

**SUMMARY OF MINUTES
BOARD OF DIRECTORS
MUSKINGUM WATERSHED CONSERVANCY DISTRICT
Held at Atwood Lake Resort and Conference Center
July 24, 2009, 9:00 a.m.**

A meeting of the Board of Directors of the Muskingum Watershed Conservancy District was held at Atwood Lake Resort and Conference Center, Sherrodsville, Ohio, on Friday, July 24, 2009, at 9:00 a.m., pursuant to notice duly given all Directors, and the general public in accordance with law.

1. ROLL CALL

Directors present were: Mr. Boyle, Mr. Horstman, Mr. Kokovich, Mr. Parham, and Mr. Pryce. Mr. Boyle was welcomed to his first meeting as a member of the Board.

Present from Conservancy District staff were James Cugliari, Tom Fisher, John Hoopingarner, Mark Jukich, Kelli Karns, Darrin Lautenschleger, Karen Miller, John Olivier, Jim Pringle, Mike Rekstis, Bernie Schreiner, and Mark Swiger.

Mr. Pryce, President of the Board of Directors, presided.

2. APPROVAL OF MINUTES

On motion by Mr. Parham, seconded by Mr. Horstman, the minutes of the May 22, 2009, meeting of the Board of Directors were approved.

3. INTRODUCTION OF VISITORS AND PUBLIC COMMENT

Also in attendance for all or portions of this meeting were: Roy Wilson (*MWCD Development Advisory Committee member*); Bob Meyer (*Whispering Pines Homeowners Association*); Herman Newell (*Atwood area resident*); and Eric Reip (*New Philadelphia resident*).

4. FINANCIAL

Mr. Cugliari presented the financial report for the period ending June 30, 2009. The total revenue is \$10,731,995.00, with expenses of \$5,783,425.00, resulting in an excess of revenue over expenses of \$4,948,570.00 (compared to revenue over expenses of \$1,955,090.00 during the same reporting period in 2008). Again, the main difference is the maintenance assessment fund as indicated on page 3 of 5 of this report. The total cash balance is \$6,095,625.98 of which \$1,555,836.41 is in the general checking account and business high yield savings account and available for meeting operational needs. There is also a balance of \$4,226,096.71 in the maintenance assessment business high yield savings account.

General Maintenance Fund

- Total revenues are 28.37% of budget.
- Mineral Operations – Gas and Oil continue to run significantly lower than budgeted and last year.
- Expenses are in line with budget. Note the increase in Farm Operations – Sharecrops compared to 2008.

Forestry Fund

- Forestry revenues are 32.77% of budget with partial payment being received on a timber-harvesting contract.
- Expenses continue to run in line with budget.

Recreation Operations – Non-Park

- Total revenues are 54.56% of budget.
- Most of the revenue areas are slightly ahead of last year with the exception of marinas. Currently marinas are

about 10% lower than last year at this time.

- Expenses are running in line with budget. Note, as reported previously, that cottage site expense are ahead of last year mainly because of increased real estate taxes in a couple of counties.

Recreation Operations – Parks

- Total revenues are 72.42% of budget overall compared to 72.47% of budget in 2008.
- Vacation cabin revenues are ahead of last year and on target with the budget at this point.
- Park camping revenues are 78.75% of budget compared to 78.50% of budget in 2008 and 2.5% higher than 2008.
- General park revenues are 27.25% of budget compared to 23.08% of budget in 2008.
- General park expenses are at 43.02% of budget compared to 40.53% in 2008.
- Beach facilities expenses are increased from 2008 because of the operation by the MWCD of refreshment stands at Atwood and Seneca parks.
- As indicated in previous meetings, a good part of the additional expenses incurred in 2009 over 2008 is a result of the wage review that was implemented in late 2008.

Maintenance Assessment Fund

- It was noted that the first payment of \$893,671.00 was made to OWDA as indicated on the debt retirement assessment line.

All other areas of the financials are in line with expectations. We will continue to monitor both revenues and expenses as the year progresses and make adjustments as necessary.

On motion by Mr. Horstman, seconded by Mr. Kokovich, the financial report was accepted as presented.

5. PAYMENT OF BILLS

On motion by Mr. Kokovich, seconded by Mr. Parham, a report of the payment of bills for the periods ending May 31, and June 20, 2009, was approved as presented.

6. BUSINESS

6.01a LEASE TRANSACTIONS

On motion by Mr. Kokovich, seconded by Mr. Horstman, the assignments, cancellations, new leases, farm leases, mortgage consent and agreement cancellations, and mortgage consent and agreements were approved and execution by the proper officers of the MWCD authorized.

