

CALL TO ORDER

At 7:00PM, Chairman Foster called the April 14, 2015 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 of Directors 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 of Directors and the audience for discussion on any non-agenda items and nothing was brought forward.

APPROVAL OF THE AGENDA

Chairman Foster called on the Board of Directors to approve the agenda. Chairman Foster asked to adjust the agenda and move action item 8a up to presentations under 4a. Legal Counsel, Brian Iller also wanted to add “to discuss with legal counsel threatened litigation regarding the whistleblower and overtime claims as authorized by RCW 42.30.110(1)(i)(ii) and possible action may take place” under Executive Session on the agenda. Vice Chairman Bailey then made a motion to approve the agenda as amended. Director Perry seconded the motion. The motion was then carried unanimously.

APPROVAL OF THE CONSENT AGENDA

Chairman Foster called on the Board of Directors to approve the consent agenda. The consent agenda consists of the meeting minutes from 03/10/15, the Bills/Checks (#14963 - #15008) and Vouchers (#1000122 - #1000124) totaling in \$111,693.85. Director Perry made a motion to approve the consent agenda. Vice Chairman Bailey seconded the motion. Vice Chairman Bailey abstained from voting on any items related to Basin Property Management, Inc. Chairman Foster abstained from voting for approval for the meeting minutes of March 10, 2015 as he was not in attendance of that meeting. The motion was then carried unanimously.

PRESENTATIONS

Dredge Permits – Grette Associates, LLC: Environmental Consultants

Ryan Walker with Grette Associates then gave a presentation on obtaining new dredge permits to continue the on-going operation of dredging Moses Lake and modifying those permits to allow alternate dredging methods and other potential locations to dredge. Ryan asked for a clear direction on where the Board of Directors want to go with the future dredge application. The permits that are in place now are for hydraulic dredging and they expire after the 2015 dredging season. There is a one year extension that could be applied for. The one year extension does not get MLIRD where we want to be in the long term. Ryan expressed that mechanical dredging has been talked about being added as an option to the application. In “Walmart Corner” for example, there are too many

rocks for the hydraulic dredge to operate effectively. That corner is a key area that acts as a sediment trap for sediment coming into Parker Horn from Crab Creek. A possible key change to the permit application would be to add a mechanical dredging component for that area and continue with hydraulic dredging in Parker Horn with the current de-watering area. Ryan stated that once you cross the fill, you get into DNR ownership for a portion of the lake bottom. In 1889, the Federal Government transferred property when Washington became a state. All land below the ordinary high water mark of navigable waters was deeded to the state. Ryan said that it has been agreed to by DNR that they have no ownership on the East side of the fill which makes the East side easier to permit. He has seen DNR impose many other restrictions on projects for protection of the environment above and beyond all the other agencies that have to be dealt with. Ryan advised the Board of Directors that in two years you wouldn't want to wish you had done something differently when you need to apply for another permit and said he would just like guidance on how the Board of Directors would like to go with the new permit application for dredging. The 2011 permit application was an approach to put the maximum out there so that we didn't run into a volume problem. Vice Chairman Bailey added that the plan now is basically an extension for 5 years of the existing permit so that we can clean up what we already have and there may be some proposed changes, specifically with the mechanical dredging in the north corner and an addition of the de-watering site. Ryan agreed and said that was correct. An estimated cost for obtaining the new permit and other Grette Associates services is \$26,000.00. If MLIRD submits the new permit application in the near future, we will be applying under the current Moses Lake shoreline master program. The de-watering area is built to be out of the shoreline jurisdictions which is 200 feet because dredging is prohibited in the natural shoreline environment. With the new proposed master program, the designation would change to waterfront commercial, a much higher intensity. Ryan believes there is going to be big benefits in the new master shoreline program. He has gone through the proposed regulations to make sure there is nothing coming up that would prohibit MLIRD in the future. Making revisions to permits are fairly simple but there is a lot more that goes into a permit when adding mechanical dredging. There is the Corps of Engineers, Department Of Ecology and the Department of Fish and Wildlife that will have to approve that permit. The Corps of Engineers is the one you have to worry about on the timing and how long it could take to obtain the permit. The strategic advantage on the first application for hydraulic dredging was that the Corps of Engineers did not regulate that. Ryan believes that we would probably need a couple more months to prepare and submit applications and from there, the city permit process is fairly well defined. He said that we would be looking at about a 6 month range from when the city accepts the permit application as completed. The Department of Fish and Wildlife has 45 days from the cities determinations. The Corps of Engineers are the wild cards. It could be 4 months or it could be 12 months. Vice Chairman Bailey asks that if everything was ready by the end of June, theoretically it would be reasonable to assume that maybe MLIRD would have the new permit by the end of June 2016. Ryan said that was correct. He said that adding the mechanical dredging is the big deal that could make it take longer because it is something new and it is something they have constantly pushed away from on this project. The reason Ryan feels it is possible is the success of the hydraulic dredging and then the demonstrative attempt to hydraulically dredge there and hitting so many rocks. When you are permitting you have to choose the least impacting alternative. With having made an attempt in determining that it is too rocky, goes a long way Ryan says. If it was just extending the hydraulic dredging we could turn that around really quickly. It's adding the mechanical that is a question mark. Director Teals says that MLIRD originally went in to the hydraulic dredging because the mechanical dredging was a real problem. He thinks that there is still a great deal of silt and you can see the progress that the hydraulic dredge has currently

