

CALL TO ORDER

At 7:00 PM, Chairman Foster called the July 10, 2018 Regular Board Meeting of the Moses Lake Irrigation and Rehabilitation District to order. The record shows that all Board of Directors were present. Legal Counsel, Brian Iller and General Manager, Chris Overland was also present. The record indicates that this meeting was recorded. The Pledge of Allegiance was then recited.

DISCUSSION OF AGENDA ITEM(S)

Chairman Foster called on the board members and the audience for discussion on any agenda items and nothing was brought forward.

DISCUSSION OF NON-AGENDA ITEM(S)

Chairman Foster called on the board members and the audience for discussion on any non-agenda items and Nathan Pack, Mike Love, Mitch Halgren, William McCormick, Darryl Pheasant, Glen Carrigan, Jeff Strawn, Ed Stubington, Paul Kirkendall, John Stout, and Bert Holman asked to be added to the agenda.

APPROVAL OF THE AGENDA

Chairman Foster called on the board members to approve the agenda. Director Teals made a motion to approve the agenda as amended. Director Selmann seconded the motion. The motion carried unanimously.

APPROVAL OF CONSENT AGENDA

Chairman Foster called on the Board of Directors to approve the consent agenda. The consent agenda consisted of the meeting minutes from 06/12/18 Regular Meeting, the Bills/Checks (#16710-#16752) and Voucher #1000202 totaling \$245,493.47. Director Dexter made a motion to approve the consent agenda. Director Teals seconded the motion. Vice Chairman Bailey abstained from voting on anything related to Basin Property Management, Inc. The motion carried unanimously.

PRESENTATIONS/SCHEDULED GUESTS

Aquatechnex – Terry McNabb

Aquatechnex has a contract with MLIRD to administer the annual Aquatic Weed Treatment Program. Terry McNabb explained that Aquatechnex surveyed Moses Lake in late May/early June and noted that the Phragmites that was treated last year was well taken care of and there was some Yellow Flag Iris that has come up in a few places as well. Their main effort for the year was to do submerged aquatic weed control using aquatic herbicides. Aquatechnex is required by the permit to notify any landowners who live on the shoreline of planned treatments ten days in advance, which includes a mailing and signs that are posted on docks the day of treatment. There is an irrigation pump in the lake that was near one of the treatments areas this year that supplies irrigation water to landowners who live in the Diamond Point area. Aquatechnex discussed the situation with the Diamond Point HOA Board and wrote a letter addressing any concerns. Terry McNabb mentioned for future treatments having a list of any pump stations that supply irrigation water to inlet landowners would be helpful. He also suggested that another potential

way to make sure it doesn't happen again would be to expand the mailing dramatically. A third option would be to use a different herbicide that has a higher cost per acreage; however, has no irrigation restrictions. Aquatechnex is going to do emergent vegetation control in August which is spot spraying the noxious weeds found along the shoreline. There is no impact at all on irrigation restrictions on the products used for this process. Yellow Flag Iris is expanding more around the lake, and it is something that Aquatechnex is treating with both Imazypr and Glyphosate. Director Teals asked if the Grant County Noxious Weed Board would be an entity to contact to help with it spreading. Terry McNabb explained that Yellow Flag Iris is a Class C noxious weed which means the Noxious Weed Boards do not have to enforce against it. However, they can choose to promote that an entity goes after it. Aquatechnex treated a little over 400 acres on Moses Lake so far this year.

MLIRD STAFF REPORTS

General Manager, Chris Overland reported the following:

- Lake elevation was at 1046.80 feet as of July 10, 2018 at the Hallmark Gauge Station.
- The Grant County Treasurer advised MLIRD that the late 2018 MLIRD assessment notices were mailed to ratepayers on June 28, 2018.
- Aquatic Treatments took place the week of June 25, 2018 and over 430 acres were treated. The main focus was shoreline invasive weeds such as Phragmites and Yellow Flag Iris.
- Harvester operations began in June, however, were hindered by many windy days.
- Connelly Park is doing well with nothing new to report.
- Assessments for June were at approximately 10% of anticipated income and expenditures were a bit under budget at 97% overall financials.

EXECUTIVE SESSION

The Board went into Executive Session at 7:15 PM to discuss with Legal Counsel pending litigation as authorized by RCW 42.30.110 (1)(i) as it relates to the mandamus action and also to discuss with Legal Counsel the legal risks of a proposed action as authorized by RCW 42.30.110 (1)(i)(iii) as it relates to press releases. The expected time was 15 minutes, and the Board was to return at approximately 7:30 PM. Legal Counsel, Brian Iller indicated that there may or may not be further action taken after as a result of the discussion in Executive Session.

