Meeting Minutes

Vermillion River Watershed Joint Powers Board Meeting
April 25, 2019, 1 p.m.
Dakota County Western Service Center, Apple Valley, Conference Room 334

Board Members in Attendance
Dakota County Commissioner Mike Slavik, Chair
Dakota County Commissioner Mary Liz Holberg, Vice Chair
Scott County Commissioner Tom Wolf, Secretary/Treasurer

Others in Attendance
Mark Zabel, Watershed Administrator
Melissa Bokman Ermer, Watershed Co-administrator
Helen Brosnahan, Assistant County Attorney
Travis Thiel, VRWJPO Watershed Specialist
Mark Ryan, VRWJPO Watershed Engineer
Jen Dullum, VRWJPO Public Outreach and Communications
Bruce Johnson, Dakota County Soil and Water Conservation District Supervisor

1. Call to Order
Meeting was called to order by Commissioner Slavik at 1:01 p.m.

2. Roll Call
All Board members were in attendance.

3. Audience Comments on Items Not on the Agenda
There were no comments from the audience.

4. Approval of Consent Agenda
Travis Thiel asked to change item 6d from an informational item to action item.

Res. No. VRW 19-16: Motion by Commissioner Holberg, Second by Commissioner Wolf, and passed on a unanimous vote to approve the consent agenda as amended.

5. Approval of Expenses
Mark Zabel presented the current invoices as shown on item 5.
Res. No. VRW 19-17: Motion by Commissioner Wolf, Second by Commissioner Holberg, and passed on a 3-0 roll call vote to approve the expenses totaling $46,494.00 incurred between March 21, 2019, and April 19, 2019, as submitted on April 25, 2019.

6. Business Items

6a. Approval of Proposed Amendments to the Vermillion River Watershed Joint Powers Organization 2019 Budget

Mark Zabel explained the revenues, expenses, and cash reserve. The current annual expense is approximately $3 million. The cash reserve is higher than expected due to carryover from 2018 and after 2019 budgeting. Cash reserve is 14.8% of the budget which is just under the cash reserve maximum of 15%. Mark Zabel then covered each line item change from the proposed 2019 to the revised 2019 budget. He discussed the government fund balance sheet and government activities statement of net position.

Commissioner Wolf asked about the large discrepancies between the draft budget and the current revised budget. Mark Zabel explained that the budget was presented as draft in July and adopted as a draft in August 2018. The final budget is adopted in December which results in discrepancies due to the inability to project various categories with much precision. Commissioner Slavik would like to see the cash reserve passed in December with small changes as this was a very large increase; noting that he does expect some change to occur. Commissioner Slavik inquired whether there is any way to make that align closer so that when the budget is adopted in December it is closer to the actual amount.

Commissioner Wolf echoed the statement. Mark Zabel replied that he appreciates the Board’s concerns but did not have an explanation for this discrepancy the past two years. Mark noted the margin the VRWJPO has been working with in terms of fluctuation has been low. He also noted that the drawdown over the past year has been low as well. Depending on the VRWJPO allocation from watershed-based funding, in the next year, some of the fund balance will be allocated towards local match. The Minnesota Board of Soil and Water Resources will provide information about the VRWJPO allocation in June or July. With more predictable expenditures and income it will be easier to estimate the final balance. Commissioner Slavik hopes that will help for budgeting for next year. The question was posed whether the success of our grants will affect the line items in the budget with the change to an automatic allocation from watershed-based funding. Mark Zabel responded that it would. If the VRWJPO can annually plan on stable funding, it will better help plan for projects. Mark also stated that Clean Water Fund funding is allocated in 50%-40%-10% increments; meaning that half of the money is given upfront. Some of the money in the CIP and fund balance revenue lines is money that has been allocated to grants.

Res. VRW 19-18: Motion by Commissioner Holberg, Second by Commissioner Wolf, and passed on a unanimous vote to approval the proposed amendments to the Vermillion River Watershed Joint Powers Organization 2019 Budget.


Jen Dullum presented the 2018 VRWJPO Annual Activity Report and Financial Statement. According to Minnesota Rule, watershed management organizations must submit an activity report, financial statement, and an audit report to the Board of Water and Soil Resources (BWSR). The draft 2018 VRWJPO Annual Activity Report and Financial Statement has been prepared according to BWSR
requirements. The Audit Report will be sent to BWSR separately when it is made available to the VRWJPO.


