

Commission members present:

Dean Falkner (Village of Mukwonago) (Chairman)
Katelyn Bratz (Town of Mukwonago) (Vice Chairperson)
Alan Barrows (Waukesha County)
Chad Sampson (Racine County)
Doug Koehler (City of Waukesha)
Bob Bartholomew (Town of Vernon)
Jim Schneider (Village of Waterford)
Jeff Lang (Town of Burlington)
Ken Miller (Town of Waukesha)
Wayne Jensen (Village of Rochester)
Dale Buser (SEWRPC)
Rachel Sabre (Wisconsin DNR)
Jim Pindel (Town of Waterford) (Secretary/Treasurer)

Commission members absent:

Francis Stadler (Village of Big Bend)
Jim Bergles (City of Burlington)
Andy Buehler (Kenosha County)
Andrew Lois (Town of Wheatland)

Also present: Don Baron, Dave Spurlock of the WWMD, Michael Schwar of Stony Point Hydrology and a woman from the Town of Vernon.

At 1:04 PM, 5/19/17, Chairman Dean Falkner called the Public Hearing to order.

The only order of business was the review of the Southeastern Wisconsin Fox River Commission Proposed Budget for 2017 - 2018. This is the second budget based on a July 1 to June 30 fiscal year. For the record Jim Pindel stated that the notice of Public Hearing and the Proposed Budget was published in the 3 newspapers of record, namely the Waukesha Freeman, the Racine Journal Times and the Kenosha News. The proposed budget was read for the record. After reviewing the budget, Jim Pindel notified the commissioners and non-commissioners present that when the commission votes on acceptance or rejection of the budget during the SEWFRC meeting to be held right after the Public Hearing, he will make a motion to increase the allocation for the dredging of the Waterford impoundment from \$2,000,000 to \$3,000,000 as requested by the WWMD. Jim Pindel went on to say that there was a meeting attended by the WWMD, the Town and Village of Waterford and State Representative (83 Assembly District) Chuck Wichgers to discuss funding of the dredging of the Waterford impoundment. The plan is to request \$3,000,000 in four consecutive state budgets to have the state fund the dredging using the SEWFRC as the conduit for getting the money to the WWMD to maintain the Waterford impoundment and Fox River. Chairman Dean Falkner then asked the non-commission members present if they had any questions or comments. Dean then asked the public a second and third time if anyone wanted to speak in favor or against the proposed budget. There were no comments from the Public concerning the budget. It

was then motioned by Jeff Lang and seconded by Jim Schneider that the public meeting be closed and so the meeting was closed.

The Public Hearing was closed at 1:15 PM.

At 1:15 PM, Chairman Dean Falkner called the SEWFRC meeting to order.

The Pledge of Allegiance was recited. Roll call was taken and a quorum was confirmed.

Approval of the 2017 -2018 SEWFRC Proposed Budget

As Jim Pindel indicated during the Public Hearing, he motioned that we change the request for allocation for the dredging of the Waterford Impoundment from \$2,000,000 to \$3,000,000 as requested by the WWMD. The motion was seconded by Chad Sampson. The motion passed unanimously. Ken Miller asked what the \$413,000 for the 2016 Streambank Inventory Report Site #4 was about. Jim Pindel said that he received a list of potential projects for Kenosha County from Andy Buehler which included a pretty well completed engineering design for this location, which was identified in Kenosha County's 2016 report. Dean Falkner added that this project and all the others itemized in the Potential Grant Projects listed at the end of the budget have to be submitted to the commission for approval before we can assign grant funds to them. Rachel Sabre asked why the Parking Lot and Sidewalk Salting Workshop didn't show up in the budget. Jim Pindel said that it came up after we approved the proposed budget and that it and likely many other projects that we are not aware of can and will be funded by the commission. Chairman Dean Falkner asked for vote in favor of accepting the budget and the budget was approved unanimously.

Minutes The minutes from the April 21, 2017 meeting were reviewed. It was motioned by Jim Schneider that the minutes be approved and the motion was seconded by Doug Koehler. The minutes were approved unanimously.

