



Missouri Department of Natural Resources

MINUTES

MISSOURI SOIL AND WATER DISTRICTS COMMISSION

TAN-TAR-A RESORT

Salon C

Osage Beach, Missouri

November 28, 2011

COMMISSION MEMBERS PRESENT: Kathryn Braden, Thomas Bradley, Richard Fordyce and Gary Vandiver

EX-OFFICIO MEMBERS: JON HAGLER, DEPT. OF AGRICULTURE: Judy Grundler; BOB ZIEHMER, DEPT. OF CONSERVATION: Clint Dalbom; SARA PARKER PAULEY, DEPT. OF NATURAL RESOURCES: Dru Buntin; DEAN THOMAS PAYNE, UNIVERSITY OF MISSOURI: Dave Baker

ADVISORY MEMBERS PRESENT: SOIL & WATER CONSERVATION PROGRAM: Colleen Meredith; J.R. Flores, Dick Purcell; Steve Radcliff, and Kenny Lovelace

STAFF MEMBERS PRESENT: Kurt Boeckmann, Jim Boschert, April Brandt, Allan Clarke, Kerry Cordray, Alan Freeman, David Goggins, Katy Holmer, Jesse Higginbotham, Jennifer Johnson, Jeremia Markway, Theresa Mueller, Christa Moody, James Plassmeyer, Josh Poynor, Ken Struempfler, Cody Tebbenkamp, Leon Thompson, Jennifer Pellett, Jeremy Redden, Colette Weckenborg, Bill Wilson

OTHERS PRESENT: DISTRICTS: AUDRAIN: Rodney Willingham, Tom Becker; BARRY: Don Herbert, Sonya Harter; BATES: Brad Powell, Rod Morris; BENTON: Jamie Henderson, Gene Schmitz, Tina Hovendick; BOLLINGER: Megan Baker, Beth Eeftink Michael Kester, Ronald Reagan; BOONE: Kevin Monckton, Cindy Bowne; BUCHANAN: Bernard Chesnut; CAMDEN: Connie Luttrell; CAPE GIRARDEAU: Kenny Spooler; CARTER: Wayne Gibbs; CASS: Kevin Reed, Whitney Wiegert, Janice Fogle; CHARITON: Joel Abeln, Wayne Crook, Bob Cooper, Kenny Reichert; CHRISTIAN: Jeremy Wallen, Sam Schaumann; CLARK: Roy Stice, Henry Heinze; COLE: Peggy Lemons; DALLAS: Matt Hale, Tony Rosen; DAVIES: Tom Lambert; DUNKLIN: Gerald Malin, Sean Droke; FRANKLIN: Stephen Sparks, Lori Nowak; GASCONADE: Diana Mayfield, Terry DuBois; GRUNDY: John Rice; HARRISON: Pat Lambert; HOLT: Howard Hufford Jr., Bruce Biermann, Wayne Heck, Bradley Kurtz; HOWARD: Bev Dometroch; JEFFERSON: George Engelbach; JOHNSON: Bill Hoy; LAFAYETTE: Glen Riekhof, Susie Struchtemeyer; LAWRENCE: Joe Crabtree, Harold Lampe, Paula Champion; LEWIS: Audrey Rayl; LINCOLN: Janice Cragen; LIVINGSTON: Tonja Tiemeyer, David Morris, Kevin Hansen, Kristen Lourenco, Chris Baker; MADISON: Danny Miller; MARIES: Amy Neier, Sandy Hutchison; MERCER: Diane Place, Kathy Cassidy; MILLER: Bonnie Pryor; MONITEAU: Nancy Kirby, Harold Haldiman, Bruce Longan; MONTGOMERY: Brenda VanBooven, Eric Niemeyer, Bob Ridgley; NEW MADRID: Emily Wilson, Scott

Allgier; **OREGON:** Sarah Stubbs, Freda Johnson; **OSAGE:** Colby Nilges, Ken Franken; **OZARK:** Dee James, Penny Collins, Melisa Myers; **PIKE:** Zach Rasche; **POLK:** Richard McConnell, Keith Stevens, David Hale, Vicky Fieth, Ben Gorden; **PULASKI:** Kassi Thompson; **RANDOLPH:** Andrea McKeown; **REYNOLDS:** Michael Kelley; **RIPLEY:** Michael Thornton, Rachel Griffin; **SHANNON:** Nancy Burrus, Connie Holland; **STONE:** Melissa White; **ST. CHARLES:** Frankie Coleman, Theresa Dunlap, Charlie Perkins; **ST. CLAIR:** Margie Best, Donna Hooper; **ST. FRANCOIS:** Warren Shelley, James Plummer, Vince Kauflin, Wilma Carlyon; **ST. LOUIS:** Louise Belt, Richard Hoelscher, Jennifer Lewis; **STONE:** Kevin Wray; **VERNON:** Anthony Wolfe, Rocky Steiger; **WARREN:** Polly Sachs, Lafe Schweissguth; **WASHINGTON:** Carl Wilson; **WORTH:** Richard Mullock, Gidget Funk; **STATE OF MISSOURI: ATTORNEY GENERALS OFFICE:** Tim Duggan; **DEPARTMENT OF NATURAL RESOURCES:** Darrick Steen, Bryan Hopkins **OTHERS: USDA-NRCS:** Diane Bradley-Redden, Pat Hufford, April Wilson, Kendra Clift; **CITIZENS:** Ron Mason, Regina Young, Kevin Young, Brian Tubbs, Howard Hufford, Dustin Hufford, Roger Heck, Rickey Gillenwater; **MISSOURI FARM BUREAU:** Kelly Smith