6.01b DOCKING REQUEST – NEWELL

Herman Newell addressed the Board with information regarding his request for docking privileges at Atwood Lake through the Truman Subdivision. Mr. Newell stated that he has docked on Atwood Lake by permit since the 1960s. He desires to be able to continue the docking privilege for his children and grandchildren.

6.01c DOCKING REQUEST – WHISPERING PINES BED & BREAKFAST

On motion by Mr. Horstman, seconded by Mr. Kokovich, an exception to the docking policy allowing the landowners of the Whispering Pines Bed & Breakfast property to dock boats for their own use, as recommended and set forth in the above memorandum, was granted.

6.02a BUDGET ADJUSTMENTS

On motion by Mr. Kokovich, seconded by Mr. Parham, budget adjustments made during the month of May 2009, as recommended and set forth in the above memorandum, were approved.

**6.02b OPERATIONAL POLICY REVISION –
PURCHASING LIMITS AND BID REQUIREMENTS**

On motion by Mr. Parham, seconded by Mr. Horstman, proposed revisions to the Purchasing Limits and Bid Requirements policy with an amendment to add language that refers to keeping expenditures within a Board-approved budget, as recommended and set forth in the above memorandum, were adopted.

6.02c OPERATIONAL POLICY REVISION – RETURNED CHECKS

On motion by Mr. Kokovich, seconded by Mr. Horstman, proposed revisions to the Returned Checks policy, as recommended and set forth in the above memorandum, were adopted.

6.02d ASSESSMENT PROJECT FUNDING GUIDELINES

On motion by Mr. Kokovich, seconded by Mr. Boyle, proposed documentation for “The Partners in Watershed Management Project Assistance Program,” as recommended and set forth in the above memorandum, was approved.

During discussion, Mr. Parham stated that it is important to maintain that one of the primary objective of maintenance assessment funds is to partner with the U.S. Army Corps of Engineers to address dam safety and dam safety assurance projects. Mr. Pryce requested that staff develop a summary sheet format for the Board when it reviews projects submitted for assessment funding requests.

6.02e BANK DEPOSITORY – SENECA LAKE PARK

On motion by Mr. Kokovich, seconded by Mr. Parham, a depository agreement with National City Bank for Seneca Lake Park funds, as recommended and set forth in the above memorandum, was authorized.

6.03a HUMAN RESOURCES SUMMARY

On motion by Mr. Horstman, seconded by Mr. Parham, human resources activities, as recommended and set forth in the above memorandum, were approved.

6.03b POSITION DESCRIPTION – RECREATION LEASE MANAGER

On motion by Mr. Horstman, seconded by Mr. Boyle, the revised position description for Recreation Lease Manager, formerly Lease Coordinator, as recommended and set forth in the above memorandum, was approved.

6.04a PURCHASE OF ANHYDROUS AMMONIA

On motion by Mr. Kokovich, seconded by Mr. Parham, purchase of 15.5 tons of anhydrous ammonia in the amount of \$10,540 for application at Mohawk Reservoir, as recommended and set forth in the above memorandum, was affirmed.

6.04b SOFT DRINK CONTRACT FOR ATWOOD PARK

On motion by Mr. Horstman, seconded by Mr. Boyle, a beverage agreement with Coca-Cola Enterprises, Inc. to supply beverages for the Atwood Lake Park beach concession and vending machines in the camp areas, as recommended and set forth in the above memorandum, was authorized.

6.04c SITES LAKE WASTEWATER TREATMENT SYSTEM – CTI CONTRACT

On motion by Mr. Horstman, seconded by Mr. Parham, an amendment to an existing contract for professional services with CTI Environmental Engineers in amount not to exceed \$60,000 total for 2009 and 2010, as recommended and set forth in the above memorandum, was authorized. Mr. Boyle abstained from voting on this matter.

6.05 REPEAL OF RULE 2.03

Due to a recent situation involving open carrying of a firearm on MWCD property, we were prompted to review Rule 2.03. During that review we discovered that O.R.C. 9.68 is being upheld by the Supreme Court to preempt any contrary ordinances or regulations. The Court also determined that local ordinances may not be in conflict with the statute under Home Rule arguments.

Pursuant to advice of legal counsel, we have directed MWCD rangers to cease enforcement of Rule 2.03, in light of O.R.C. 9.68 and request that the Board pass a resolution to repeal Rule 2.03

On motion by Mr. Horstman, seconded by Mr. Kokovich, a resolution to repeal Rule 2.03, as recommended and set forth in the above memorandum, was adopted.