Treasurer Reports – Jim Pindel reviewed the highlights of April 2017 treasurer's reports. We started the month of April with \$42,897.23. We made payments of \$280 to reimburse 8 commissioners for attending the Summit; we paid \$29,650 for the nature's classroom project, \$5,500 for the 2017 Summit and \$865 to complete the Graefenauer tree removal project. We received a payment of \$95,364.89 against EMUM-19 from the WDNR. We received \$14.55 in interest bringing our Money Market account to a balance of \$101,981.67. The only change to the non-grant funds was the \$14.55 in interest resulting in the net non-grant funds available being \$32,474.01. It was motioned by Jim Schneider and seconded by Bob Bartholomew that the treasurer's report be accepted. The motion carried unanimously.

Election of Officers

Jim Pindel pointed out that Barb Holtz who is now an alternate for Katelyn Bratz for the Town of Mukwonago is the Vice-Chairperson of record and since she is now an alternate we need to elect someone else to this post. Alan Barrows nominated Katelyn Bratz for Vice-Chairperson and the nomination was seconded by Jim Schneider. Katelyn was elected unanimously. Jim Schneider nominated Dean Falkner for Chairman and Jim Pindel for Secretary/Treasurer and the nomination was seconded by Ken Miller. Both

were elected unanimously.

Old Business

- a) Fox River Partnership 2018 Summit: Tom Slawski was not present and Dale Busser said that he had not talked to Tom regarding the next Summit.

- b) Mukwonago River shoreline restoration at WE Energies Site. Alan Barrows said that the contractor is mobilizing on Monday to get started on the project. Actually the work has already been started. The brush and trees along the bank have been removed and the tree stumps have been treated with Rodeo an environmentally friendly herbicide. Materials for the project will start showing up next week. Alan said that there had been some question concerning the need for additional rip rap and so he went on site and checked and found one spot where there was a hole about 6" deep. So there is the possibility that in this spot they may need to add a second course of stone filled bag. Alan said that when they checked for underground utilities they discovered a new underground conduit. The contractor will have to protect this conduit with possibly timber mats or steel plates. Alan said that he has dedicated 4 of the 5 work days next week to be on site for this project. Alan said that there is a no trespassing or private property sign that shows up in a 2000 aerial photo right on the shoreline and now that sign is 12 feet out into the river. This shows how much to the shoreline has disappeared over the last 17 years.

- c) ESR Project disposal sites environmental impact: Don Baron of the WWMD said that they had a meeting with 7 members of the WDNR on May 8th which lasted 2 hours. The WDNR people told them that they could either reject the low hazard material application or the WWMD could retract it. The problem seems to be that the ammonia level in the sediment is expected to be 13 mg/L whereas the acceptance criteria is less than 9.7 mg/L. Don said that they checked the acceptance level dictated by the EPA and found that it was 30 mg/L. Don said he thought that the WDNR should have made the aware of this restriction and now the WDNR will not allow them to provide a liner at the Super Mix site because it might fail. So now the WWMD will have to reapply for the low hazard material application. Don said that he just received an email from the WDNR listing 8 or 10 items that need to be addressed in the new application. Don said that the low ammonia level requirement seems to be unreasonable considering the EPA's acceptance level. This requirement for a new application submittal will cost a great deal of engineering hours and expense. Don said that the fear is that when they resubmit the application the requirements will change again and they will be back to square one again. Don went on to say that there is a concern with contamination of residential wells near the Super Mix site. Don said that originally the WDNR said that they needed to be 1200' from any private wells, which happens to be the case and that a berm has to be put in. Now the new WDNR people involved say that the disposal site is too close to the private wells. Don pointed out that they have been working for this low hazard permit since last June and had hoped to get it done early enough to get bids to find out how much