A. CALL TO ORDER

Chairman Richard Fordyce called the meeting to order in Osage Beach, Missouri, at the Tan Tar A at 10:45 am. Poll of commission members was taken; Richard Fordyce, Kathryn Braden, Gary Vandiver and Thomas Bradley were present, which made a quorum.

Kathryn Braden made a motion to go into closed session at 10:50 a.m., pursuant to § 610.021(1) to discuss legal, confidential, or privileged matters and §610.021 (17) to discuss audit issues and personnel actions under §610.021(3). Thomas Bradley seconded the motion. A poll vote was taken. Thomas Bradley, Gary Vandiver, Kathryn Braden and Richard Fordyce voted in favor of the motion and the motion passed unanimously.

Kathryn Braden made a motion to go back into open session at 12:45 p.m. Gary Vandiver seconded the motion. A poll vote was taken. Thomas Bradley, Kathryn Braden, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion passed unanimously.

After a short break, Richard Fordyce welcomed all attendees to the commission meeting and training conference at 1 p.m. Introductions were done and after introductions Richard Fordyce had a statement from the commission:

“A lot has happened since our last commission meeting. Probably most noteworthy being the hearing conducted by the House Appropriations Committee for Agriculture, Natural Resources, and Conservation. During the hearing a number of concerns were voiced concerning the program. These concerns were addressed through testimony and Q&A with representatives of the Committee. During the two hour appearance before the Committee, I explained that the role of the Commission is to view the Program strategically and decisions made must be grounded in fiscal responsibility, taxpayer

accountability, and accommodating landowner participation and acceptance. These three major issues must balance with the actual administration of the Program at the District level. It was suggested by the members of the Committee to request a legal opinion as it relates to the roles/responsibilities of the Commission, the Program, and the Districts. On November 4, 2011, I sent a letter to Tim Duggan of the Attorney General's Office requesting a legal opinion on the roles/responsibilities. I asked him in the letter to include the Program and Association in his research.

On October 5, 2011, I traveled to Jefferson City for a meeting with the Senior Staff of the Department and Program to address concerns that have been raised by the District Boards and Commission members. The topics discussed were appropriate expenses for the district office operation, pre-approvals on multiple practices, and approval for hiring employees. The meeting was productive, with resolutions developed for these three items. There have been assertions in the past that the Commission does not have oversight over operation of the Program. I can assure you that is not the case at all. The meeting just referenced was called by me in response to concerns given in testimony at the hearing, and through professional dialogue with staff, resolution was achieved. We have a great staff at the Program level. Most, if not all, come from a farming background, and several of our Program staff members continue to farm on a part-time basis. They understand, because of their background and day-to-day experience, the issues and importance of soil conservation efforts in the state. If we are to have any hope of moving soil conservation efforts and this program, which is nationally recognized as being the premier Soil and Water Conservation Program in the country, forward in the future, the relationship between the Commission, the Program, and the Association has to improve immediately. Comments have been made in the past 18-24 months that have been misleading, inflammatory, and in some cases, 100 percent false, about the Commission and direction of the Program in general. This behavior, which is incredibly unprofessional and damaging, must stop immediately. Any correspondence, whether written or verbal, from the Commission or the Program Office, have always been respectful and done in a professional manner. I would expect from this point forward, that all groups involved in this discussion would afford the same courtesy to one another. As the AG's Office works toward developing this legal opinion of roles and responsibilities, I would expect anyone contacted to participate to the fullest to help achieve completion of this task. Upon completion of roles and responsibilities legal opinion document by the AG's Office, irregardless of the findings and final outcome, all partners will use the results of this document for a complete clarification of their given roles and responsibilities. Failure to adhere to these findings will not only continue to divide this program, but will be met with serious consequences. You have my commitment as Chair, and that of the Commission, that we will continue to work through these deliberations conducting ourselves in a respectful, courteous, and professional manner.

Just to remind you of the advances in the Program - Due to House Bill 250 all Districts became able to participate in the cost-share program by expanding the practices from 17 to 43. We are now addressing all resource concerns in the state, in doing so we have increased the percentage of the Parks and Soils Sales Tax funds going to landowners by

10 percent since 2008. I am pleased to report that last year 66 percent of the funds were returned to the landowners.

I appreciate your attention, as it relates to these matters. I know, appreciate, and value the high quality individuals that we have throughout the state serving as District employees and supervisors. I know this because of my frequent interactions with you. We must all work together to move soil conservation forward in Missouri. I know we can, because we must.”

B. MINUTES OF THE LAST MEETINGS

Thomas Bradley made a motion to approve the minutes of the August 24, 2011 Commission meeting. Kathryn Braden seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously.

