

**DEERFIELD REGIONAL STORM WATER DISTRICT  
REGULAR DISTRICT BOARD MEETING  
Landen Station, 3292 Montgomery Road  
Loveland, OH 45140**

**February 22, 2007**

**CALL TO ORDER:**

President Walter Daniels called the meeting to order at 6:40 P.M.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**ATTENDANCE:**

**Those present at the meeting were:**

Board Members:	Walt Daniels, Tim Greive, and Susan Berger
Attorney:	Eric Luckage, Esq., Albers & Albers
Engineering:	Jamie Coleman, Ph.D., CDM Inc.
DRSWD Admin. Asst.:	Cathy Herrick
Public:	Fred McCaran

**APPROVAL OF MINUTES:**

The Regular Board meeting minutes dated December 12, 2006, and January 9, 2007, as well as, the Special Board meeting minutes of December 12, 2006, and February 7, 2007, were presented and reviewed.

- **Action Taken/Required:** Tim Greive made a Motion, seconded by Susan Berger to accept and approve the meeting minutes of December 12, 2006, January 9, 2007 and February 7, 2007, as written. Vote: All Yes.

**REPORTS OF BOARD, AND COMMITTEES:**

**Treasurer's Report:** Susan Berger, Secretary/Treasurer, presented a year-to-date expenses and projected expenses report for 2006. The report indicated the balances vs. budget for the end of the year and Ms. Berger said this was for informational purposes only. Ms. Berger then referred to the revision of the 2007 budget stating there were a couple of reasons why this revision was necessary. First, the line item Contract Office was taken from the Administrative category in the amount of \$10,000.00, as it needed its

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own purchase order. Also, the Accounting category was raised from \$5,000.00 to \$15,000.00 to allow for the unanticipated audit expense being conducted by the State. Next the Engineering category was raised from \$50,000.00 to \$55,000.00 to cover the new Task Orders 7 and 8 as presented by CDM and finally, the Administrative/Other category was lowered as a result of these changes from \$106,000.00 to \$81,000.00.

- **Action Taken/Required:** Susan Berger made a Motion, seconded by Walt Daniels, to accept the re-appropriations of the 2007 Budget as presented. Vote: All Yes.

Eric Luckage wanted to make it clear, with these re-appropriations, the bottom line of the initial budget for 2007, had not changed. The monies were just being moved to better serve in the categories where additional money is needed and the expenditures were still the same. Walt Daniels added, as the Storm Water District grows we are learning the costs associated with its operation. Therefore, audit being conducted by the State and the cost for same was unknown but, now can be anticipated in preparing future budgets. Mr. Luckage agreed and informed the Board this was a normal procedure for a political sub-division to be audited about every two years. Ms. Berger also added, she had inquired of the District's accountant as to the estimated costs associated with such an audit and found that the amount to be charged was in line with a first time audit.

**Audit:** Susan Berger informed the Board, the auditor had nearly completed his work for the District and the process would be for him to prepare a draft report, of which he will present a copy to the Board to review, and then schedule a meeting with the Board to review and discuss his findings. Walt Daniels inquired as to whether this would be a closed meeting to which Ms. Berger acknowledged it would and stated this meeting was not subject to the Sunshine Laws which allow for public attendance.

Ms. Berger then referred to the 2007 Expenses vs. Budget report saying this indicated the amount spent in January totaling \$7,119.26 with the remaining budget being \$455,181.74 and also showed the income from service fees being \$60,719.52 to date. She also reported, due to the January bank statement not being received prior to the meeting, no interest had been added at this time.

Eric Luckage brought to the attention of the Board, an error which had occurred in November of 2006, where the Board had made a Motion to re-appropriate \$3,000.00 from the Administrative category to the Mailing Fee category and had taken this action again in December of 2006. Mr. Luckage said the Board would need to rescind Resolution No. 2006-49, dated December 12, 2006, which would correct this error.

- **Action Taken/Required:** Susan Berger made a Motion, seconded by Tim Greive to revoke Resolution No. 2006-49, dated December 12, 2006. Vote: All Yes.

