts Resolution 2016-003, it directs General Manager, Chris Overland to advertise for either bid to purchase or to trade-in for the Dozer that MLIRD is currently using. If MLIRD does get an offer, then the General Manager, Chris Overland can do a written report for the next public meeting that will attach all the documents in order to conclude that this is a reasonable, fair market value for the exchange of both items. Vice Chairman Bailey believes that the criticism from the WA State Auditor was on the purchase of the Dozer, and that was why MLIRD was trying to be so careful last year with the trade of the excavator to document enough information. General Manager, Chris Overland said that the issue was from 2014 with the trade of the D-5 Dozer for the D6T Dozer because diligence could not be proven and paperwork was not available on the D-5 trade-in value. Vice Chairman Bailey made a motion to approve Resolution 2016-003. Director Dexter seconded the motion. The motion was then carried unanimously.
- Discussion was then had on Resolution 2016-002. This resolution is for the acceptance of bids for the sale of 10,000 cubic yards of MLIRD's share of the Spoils. Discussion was then had on how long after a bid was accepted by the Board would the owners have to remove the Spoils, and it was decided on 180 days. Discussion was also had on the specifications of the loading, clean up, and hauling of the Spoils. Director Dexter made a motion to adopt Resolution 2016-002. Vice Chairman Bailey seconded the motion. The motion was then carried unanimously.

PUBLIC COMMENTS

Lloyd Peterson then spoke on re-establishing a boat launch at the Moses Lake North Dam. He read a letter wrote by Jim Tabor addressed to General Manager, Chris Overland. Jim Tabor was a District Wildlife Biologist for the Department of Fish and Wildlife from 1980 to 2008. The letter reflected why he was in support of re-establishing a boat launch at the Moses Lake North Dam. Jim Tabor has observed the area as used quite frequently by hunters and fisherman to launch boats for accessing that part of the reservoir and that recent construction to the area has eliminated the use of it. Mr. Peterson also included that Jeff Korth, with

WDFW, highly recommended and recognized the use of the boat launch. Mr. Peterson believes it is a very easy project to do compared to the use of it that has been available for years. Mr. Peterson then proceeded to read his letter to the Board of Directors regarding his reasoning on why a boat launch should be re-established at the Moses Lake North Dam. He believes that the general public should have been given a 60-day opportunity to voice concerns about the planning process of the rebuild of the Moses Lake North Dam. He said there were no concerns given into re-establishing the boat launch by anyone at the MLIRD office or the engineering design team. He also brought up that the MLIRD Chairman, Jeff Foster had previously said he had used the launch and benefited from it for years, but yet in the big scope of the Moses Lake North Dam project, it was not brought up. He added that there haven't been any new water access areas created as long as he can remember, and to lose one of the few existing is a great loss. He further discussed that every conversation he has had with MLIRD about the boat launch ends up with the concern of liability for MLIRD. He researched liability with other government agencies in the area, and they pointed him to "RCW 4.24.210". He said the RCW reads "Liability of owners or others in possession of land and water areas for injuries to recreational users." He then proceeded to say that the end sentence in the RCW reads "Shall not be liable for unintentional injuries to such users." To Mr. Peterson's opinion, the District does not have a liability issue that is about the re-establishment of a boat launch at the Moses Lake North Dam.

Chairman Foster believes that this subject has been talked over a number of times. He said that when the Moses Lake North Dam project started, he had not been elected to the Board yet. After he was elected and asked to help organize the project, it was clear from the Department of Ecology that MLIRD can only act within 10% of the existing Dam's footprint and anything outside of that MLIRD would have had to of started the process of approval over again. The boat launch that had been there for many years was something that was never constructed or maintained by MLIRD, so it wasn't even on DOE's radar as to if it stayed or not. Chairman Foster then added that Legal Counsel, Brian Iller has said that MLIRD has exposure or liability for anything such as the sidewalk outside the office. Legal Counsel, Brian Iller added that despite the statue Mr. Peterson read, there is still a risk of claims and liability. Especially if MLIRD is responsible for the design, construction and maintenance of the boat launch. Chairman Foster then expressed that he can't help but think that MLIRD is not the only place Mr. Peterson has spoken with and has received the same response. Chairman Foster said it was not MLIRD's responsibility to provide access to the potholes reservoir. Vice Chairman Bailey brought up if General Manager, Chris Overland had talked with MLIRD's insurance carrier as to see if they wanted signage out at the Moses Lake North Dam. General Manager, Chris Overland informed the Board that the insurance carrier felt it incumbent upon us to put whatever signage there MLIRD felt appropriate for the risk. Mr. Peterson still doesn't believe that it is a permitting issue. Mr. Peterson just wants a boat launch re-established where it was taken out. Chairman Foster advised Mr. Peterson to look for a different department to try and help him out.

WORKSHOP/DIRECTOR QUESTIONS AND/OR COMMENTS

Director Teals asked the question if MLIRD was going to be doing a Lakeshore Clean Up and he was told it was scheduled for March 26, 2016.

Chairman Foster said he has recently been approached by a community member, Leon Baker asking if MLIRD has any projects his group could volunteer and help out with. Chairman Foster would like Board Members and Staff Members to keep him in mind for future volunteer projects. Director Teals mentioned that the lake is down a significant amount more

than it usually is and there is a bunch of large gallon drums submerged in different places that you can see now and thought it may be helpful if a group of kids or adults would like to try and pull them out of the water.

ADJOURNMENT

The meeting was adjourned at 9:27 PM.

Jeffrey B. Foster, Chairman

Bill Bailey, Vice Chairman

Mary Perry, Director

Kris Dexter, Director

Richard Teals, Director

By: _____
Secretary to the Board of Directors

Transcribed By: _____