The Board entered back into Regular Session at 7:30 PM.

ACTION ITEMS

Vice Chairman Bailey made a motion to amend the agenda to include the Moses Lake Irrigation and Rehabilitation District's statement regarding the 2018 MLIRD assessments. Director Teals seconded the motion. The motion carried unanimously.

Legal Counsel, Brian Iller stated that the MLIRD prepared a statement in regards to the late notices of the 2018 assessments which is the district's best attempt to express the situation. The statement is factual, accurate and was up to the Board whether or not they adopt it.

Director Selmann made a motion to adopt the MLIRD statement regarding the 2018 assessments as prepared. Director Teals seconded the motion. Director Dexter wanted it known that the Board does have a statement that will help clarify the situation to the ratepayers and the public and he

believes it is a good idea to adopt the statement as a Board. The motion carried unanimously.

Vice Chairman Bailey then read the MLIRD statement regarding the 2018 assessments that was adopted by the Board to everyone that was present at the Board Meeting.

MLIRD Statement Regarding 2018 Assessments

MLIRD shares its ratepayers' frustration with the Grant County Treasurer's late notices of MLIRD's 2018 assessment. This delay is solely the responsibility of the Grant County Treasurer.

The Grant County Treasurer is required by statute, RCW 87.03.270, to send notices of MLIRD assessments by April 1 of each year and has properly done so for decades by including them on the Grant County general tax notices. This year, the Treasurer refused to do so.

MLIRD used the same rate method in 2018 that it had in prior years. MLIRD's Board of Directors is authorized by RCW 87.03.445 to assess based on "rates or tolls and charges." For decades, the MLIRD Board has assessed based on rates applied against the total assessed value of lands of the district. For decades, the Grant County Treasurer has included those rate-based assessments on the general Grant County Tax Notice.

In 2018, the Grant County Treasurer refused to include MLIRD assessments in the General County Tax notices claiming that the method of assessment was illegal because the rate was applied to total assessed value rather than just the value of the land. The Grant County Treasurer made this decision even though no court had found the MLIRD assessment methodology was illegal, and even though the State Auditor had reviewed and approved MLIRD's assessment methodology in 2013. The Grant County Treasurer cited arguments made by plaintiff Mick Hansen in the Hansen v. MLIRD lawsuit. The judge in Hansen v. MLIRD lawsuit still has not decided the issue, but the Grant County Treasurer nonetheless refused to send the MLIRD assessment notices in March.

MLIRD filed its suit asking that the court order the Grant County Treasurer to send notices of MLIRD's assessments. The day before that case was finally going to be heard by the court, the Grant County Treasurer agreed to send notices of the MLIRD assessments and to continue to send MLIRD assessment notices until the judgment was final in the Hansen v. MLIRD lawsuit. This is exactly what MLIRD had proposed from the beginning of this dispute and exactly what MLIRD sought in its suit against the Treasurer.

This entire problem was created by the Grant County Treasurer's failure to perform a statutory duty.

PUBLIC COMMENTS

Nathan Pack expressed that he lives on Columbia Ave and is getting charged the same rate as someone who can pump off the lake. He wanted to know why he is getting charged the same rate as someone who has more benefits than he does. Legal Counsel, Brian stated that the MLIRD made a decision that it wasn't going to assess everyone for the cost of a delivery infrastructure decades ago. The ratepayer's assessments would be extremely higher if the District were to construct, maintain and operate any delivery infrastructures. The water is there for every ratepayer to share in MLIRD's water right of 50,000 acre-feet. The ratepayer has to build the infrastructure whether it is on their own, with a neighbor or a community to receive their share of the water. This is a decision the MLIRD Board has made historically and the current Board hasn't changed. If any ratepayers want to go in with a neighbor, there is a process under RCW Chapter 87.03 by which you can ask the District to form a Local Improvement District, get bonds, have one built and be assessed for the cost. This would be a decision that the Board would have to make. Chairman Foster added, one thing that may change some minds is if the District was called Moses Lake Rehabilitation and Irrigation District because MLIRD was changed in the early 60's by Senator Tub Hansen that in addition to providing irrigation water to all the ratepayers, the District was to rehabilitate the water as well. Director Selmann

included that there are developments in Moses Lake that added an irrigation infrastructure so that the entire development has separate irrigation and potable water. Chairman Foster also said that most people pay property taxes and assessments for the School District, the Library, and the Hospital and so on and do not use those services as well. The asset that MLIRD is charged with maintaining and taking care of is Moses Lake, and it cannot be done without the assessment income.