Susan Berger then presented the bills for February as follows:

***Payment of the Bills:***

- Treasurer of State, Inv. #BILL000000001495, in the sum of \$331.27;
- CNA Surety, Bond No. 060170112962, S. Berger, in the sum of \$200.00;
- WCSW, Inv. #07-002 in the sum of \$237.50;
- Albers & Albers, Inv. # 10311 in the sum of \$2,479.00;
- Cathy Herrick, wages & mileage for 12/12/06 – 2/22/07 in the sum of \$856.75;
- Cathy Herrick, reimbursement for postage in the sum of \$12.03;
- Cathy Herrick, reimbursement for securing Post Office Box and (2) keys in the sum of \$21.00;
- Adventure Products, Inv. #32227 for name plates in the sum of \$122.00;
- WCSW, Inv. #07-023, SW only billing, in the sum of \$524.80;
- CDM, Inv. 80247868/8, T.O. #5, General Support, in the sum of \$3,345.50;
- Cathy Herrick, reimbursement for office supplies in the sum of \$13.05.

➤ **Action Taken/Required:** Susan Berger made a Motion seconded by Tim Greive to accept and pay the invoices as listed above. Vote: All Yes.

Ms. Berger began a discussion regarding the cash report and cash flow raising the question as to when the Board might want to repay the loan received from Deerfield Township by the District. She added that the District brought in approximately \$60,000.00 during the past month and expenses were approximately \$7,000.00. Mr. Daniels and Mr. Greive joined into the discussion, with Mr. Daniels expressing his thought that the Board should wait and build up some escrow before repaying the loan. Mr. Greive suggested paying the loan back in several payments versus one lump sum. It was agreed, as the loan is not due until July, 2007, the Board would wait to make a decision until the next receipt of service fees was received and discuss this again at the next regular meeting of March 13, 2007.

Mr. Daniels suggested consulting with the accountant for the District, to inquire as to how much contingency the Board should keep on hand. The Board inquired of Mr. Luckage as to his view from the legal stand point. Mr. Luckage stated when the purchase orders are set up, with the amounts appropriated, the secretary-treasurer is stating that the funds are available and you are allowing for the debts and that unless it appears that the expenses are going to exceed the budgeted amount he didn't feel this was an issue. He added there was not any certain amount which must be kept above and beyond said amounts but, this might be a question for the accountant. Mr. Daniels agreed and said we should be looking toward future expenditures and a possible escrow allowing for the purchase of equipment and particularly the Vac Truck.

**SPECIAL ORDERS:**

None.

**COMMENTS FROM GENERAL PUBLIC:** Community member, Fred McCarnan, of 7626 Butler-Warren Road, Mason, Ohio, addressed the Board at this time. Mr. McCarnan presented a situation to the Board regarding a new development which has been constructed on the perimeter of his property with a creek draining into his pond. The newly created run-off water has caused his pond to be overfilled and excessive water to drain onto his property. Mr. McCarnan said the developers put a 15” pipe in leading the water to overfill the pond and also causing the wild life to be unable to exit the pond. He also expressed his dissatisfaction regarding being charged a storm water service fee when he feels that his property is being utilized to retain excessive storm water. Mr. Daniels informed Mr. McCarnan, the District is here to investigate any concerns of community members and informed him the District was currently investigating another concern of the same nature in his area. Mr. McCarnan asked that someone from the Board come and view the pond. Mr. Daniels agreed and asked Dr. Coleman if he would please pay a visit to Mr. McCarnan. Mr. Daniels said he would also personally visit the site and advised Mr. McCarnan by him paying his storm water fees this enables the District to pay for the technical assistance he was requesting.

- **Action Taken/Required:** Cathy Herrick shall provide Mr. McCarnan’s telephone number and address to Walt Daniels and Dr. Coleman so they can contact Mr. McCarnan and designate a date and time to meet and view the area in question.

**UNFINISHED BUSINESS AND GENERAL ORDERS:**

**CDM Update:** Dr. Coleman reported the storm water only account billings had gone out this month. Dr. Coleman also advised he and Mr. Greive had followed up on the Greenfield Place properties’ concerns previously presented to the Board. He said they followed up with a representative from Classic Properties and spoke with a representative of the Charles H. Hamilton Company, who put in the original drainage pipe in question and was advised the next step would be to contact the manufacturer and pipe supplier, ADS, who Mr. Greive advised they are planning to have them come and inspect the pipe and its damage, to hopefully arrive at a solution in resolving the drainage problem. Ms. Berger commented, she knew of residents who lived along Butler-Warren who have previously indicated there were problems with the drainage ditches not draining properly in that area.