made. But there still seems to be quite a bit of silt that we could move with the hydraulic dredge. He thinks we need to really continue permitting hydraulically and then try in the future to go about mechanically. He says MLIRD does not have the finances for it anyway at this time. Ryan said that with the changes to the master program, if the de-watering area can be increased it would make a huge impact. The only factor in production is getting rid of the water. If you can increase production, the dredging goes faster. Chairman Foster adds that once we cross the alder street fill we run into much bigger problems, and that is the size of the pumps, length of the pipe, DNR ownership and more. Ryan agrees with him. Vice Chairman Bailey's opinion is that MLIRD looks at applying for a new 5 year permit which includes the existing area that is on the current permit and whatever we think is realistic on the south [west] side of the fill and begin attacking that island and not attack mechanical dredging in the "Walmart corner". Ryan says that he would do as much as he could to pave the way that this is what we are thinking about in the future under the new regulations and lay it all out there and try to make that a logical revision in the future. Director Dexter asked if it was possible to mechanically dredge where we have been hydraulically dredging. Ryan said that to mechanically dredge that would be very difficult to get the permits because the hydraulic dredging is possible. That's where we get stuck in this least impacting alternative which is required by the permitting agencies. To mechanically dredge that area would be very difficult to get and probably impossible to get permits because they can take the success and turn it around on you and say it works because you showed us it can work. Ryan said "from a permitting perspective, having machinery in the lake digging is considered more impacting, whether it is or not. When its dry and the water is down, the impact is not that great, really it's not." He says that the closer you get to the main channel and widening the main channel, the wider it gets, that's where you get the velocity dropped. As we get closer to the shoreline there's less velocity just naturally and the sediment probably isn't carried in there as much naturally. MLIRD staff member Chris Wilson said that the middle island is coming out this year which will be a huge impact. No action took place on this subject as Chairman Foster indicated that the Board of Directors have already previously taken action when they approved the money for dredging in the 2015 budget. This was just a presentation to inform the Board of Directors on the current situations with the dredging permits and to give Ryan direction on where to go from here.

MLIRD STAFF REPORTS

General Manager, Chris Overland reported on projects and events:

Recent events/news discussed:

- The lake level was at 1045.46 as of April 14th, 2015. He expects it to be approximately at 1046.7 within 10 days.
- Lakeshore Cleanup was on March 28th and was a great success with over 160 volunteers and over 1 ton of garbage collected.
- Connelly Park opens tomorrow, April 15th, 2015.
- Improvements at Connelly Park are being made to increase security. An I.P. camera for the park was discussed.
- MLIRD staff now has the ability to take a snap shot of GPS digital coordinates and pin-point it and get the exact location, determining ownership, etc. This will be useful for identifying ownership of lake water users in the future.
- MLIRD has been approached by a parent of one of the students that attended the Water Quality Institute in 2011 and was awarded a scholarship for \$1,500.00. Discussion between the General Manager, Chris Overland and the Board of Directors then took place on what needed to happen on this issue. There were two students in the Water Quality Institute