Thomas Bradley made a motion to approve the minutes of the September 9, 2011 Commission conference call meeting. Kathryn Braden seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor on the motion and the motion carried unanimously.

Thomas Bradley made a motion to approve the minutes of the October 11, 2011 Commission conference call meeting. Kathryn Braden seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor on the motion and the motion carried unanimously.

C. REQUESTS

1. Dunklin SWCD – Variance for Practices Completed Prior to Board Approval

April Brandt presented for consideration a request from Dunklin Soil and Water Conservation District (SWCD) for a variance in order to pay for 19 DWP-1 Sediment Retention, Erosion or Water Control Structure practices that were installed prior to board approval of cost-share contracts. The total amount of payments for these contracts is \$54,645.56. The Dunklin Board of Supervisors is aware that proper cost-share procedures were not followed.

Dunklin SWCD has a history of noncompliance with cost-share policies and procedures to include: designs being released prior to contract board approval, invoices that are dated and paid prior to contract board approval, signature dates on cost-share forms that are prior to the print date of the form, contract and contract payments that are signed the same day, and contracts being paid prior to practice being certified complete.

Program staff worked closely with the board and district staff over the last few months to address this situation. She noted that the board and staff have been

very good to work with and know changes need to be made. In response to the ongoing cost-share concerns, a cost-share action plan is currently being developed by the board and staff to ensure that cost-share policies and procedures are properly followed. Cost-share in Dunklin County will resume once the action plan is approved by the program office.

Dunklin SWCD was allocated a little over \$105,000 in the resource concern of Sheet and Rill/Gully Erosion for fiscal year (FY) 2012. They have already obligated \$104,355.73 leaving only \$737.27 unobligated. The district does not have funds in the resource concern to pay for the contracts in question. On August 4, 2011, the district submitted their Natural Disaster Practice Damage Assessment to the program office requesting \$50,557.58. Their assessment includes practices in the variance request. They were approved to receive the \$50,557.58 in disaster assistance, but the money had not been loaded into Missouri Soil and Water Information Management Systems (MoSWIMS) because of the cost-share concerns. Once the action plan is approved, the disaster allocation will be loaded in MoSWIMS.

The following was offered for commission consideration to: approve the variance as landowners installed the practice in good faith according to guidance received from the district and provide Dunklin SWCD with an additional \$4,087.98 in disaster assistance funds to cover the contracts in question. Future practices that do not meet commission rules or policies will not receive a variance.

Gerald Malin, Chairman of the Dunklin SWCD board thanked the commission for its time and consideration. He felt that due to an employee's personal situations and not enough board oversight caused the situation in Dunklin SWCD. He stated this employee has resigned. Sean Droke, Dunklin SWCD board member, also addressed the commission. He felt that the employee in question was trying to help the farmers and in doing so did not follow the cost-share procedures.

After discussion, Kathryn Braden made a motion to approve the variance and to provide Dunklin SWCD with an additional \$4,087.98 in disaster assistance funds to cover the 19 completed contracts in question. Thomas Bradley seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously.

2. Chariton SWCD – Request Consideration for Cover Crop Practice

Jeremia Markway presented the request to consider a pilot cover crop practice in Chariton Soil and Water Conservation District (SWCD). Chariton SWCD, and more recently, Holt SWCD have expressed interest in a cover crop practice. Although cover crops are nothing new, the way they are being used is. The science and understanding of how to use cover crops, to address environmental and economic concerns, has dramatically improved. Farmers are looking for

methods to reduce high input costs such as fuel and fertilizer while maintaining productivity and protecting their soil and water resources. Cover crops offer a unique opportunity to address economic and environmental concerns simultaneously. The positive environmental impacts cover crops offer are considerable. They can be used to address a number of resource concerns such as sheet/rill and gully erosion, nutrient and pest management, and irrigation management.

Chariton SWCD has requested that a cover crop practice be piloted in their county. They would like to see a practice that takes a management system approach to cover crops and incorporates no-till and nutrient management. They have hosted a cover crop workshop, attended a field day on cover crops to understand how to use them in their operations, and are planning another cover crop workshop this winter. Landowner interest in the county is high, with a number of them attending the workshop and field day.

Chair of the Chariton board Kenny Reichert, spoke on behalf of the board members detailing the numerous activities done by the Chariton SWCD for cover crops and the interest that is in the county.

The following was offered for the commission consideration to: direct staff to work with Chariton SWCD and NRCS to develop a cover crop pilot practice to address soil and water conservation.

After discussion Gary Vandiver made a motion to approve the request. Kathryn Braden seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously.

D. SOIL AND WATER CONSERVATION PROGRAM DIRECTOR'S COMMENTS

1. Update on Contract Audits

Jim Boschert presented an update on contract audits. Since August of 2011, 27 districts have been audited through the contract audit process, with all but seven being finalized. The findings were divided into five categories: board minutes and sunshine law, financial, personnel and payroll, board elections, and cost-share.