Dr. Coleman then referred to who may responsible for drainage problems on private property such as that of the Greenfield Place sub-division. After investigating a plat from the Warren County Recorder’s office, he discovered that all Warren County

homeowners' record plats contain the following language which Dr. Coleman quoted for the Board:

***“The Warren County Commissioners assume no legal obligation to maintain or repair any open drainage ditches or channels designated as “drainage ditches” on this plat. The easement area of each lot and all improvements within shall be maintained continuously by the lot owner. Within the Easement, no structure, planting, fencing, culvert or other material shall be placed or permitted to remain which may obstruct, retard or divert the flow through the watercourse.”***

Dr. Coleman said he had consulted with Mr. Luckage and the Warren County officials advised him that Warren County retains no responsibility for these drainage issues on private property. Mr. Luckage could not render an opinion on responsibility without receiving additional information. Dr. Coleman went on to say, he was quite certain most homeowners were unaware of this language and the liability which they assumed when purchasing the property and this was an area which certainly needed to be brought to their attention. He suggested in working with private property issues and especially with this information in mind, the Board should possibly set up a meeting with Warren County and discuss how some of this liability could be shared or spread out to homeowner's associations as the drainage issues are certainly not limited to one individual's property. Dr. Coleman recommended meeting with Chuck Petty from the Warren County Engineer's Office and Dave McElroy from the Warren County Soil and Water Conservation District in a possible work session type meeting to try to come up with a way which property owners and potential owners can be made aware of the responsibility of drainage liability on their property. He added, he had not yet informed the residents of the Greenfield Place community but, would do so, at his first opportunity.

Eric Luckage noted additional information which was set out on the record plats, such as the wording, “all lots shall have five feet of easement along their property unless otherwise noted.” If there is an easement recorded, it will show up during a title search and should be included in homeowner's title insurance. There should be a deed of easement so that when people buy property they are aware of it. Mr. Luckage suggested that someone go to the Recorder's office and research this subject to which Dr. Coleman agreed to do. Mr. Luckage suggested that, as a minimum, temporary step, that the developers should be required to conspicuously disclose to potential property owners that the property contains a storm water easement and the responsibility of maintaining said easement, would be solely placed upon the property owner.

Dr. Coleman then reported a couple of months ago there was an issue on the private property of James and Katherine Good of 8818 Lea Place located in the Woodfield Place sub-division. He said he had contacted them and gave them several different options to assist them in remedying their drainage issues mainly by redirecting the flow and working with their neighbors in doing the same.

The Board had recently requested that Dr. Coleman do an update on the Phase II mandates and where the District was at with meeting the OPEA requirements. A handout was given to attendees by Dr. Coleman, indicating the BMPs for the District and the status of each regarding the Phase II requirements of the EPA. He reported the sediment control portion per Chuck Petty, had been met. Also Mr. Petty indicated the post construction regulations, would soon be in effect, as soon as the Board of Warren County Commissioners approved same. Dr. Coleman said there were still several areas which needed to be addressed to meet the 2007 mandates. Other issues regarding Phase II were Public Education and Outreach, conducting storm drain tagging, storm water education for school children, organizing school and community sponsored action projects such as stream cleanup, riparian tree planting and stream bank stabilization, and Public Participation and Involvement. The Board discussed various ways to complete the BMPs prior to the end of the year 2007. Dr. Coleman suggested contacting Dave McElroy and Marsha Rolph of Warren County and investigating combining efforts with Warren County Soil and Water's activities to meet some of these mandates. Dr. Coleman noted, the District needed to address BMP No. 5, which pertains to stream cleanup, riparian tree planting, and stream bank stabilization, saying the measurable goal included organizing one planting project at least twice during the five year permit term. Dr. Coleman suggested that maybe these actions could be combined or piggybacked with the efforts which have already been planned or completed by others, such as Little Miami, Inc. or Little Miami River Partnership to meet the measurable goal.