6.06 PROJECT PARTNERSHIP AGREEMENT – DOVER DAM

A Project Partnership Agreement Signing Ceremony for the Dover Dam Safety Assurance Project occurred at 10:00 a.m. Mr. Hoopingarner welcomed attendees to the ceremony followed by the Pledge of Allegiance led by Mr. Lautenschleger and Mandy Lester, U.S. Army Corps of Engineers. Remarks were delivered by Rich Milleson, Assistant Director of the Ohio Department of Natural Resources; Lisa Duvall, Regional Director of the Office of Governor Ted Strickland; Mr. Hoopingarner; Mr. Pryce; and Colonel Dana R. Hurst, Commander, U.S. Army Corps of Engineers, Huntington District. Officials then conducted the official signing of the Partnership Agreement. Others in attendance of the signing ceremony included State Representative Allen Sayre; Peggy Noel, Rodney Cremeans, Dave Meadows (U.S. Army Corps of Engineers); and Jennifer Lorenzo (WTUZ Radio).

The construction of Dover Dam resulted from a general plan, prepared by the Muskingum Watershed Conservancy District (MWCD) for flood control and water conservation for the Muskingum Basin. A general plan was prepared and application for approval of the project and a request for financial cooperation were filed with the Federal Emergency Administration of Public Works in August 1933. The Public Works Administration approved the project in December 1933 and allocated funds to the Corps of Engineers in financing the construction of the project. The Corps of Engineers initiated investigations following execution of a contract between the United States of America and the MWCD on March 29, 1934, also known as “the 1934 Agreement.” The official plan was prepared by the Corps of Engineers and was approved by the MWCD on November 19, 1934. Construction of the Dover Dam was completed on November 29, 1937 at a cost of \$7,755,300, which included study costs with the MWCD contributing approximately \$1.8 million. Section 4 of the Flood Control Act of 1939, 53 Stat. 1414, made the U.S. Army Corps of Engineers responsible for the operation and maintenance of the Dover Dam.

The signing of this Project Partnership Agreement is the first step in rehabilitating the Dover Dam. The recommended plan for rehabilitation of Dover Dam consists of installing anchors in the dam, anchoring the stilling basin, installing a parapet wall on top of the dam and installing a closure on the left descending abutment and river bank protection immediately downstream of the dam.

The total project cost is estimated at \$103,500,000. The MWCD will provide 3.45% of the total project cost.

6.07 RESOLUTION IN RECOGNITION OF COLONEL DANA HURST

On motion by Mr. Parham, seconded by Mr. Kokovich, the following resolution in recognition of Colonel Dana Hurst, Commander, U.S. Army Corps of Engineers, Huntington District, was adopted:

While serving as Commander of the U. S. Army Corps of Engineers, Huntington District, Colonel Dana R. Hurst consistently exhibited his professional knowledge, expertise, and dedication for excellence in all of his actions relating to the Muskingum Watershed Conservancy District, in support of its mission. We sincerely appreciate and commend Colonel Hurst for his excellent service with the U. S. Army Corps of Engineers.

Resolution adopted by the MWCD Board of Directors on the 24th day of July, 2009.

Colonel Hurst will retire from his command of the Huntington District on July 29, 2009.

6.08 SUBSEQUENT CONSERVANCY APPRAISAL RECORD

On motion by Mr. Parham, seconded by Mr. Kokovich, the Board issued a directive that the MWCD Board of Appraisers conduct a subsequent appraisal, as recommended and set forth in the above memorandum.

6.09 DONATION OF EQUIPMENT

On motion by Mr. Horstman, seconded by Mr. Parham, donation of two old pieces of forestry equipment (tree planter and plow) to the Carroll County Historical Society, as recommended and set forth in the above memorandum, was approved. This equipment has not been utilized by the MWCD for a number of years.

6.10 OTHER BUSINESS

ATWOOD REGIONAL WATER AND SEWER DISTRICT

Mr. Parham, who serves as representative of the MWCD on the Atwood Regional Water and Sewer District (ARWSD) Board of Trustees, reported on current activities of the ARWSD of interest to the MWCD.

The ARWSD was established in the late 1970s and the pumping stations are all original pumps, kept operational by repairs by the ARWSD personnel. Manufacturers of this aged equipment have since gone out of business and parts for repair are no longer available. Following a lengthy engineering study, the ARWSD Board approved a multi-million dollar project to replace all of the existing pump stations. The project is being funded by a loan from the Ohio Water Development Authority. The project is underway and the objective is to have all pumps replaced and the project completed in early 2011. Mr. Parham pointed out that the work is being accomplished solely by the employees of the ARWSD, resulting in a substantial savings to the overall cost of the

project.