Under board minutes and sunshine law the common findings were no written policy on sunshine law, notices/agendas not available and/or not posted 24 hours in advance, and the closed statutory subsection not given or not accurate. Under financial, the common findings were lack of segregation of duties, the annual financial report not accurate, and rental agreement forms were not available, complete or signed. Under personnel and payroll the most common finding was time accounting leave was not correctly carried from one time sheet to the next. Under board elections the two most common findings were that the time the polls

opened and closed were not documented and less than two qualified candidates were presented to the board by the nominating committee. The common findings related to cost-share were legal landowner of property not verified by the district, landowner signature did not match the name on the cost-share form, and contract payment not listed as approved in the board meeting minutes.

Mr. Boschert informed that commission that one item that the auditors are asked to review is the list of prior audit findings in a district to see if the district has corrected the findings or not. The 20 districts included on the list had 158 previous audit findings. Of these previous audit findings, 85 were corrected, 45 were partially completed and 28 had not been corrected.

Mr. Boschert also stated that a new contract for auditing services was signed November 1st. He stated that the Internal Audit Program within the Department will administer this contract and the auditing service is for all programs in the Department. He stated that typically soil and water districts, solid waste districts, park concessionaries and energy use the audit services that are provided through this contract. The contract is for one year and allows four one year renewals so the contract can last up to five years.

With the new contract there will be five audit firms. Three of these firms have done soil and water conservation district audits before and the other two are new to the contract. He indicated that over the next year, 25 – 30 additional districts will be audited. He stated that some of the criteria looked at for auditing is districts that recently had turnover in staff responsible for the financial records, districts where the local boards request an audit and program staff recommendations.

E. APPEALS

1. Sullivan SWCD – Request Consideration of Election Expenses for Legal Notices

Jim Boschert presented an appeal from Sullivan SWCD regarding their election expenses. The district questioned why the first two ads were allowed from the election reimbursement funds and the two legal notices have to come from the district's administrative funds.

In June of 2009, the program office sent a memo to the districts detailing the new election procedures. These new procedures were put in place by the commission to try to increase the participation in the SWCD supervisor elections. The policies in the operations handbook are: districts can receive up to \$500 for the two (2) required ads. One ad must be placed in the paper 90 days prior to the election and the second ad must be placed in the paper 60 days prior to election. The legal notices are required by Code of State Regulations Title 10 Chapter 2. This document states under SWCD Board Responsibility that they “publish two legal notices of election in a newspaper of general circulation in the SWCD. One (1)

notice shall appear in the latest issue distributed before the election date and the other notice shall appear one (1) week prior to the final one.” He stated that these state regulations have been in place since 1987. As the operations handbook states the legal notices are eligible expenses from the district’s administrative fund.

He informed the commission that it was never the intent to allow expenses such as the legal notices to be paid from the election fund. He stated that several districts have mistakenly tried to claim the cost of the legal notices from the election reimbursement fund.

Mr. Boschert stated that in the spring of 2012 there will be two years of election records and at that time he would like to review this again with the commission.

2. Holt SWCD

Colleen Meredith provided this background for the Holt requests: State Regulations code 10 CSR 70-1.010 states that “Unless prohibited by any federal or state law, the commission may grant individual variances to Soil and Water Districts Commission rules upon presentation of adequate proof, that compliance with sections 278.070 to 278.300, or any rule or regulation, standard, requirement, limitation or order of the commission will have an arbitrary and unreasonable impact on landowners participating in soil and water conservation eligible practices. In determining under what conditions and to what extent a variance may be granted, the commission shall exercise a wide discretion in weighing the equities involved as well as the advantages and disadvantages in approving or disapproving a request for a variance.”

Jeremy Redden presented a summary of the procedures utilized in Holt SWCD to provide background information on the three appeals from landowners. Holt County NRCS and SWCD uses contractor layout and contractor checkout. This process is used because of the large number of cost-share practices in the County. The technical staff uses the contractor’s survey notes to design the practices. The designs are then given to the landowners or contractors so they can begin the construction process. After the contractor has completed the practice, they turn in checkout notes to the technical staff for certification. NRCS has a policy that five percent of all practices that are certified by the contractors are spot checked every year. While performing spot checks in the early spring of this year, technicians found some discrepancies with the practices and corresponding documentation. Although there were several other practices with issues, many of these practices have been corrected or are in process of being corrected at the local level except for these three contracts.

a. Randy Derr, DWP-1 Sediment Retention, Erosion Control Structure Practice Overpayment on Cubic Yards of Earthwork

Jeremy stated Mr. Derr was paid an overpayment of \$931.61 due to incorrect cubic yards of earthwork moved being reported on the project by the contractor. During the NRCS spot check, the completed practice was surveyed by technical staff and the cubic yards of dirt submitted by the contractor in the checkout notes was more than the cubic yards measured in the completed structure. The contract was based on 1,523 cubic yards and the checkout notes reflected that 1,523 cubic yards was moved but based on the NRCS survey of the completed practice only 1016 cubic yards was moved. At a rate of \$2.45 per cubic yards Mr. Derr was paid \$2,798.51, however based on the actual cubic yards moved he should have been paid \$1,866.90, leaving an overpayment difference of \$931.61. The completed practice does meet NRCS standard and specifications.