the project will really cost so that they could have a vote among the riparian owners in September of this year. With this new delay it is most likely that a vote on approving the dredging of the impoundment will have to be put off until the spring of 2018. Dave Spurlock said that they went to Janesville to meet with Paul Ryan's staff to see if they could get some support on a federal level for the dredging as well as get some support from Paul Ryan to encourage the state to support the dredging project. They tried to get Paul Ryan's staff to be aware of the problems the delays in getting all the required permits has caused. For example, two of the earlier permits have expired before we have this last low hazard material permit. Don ended up by saying that they are waiting on a proposal from Graef Engineering to see how much the new permit application will cost and then they probably will come to our commission for further funding. Ken Miller asked what kind of response they got from Paul Ryan's office and Dave Spurlock said that he expects a response in the next week on what has happened on the federal level and what influence they could provide on the state level. At this point Dave said he is feeling positive about what to expect from Paul Ryan's office. Dean Falkner asked if Don would provide him with the requirements the WDNR is asking for regarding the liner and proximity to private water wells. Don said he would forward that information to him.

- d) Schuetze Playground Storm Water Abatement: - Doug Koehler said that he thought that all the paperwork had been sent to Jim Pindel the last week of April. Jim Pindel said that he has not seen anything. Doug was surprised and said he would look into it. Jim Pindel pointed out that this paperwork had to be processed by the end of June and time is getting short.
- e) Mukwonago Park Shoreline Restoration – Alan Barrows said that they are going through the approval process. This week it was approved by the Land Use Committee and next Tuesday it goes before the County Board for approval. As soon as the approvals go through the project will get underway.
- f) Village of Waterford East Shore river bank Restoration: - Jim Schneider said that the overall project is underway, including the parking lot, and the project seems to be about 3 – 4 weeks ahead of schedule. Dean Falkner asked if there were any plans to do anything with the little islands just downstream of the dam. Jim Schneider said he thought the only thing they would do is remove some of the invasive species on the islands.
- g) SEWRPC Survey for Waterford Dam to the Illinois Border – Dale Buser said that they would be waiting for a low water level situation to do the actual survey, which usually occurs in late August or September. Dale said that SEWRPC is doing some of the deskwork right now. They are identifying all the streams that flow into the Fox River along the way and intend to check the water quality of these streams, especially checking on their sediment loads. Dale said that SEWRPC is releasing a report in the near future itemizing all the unincorporated streams and lakes in Kenosha County ranking their amount of human influence and their sensitivity to human influence with regard to a number of factors. The

water bodies will be categorized as either protection, enhancement or restoration. Some of the streams in the study are in the Fox River watershed and the study will identify what form of management strategy would be best for each one.

- h) Parking Lot and sidewalk Salting Workshop: Jayne Jenks Jayne was not present to make a report. Ken Miller asked for the date of the workshop and was told it will be on October 24th 2017.

New Business

- a) How do we handle interpretations of Wisconsin State Statutes regarding: The only item left unresolved is do we need to pay to publish the budget and public hearing notice. Katelyn Bratz said that she talked to her sister who is an attorney and she would be willing to look into this issue for us. Jim Pindel said that our implementation plan references an article in the state statutes that say the newspapers must do the publication for free, but that article references another statute which makes it look like we must pay. Katelyn asked Jim Pindel to send her the reference in our implementation plan referencing the statute article.
- b) Consideration of developing a USEPA 9-Key Elements Watershed Management Plan – Dean Falkner said that he has been in discussions with Tom Slawski about the plan and Tom indicated that he was buried in work until at least July 1st. After that time Dean and Tom will get working on organizing the subcommittee to work on the plan. Dean said he will send out a request for participants and when they are available. Based on this data the initial organization meeting will be planned. Alan Barrows mentioned to Dean that one of the most important and early points to be addressed is whether Federal 319 funds are available if the 9-Key Elements Plan is completed. Dean said that Andrew Craig is one of the key people who will be invited and he should have some insights regarding 319 money.
- c) Gauges: Why do we want more? What kind of gauges? When do we want them? Who will pay for the hardware, installation and maintenance? Dale Buser said that at the moment SEWRPC does not have the staff to convert a staff gauge to a gauging station. Dale said thinking about our situation he thought that the Rochester site has good potential because there is a long period of record for this site. Dale wondered if this was too far downstream of Waukesha to give us the data we were looking for to monitor the effect of the Waukesha diversion. Dale said that the USGS had stored the water level data for a long time and didn't know why they never developed a rating curve (calculate flowrate based on water depth through a known orifice) for this location. Dale said that if we want defensible data we might try to work with the USGS to develop a rating curve for this location. Dale said we could also hire a consultant to do this work. Jim Pindel asked if there were any active gauges closer to Waukesha that might be better for showing the effect of the impending Waukesha diversion. Dale said the gauge in Rochester is the closest gauge under USGS control. Jim Schneider