Mr. Parham added that some area residents have recently expressed concern for obnoxious odor from the sewer system. Some of this odor problem may be addressed by the pump station replacement project. However, it will not be totally eliminated. It is more noticeable during period of low precipitation.

In addition, although the ARWSD name includes the term “water,” supply of water has never been a part of its operation. At a recent meeting, some representatives of the Atwood Glens Cottage Area reported a decline of the quality of water from their individual wells and expressed an interest in the possibility of ARWSD providing water. Mr. Hoopingarner added that there appears to be some growing local interest in addressing water supply needs in the Atwood area.

HORSEPOWER ON PIEDMONT AND CLENDENING

In 2008, the MWCD and Ohio Department of Natural Resources Division of Watercraft (ODNR) received a petition from boaters of the Piedmont and Clendening lakes requesting an increase in the horsepower limits on these lakes. The current horsepower limit on these two lakes is ten (10); the petition requested an increase to 25. A public hearing process was recently conducted by ODNR, in partnership with the MWCD. During a recent meeting between the MWCD and ODNR, the Chief of the Division of Watercraft reported that of the individuals providing input, only 20% were in favor of a change in the horsepower limits; 80% were not in favor of a change. As a result, unless the MWCD recommends otherwise, ODNR will not increase the horsepower limits on Piedmont and Clendening lakes.

No action was taken by the Board to recommend a increase of horsepower limits.

7. REPORTS

7.01 PARK REPORTS

Members of the Board received a report of the gross receipts at MWCD park facilities for the period through July 12, 2009.

7.02 SUMMARY OF MARINA OPERATIONS

Members of the Board received a Summary of Marina Operations report through June 30, 2009.

7.03 ATWOOD LAKE RESORT

This matter was discussed in executive session.

7.04 IMMINENT OR PENDING LITIGATION

In the case of Allen Bush, Administrator of the Estate of Drew Bush v. County of Ashland, et al (Muskingum Watershed Conservancy District), Ashland County Common Pleas Case No. 2007-CIV-160, Ashland County Common Pleas Judge Deborah e. Woodward issued a Judgment Entry granting the Motion for summary Judgment of Defendants Muskingum Watershed Conservancy District and Ranger Jeffrey Keller. Judge Woodward also granted summary judgment to Defendants Ashland County and Deputy Sheriff Ben Kennell.

7.05 UPDATE ON 2009 GOALS

Mr. Hoopingarner reported on the progress of meeting the “Goals for 2009” as adopted by the Board

on January 23, 2009.

- Progress continues with the implementation of the maintenance assessment.
- The financial report and MWCD accounting continues to be refined to separate the maintenance assessment funds from the recreation funds. Item 7.05a, Revised Financial Reporting, addresses this goal.
- The Atwood Lake Resort property was discussed under item 7.03
- The organizational structure as it relates to the new emphasis on the maintenance assessment is in progress.
- The implementation of the reorganization of the recreation areas continues. Focus will be on marketing and feedback from customers.

7.05a 2009 GOALS – REVISED FINANCIAL REPORTING

The Board reviewed and discussed with staff proposed changes to the monthly financial report that is presented to the Board. Mr. Cugliari stated the intent to transition to the new financial report during the last quarter of 2009.

8. LEGISLATIVE REVIEW

8.01 CURRENT LEGISLATIVE ACTIVITIES

Mr. Hoopingarner reported that meetings with legislators are scheduled as needed. Staff continues to monitor for legislation that would affect the operation of conservancy districts. Representative Hall of the Wooster area has expressed that an area of concern continues to be the exemption of churches from the maintenance assessment.

9. SUBDISTRICTS

There was no business to conduct at this time.

EXECUTIVE SESSION

On motion by Mr. Parham, seconded by Mr. Horstman, the Board of Directors entered into executive session at 11:20 a.m. to discuss matters related to ORC §121.22 (G) (2) (sale of property). On roll call: Mr. Boyle-yes; Mr. Horstman-yes; Mr. Kokovich-yes; Mr. Parham-yes; and Mr. Pryce-yes. On motion by Mr. Parham, seconded by Mr. Kokovich, the Board returned to open session. The executive session ended at 1:25 p.m.

10. ADJOURN

There being no further business, on motion by Mr. Parham, seconded by Mr. Horstman, the meeting of the Board of Directors was adjourned. The next regularly scheduled meeting is August 21, 2009, at 9:00 a.m. at the Pritchard-Laughlin Center, Cambridge, Ohio. A work session is scheduled for August 10, 2009, at 10:00 a.m. at Atwood Lake Resort and Conference Center.

07/24/2009

Approved 8/21/2009