The following was offered for commission consideration to: supporting the Holt SWCD board and request repayment of \$931.61 to be made within 30 days. Failure to repay funds in 30 days will result in forwarding this case to the Attorney General's Office for collections.

After discussion, Kathryn Braden made a motion to grant Mr. Derr a variance of \$931.61. There was no second and the motion died.

Gary Vandiver made a motion to request repayment of \$931.61 to be made within 90 days. Failure to repay in 90 days will result in forwarding this case to the Attorney General's Office for collection. Thomas Bradley seconded the motion. When asked by the chair, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor on the motion and Kathryn Braden voted against the motion carried.

Kathryn Braden made a motion to allow Mr. Derr to repay the \$931.61 by decreasing that amount on the pending contract he has on another practice. Thomas Bradley seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor on the motion and the motion carried unanimously.

- b. Heck Trust, DWP-1 Sediment Retention, Erosion Control Structure Practice Not Constructed to NRCS Specifications**
Jeremy Redden presented to the commission that Mr. Heck's DWP-1 practice was not constructed according to the design given to the contractor and therefore does not meet NRCS standard and specifications. Similar to the other appeals, the practice was spot checked after the practice was completed and the landowner was paid. The Holt SWCD has given the landowner the opportunity to correct the practice and bring it up to NRCS standard and specifications. Technical staff informed him they will provide him with the necessary specifications to correct the practice. The landowner has elected not to correct the practice due to the need to secure an easement to back temporary water onto the neighboring property.

The following was offered for commission consideration to: support the Holt SWCD board and request repayment of \$10,000 to be made within 30 days. Failure to repay the funds in 30 days will result in forwarding this case to the Attorney General's Office for collections.

At this time Mr. Heck and the contractor stated that the technician had designed the practice and it was built according to that design. Mr. Purcell stated that in May the practice on contract 59 was not built to specifications. After discussion with the contractor, it was stated that corrections had been made based on the one foot difference of the ridge height and has not been rechecked prior to the commission meeting.

After discussion, Kathryn Braden made a motion to table this issue until the January 11, 2012 meeting so the commission can receive current information. Gary Vandiver seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor on the motion and the motion carried unanimously.

- c. Young Farms, DWP-1 Sediment Retention, Erosion Control Structure Practice Not Constructed to NRCS Specifications**
Jeremy Redden presented to the commission the DWP-1 Sediment Retention, Erosion or Water Control Structures on contract numbers SGE 106-11-0011 and SGE 106-11-0060. Young Farms received payment in the amount of \$13,066.83 on 8/27/10 with the spot check being done after the payment was made; contract SGE 106-11-0060 for the amount of \$9,800.12 was spot checked prior to payment and has not been paid on by the program.

According to the technical staff neither practice is built according to the original designs and the practices do not meet NRCS standard and specifications nor can they be corrected to meet NRCS standard and specifications.

The following was offered for commission consideration to: support the Holt SWCD board by not granting the variance requested by Young Farms and request repayment of \$13,066.83 to be made within 30 days on contract SGE 106-11-0011. Failure to repay the funds in 30 days will result in forwarding this case to the Attorney General's Office for collection. Also, support the Holt SWCD board by canceling contract SGE 106-11-0060 in the amount of \$9,800.12. This contract has not been submitted for payment.

Regina Young was present to represent Young Farms and presented the formal appeal to the request for repayment on contract SGE 106-11-0011 and as well as to appeal the cancellation of contract SGE 106-11-0060. Also present to represent Young Farms was attorney Brian Tubbs. Mr. Tubbs also presented the appeals stating the hardship placed on his client, due to no fault of their own.

After some discussion Kathryn Braden made a motion to deny the appeal for contract SGE 106-11-0011. Due to no second the motion died.

With more discussion, Thomas Bradley made a motion to not request refund of \$13,066.83 contract number SGE 106-11-0011. Gary Vandiver seconded the motion. A poll vote was taken Thomas Bradley and Gary Vandiver voted in favor of the motion and Kathryn Braden and Richard Fordyce opposed the motion. Failing to receive a quorum of favorable votes the motion did not carry.

After additional discussion, Kathryn Braden made a motion to cancel contract SGE 106-11-0060 in the amount of \$9,800.12. Due to no second the motion died.

After additional discussion, Kathryn Braden made a motion to cancel contract SGE 106-11-0060, in the amount of \$9,800.12. Gary Vandiver seconded the motion. A poll vote was taken, Kathryn Braden, Gary Vandiver and Richard Fordyce voted in favor with Thomas Bradley voted opposed. The motioned carried.

After discussion with legal counsel, Thomas Bradley made a motion to grant the appeal for contract SGE 106-11-0011. Gary Vandiver seconded the motion. Gary Vandiver, Thomas Bradley and Richard Fordyce voted in favor and Kathryn Braden voted against. The motion carried.

Gary Vandiver made a motion to grant the variance for contract SGE 106-11-0060, in the amount of \$9,800.12. Gary Vandiver, Thomas Bradley and Richard Fordyce voted in favor and Kathryn Braden opposed. The motion carried.