pointed out that last year when they rebuilt the bridge on STH D the gauge was moved from on the bridge to a location about 50 – 100 yards away. Dean Falkner asked about the gauge at the Waterford dam and Dale said that this gauge is monitored by NOAA and possibly it would be more difficult to develop a rating curve there because of the irregular shape of the dam and the existence of a second dam. Dale made the suggestion that we contact USGS at their office in Madison and ask why the gauge in Rochester is only a staff gauge and why couldn't it be converted to a gauging station. Dale pointed out that the years of record is important to establish an average not affected by an especially wet or dry year. Dale looked up the Rochester dam and said the period of record only goes back to 2015.

- d) Consideration of expanding our jurisdiction west to include Eagle Spring Lake: Tom Day started by asking that we rephrase the title of this agenda item to Consideration of expanding our jurisdiction south and west to include the Mukwonago River Watershed. Tom said that around May 1st he email a MoU from the Town of Eagle to Dean Falkner, which Dean forwarded to Jim Pindel who forwarded it to all the commissioners. Tom said that there are 2 other municipalities that he has asked to consider issuing MoUs they being the Town of Troy and the Town of East Troy. Tom said he was not able to meet with them and so they have tabled the issue until he talks to them. Tom said that the Town of East Troy wants to be considered for membership because it has Beulah Lake which flows into the Mukwonago River which flows into the Fox River. Jim Pindel said that he had a couple problems after a review of the Town of Eagle MoU. The MoU states that the SEWFRC implementation plan states that it has considered and recommends the adaption of a cooperation agreement between the SEWFRC and the Town of Eagle. Jim Pindel said there is not such statement in the implementation plan. Secondly, the MoU endorses a formal partnership with the SEWFRC. A partnership only implies that we have some mutual objectives and does not allow us to fund projects in the partner's territory. We have a partnership with the Fox Waterway Agency of Illinois and cannot fund projects there. The MoU should request "membership" in the commission; we can only fund projects in member municipalities. Jim Pindel pointed out another issue which could be a problem. After the state statutes were changed last year, we had 17 members requiring a majority of 9 voting members to make quorum. When we went down to 16 members the majority for quorum stayed at 9 voting members. If we add three new municipalities we would have 19 member municipalities requiring a majority of 10 voting members to make quorum. Considering that we are out of grant funds now these new members would not have much incentive to attend meetings possibly causing a problem with meeting quorum. Jim also said that it might make sense to wait and see how much funding the commission receives in the upcoming state budget. We know of about 1.4 million dollars of projects in our existing territory with more than 1/3 of that being in Kenosha County where we haven't spent any money to date. Jim Pindel also pointed out that the request for funding that was sent along was for work completed in 2016. Jim said that we cannot pay for work that has been done

in the past. Tom Day said that Tom Slawski asked him to attach the request for funding Tom Day made last year for reference. It was understood by everyone that we only fund projects before the actual work is done. Tom Day stated that there are 10 sites at which they have monitored the nutrient levels along the Mukwonago River, 2 of the sites are in the Town of Mukwonago, which is already within our jurisdiction, 4 of the sites are in the Town of Eagle and 4 of the sites are in the Town of Troy. The last time all the sites were monitored was in 2012. To finish up, Tom Day said he would revise the MoUs from the different municipalities and email draft copies to Jim Pindel for review before the different boards voted on them.

