

Commission members present:

Dean Falkner (Village of Mukwonago) (Chairman)
Barb Holtz (Town of Mukwonago) (Vice-Chairperson)
Leif Hauge standing in for Alan Barrows (Waukesha County)
Chad Sampson (Racine County)
Doug Koehler (City of Waukesha)
Andrew Lois (Town of Wheatland)
Robert Bartholomew (Town of Vernon)
Francis Stadler (Village of Big Bend)
Jeff Lang (Town of Burlington)
Jim Bergles (City of Burlington)
Tom Slawski (SEWRPC)
Jim Ritchie (Wisconsin DNR)
Rachel Sabre standing in for Michelle Scott (Wisconsin DNR)
Jim Pindel (Town of Waterford) (Secretary/Treasurer)

Commission members absent:

Al Sikora (Village of Waterford)
Wayne Jensen (Village of Rochester)
Ken Miller (Town of Waukesha)

Also present: Dan Treloar, Clement Abongwa of Kenosha County, Don Baron and Dick Kosut of the WWMD, Rebecca Ewald of the Village of Waterford, Lee Manthey of the Town of Vernon and Michael Schwar of Stoney Point Hydrology.

At 1:03 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. Jim Pindel passed around a copy of the new contact listing for the commission asking everyone to review it and make the necessary additions or corrections.

Minutes The minutes from the September 16, 2016 meeting were reviewed. It was motioned by Chad Sampson that the minutes be approved and the motion was seconded by Doug Koehler. The minutes were approved unanimously.

Treasurer Reports – Jim Pindel only reviewed the highlights of changes in the September treasurer's report. We started the month with \$176,133.59. We made payments of \$806.12 for SEWFRC signage, \$80,880.00 as final payment to the WWMD for the dredging permit application project, \$20,191.51 payment to EC3 as the final payment for the Graefenauer shoreline restoration project and received \$23.53 in interest bringing our Money Market account to a balance of \$74,279.49. Chad Sampson noted that the Treasurer's report did not reflect the increase in the Wood Drive storm water and erosion control project going from \$6000 to \$17,000 with \$2000 of that being taken from the 2016 Racine County allocation. Chad further noted that the Malchine farm field project did not reflect the increase from \$15,000 to \$30,000 with \$3000 of it coming from the 2016 Racine County allocation. It was motioned by Bob Bartholomew and seconded

by Doug Koehler that the treasurer's report as amended/corrected be accepted. The motion carried unanimously.

Old Business

- a) Fox River Partnership Summit: Tom Slawski reminded everyone that next year's Summit will be held on 3/10/17. Tom also said that he is continuing to look for topics and speakers for the summit, so if anyone has any ideas, please let Tom know. Tom said he noted that Jim Pindel suggested a talk on water quality and the program is slowly taking shape.
- b) Mukwonago River shoreline restoration at WE Energies Site. Dean Falkner said we finally have documents that all the parties can agree to. The last signature that is needed is from Waukesha County. Once it is obtained we can begin work. The contract is written and certificate of insurance is in place. Jim Pindel asked when work will begin and Dean said that purchase of materials will happen soon and some of the shoreline restoration can be done this year, but the plantings will have to wait until next spring.
- c) Wood Drive Erosion Control Project – Chad Sampson said that he has been waiting for the corn to be harvested and it was harvested last weekend. Chad then contacted the contractor who said he is busy on other projects at the moment and will not be able to start on the Wood Drive and Malchine Farm Field projects until about October 20th or 21st.
- d) Malchine Farm field Erosion Control –This project was covered in the Wood Drive project above.
- e) ESR Project disposal sites environmental impact: Don Baron spoke for the WWMD saying that the carriage water permit has been approved in draft form. The final permit will be issued with the dewatering site permit. Don said that with regard to the dewatering permit they have a model completed which addresses the ground water and all the chemical element that are being deposited. The results of the model were sent to Jerome at the WDNR and they are waiting on his response. These are the last two permit that are needed before they can go out for bids from the contractors who will do the actual work. When Don said a vote will be taken after the bids are obtained, several commissioners inquired about the vote. It was clarified that there are about 1023 properties around the impoundment with many of these properties being annexed to each other and a few owned by the state or the local municipalities, resulting in about 830 riparian owners who will vote based on the final cost and the final determination of what grant funds can be applied so the riparian owner will vote on the exact amounts that they will have to contribute to the cost of dredging. Chad Sampson said that he had some problems with the data submitted by Super Mix; he wanted to know exactly how many cubic yards of material were being deposited, how much was being taken off site. Chad said that he provided Super Mix with a check list of the

items he wanted addressed.