Mr. Daniels inquired as to the requirement of training public employees. Dr. Coleman replied that he had telephoned Larry Weis and Lois McKnight regarding the same but, had not yet heard back from them. It was agreed that Ms. Berger and Dr. Coleman would meet and work on the annual Ohio EPA report, and determine which actions needed to be concentrated on to successfully complete each item and create a new updated report.

- **Action Taken/Required:** Susan Berger and Jamie Coleman shall coordinate a date and time to meet and work on updating the information and creating a report for the Ohio EPA.

Finally, Dr. Coleman mentioned community member, Diana Halligan, called and inquired as to the possibility of viewing the District's Code of Regulations on the web site. Ms. Berger indicated she would be adding this, as well as, the Credit and Adjustment Policy, to the web site as soon as she could for public access.

**Illicit Discharge Detection/Elimination Plan** The Board reviewed the Plan and agreed it seemed to be pretty straight forward. Dr. Coleman had one area where there was a question regarding who would take action in the case of a reported illicit discharge situation. He noted, at this time, there was limited staff at the State agency to deal directly with these situations and this was a major concern. It is not clear who should

investigate various situations but added, ultimately, the responsibility comes back to the Township or the District by the Ohio EPA. Dr. Coleman said, at the very least, there needs to be someone within the District to take responsibility in dealing with the various situations which may arise as the State is referring these type of problems directly back to the Township or the District. Mr. Daniels inquired if there needed to be a specific policy created. Mr. Luckage noted that sub-section 4.1 Illicit Discharge Regulations, states: "The future regulations will contain the definition of allowable and prohibited discharges, and penalties related to continued violation of the regulations by failure to disconnect an identified illicit discharge". Mr. Luckage suggested that the District needs to decide who will enforce the plan whether it is additional staff or a contractor. Dr. Coleman stated that the Ohio EPA states that the permit, which would be the Township, is ultimately responsible for enforcement. He further stated that the District has three (3) regulations that the District must enforce specifically: (1) Illicit Discharge Regulations (2) Sediment Erosion Control and (3) Post Construction storm water runoff control. The Board discussed different scenarios and how they thought they may be referred to the correct department or agency which should be made aware of the same and investigated. Dr. Coleman said the next steps would be to contact Warren County and the Township and see how they are currently dealing with these types of occurrences and attempt to coordinate with them.

**Storm Water Fee Update** Dr. Coleman advised he had been working with Chris Brausch's staff and reported they were doing a great job and felt they had developed a very good working relationship with the District. Ms. Berger advised she had received an email from Theresa Reier of Warren County Water and Sewer Department informing of several bills which were sent out and returned as undeliverable. These bills were sent out in a postcard type form. Ms. Reier informed him their next step would be to recheck the addresses as in the Warren County Auditor's records and then place these billings in envelopes and resend them.

Susan Berger referred to a letter received from the Hills Property Management regarding the storm water service fee and their properties, Sterling Lakes Apartments & Island Club Apartments. The letter was requesting an adjustment to the storm water service fees to be imposed as they felt they were in compliance by virtue of the various retention/detention systems they had created during the development and had "no greater storm water run-off than what the previous uses of the properties had prior to their development" as multi-family apartment communities. Ms. Berger said she had contacted the gentleman who sent the letter and explained the process as to how the ERU's were calculated and arrived upon. Dr. Coleman added the ERUs were created from a formula agreed upon by the Storm Water Advisory Committee (SWAC) which was a group of community members who were educated on the Township's storm water problems, and ultimately made a recommendation to the District and the Township as to how this fee would be fairly charged. After discussion, the Board agreed to send a copy of the District's Credit and Adjustment Policy which includes applications to request an

adjustment and to advise them the Board would review their application for an adjustment and make their decision.

**DFT/SWD Communications** Walt Daniels reported the DRSWD had a special meeting with CDM to develop a model of Deerfield Township's watersheds mapping both water quantity and quality. Attending the meeting was Mr. Larry Weis and Ms. Lois McKnight representing Deerfield Township's interests. Mr. Daniels said CDM would provide a formal presentation on this topic at the District's March 13, 2007 regular board meeting.

