

## **CALL TO ORDER**

At 7:00 PM, Chairman Foster called the November 14, 2017, Regular Board Meeting of the Moses Lake Irrigation and Rehabilitation District to order. The record shows that all Directors were present. Legal Counsel, Brian Iller and General Manager, Chris Overland was also present. The record indicates that this meeting was recorded.

## **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 nothing was brought forward.

## **APPROVAL OF THE AGENDA**

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

## **APPROVAL OF CONSENT AGENDA**

Chairman Foster called on the board members to approve the consent agenda. The consent agenda consisted of the meeting minutes from 10/10/17, the Bills/Checks #16385-#16428 and Voucher #1000194 totaling \$83,648.21. Director Dexter made a motion to approve the consent agenda. Director Perry seconded the motion. Vice Chairman Bailey abstained from voting on any items related to Basin Property Management, Inc. and the meeting minutes from 10/10/17. The motion was then carried unanimously.

## **MLIRD STAFF REPORTS**

General Manager, Chris Overland reported the following:

- Lake elevation was 1043.02 at 9:00 AM as of November 14, 2017.
- With the SAO and DRS Audits, the assessment roll building, the equalization process, preparation for the possible election and getting the fountain side dredging project documents completed and out to bid, not a lot of time has been spent on the 2018 budget, although that is the next big focal point.
- For the month of October, the actual assessments were 99% of budgeted projection. Actual spending is currently 76% of budget.
- The trailer at the Moses Lake North Dam was removed the morning of October 30<sup>th</sup>, 2017. But, in its place, another trailer showed up. MLIRD staff has posted a copy of MLIRD's policy at that trailer today, and hopefully, it will be removed soon.
- Connelly Park was closed for the season on November 1<sup>st</sup>, 2017.
- The dredge was removed from the lake on November 1<sup>st</sup>, 2017.
- The North and South Dam gates were both fully opened on November 6<sup>th</sup>, 2017, the first Monday of November.

- MLIRD received a complaint from Lawrence Owens asking for enforcement action to support MLIRD's "Keep Our Lake Beautiful" signs on October 24<sup>th</sup>, 2017. Mr. Owens has called the office a few times. Following one of his calls last year, MLIRD mailed informational fliers out to the Panorama neighborhood and even though, fliers were received, the neighbor of Mr. Owens continues to blow leaves and shoreline debris into the lake with his leaf blower.

Chairman Foster asked if the blowing of the leaves and grass clippings constitute pollution of such waters. Legal Counsel, Brian Iller said he believed so. Chairman Foster also asked if MLIRD had any enforcement authority or would it need to be turned into the Sheriff's Department. Legal Counsel, Brian Iller said if the Board decided they wanted to, the Board could take some level of enforcement action. There would need to be a policy adopted by the Board that establishes a fine and penalties.

General Manager, Chris Overland stated that part of Mr. Owens complaint was that he had contacted Fish and Wildlife and the Grant Sheriff's Department and according to Mr. Owens, neither entity has done anything, so he has turned to MLIRD. Legal Counsel, Brian Iller said it might be different if MLIRD was to contact one of the entities. Director Perry mentioned that the Department of Ecology might be good to contact as well.

Chairman Foster does not see how MLIRD has any enforcement authority. Legal Counsel, Brian Iller said in order for the Board to prosecute anyone, the Board would need to adopt a policy that establishes fines and penalties because RCW 87.84 clearly provides that authority. In the past, when the Board has discussed these issues, they've decided they do not want to exercise that kind of authority, but the Board could always change its mind. Chairman Foster is trying to help staff direct anybody that comes in with this type of situation to the right entities.

Legal Counsel, Brian Iller said, with an instance like this where MLIRD has the video, you don't have to have the Sheriff's come out and investigate. He also mentioned if the Board would like him too, he could send the video to the Grant County Prosecutor. Chairman Foster said he would rather have the neighbor send it to the Prosecutor, that way MLIRD is not responsible for that person saying MLIRD was videoing him without his consent.

General Manager, Chris Overland said he doesn't like the idea of MLIRD getting used between two neighbors that apparently just do not get along. Legal Counsel, Brian Iller said up until now, it has been the Boards policy to not exercise police authority. Chairman Foster's personal preference is for any complainants to contact the Sheriff's or Police Departments themselves. Director Teals said that it seems as if this gentleman has already made contact with authorities and that blowing leaves and crud into the lake is not good. He mentioned there is a difference between a cow-herd in the lake and someone purposely throwing leaves and other debris into the lake. Director Teals believes MLIRD should do something.

Chairman Foster said maybe one effort might be for General Manager, Chris Overland or Legal Counsel, Brian Iller contacting the Sheriff's Department and let them know our understanding of what is happening. Legal Counsel, Brian Iller said General Manager, Chris Overland could call the Sheriff's Department and see what their position on the situation is and could also call the County Prosecutor and let them know that MLIRD has received a complaint and the neighbor has video and that this is bad for the lake.

Director Teals asked if the Department of Ecology has been involved in this situation. General Manager, Chris Overland said he had met with Mr. Jeff Powell on his way out from leaving Mr. Owens' driveway, and Mr. Powell had mentioned that the cops had been out there several times and General Manager, Chris Overland left with the impression that these two neighbors just do not get along.

Director Dexter mentioned that if MLIRD made some of the issues aware to the Department of Ecology that they might take another look at the animals, as he has read several articles relating to those kinds of issues, which makes him believe they would be more concerned about the animals than the leaves being blown into the lake.