A3. Morgan SWCD – Ron Moore, Overpayment of DSP-2 Permanent Vegetative Cover Enhancement

Allan Clarke presented an appeal on the overpayment of a DSP-2 Permanent Vegetative Cover Enhancement for Ron Moore. During a review of the district's state cost-share seeding practices randomly selected through the MoSWIMS database. It was determined an overpayment was made due to incorrect amounts entered in the cost-share contract payment for Ron Moore's Permanent Vegetative Cover Enhancement (DSP-2) practice. The overpayment was a result of two different Agron-25 forms completed for field 4A, one of which was based on the wrong soil test. This resulted in the incorrect extents being approved on the contract.

Based on the receipts for lime purchased, the ENM applied was less than the recommended amount for this practice. The district had a variance on file for this shortage; however, the landowner was paid for the recommended amount from the incorrect Agron-25 and not the actual amount installed. This resulted in an overpayment to the landowner in the amount of \$75.44.

The amount of phosphate recommended for this contract was 994 lbs. The landowner purchased 1,006.02 lbs. which was enough to satisfy the recommendation. However, the extents entered on the contract and contract payment was based on the incorrect extent installed amount of 2,014 lbs. Therefore, the landowner received reimbursement for 1,020 lbs. more fertilizer than was applied on the field. This resulted in an overpayment of \$688.50.

Cumulatively the landowner was overpaid a total of \$763.94.

Mr. Moore was informed by the district that he needs to pay back the overpayment. He was given two options to pay back the overpayment. The first option was to pay the total amount in full or deduct the amount from a cost-share contract within the next fiscal year.

In response to the Morgan SWCD request, Mr. Moore explained that, during this three year period 2008-2010, his income was made up of 80 percent social security retirement benefits and his taxable income during that same period averaged less than \$2,000 per year. That income level leaves very little money available for his discretionary expenditures. Mr. Moore also stated in the letter, that while he does not wish to place blame or responsibility elsewhere, that money is long gone and irreplaceable. On a limited and nearly fixed income, an expense like this would represent a financial hardship that he could not handle. There were neither errors on his part nor any attempt to deceive and the Morgan SWCD had deemed this reimbursement correct. Mr. Moore asked that the Soil and Water Districts Commission consider all of his information and his financial circumstance and forgive the overpayment.

The following was offered for commission consideration to: consider supporting Morgan SWCD in requesting the repayment of \$763.94 to be made within 30 days and the failure to repay the funds in 30 days would result in forwarding this case to the Attorney General's Office for collection.

After discussion Gary Vandiver made a motion that Mr. Moore would not have to make repayment in the amount of \$763.94. Thomas Bradley seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously.

F. SOIL AND WATER CONSERVATION PROGRAM DIRECTOR'S COMMENTS (continued)

1. SWCD Strategic Planning Facilitation

Ken Struempf presented to the commission the SWCD Strategic Planning Facilitation. Mr. Struempf stated the strategic planning is a systematic process of envisioning a desired future and translating this vision into broadly defined goals or objectives and a sequence of steps to achieve them. Strategic planning allows board members to develop district-specific goals, provide grassroots training for new board members, continually evolve planning, and define board's expectations for the district. The commission was informed that two districts were selected to work on strategic planning, Ripley SWCD and Christian SWCD.

The groups involved with strategic planning documents were: District Board of Supervisors, District staff, NRCS, MDC employees as well as DNR staff to facilitate discussion. Some areas reviewed were marketing, local programs, information/education, cost-share and more.

The five steps in strategic planning were to identify an area to evaluate, create an objective, examine the details, review current operations and develop a strategy. The most important aspect is flexibility in the plan. This process is available for any district, with the process taking around six months. Program staff is available to assist in gathering thoughts and facilitating the plan, but this is the district's plan.

Mr. Sam Schaumann, board member from Christian SWCD, reported the process in Christian was very extensive, but very beneficial to the county. He also thanked all the participants involved in the process.

Sandy Hutchison requested this information be sent out to all the districts across the state to keep the districts informed.

2. Memorandum of Understanding Between Partners

Katy Holmer presented the draft partnership agreement to the commission. Representatives from NRCS, MASCWD, the District Employees Association, the commission, and the Department have met three times to develop a new cooperative working agreement. The partners have tried to develop a draft that the commission, NRCS, and Department can sign, so it can go out to each district to decide if they will participate in the agreement. While the agreement will be signed by each district, the associations have represented the district boards and staff in these meetings.

Some of the major changes from the 1997 cooperative agreement include adding the Department of Natural Resources as a partner; development of district technician certification; not charging landowners for clerical or technical assistance; the Department provides computer support for districts; clarifying transportation policies regarding the use of state and federal vehicles; stand-alone districts will provide workspace for NRCS; and protection of personal landowner information through the Federal Freedom of Information Act, including the attachment of the information privacy section of the 2008 Farm Bill. Partners have added information about what is acceptable regarding sales and rental equipment on NRCS-owned or leased property.