- f) Schuetze Playground Storm Water Abatement: - Doug Koehler said that he talked to the Parks Department and they were busy with other projects and hadn't gotten around to finishing this project off. Jim Pindel reminded Doug that they have to get this project, which was to be completed by the 4th of July, done by the end of the year to get our grant funding.
- g) Graefenauer Shoreline Restoration (Tree Removal): Leif Hauge said that he didn't know anything more than what was in last month's meeting minutes and Alan Barrows would have to bring us up to date.
- h) Nature's Classroom groundwater protection - erosion control: Katelyn Bratz. Katelyn said that since the last meeting they have planted about 1 acre of seed and will continue for the rest of the month, completing the project by the end of November as originally scheduled.

New Business

- a) Decide how we interpret the Wisconsin Statutes that states a commissioner" all of whom shall be residence of the river county": Jim Ritchie said that he received the emails from Jim Pindel regarding this situation and that he forwarded this to the WDNR attorneys for their interpretation of the residency requirement. Jim Ritchie said he would push for some review on this topic. Dean Falkner asked if the residency requirement had been eliminated throughout the state and Jim Ritchie said he would ask the same of their lawyer. When asked Dan Treloar said that the way their county lawyer interpreted the state statute, you must be a resident of the county, so he and Clement Abongwa would be attending meetings, but not as commissioners, and so Kenosha County would appoint residence as the official commissioner and alternate for the county. Jim Pindel then said that this is another time in which we need legal counsel and have nowhere to go. He pointed out that at budget time he looked into the requirement for us to publish our notice of public hearing and budget and it referred to another place in the state statutes where it stated that the newspapers were not allowed to charge us for the publications. However this statute referred to another statute where it looked like we have to pay. We have been paying for years and it would be great if we found out that we didn't have to pay. We need recourse to a lawyer with knowledge to interpret the state statutes.
- b) Mukwonago Park Shoreline Restoration – Leif Hauge asked exactly what we wanted to know. Jim Pindel said that in previous meetings we asked Alan Barrows and Steve Brunner to pare down their request for funds because we couldn't afford the entire project. Later when we looked at possible scenarios of how we might spend the remaining grant funds available, Leif said that Steve Brunner would take whatever he could get and then work around it.

- c) Village of Waterford East Shore river bank Restoration: - Rebecca Ewald.
Rebecca said that since our last meeting they have reviewed the project and using some of the existing rock was able to reduce the cost of the project from \$126,000 to \$71,000. Rebecca said that this change will make the project look more natural and enhance the beauty of the area. At this point we reviewed the Project Acceptance Criteria and the project passed mightily scoring 45 of a possible 55 points.
- d) Aquatic Invasive Species detection, prevention and outreach for Waukesha County: Neither Brad Steckart nor Alan Barrows were present to address this item. Jim Pindel pointed out that this request is for funding from our non-grant funds. Jim provided the fact that he calculated our average annual operating cost at \$1,187.79 considering the website hosting, publication of our budget and notification of our annual public hearing and office supplies. At this rate we have enough non-grant money to cover more than the next 30 years. Jim also said that it was inconceivable that the Fox River Commission would not fund an effort to address Aquatic Invasive Species detection and eradication in Waukesha County which would not only help Waukesha County but all communities downstream of there. Barb Holtz motioned that we provide the \$1000 per year for 3 years as requested by Brad Steckart, the motion was seconded by Chad Sampson and the motion carried unanimously.
- e) Haynes Grade Stabilization Project: Chad Sampson. Chad made a PowerPoint presentation at the last meeting on this project. Chad said that in light of the high demand for grant funds and our running out of available grant funds, he will sit on this project until new grant funds become available.
- f) Ranke Barnyard runoff control Project: - Chad Sampson. . Chad made a PowerPoint presentation at the last meeting on this project. Chad said that in light of the high demand for grant funds and our running out of available grant funds, he will sit on this project until new grant funds become available. It was decided to take these two projects off the agenda until Chad brings them up again at the appropriate time.

At this time Jim Pindel passed out a spreadsheet similar to the one he provided at the last meeting, which shows exactly where we stand with remaining grant funds. Again it shows that we cannot fund all of the projects we know about. By reducing the SEWRPC survey cost by 10% and reducing the cost of the Village of Waterford's engineering costs for the East Shore Project by 50% and dropping the two new Racine County projects, which Chad said he was willing to do until new grant funds are available, we were left with \$25,639. Jim suggested that we use \$25,000 of these funds toward the Mukwonago Park shoreline restoration and the \$639 to cover the tree removal at the Graefenauer site. Leif Hauge said that he texted Steve Brunner and Steve said that he would be happy to get whatever support we were willing to provide and would adjust the project accordingly. Rebecca Ewald previously told us the overall cost of the East Shore Project had

dropped from \$126,000 to \$71,000, which has some effect on these numbers. Rebecca volunteered to send a breakdown of the costs to Jim Pindel to help us rework the spreadsheet and make some final decisions. Jim Pindel said that once he gets the cost breakdown from Rebecca, he will rework the spreadsheet and send it to all the commissioners, so they can review it and come to our next meeting prepared to divvy up the grant funds. Dean Falkner said that in our last budget we listed some of the erosion control projects identified by Graef Eng. and wanted to know if they were included in these calculations. Jim Pindel said they were listed in the budget as proposed projects but had not been voted on or accepted by the commission to dedicate grant funds to them.