Director Teals made a motion that the Board instructs General Manager, Chris Overland to send a letter to DOE explaining the situation that has happened, just for their information so they can have it on their files. Director Dexter seconded the motion. Chairman Foster would prefer that it be prefaced under something to the effect of MLIRD has been made aware of this situation and thinks you may want to look into this without sending the video as well and give DOE Mr. Owens contact information. Director Teals said this sounded good. The motion was then carried unanimously.

- Advertisements, Bid Packets, and Contract Documents are completed, and it has been advertised that the bid opening for the MLIRD Dredging Project will be tomorrow afternoon at 3:05 PM where the bids will be opened and recorded. Advertisements were placed in the Columbia Basin Herald and Seattle Daily Journal of Commerce on October 30<sup>th</sup> and 31<sup>st</sup> and November 6<sup>th</sup> and 7<sup>th</sup> for Dredging the Fountain Side of the Alder Street Fill Project. There is no current plan to award solely on the low bid, as MLIRD attempts to ensure that cost, dredge production and dewatering to manage turbidity operations are suitable for awarding a contract.

This might require a special meeting as qualified bidders are examined for this project such as their ability to manage turbidity as well as the productivity of production of dredging. Chairman Foster asked Legal Counsel, Brian Iller if MLIRD could cover that with using some of the permits or if MLIRD is going to have the permits in time to put this out. Legal Counsel, Brian Iller said the bid specifications say they have to comply with the permits. He also said he and General Manager, Chris Overland were communicating and he did send an email and copied the Board talking about the issues. He mentioned that if the Board wanted to discuss more on the legal risks of going a different way they should discuss it in Executive Session.

Chairman Foster asked General Manager, Chris Overland what point in time he wanted to make a decision on the bids. General Manager, Chris Overland informed the Board that he was not going to make a decision by himself. His intent was to have Ryan Walker help examine the documents from an environmental perspective for the suitability of turbidity and try to weigh accordingly which might include ruling out some contractors. Legal Counsel, Brian Iller asked General Manager, Chris Overland if he thought a Special Board Meeting would be necessary. General Manager, Chris Overland replied with he would prefer to have a Special Board Meeting to help make a final determination before any contract is awarded. Legal Counsel, Brian Iller stated that he thinks the District can hire a consultant to help review bid packets but will look into it and report back.

General Manager, Chris Overland stated that MLIRD has not received any bids back yet, but has had lots of interest. Director Teals said that going across the Fill and looking east and seeing all the open water is very impressive when you think about just a few years ago it was a huge sand bar and now is just bits and pieces. He is really impressed on what the District has done in removing so much silt. General Manager, Chris Overland said that the Plan Holder's list for the project is around 15 companies. The timeline for notification to the bidders was to be determined which was advertised in the bid packet.

- DNR is very determined that the Don Beckley's Landing deck surfaces and pilings be replaced regardless of the fact that the deck in pilings are currently in very good condition. Their goal is to completely eliminate any risk of potential leaching creosote. Dave Harsh with DNR insists that MLIRD have a replacement plan to take place somewhere within the timeframe of a new lease with them. Chairman Foster asked how long MLIRD has been operating with no lease. General Manager, Chris Overland replied that a lease with MLIRD was taken out in about 1981 when the pump station was installed and expired in about 1993. From then the station ran without a lease until 2010 when DNR came back to MLIRD. It was then apparently pushed off until 2016 when DNR came back to MLIRD about a renewal. There has not been an active lease between DNR and MLIRD for the pump station for many years.
- The Department of Retirement Systems random audit has been completed with no findings. One of the discoveries was that MLIRD should be reporting "as earned" versus "as paid" time for reporting purposes. Since 2007, MLIRD has been set up on a 26 pay period cycle per year. If MLIRD goes to 24 pay period cycle per year which is twice a month, then there are no "as-worked/as-earned" reporting issues. General Manager, Chris Overland checked with Wayne Johnson with Teamsters and said he did not see any issues with those needed changes. Legal Counsel, Brian Iller said if Teamsters agrees to the changes, then MLIRD just needs it confirmed in writing. General Manager, Chris Overland stated that the only place in the Teamsters contract that would have any impact on the change is the accrual of paid leave calculation. General Manager, Chris Overland said he would like the 24 pay cycle to begin on January 1<sup>st</sup>, 2018. Vice Chairman Bailey made a motion to change the pay periods from a 26 to 24 per year cycle contingent upon the Teamsters agreement in writing. Director Perry seconded the motion. General Manager, Chris Overland gave an example of 6.5 hours of earned vacation per pay period. Right now there are 26 of those per year, and if you take half the 6.5 per week it would contractually work out. Chairman Foster said that it would be a change in the Teamsters contract the way the contract is written right now. Legal Counsel, Brian Iller stated for General Manager, Chris Overland to write out how it will work and run it past himself. Chairman Foster said General Manager, Chris Overland will need to let Wayne Johnson with Teamsters know that there will need to be a change made to the contract. General Manager, Chris Overland stated he would make sure Legal Counsel, Brian Iller reviews the letter to Teamsters before he sends it.
- There will be no election this year as there was no qualified candidates expressing interest for outgoing Director Perry's position. Chairman Foster said this means that someone needs to notify the Grant County Commissioners and have them start the process of advertising and appointing the position as soon as possible effective at the January Regular Board Meeting. Chairman Foster remembers the last time this came up, his conversation with a County Commissioner was not sufficient enough and a month and a half later they said they never received anything in writing.

**ADJOURNMENT**

The meeting was adjourned at 7:54 PM.

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Jeffrey B. Foster, Chairman

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Bill Bailey, Vice Chairman

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Mary Perry, Director

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Kris Dexter, Director

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Richard Teals, Director

By: \_\_\_\_\_  
Secretary to the Board of Directors