The agreement defines the roles of all of the partners. On behalf of the commission, the commission chair requested that the Attorney General's Office help define the roles of the commission and Department; therefore, it would be premature for either partner to take any action on this agreement at this time. This information should be considered by the partners for inclusion in this document to help the partners understand the roles and responsibilities for carrying out the programs. The districts have requested a comment period before the agreement is signed by all of the parties. The comment period was established with an end date of March 1, 2011.

G. REQUESTS (continued)

1. Proposed FY 2013 Cost-Share Allocation

Alan Freeman presented the Fiscal Year (FY) 2013 Cost-Share allocation. Allocation of the full \$24 million appropriation would provide more funding at the beginning of the fiscal year for planning purposes. A supplemental allocation will be utilized in FY13 while MoSWIMS monitors obligations, as well as providing additional funds to districts with considerable activity in a resource concern.

The Needs Requests for FY13 is \$72 million although the program spending authority remains at \$24 million. Items included in the FY13 Allocation: FY13 Needs Assessment, FY11 percent of cost-share claimed of initial allocation, FY12 mid-year progress, and new resource concern requests for the districts and resource concern maximum increase or decrease from the previous fiscal year allocation.

Mr. Freeman presented the FY13 Cost-Share parameters. He stated that by utilizing this strategy, 100 districts received additional funding in at least one resource concern. Most districts are utilizing 4 to 5 of the 7 resource concerns available. In summary, the FY13 initial allocation is expected to be approximately \$24,078,000 with a Supplemental Allocation being utilized. Districts will receive 100 percent of their Nutrient and Pest Allocation in January and the districts may request up to 18 percent of their FY13 Allocation in January as an Advance Allocation.

The funds availability timeline is similar to the FY11 and FY12. He stated that January 1st, 2012 the FY13 Advance Allocation of 18 percent will be released, as well as 100 percent of Nutrient and Pest Allocation. Then on July 1, 2012 the full FY13 Allocation will be available with an expectation of a supplemental allocation in the fall of 2012.

The following was offered for commission consideration to: approve for the FY13 Cost-Share Allocation formula and schedule as presented.

After discussion, Gary Vandiver made a motion to approve the FY13 Cost-Share Allocation formula and schedule. Kathryn Braden seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously.

H. APPEALS (continued)

1. Henry SWCD – Vasser, DSL-1 Permanent Vegetative Cover Establishment Maintenance Violation

Cody Tebbenkamp presented the Henry SWCD maintenance violation, landowner repayment. The issue was that Truman Lake Seed Farms LLC, c/o James Journey/Wayne Vassar had a maintenance violation on contract R-48-07-0006A1

DSL-1 Permanent Vegetative Cover Establishment and has failed to repay the prorated amount due of \$2,926.04. Truman Lake Seed Farms LLC, c/o James Journey/Wayne Vassar was contacted on June 14, 2011, regarding the violation by Henry SWCD. On July 27, 2011, Mr. James Journey replied to the district's letter for repayment stating he was no longer involved with Truman Lake Seed Farms, LLC and that Mr. Vassar was now responsible for the LLC. Mr. Vassar had informed the district a year earlier that he no longer was the owner of the property. Prior to the land sale, Henry SWCD District Manager explained to Mr. Vassar that he could have the maintenance agreements recorded by the Recorder of Deeds of Henry County at no cost to him on his contract. Mr. Vassar declined to record the maintenance on the property.

On August 4, 2011, the Henry SWCD sent the program office a letter that Mr. Vassar failed to repay the \$2,926.04. On August 31, 2011, the program office sent Mr. Vassar a letter stating that he had 30 days of receipt to repay the amount due or the issue would be reviewed at the November commission meeting to determine if the collection should be turned over to the Missouri Attorney General's Office.

The following was offered for commission consideration to: support the local board and turn over the maintenance violation of Truman Lake Seed Farms LLC, c/o Wayne Vassar to the Missouri Attorney General's Office for recovery of state cost-share funds.

After discussion, Kathryn Braden made a motion to support the local board and turn over the maintenance violation of Truman Lake Seed Farms LLC, c/o Wayne Vassar to the Missouri Attorney General for recovery of state cost-share funds. Gary Vandiver seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously.

I. REQUESTS (continued)

1. Supervisor Appointments

a. Douglas SWCD

Kurt Boeckmann presented a request from Douglas SWCD to appoint Lynn Gray to complete the unexpired term of Laurie Creech, who submitted a letter of resignation. Mr. Gray and the district chairman have signed the new Verification of Supervisor Eligibility form verifying the candidate meets the qualifications to serve on the board.

The following was offered for commission consideration to: approve the appointment of Mr. Gray to complete the unexpired term of Laurie Creech.

Kathryn Braden made a motion to approve the appointment of Mr. Gray to complete the unexpired term of Laurie Creech as Supervisor. Thomas Bradley seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously.

2. Natural Disaster Allocation Requests

Kurt Boeckmann presented the Natural Disaster Assistance request to the commission for consideration. Items included in the assessment are: county disaster status, narrative for practices and extents of damage, and completed spreadsheet with cost-share estimates. All districts can utilize existing funds to address natural disaster impacts. The total estimated cost reported on the Natural Disaster Cost-Share Damage Assessment since the last meeting is \$35,084 for Moniteau, Lincoln, St. Charles and Stone SWCD.