6c. Options for Classification of Dakota County Employees assigned to the Vermillion River Watershed Joint Powers Organization

Helen Brosnahan began the discussion with a reminder that the VRWJPO does not currently have its own employees. Rather, the joint powers agreement between Dakota and Scott Counties states the two counties shall provide staff to support the Vermillion River Joint Powers Board (VRWJPB). Currently, the VRWJPO Administrator as well as two other Dakota County employees work essentially full-time on VRWJPO assignments. In addition, one other Dakota County employee dedicates approximately 80% of his time to VRWJPO assignments and another employee dedicates approximately 40% of her time to the VRWJPO.

Currently the VRWJPB desires to evaluate the administrators past performance and also set future objectives and goals. However, to do so the VRWJPB is challenged by the open meeting law in the ability to have discussions related to staff performance.

Options available are; 1) maintain status quo. Employees from Dakota and Scott County remain employees of Dakota and Scott County. Strategic planning meetings can be used to set goals and objectives and the Administrator’s performance objectives. Individual VRWJPB members provide feedback directly to George Fisher or Steve Mielke. VRWJPB members can be reminded about performance reviews via a calendar reminder or an individual email. Feedback must be limited to past performance. Option 2) the VRWJPB becomes an employer. Option 3) Minnesota statute 15.51 - 15.57 allows for interagency exchange; the sending and receiving of staff. Dakota County lends an employee to the VRWJPO for purposes of temporary employment. Staff are still considered an employee of the sending agency. Parties can establish through the agreement all of the parameters of the terms and conditions of employee loan, including how the employee’s performance is evaluated. This is a more formal agreement than what is provided for in the joint powers agreement. The VRWJPB could direct the work and complete performance evaluation of the Administrator. The VRWJPB would provide an assessment to Dakota County for payment adjustments related to performance. The maximum time frame for this option is two years with an optional two-year extension. After that the current arrangement would have to be reevaluated.

Commissioner Holberg clarified that a closed session cannot be used for performance review because the staff is not an employee of the VRWJPO. Helen verified and stated that a closed session can only be used for employees subject to the authority of the governing board. Under the current arrangement a closed session cannot be called for any of the county staff working on VRWJPO projects, even those that are dedicated 100% of their time to the VRWIPO. Depending on how an interchange agreement (option 3) could be drafted, a sent employee would be evaluated by the VRWJPB. Commissioner Holberg understands delineating between the one-on-one review of past performance and not discussing future goal during an employee evaluation. She noted that past performance reviews can provide insight into what the VRWJPB expects for future performance. Commissioner Slavik stated that there is currently no practice in place. Commissioner Slavik feels that George Fisher should be having conversations with each Commissioner regarding past performance as he is not interested in being the only voice regarding
Commissioner Slavik would like to set a path for all three commissioners to be engaged. Commissioner Slavik would like to refine the status quo.

Commissioner Slavik suggested setting a strategic planning session during an existing meeting. Helen noted that George Fisher should be present so he understands what the VRWJPB would like to see accomplished for future goal and performance setting. Commissioner Holberg noted that the strategic planning session would be used to set the framework for goal setting and staff evaluation. Mark Zabel noted that George Fisher has felt uncomfortable being the only one evaluating Mark, since Mark reports to the VRWJPB. Commissioner Slavik questioned the evaluation of the co-administrator. Commissioner Wolf asked what evaluation Scott County has for Melissa Bokman Ermer. Melissa noted that she keeps her supervisor up-to-date on the VRWJPO projects. She is scored on her evaluation for her performance for the VRWJPO. Commissioner Slavik asked about next steps. Helen stated that VRWJPO needs to set the strategic planning meeting and set the goals and objectives. Travis Thiel proposed they set the date before the budgeting process begins in June. Commissioner Slavik set the strategic planning session for the May 23, 2019 VRWJPB meeting.

6d. Options for Irrigation System Improvement Program Contractor and Authorization to Release a Request for Qualifications for Professional Irrigation Services in 2019-2020

Travis Thiel explained that staff produced six options that were presented to the Vermillion River Watershed Planning Commission (WPC) at its last meeting. The WPC recommended option one which was the option originally presented to the VRWJPB at its last meeting. Commissioner Holberg questioned why the WPC was being asked to take action on something the VRWJPB already rejected. Mark Zabel noted there were five new options presented to them to gather a recommendation to forward to the VRWJPB.