in 2011 that were each awarded \$1,500.00 scholarships. Only one of the students has come forward asking how to obtain the scholarship. Director Teals moved to award the scholarship to the one student that has approached MLIRD so far and have the student provide information on which college they will be attending and the \$1,500.00 will go directly to a college fund at the school. Director Perry seconded the motion. Chairman Foster called for a vote and all Directors were in favor of the motion except Director Dexter who abstained from voting. The motion was then carried. Legal Counsel, Brian Iller informed Director Dexter later in the board meeting that if he wishes to abstain from voting he must state why he is doing so. The vote was then called back and reconsidered. Another vote on this motion was then taken. The motion carried 4:1 with Director Dexter voting against the motion.

- Janet McCaslin request for a refund based on changes made by the Assessor's office was discussed and there was some discussion on tracking the number of 'exempt' properties on an ongoing basis, now that the District has the ability to build our own Assessment Roll.

EXECUTIVE SESSION

The Board went into Executive Session at 8:25 PM. The expected time was 10 minutes and they were to return to Regular Session at 8:35PM. Chairman Foster indicated there may or may not be further action taken as a result of the discussion in Executive Session.

The Board entered back into Regular Session at 8:35PM.

Action item discussed in Executive Session:

- MLIRD has been offered a settlement offer from former MLIRD General Manager, Curt Carpenter. Discussion between the Board of Directors and Legal Counsel, Brian Iller then took place. Director Perry then made a motion to accept the settlement offer from former MLIRD General Manager, Curt Carpenter in which Mr. Carpenter waives and releases all claims of any kind against MLIRD in exchange of a payment of \$75,000.00, half of which would be paid by MLIRD's insurer and the other half would be paid by MLIRD itself. Vice Chairman Bailey seconded the motion. Director Teals wanted it on record that he is really against the idea of former MLIRD General Manager, Mr. Curt Carpenter suing this District. But because of the logic of MLIRD's Legal Counsel, Brian Iller, he will support the motion. A vote was taken and all directors were in favor of the motion except Director Dexter who abstained from voting. Legal Counsel, Brian Iller informed Director Dexter that if he abstains himself from voting he must state why he is abstaining. Another vote was taken and the motion then carried with a vote of 4:1 with Director Dexter voting against the motion. All phone calls or questions regarding the settlement offer and/or the case are to be fielded to Legal Counsel, Brian Iller.

ACTION ITEMS

- Director Dexter had a conflict of interest with a 8ft wide strip of property that is 500 feet from Ottmar Road to Valley Road that is owned by MLIRD and wants it deeded back to the landowner. The idea back in 1945 was for either irrigation ditch or pipe and it has never been used. It doesn't have any use that Director Dexter is aware of and believes it is actually the districts property as opposed to an easement

but it doesn't have any positive function for the district and it's cumbersome for the land owner which is his self. Director Dexter was hoping to get the issue cleared up and have it removed by the district signing the 8ft strip back to the land owner. Legal Counsel, Brian Iller asked for time to research the matter and see what needs to be done with it. This matter was tabled for the time being and is to be addressed at the next Regular Board Meeting in May.