- g) Consideration of developing a USEPA 9-Key Elements Watershed Management Plan – Dean Falkner said that erosion has long been identified as a problem by SEWRPC and others for a long time. Dean then referred to a Power Point presentation that he sent to Jim Pindel yesterday, which Jim forwarded to all the commissioners yesterday as well. The purpose of the presentation was to provide a strategy to improve water quality and control sediment on the Fox River. Dean went on to state that the Fox River is listed on the WDNR's impaired waters list for failing to meet the phosphorus water quality standard of 0.1 mg. P/liter. The sediment associated with erosion impacts the recreational use of the river and adds to its phosphorous content. Funding projects to address these issues is consistent with our Implementation Plan. Dean pointed out that we funded a survey by Graef Eng. which identified, prioritized and estimated the cost of many erosion locations from Waukesha to the dam in Waterford. He also said that next year we expect to do the same sort of survey by SEWRPC from the Waterford dam to the Illinois border. Dean said that the challenges are getting access to the erosion sites, owner cost and maintenance requirements, resolution of contract issues, project bidding and construction. Dean's presentation, four copies of which were passed around to the commissioners by Jim Pindel, showed tables of the phosphorus content at CTH I, CTH ES, CTH L and highway 83. The phosphorus concentrations meets the water quality criteria at CTH L and CTH ES and Dean indicated that by eliminating some of the erosion sites we could meet the quality standard at CTH I and CTH ES. Dean pointed out that Adaptive Management is a WDNR process for wastewater plants to identify and correct problems in the watershed. Dean went on to innumerate all that needs to be done along the Fox River to meet the goals of the Adaptive Management Process. Dean said that the most important need to get this program going is to have someone dedicated to getting the job done, like a retired person who has the time to do it. Dean identified himself as this person and has the project management background and is willing to facilitate the necessary communications between individuals and government organizations. Dean ended up by saying he will continue the Adaptive Manage effort for 2016 and 2017, apply for an EPA grant to fund the 9-Key elements plan for 2017 and continue to monitor the Fox River from May to October 2017. Dean said that he has begun studying the Graef report and has started communicating with the land owners. Dean said that instead of bringing a project to the commission and then doing the engineering,

planning and contract discussions, he is going to get all this ground work completed so that when grant funds are available he is ready to go. Dean said that two sites owned by Waukesha County and one owned by the WDNR are among the top 10 sites listed by Graef as worst erosion sites. Dean said he has two meetings next week with Waukesha County to discuss its sites and asked who he should contact at the WDNR about their erosion site. At the end of the discussion it became apparent that some of the commissioners did not received the email forward of this Power Point presentation, probably due to the size of the attachment causing it to be blocked by some firewalls. Dean said he would convert it to a .pdf file which will be much smaller and resend it to Jim Pindel who can forward it to everyone including Don Baron who asked for a copy.

- h) Gauges: Why do we want more? What kind of gauges? When do we want them? Who will pay for the hardware, installation and maintenance? Tom Slawski said that he didn't have anything to report at this time.

Tom took this opportunity to discuss the funding for the SEWRPC survey of the Fox River south of the Waterford dam. Tom wanted Rachel Sabre to know that he intended to apply for a Stream Planning Grant which could provide \$10,000 toward its cost. Rachel reminded Tom that the grant application must be in by December 10th. Tom said that Racine and Kenosha counties would be the applications so that these non-state funds could be used in conjunction with SEWFRC grant funds. Tom pointed out that once the southern portion of the river is surveyed we need to integrate this data with the Graef Eng. data to prioritize the entire Fox River in out jurisdiction.