Reports and Updates

- a) Report on activities of Fox Waterway Agency (FWA) of Illinois – Joe Keller of the FWA was present to make a report. Because Joe had a commitment back in Illinois at 3:00 PM, we asked Joe to make his report just before we started Old Business. Joe started out by saying that the State of Illinois has not approved a budget to the last year and a half, which makes life difficult for state sponsored agencies like the FWA. The FWA is responsible for 7100 acres and the Fox Chain of Lakes. Joe said he has been with the FWA for about a year and a half and that when he got there he was told that by the end of the year the FWA would be \$90,000 in the hole, which is a lot for a small agency. Through cost cutting measures they made it through 2015 at \$6,000 to the good. For the year 2016 they had to make some hard decisions to fund themselves and so they increased the sticker fees for boats using the Fox Waterway. Joe said that this has become the principal means of funding the FWA work. He also said that it is estimated that the fees will bring in about \$2,000,000 this year. Considering that they have to support 7100 acres of watershed and remove about 100,000 cubic yards of sediment each year, this is not a great deal of money. Joe said that without funding from the state budget they have come up with a different idea to help themselves. They have gone to the state legislature in Springfield, IL and asked them to donate to the FWA the tract of land that the state owns on which the FWA used to process the sediment for sale to municipalities and other customers. The residents around this tract of land are not happy with it being used for processing the sediment. So if the FWA owned this tract of land, they would sell it and use the income to buy a new tract of land in a more remote location to process their sediment eventually for sale. The bill supporting this action has already passed both houses of the state legislature and is awaiting signing by the state's Governor. Besides that there are other things going on for the FWA. Back in 2013 their office building was flooded and became unusable. Going into 2016 the FWA has \$300,000 in the bank and has broken ground on renovating their office building. Joe said that his hope is that with cooperative efforts between us and the FWA we might be able to access some federal grants in Wisconsin and Illinois. When asked if sediment removal was their primary mission, Joe said that it usually was, however recently due to high water level conditions debris and tree removal from the waterway was taking precedent. Jim Schneider asked if the

- FWA was working toward the National Water Trail and Joe said that he has had conversation with Tom Slawski and others and has been sent a list of questions he has to answer to help this effort. Ken Miller asked if the FWA was run by volunteers and Joe said that he is one of twelve full time employees.
- b) Possible diversion of City of Waukesha water treatment plant discharge away from the Fox River: Rachel Sabre said she had nothing to report.
 - c) Progress toward designation as a “National Water Trail” – Village of Waterford. Jim Schneider said he had nothing to report at this time but would have something for the next meeting.
 - d) SEWFRC Website – Al Sikora was not present. Jim Pindel asked Alan Barrows if he did the work he said he would do at the last meeting. Alan said he was too busy and would get to it in the future.

Correspondence –

- 4/24/17 Email from Jim Pindel to mark your calendars for today’s meeting.
- 4/26/17 Email from Jim Pindel with attached revised Proposed 2017-2018 SEWFRC Budget and worksheet.
- 4/30/17 Forward of Email from Barbara Messick of the Village of Waterford with an attached link to Outdoor Wisconsin Episode #3315 regarding the Fox River National Water Trail
- 5/8/17 Email from Jim Ritchie with attached copy of Extension of ENUM20 and a copy of EMUM20.
- 5/8/17 Copy of Email sent to Village of Waterford with attached Letter of Support for the National Water Trail.
- 5/9/17 Email with attached MoU’s from Town of Eagle, Town of Troy and Town of East Troy desiring membership in the SEWFRC.
- 5/12/17 Emails from Dean Falkner and the WE Energies Team regarding the possible requirement for rock rip rap under the Envioloc bags.
- 5/17/17 Email saying that Alan Barrows reviewed the WE Energies site and has come up with a solution for anchoring the Envioloc bags.

Miscellaneous Issues –

There were no miscellaneous issues

It was motioned by Jeff Lang to close the meeting and seconded by Jim Schneider to end the meeting and the motion carried unanimously.

Meeting Closed at 2:43PM

THE NEXT OFFICIAL MEETING WILL BE Friday, June 16, 2017 at 1:00 PM. (Meeting Location: Town of Vernon Fire Station #1, W233 S7475 Woodland Lane, Big Bend, WI 53103.)