- Janet McCaslin has recently been in the MLIRD office not long after she had been in contact with the Grant County Treasurer and Assessor. The Assessor had agreed to make some changes on the assessment value of her parcels. The result of those changes for MLIRD budget purposes, dropped from \$1,200.00 per year in assessments to \$9.00 per year on a single parcel due to Assessor's Office action. Discussion on the ILA between MLIRD and Grant County then took place between the Board of Directors, Legal Counsel, Brian Iller and General Manager, Chris Overland. Legal Counsel, Brian Iller advised General Manager, Chris Overland to mail Janet McCaslin the approved refund form and have her submit the form to the MLIRD office, that way she will certify under oath that she has overpaid and we will go from there. In the meantime, Legal Counsel, Brian Iller will again request a meeting with Mr. Dano and/or his Chief Deputy. Chairman Foster then asked for the Board of Director's to give him the authorization to contact Richard Stevens, the current Chairman of the County Commissioners, to encourage him to speak to Mr. Dano about getting this meeting MLIRD has been calling for now for over two months. Vice Chairman Bailey made the motion to give said authorization to Chairman Foster to contact Mr. Stevens. Director Teals seconded the motion. The motion carried unanimously.
- The first draft of the changes made to the MLIRD Governance Policy was then discussed by the Board of Director's, Legal Counsel, Brian Iller and General Manager, Chris Overland. Vice Chairman Bailey said to make note that there are still references to "General Manager" and that they need to be made sure and cleaned up to just say "Manager". Legal Counsel, Brian Iller stated that the title is just "Manager" and that we need to stay consistent. General Manager, Chris Overland asked the reasons for the sudden job title change. Chairman Foster stated that it was for consistency, then Legal Counsel, Brian Iller advised him that the description in his employment contract calls him the "Manager" not the "General Manager". A lengthy conversation about the reference of a financial steward in the Governance Policy then took place. Director Teals then made a motion to adopt the Bylaws and Governance Policy as presented for review. Director Perry seconded the motion. The Bylaws & Governance Policy cannot be approved until the next meeting as this is just a first draft. The motion then carried unanimously. Director Teals then made a motion to eliminate page 26 Section 4 of the Bylaws & Governance Policy regarding "financial steward" and any reference to "financial steward" found in the document. Director Dexter then seconded the motion. A vote was taken and the motion was defeated with a vote of 3:2 with Chairman Foster, Vice Chairman Bailey and Director Perry voting against it.
- Discussion on an additional and previously talked about fishing event at Connelly Park was then discussed. Being that no one has provided MLIRD with any further information on the event, the Board decided to drop it and move on with the agenda.

RESOLUTIONS

2015-004 – Authorization to waive competitive bidding pursuant to 87.03.435(3)(c) to award a sole source/special market conditions contract to purchase a CR250x LR Excavator by Trade-In of D6T Caterpillar ("CAT") Bulldozer

Vice Chairman Bailey explained that we have a 2012 Dozer that we do not have any use for and we have the opportunity to trade it for a Long Reach Excavator and with a trade like this you eliminate sales tax on the trade in portion which is a big item. Director Teals made motion to accept resolution 2015-004. Vice Chairman Bailey seconded the motion. The motion was then carried unanimously.

WORKSHOP/DIRECTOR QUESTIONS and/or COMMENTS

Chairman Foster asked General Manager, Chris Overland to bring the rest of the Board of Directors up to speed on the audit. Chris said that with the three issues of concern, the Moses Lake North Dam seems to be the most significant conversation he has had with the auditor. He still anticipates the close out date to be at the end of April. He has not advised the auditor if MLIRD would like the close out meeting to be an open meeting or not. He did have a short conversation with him on that issue. The other issues were the Lakeland contract and the way the Dozer was purchased. He believes these will be small bumps in the road and will not be significant. Chairman Foster said the hire of Grette Associates and the hire of Lakeland Restoration is no different then what the auditor is saying we went about slightly incorrectly with the Dam project. Chairman Foster indicated that he would like the audit exit meeting a special meeting for the case that he feels the auditor will be less aggressive and that way all topics on the agenda are the ONLY topics to be discussed. Vice Chairman Bailey agrees and believes that a special meeting is a good idea. Director Teals thinks that a special meeting is fine but that there needs to be a statement saying this is what the special meeting is for and there won't be any input from the audience.

Discussion on the Lakeland Restoration contract and the plan for algae and herbicide control was discussed. Chairman Foster made a motion to encourage General Manager, Chris Overland to meet with Lakeland and fine tune the numbers and do the prevention that we said we would do in the proposal at the February Board Meeting. Vice Chairman Bailey seconded the motion. Discussion on if there is enough money in the budget for \$175,000.00 to go towards the Lakeland contract without any grant money then took place. Chairman Foster believes there is with the Moses Lake North Dam coming back under budget at approximately \$350,000.00. Director Teals would like us to continue in any way we can because it has made a huge impact on our lake. The motion carried unanimously.

ADJOURNMENT

The meeting was adjourned at 10:21PM.

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: _____