The following was offered for commission consideration to: provide districts with the requested funding as stated on the Natural Disaster Cost-Share Damage Assessment once the district meets the threshold of 70 percent (obligated plus pending) in the applicable resource concern.

Bryan Hopkins stated that Natural Disaster Assistance is an ongoing situation that will have to be monitored over time.

After discussion, Kathryn Braden made a motion to approve the Natural Disaster Cost-Share Damage Assessment once the district meets the threshold of 70 percent (obligated plus pending) in the applicable resource concern. Gary Vandiver seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously.

3. Warren SWCD – Request change of territory for Supervisor Election

Colette Weckenborg presented the Warren SWCDs request to change territory for Supervisor Elections. The Warren SWCD board is requesting permission to realign voting regions for board of supervisor elections due to increased urbanization in Area II – Hickory Grove. The board states they are finding it difficult to find candidates to run for the board within the current territory. Territory II currently has approximately 18,751 acres not considered agricultural land. Under Code of State Regulations 10 CSR 70-2.020 Conduct of Supervisor Elections: The SWCD shall be partitioned by the commission into 4 territories for the purpose of identifying nominating committees and subsequently, candidates for the office of SWCD supervisor.

The following was offered for commission consideration to: consider allowing for the election territories to be redrawn as submitted by the district.

Lafe Schweissguth represented the Warren SWCD in confirming the need to approve the territories being redrawn due to urbanization.

After discussion Thomas Bradley made a motion to approve the request to allow Warren SWCD to redraw the election territories submitted by the district.

Kathryn Braden seconded the motion.

When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously.

J. REPORTS

1. NRCS

a. SWAT Update

Dick Purcell presented the Soil and Water Action Team update, that supports the Mississippi River Basin Healthy Watershed Initiative, to the commission as a handout. Also presented to the Commission was the NRCS fiscal year 2011 report. This report is on the NRCS Missouri website and can be down loaded at:

http://www.mo.nrcs.usda.gov/news/annual_reports/out/2011%20Annual%20Report.pdf . Mr. Purcell also stated that the US Department of

Agriculture has a claim process focused toward Hispanic and Woman farmers who have asserted discrimination when seeking farm loans.

Details and information on this claims process can be found at any USDA Service Center or on the NRCS web site. He also noted that this year NRCS will start to replace the SWCD shared computers in the district offices. As new NRCS machines are installed, where available, a newer computer will replace the current shared computer.

2. MASWCD

Kenny Lovelace invited everyone to the opening ceremony being held. Mr. Lovelace also noted that MASWCD was recognized by the National Association of Soil and Water Conservation Districts for the training provided to districts.

3. University of Missouri

Dave Baker reported that the University of Missouri has already done two in-service field training for field staff on cover crops.

Mr. Baker also noted the association questioned who sent the note for University Extension employees to refrain from making comments in public meetings. The memo was from Mr. Baker and it was in reference to testifying to legislation and other such groups. If a person is testifying on behalf of the University of Missouri, that has to be cleared by Mr. Baker and the Legislative office. Mr. Baker informed the commission that position descriptions with roles and functions will be updated to clarify their role for Extension staff.

Webinars are done in Northwest Missouri for Flood recovery. This shows what can and should be done related to land recovery.

4. Department of Conservation

a. Streambank Erosion

Clint Dalbom stated that Missouri Department of Conservation (MDC) was noted as the responsible agency for technical certification for cost-share on streambank practices. MDC is no longer able to provide engineering needs for the statewide effort. This is due to a lack of engineers with stream expertise. The focus has shifted to watershed priorities. There are 78 watersheds that are considered priorities statewide. Technical advice will be available, but not engineering in other watersheds. Colleen Meredith noted that the cost-share handbook will have some adjustments made to it.

Mr. Dalbom also noted that this was a very successful deer season with the harvest down slightly. Mr. Dalbom stated that MDC had several studies on the bear, elk herd and mountain lion sightings.

5. Department of Agriculture

Judy Grundler noted that everyone is invited to the Missouri Governor's Conference on Agriculture being held January 19-21, 2012, in Kansas City.

K. PUBLIC COMMENTS

Sandy Hutchison thanked the program staff for all the work done in preparation and workshop presentations for the conference.

L. ADJOURNMENT

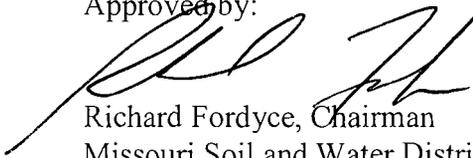
Tom Bradley made a motion to adjourn the meeting. Gary Vandiver seconded the motion. When asked by the chair, Kathryn Braden, Thomas Bradley, Gary Vandiver and Richard Fordyce voted in favor of the motion and the motion carried unanimously. The meeting adjourned at 6:00 p.m.

Respectfully submitted,



Colleen Meredith, Director
Soil and Water Conservation Program

Approved by:



Richard Fordyce, Chairman
Missouri Soil and Water Districts Commission
/clm