Commissioner Holberg asked how long it would take an irrigation contractor to become certified. Travis did not know, however, the certification requires a fee, test, and continuing education credits. Commissioner Holberg asked if the RFQ list that the VRWJPO keeps could be a running list; one with no end-date, so that certified contractors could be added at any time. Mark Zabel said that the VRWJPO list could remain open. Commissioner Holberg does not believe it is the VRWJPO’s job to hold a list of certified contractors. She believes it would be better if we just sent people to the Irrigation Association website. Travis noted that the VRWJPO can give Homeowners Association’s (HOAs) the website, which is option five.

Commissioner Slavik noted that we are trusting the certification process to verify experienced contractors. Commissioner Holberg noted that many contractors may not want jobs with a maximum $2,000 repair limit and not even bother with this program. Mark Zabel noted that we are trying to protect the public dollar. Mark Ryan noted that the search tool on the Irrigation Association website queries by state. Travis Thiel noted, however, that the search tool is quite clunky. It was verified that you can search by a contractor’s name.

Commissioner Slavik questioned the Commissioners on the importance of being a good steward of the taxpayer dollar. Commissioner Holberg acknowledges her bias is based on her past experience in the tree care industry. Commissioner Slavik understands the difference in threshold for tax dollars. Commissioner Holberg does not believe that just because a contractor holds a certification that contractor knows what they are doing.
Commissioner Holberg is willing to compromise. Commissioner Slavik believes staff wants to protect the organization and the VRWJPB and wants to get the program right. Commissioner Holberg does not want a list. She would like to send HOAs to Irrigation Association website noting that HOAs need to verify the contractor before hiring.
Commissioner Slavik can support not going out for RFQ and instead requiring proof of certification. Commissioner Holberg would like to see the list on the Irrigation Association website. Travis will make sure all irrigation contractors who apply for the program provide documentation for certification.

**Res. No. VRW 19-20: Motion by Commissioner Slavik, Second by Commissioner Wolf, and passed on a unanimous vote to approve contractors for the irrigation system audits and improvements project who can provide proof of irrigation certification from the Irrigation Association.**

7. **Staff Reports**

Melissa Bokman Ermer updated the Commissioners on the Vermillion River bacteria issue. Scott County investigated other suspected properties last month during melt and runoff conditions. This summer, staff will walk stream reaches looking for pipe discharge. Staff also talked with local farmers about land application and a report is forthcoming. Melissa noted that it is curious that high bacteria levels are being found in August when everything is growing.

Travis Thiel gave an update on Dakota County Transportation Highway project 78-10. VRWJPO staff is working with Dakota County transportation on the potential siting of a nitrate woodchip bioreactor trench (nitrate filtration system) within the road reconstruct project.

Jen Dullum mentioned that staff will be at the May 4, Hastings Park and Trail Clean Up event.

Mark Ryan informed the Board that the Alimagnet improvement project in Apple Valley is moving forward. Bids were received and staff will be focusing grant and VRWJPO dollars on the AL-P8 project.

Mark Ryan also updated the Board on the hydrodynamic separator project that is moving forward. A dewatering permit was just issued by the MNDNR for the project.

Lastly, Mark Ryan gave a short presentation on what a hydrodynamic separator is.

Mark Zabel updated the Board on the Braun Wetland Bank. The Army Corps of Engineers are doing modeling and requesting the Minnesota Board of Water and Soil Resources provide additional information to move the project forward.

Mark Zabel informed the Board that he will be on the Technical Advisory Committee for Dakota County’s Groundwater Management Plan.
Adjourn

Motion by Commissioner Wolf, Second by Commissioner Holberg, and passed on a unanimous voice vote to adjourn the meeting at 2:18 p.m.

Next Meeting Date: May 23, 2019 – Western Service Center, Room 334 at 1 p.m.

Respectfully submitted:

Jen Dullum
Vermillion River Watershed Joint Powers Organization

Mark Zabel
Administrator for the Vermillion River Watershed Joint Powers Organization

Attest

[Signature]
Commissioner Tom Wolf  Secretary/ Treasurer  5-23-19  Date