- i) Consideration of expanding our jurisdiction west to include Eagle Spring Lake: Dean Falkner started by saying that some of us were very impressed with the sampling Tom Day has accomplished. Tom Day of the Eagle Spring Lake Association said that he is not interested in getting just Eagle Springs Lake into our jurisdiction, but all of Waukesha and Walworth Counties. He said he is interested in getting all of the Mukwonago River watershed, which extends even farther than the two counties, into our jurisdiction. The headwaters of the Mukwonago River are in Waukesha County and then it flows down into Walworth County. Tom said that he came to our commission some years ago looking to see if we would expand west beyond the Town of Mukwonago, he is an advocate for the entire Mukwonago River watershed. Tom said that they did a chemical analysis on the Mukwonago River from 2004 to 2007 and published the data. It was based on Eagle Springs Lake and Phantom Lake getting two \$10,000 grants. They repeated the study in 2012 with Eagle Springs Lake funding the project by itself. Tom said that he sent a request for funding for one more sampling to our commission to be done either this fall or early next spring. Tom said most of the sampling occurs in areas that our jurisdiction currently does not include. Tom estimated that there are 7 or 8 locations west of our area of jurisdiction. After the samples are collected they are sent to a lab in Steve's Point for analysis and then the report is published, which is then compared to the data taken previously. Tom said that he thought we would be interested in the nutrient

levels entering the Fox River from the Mukwonago River. At this point Tom Slawski said that maybe we could expand to include the entire Mukwonago River watershed. This resulted in a lengthy discussion. Is it possible to include the Mukwonago watershed as such without including the municipalities it flows through? Must we include in our membership each of the municipalities involved? Can we include these municipalities without including the county that they exist in? No one on the commission is capable of answering these questions. Tom Day said that he would be willing to do the ground work of contacting the municipalities and Walworth County to do whatever is needed to be done. Tom said that he is waiting on us to tell him what to do and so we are at a stalemate because we don't know what must be done.

If we had access to an attorney or some resource that is proficient in interpreting the Wisconsin State Statutes, we would ask the following questions:

- 1) Can we expand our jurisdiction to include the Mukwonago watershed without including the municipalities and counties it includes?
- 2) Can we include a municipality as a commission member without including their county, such as Walworth County?
- 3) Regarding State Statute 33.55 which states "The board of commissioners shall consist of the following persons, all of whom shall be residents of the river county." Does this mean that the commissioner must live in the same river county as he represents. Does working full time in the river county count as residency? Can the commission through motion and vote decide that we interpret working full time (especially for the county) in a river county as fulfilling the residency requirement?
- 4) Regarding State Statute 33.60 6 (c) which states "The commission shall publish as a class 1 notice under Ch. 985 in Racine and Waukesha counties." Note that Kenosha County was inadvertently left out. Ch. 985 states the newspapers shall not charge for the publication, but then it refers to somewhere else in the Statutes where maybe we do have to pay for the publication. Do we have to pay?

Reports and Updates

- a) Report on activities of Fox Waterway Agency (FWA) of Illinois – Tom Slawski had nothing to report.
- b) Possible diversion of City of Waukesha water treatment plant discharge away from the Fox River: Jim Ritchie said that he read that the City of Waukesha hired a consultant to oversee the design and real estate transactions.
- c) Progress toward designation as a "National Water Trail" – Village of Waterford. Rebecca Ewald said that they have been making progress. They are in the process of logging access sites; they started here in Wisconsin and are getting started in

Illinois. Rebecca said that she is hoping by next summer to have actual trail data for different sites. Then they will be able to make their application for National Water Trail status. Rebecca pointed out that they have been getting great support from SEWRPC. Tom Slawski and others have attended their core development meetings on a monthly basis. They will be meeting again this coming Monday.

- d) SEWFRC Website – Al Sikora was not present so no report was made.

Correspondence –

- a) 08/15/16 Mark your calendars notice for today's meeting
- b) 08/26/16 Email with link to article regarding Waukesha diversion from Barb Holtz
- c) 09/05/16 Forward of email from Alan Barrows with new plan for WE Energies site.
- d) 09/05/16 Forward of email from Don Baron of the WWMD concerning the Town of Waterford efforts to get state funding for the Waterford impoundment dredging and the comments by the City of Burlington regarding the effects of the Waukesha diversion.
- e) 09/07/16 Email from Dean Falkner with attached permission to go onto WE Energies property.
- f) 09/07/16 Email from SEWFRC to Senator Lazich congratulating her on her retirement and asking for identification and support from our next Champion.
- g) 09/09/16 Email with attached presentation from Rebecca Ewald for the East Shoreline Restoration project in the Village of Waterford
- e) 09/09/16 Forward of an email announcing that Outdoor Wisconsin will do a program featuring the Fox River Water Trail.
- f) 09/15/16 Email from Dean Falkner regarding expansion to the West to include Eagle Spring Lake group.
- g) Emails between Dean Falkner and Tom Slawski looking for funding means for erosion control projects.

Miscellaneous Issues –

There were no miscellaneous issues.

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

Meeting Closed at 2:26 PM

**THE NEXT OFFICIAL MEETING WILL BE Friday,
November 11, 2016 at 1:00 PM.** (Meeting Location: Town of
Vernon Fire Station #1, W233 S7475 Woodland Lane, Big Bend,
WI 53103.)