**Permanent Bank Depository** Ms. Berger said she had received from Eric Luckage, a copy of an example of a public notice announcing that the District was accepting applications for its public permanent bank depository. The Board then discussed the specific requirements which may be needed by the District and dates which would be utilized in the agreement. Ms. Berger advised that after completing the particulars of the notice for the District, she would forward it to Cathy Herrick and asked that she contact the local newspapers to publish the notice. It was agreed by the Board, the bids would be reviewed by Ms. Berger and she would make her recommendations at the April 10, 2007, Regular Board meeting.

- **Action Taken/Required:** Susan Berger shall compose and email the final copy of the depository public notice to Cathy Herrick who shall contact Cox Publications and request the public notice be placed in the local publications being the Western Star and Pulse Journal newspapers and said publications shall appear for two (2) weeks.

**NEW BUSINESS:**

**CDM Task Order No.7 and Task Order No. 8** Dr. Coleman reported that Task Order 7 was for general support for the year 2007 and essentially the way it is broken out is allowing for eight (8) hours per month for meeting attendance and follow-up and four (4) hours per month for miscellaneous billing assistance for a grand total of 144 hours and a budget of \$17,040.00. This is a general order and may vary.

Task Order No. 8, provides for the 2007 Drainage Problem Investigations, with possibly two (2) investigations per month and allows for twelve (12) hours of investigation time which totals 288 hours and a budget of \$37,440.00. Dr. Coleman again stated, this is allowing for this many investigations but, not necessarily what will happen. He said it may average out to only one per month but, they wanted to allow for more, in any event, the DRSWD will only pay for only the investigations which take place.

- **Action Taken/Required:** Susan Berger made a Motion, seconded by Walt Daniels to approve and accept CDM Task Order No. 7 and CDM Task Order No. 8 as presented. Vote: All Yes.

**Southwest Ohio Storm Water Collaborative** Susan Berger began by explaining to Tim Greive what the Southwest Ohio Storm Water Collaborative was and the role the District had with them. She then reported she had met with the Hamilton County Storm Water a couple of weeks ago and they were again discussing the possibility of beginning radio advertisements again this year but were thinking of utilizing different radio stations. She inquired as to the Board's interest in participating again this year at a cost of \$1,250.00 for advertising. After further discussion, the Board proposed the following motion:

- **Action Taken/Required:** Tim Greive made a Motion, seconded by Walt Daniels to provide the Southwest Ohio Storm Water Collaborative with \$1,250.00 for the purpose of radio advertisements. Vote: All Yes.

**COMMENTS FROM BOARD MEMBERS:** Mr. Daniels referred to a letter received by the Board, from Alliance Insurance regarding risk control insurance and minimizing liability exposure in daily operations. Ms. Berger informed the Board she had spoken to Mr. Brown of Alliance and felt this was a follow-up letter to their conversation wherein they had agreed this was only a procedural matter and the District was not considered to be in need of this type of insurance at this time.

Mr. Luckage touched briefly on the Cord Report. (Coalition of Ohio Regional Districts) of which the Board is a member and received this recent newsletter. This is a non-profit corporation whose primary purpose is to advance and protect the interests of regional water and sewer districts.

**RESOLUTIONS:**

Eric Luckage presented the following previously adopted resolutions for signature of the Board: Resolution 2006-49, Accepting the revision of the 2006 Budget by re-allocating \$3,0000.00 from the Administrative category and adding into the Mailing Fee category; Resolution 2006-50, Approving payment of the November bills as presented: Resolution No. 2007-01, Re-appropriating funds in the 2006 District budget as follows: by taking \$1,604.08 from Engineering; putting \$214.72 into Administration; putting \$30.00 into Insurance; putting \$1,000.00 into Legal; and putting \$359.36 into Phase II: Resolution 2007-02, Accepting the 2007 Budget as presented; 2007-03, Approving payment of December bills as presented.

**MOTION FOR ADJOURNMENT**

Tim Greive made a Motion, seconded by Susan Berger, to adjourn at 9:25 P.M. Vote: All Yes.

**Next Regular Meeting: March 13, 2007**

The Deerfield Regional Storm Water District Board meets the second Tuesday of every month at 6:30 p.m., unless otherwise notified.

Attest:

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Susan Berger, Secretary/Treasurer