

# Swan creek Water District

Record of Proceedings  
Thursday, February 9, 2017

The meeting began with The Pledge of Allegiance at 6:30 p.m.

Roll call attendance showed the following Board members present: Shawn Albert, Dale Brunner, Mark Fowler, Walter Lange and Randy Walker. Also present were Cindy Fowler, Office Assistant. Visitor list attached.

Tina Whalen, Office Manager was not available to attend.

**Minutes Approval from Special Meeting on January 13, 2017 - Motion** was made by Trustee Fowler, seconded by Trustee Walker, to approve the special meeting minutes from January 13, 2017. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes; Lange, yes; and Walker, yes. Motion Carried.

**Minutes Approval from Regular Meeting on January 26, 2017- Motion** was made by Trustee Walker, seconded by Trustee Brunner, to approve the meeting minutes from January 26, 2017. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes; Lange, yes; and Walker, yes. Motion Carried.

## Manager's Report – Not Present

**Cash Summary by Fund** was given to the Board for review.

**Resolution 2017-03** was reviewed and signed by the Board. Details of this resolution are in the January 26, 2017 meeting minutes.

**Purchase Orders** were reviewed and initialed by the Board.

**January's Fund Ledger** was given to the Board's Treasurer, Mark Fowler for review.

**January's Bank and Investment Statements & Reconciliation** were reviewed and initialed by the Board.

**February's Usage/Billing Summary** was given to the Board for review.

## Treasurer's Report

**Bill Payments** – After Trustee Fowler reported that he has gone over all the bills:

**Resolution 2017-04** was motioned by Trustee Fowler, Seconded by Trustee Brunner to approve payment of the bills in the amount of \$12,761.11. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes; Lange, yes; and Walker, yes. Motion Carried.

**Inspector's Report** – Tom is on vacation.

## Unfinished Business

### Brief from 2/3/2017 TMACOG Meeting

Trustee Brunner attended the TMACOG meeting that was held in downtown Toledo on 2/3/2017. Ziad Musallam was also in attendance. Trustee Brunner stated that discussion is in the preliminary stages of considering developing a regional water district that could include 10 different entities including Northwest Ohio and Lower Michigan. It was also discussed how to govern (ORC 6119, or a Governing Contract) a new water district, and what Ohio Codes could/would need to be followed. Trustee Brunner stated that a series of meetings will be ongoing, and he will keep the Board updated and informed.

Trustee Lange stated he felt it falls under Unfinished Business, it should be mentioned that the Swan creek Water District plans on hosting a Special Meeting on Friday, February 17, 2017 at 10:00 am. The purpose of this meeting is to hold a follow-up discussion regarding if grant monies towards studies are available.

Also a topic for discussion is the direction/definition to take for a study should be discussed at this meeting. A smaller group has been invited to attend, including the Township Trustees. Trustee Walker asked if the Board knew how a project in Temperance, Michigan was funded. He thought was it with Grant money as well as OWDA money. It was unknown for sure how that project was funded.

**New Business** - No new business at this time.

**Public Forum** - Trustee Brunner opened the floor to the public after stating that: DUE TO PENDING LITIGATION, THERE WILL BE NO DISCUSSION ON THE ROAD 3, EF & PEACEFUL VALLEY PROPOSED PROJECT. There were no public questions or comments.

**Jim Wagoner** asked what the Special Meeting will be about. Trustee Brunner gave Mr. Wagoner an overview of what was discussed under Unfinished Business and the topics of discussion with regards to the Special Meeting.

**Jim Wagoner** also stated he thinks there is another deadline that comes up on that date and knows we cannot discuss any pending litigation asked if the Board will be making any decisions when they come out of Executive Session. Trustee Brunner said he doesn't know, he cannot say yes or no. Trustee Fowler mentioned that he and Shawn were not at the last meeting. Mr. Wagoner asked if they may pass a Resolution regarding some Legal matters after they reconvene. Trustee Brunner said it is a possibility. Trustee Brunner stated he was welcome to stick around.

Trustee Lange stated he did not think it was out of order to state that the judge basically killed the project. Trustee Brunner stated it is common knowledge and no one is asking at this point.

**Executive Session to discuss Pending Litigation with Legal Counsel**

At 6:50 p.m. **Motion** was made by Trustee Lange, seconded by Trustee Albert to go into executive session to discuss pending litigation. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes; Lange, yes; and Walker, yes. Motion Carried.

At 7:18 p.m. **Motion** was made by Trustee Fowler, seconded by Trustee Brunner to return to regular session. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes; Lange, yes; and Walker, yes. Motion Carried.

**Resolution 2017-05** was motioned by Trustee Fowler, seconded by Trustee Brunner:

1. That the Board of Trustees of the Swancreek Water District authorizes the filing of an appeal of the decision rendered in John Niedziewcki, et al., v. Swancreek Water District, Case No. 15CV000237, Court of Common Pleas of Fulton County, Ohio;
2. That the law firm of Carlile Patchen & Murphy LLP shall be engaged to represent the Swancreek Water District in the appeal, and the President of the Board shall be authorized to execute a Representation Agreement with Carlile Patchen & Murphy LLP for that purpose; and
3. That the law firm of Carlile Patchen & Murphy LLP shall be permitted on behalf of the Swancreek Water District to file the Notice of Appeal on its behalf.
4. That it is found and determined that all formal actions of this Board of Trustees concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board of Trustees, and that all deliberations of this Board of Trustees and of any of its committees resulting in such formal action, were in meetings open to the public, in compliance with the law, including Section 121.22 of the Revised Code of Ohio.

Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes; Lange, yes; and Walker, yes. Motion Carried.

**Mr. Wagoner** asked if this means the litigation is still pending and it can't be talked about. The Board said yes.

**Sharon Niedzwiecki** stated to the Board; "The Board is wasting the people's money. The Judge stated that you have to find a need and 74% of the people don't want it. How stupid do you have to continue to be? The current water buyers will continue to be paying for this, since that is where you get your money from, and you can't bill us. It is just ridiculous. Not any common sense up there at all".

**Adjournment** – At 7:25 p.m. Trustee Lange moved to adjourn seconded by Trustee Brunner.  
Motion Carried.

**Up Coming Meeting**

Next two regular meetings are scheduled for Thursday, February 23, and March 9, 2017 at 6:30 p.m.

SWANCREEK WATER DISTRICT BOARD

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Mark Fowler

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Dale Brunner

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Shawn Albert

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Randy Walker

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Walter Lange, Water Board Secretary