

Minutes
Elk River Watershed Association Board of Directors
Regular Meeting
February 28, 2011
USDA Service Center, Foley, MN

Attendance: Gerry Maciej, Tiffany Determan, Mark Basiletti, Joe Jordan, Leonard Popp, Joe Wollak, Terry Polsfuss, Brian Kaschmitter, Larry Goenner, Jason Weirnerman

Others Present: Michelle Meyer.

Meeting called to order at 9:00 am by Terry Polsfuss Chair.

1. Review & Approval of Agenda

Gerry recommended the addition of: Discussion of contract review process. Gerry also requested moving item 8.) ERWA JPA to be covered immediately after the MWP-subcontractor contracts item (renumbered accordingly in minutes). Joe Jordan made a motion to approve the agenda with the above modifications and additions. Leonard Popp seconded the motion. All were in favor. The motion passed.

2. Review & Approval of the January 24th, 2011 meeting minutes

Larry Goenner made a motion to approve the minutes of the January 24th, 2011 ERWS meeting as written. Brian Kaschmitter seconded the motion. All were in favor. The motion passed.

3. Fund balance report.

Mark went over the fund balance report and reviewed it by going over balances and activity in the Sherburne County account, Sherburne SWCD account and the TMDL fund balance. Joe Wollak made a motion to approve the fund balance report as included in the board packets. Joe Jordan seconded the motion. All were in favor. The motion passed.

4. Discussion of ERWS Contract Review Process

Michelle Meyer, Benton County attorney, was present to discuss the contract review process as it relates to the ERWA: which contracts need to be reviewed, who should review the contracts and potential conflicts of interest. Michelle noted that the JPB is its own entity and has its own liability. Benton and Sherburne County hold no liability in regards to contracts executed by the ERWA. She indicated that the County attorneys are responsible for reviewing contracts on behalf of the County and the SWCD so there is a potential for a conflict of interest to arise when they also review contracts for the ERWA. Michelle offered two scenarios for future contract review: 1.) JPA could hire outside council; however she also made mention that the ERWA does not have sufficient funds to do so. 2.) Sherburne and Benton County attorneys could discuss the best options and ways to overcome any conflicts of interest. She indicated that they would likely recommend passing some resolutions and signing some waivers to say that both Counties are to be held harmless. However, she said, in certain cases there still may be a conflict of interest resulting in the recommendation to seek outside council. There was a question as to which contracts need to be reviewed by an attorney. Gerry indicated that he usually does not have an attorney review a contract which has been approved in the past, i.e. a BWSR contract. Michelle agreed that was a fine process to follow since many of the County recommended changes are not made in State/Federal contracts anyways; however, any changes that have been recommended in the past should be made note of consistently. The board agreed that scenario 2 was the best option to investigate at this time. Michelle indicated that she would contact the Sherburne County attorneys and they would come up with some recommendations for the board.

5. MWP-Subcontractor Contracts

Michelle Meyer remained at the meeting during this discussion to answer questions. Gerry summarized the difficulties which have arisen during the subcontracting process between the ERWA with its local partners. He noted that a conflict of interest arises when the ERWA tries to contract with Benton and

Sherburne SWCDs as well as Sherburne County. Additionally, the Clearwater River Watershed District (CRWD) attorney recommended they not sign the contract for various reasons. Gerry also made note of the fact that the MPCA does not require the ERWA have subcontracts. Gerry brought up the question as to whether or not the subcontracts between local partners could/should be eliminated. Michelle advised against eliminating the subcontracts stating that the ERWA needs to ensure that they are not held responsible for work not completed according to the master contract by the local partners. She pointed out that other authority units have signed the contracts with no issues and that this is the normal process for this type of program. The recommendation was made to send a letter to the CRWD asking what their issues/authority/concerns are and what it would take to make the contract comply with their needs. Tiffany said that she will make contact with CRWD then update Michelle. Michelle said she would then help to make the contract comply for both parties. No motion was needed.

6. ERWA JPA- Update

Michelle Meyer covered this topic in item 4. She indicated that she was going to request some changes to the agreement and then the JPA would be sent back to the Sherburne County attorney for review.

7. Designating the Elk River a State Water Trail

Mark gave an overview of the history behind the pursuit of designating the Elk River as a State Water Trail. He indicated that there are several local people assisting with driving this effort and that the designation would include the reach of the river from CR 24 in Becker to the Mississippi River. Mark pointed out that if this reach is designated it would allow the DNR to utilize funds, when available, to contract with the Minnesota Conservation Corps to clear snags which are currently blocking passage. He stated that due to the high level of snags upstream of CR 24, the reach from Big Elk Lake to CR 24 was not included in the current effort. Mark provided a letter supporting the designation of the Elk River as a State Water Trail to be signed by the ERWA Chair and sent to legislators. Joe Wollak made a motion to sign a letter of support to be sent to senator Dave Brown and representative Mary Kiffmeyer. Joe Jordan seconded the motion. All were in favor. The motion passed.

8. MWP- Approve ERWA invoice submittal to MPCA and paying bills.

Tiffany briefly explained the bills to date which included ERWA and the local partner work. She pointed out that the local partners will be reimbursed even though the subcontracts have not been executed, according to a motion made by the Sherburne SWCD board as the fiscal agent. There was some discussion about allowing submission of all monthly invoices to the MPCA to eliminate having to approve sending the invoices on a monthly basis. Joe Wollak asked that the board continue with the process as is for the first few months and reevaluate at another time. Joe Wollak approved sending the MWP invoice to the MPCA for reimbursement and paying bills in the total amount of \$4,749.62. Joe Jordan seconded the motion. All were in favor. The motion passed.

9. FY2011 CWF Grant for \$149,104

Gerry summarized the projects to be completed with the CWF grant. He stated that the contract was not reviewed by the attorney because Benton SWCD already had a similar CWF grant contract reviewed by the attorney for a grant the SWCD received. Joe Wollak made a motion to approve signing the FY2011 CWF contract for \$149,104. Larry Goenner seconded the motion. All were in favor. The motion passed.

10. ERWA & National Park Service partnership, McKnight Grant- Update

Tiffany gave an update on the McKnight funded bacteria reduction demonstration projects. She noted that to date no project sites have been located in the ERWS; she has however found one potential location in Stearns County on Johnson Creek. This site is within the Mississippi River (St. Cloud) Watershed and the site is located one mile upstream of the confluence with the Mississippi river. Tiffany will be meeting with the Stearns SWCD and the landowner on February 2nd to work out the details. One additional site is still needed in the ERWS.

11. MWP & TMDL Update

Tiffany noted that the TMDL is still at the EPA and we are awaiting their comments. She noted that the consultants are finishing up the Implementation Plan. The board agreed that they would like to see the plan by the March meeting. Tiffany agreed to contact the consultant to push the process along. Tiffany also gave an update on the MWP project. She stated that much of her work has focused on gathering and summarizing watershed data as well as coordinating the planning for the Civic Engagement Plan.

12. Update on the Benton County at-Large Board position vacancy

Gerry noted that Gary Skapanki has been selected for the Benton County citizen at large board position. He noted that Gary lives on the NE side of Mayhew Lake and farms in both Mayhew and Gilmanton Townships. This position must be appointed by the Benton County board and the item will be placed on their March 15th consent agenda.

13. Adjourn

Leonard Popp made a motion to adjourn. Joe Jordan seconded the motion. All were in favor. The motion was passed. The meeting adjourned at 10:57 AM

Respectfully submitted by Tiffany Determan, Sherburne SWCD

Signature (ERWSA Chair): _____ Date: _____