Mike Love asked if MLIRD has looked at including the new houses and apartments that were just built off Highway 17 into the District. Chairman Foster said expanding the District has to be done in Olympia. The MLIRD boundaries were designed in 1928. He added that this Board has had a number of parcels that have annexed their parcels into MLIRD. Legal Counsel, Brian Iller expressed that the MLIRD Board does not have the authority to force landowners into the District. Mr. Love also asked how MLIRD determines the assessment charges. Chairman Foster explained that the MLIRD assessments have been levied against the total assessed value that is set by the Grant County Assessor. The MLIRD adopts the rate at which MLIRD would assess. The MLIRD rate has been charged at \$1.00 per thousand of total assessed value for a number of years, and in January 2018, the MLIRD Board voted to reduce the assessment rate to \$0.75 per thousand of total assessed value.

Mitch Halgren expressed that he has a corner lot on Belair Drive and has no access to the lake and he believes the lack of communication caused most of the ratepayers to show up to the Board Meeting tonight. The disparity between having lake supply and no lake supply and paying the same rate is outrageous in his opinion. He also believes that no one is going to pay to have streets dug up to put in a shared irrigation system. He said that the only way he found out about the meeting tonight was because he called the Grant County Treasurer's Office.

William McCormick asked Chairman Foster what exactly he is getting for his tax dollars. He said he knew that his taxes paid for keeping the weeds down in the lake and irrigation water if he chooses to pump from the lake, and that's all he knows of. Chairman Foster added that everyone needs to remember what the asset of Moses Lake does for the community. MLIRD is also charged with providing recreation opportunities on the lake as well. MLIRD maintains Connelly Park. Chairman Foster added that there are lots of things that go into the MLIRD assessments. Mr. McCormick also asked if not everyone in Moses Lake is charged with the MLIRD assessment, only if they are in the MLIRD boundaries and Chairman Foster said that was correct. Director Teals mentioned that everyone needs to remember the quality of life community members have in Moses Lake. People come to Moses Lake for a variety of reasons; however, the lake is a key issue. Director Dexter added that the Moses Lake North Dam holds the water and Moses Lake is a critical part of the whole irrigation system from Grand Coulee where they pump water into Banks Lake and all the way down to Moses Lake where the water is held and waters all of the Southern Pasco areas which is a huge economical issue. Legal Counsel, Brian Iller also asked the ratepayers to think about what the lake would be like without MLIRD's efforts.

Legal Counsel, Brian Iller stated just as a point of order, he is the attorney for MLIRD and he knows that Mr. Darryl Pheasant is represented by a Legal Counsel, and he does not know if Mr. Pheasant has talked to his Counsel about being here at the MLIRD Board Meeting tonight; however, the meeting is being recorded, and if he were his Counsel he would advise him not to be at the meeting and to not speak because MLIRD and Mr. Pheasant is in litigation. Darryl Pheasant introduced himself as the Grant County Treasurer and said he was at the MLIRD Board Meeting to hear any of the ratepayers out and listen to any of their concerns. Legal Counsel, Brian Iller stopped Darryl Pheasant and told him what he was

saying was not proper discussion, this was not his meeting and he needs to address the MLIRD Board. Legal Counsel, Brian Iller also added that Mr. Pheasant should not be here to politic with the ratepayers that are at the MLIRD Board Meeting unhappy about the assessments in which he did not mail notices on which he is required to by statute and that he needs to direct all of his comments to the Board. Darryl Pheasant spoke to the Board and said he was advised to come here and try to clear up some misinformation. He said that the District in the past has asked how else the District can raise the money. The County has given different methodologies on the land characteristics such as flat fees and per acre charges. He added that there is belief that the County is trying to take money away from MLIRD when MLIRD has the ability to generate the money to accomplish any of the projects MLIRD is doing. He explained that the County will be disappointed with the MLIRD statement that was just approved and went on to say that prior to this year, the County Assessor has been accepting rates from the MLIRD and doing a calculation to create the numbers that end up going back to him as the Grant County Treasurer. The process of calculating the MLIRD assessment roll has been with the assessor, not himself. This year, an assessment roll was provided to him on January 11, and after that roll was provided, he was told that those weren't the numbers and said this went on for two months. Darryl Pheasant expressed that he didn't know what to bill. Since the Assessor is in charge of the rate base type of methodology, the Assessor did not agree to do as MLIRD was requesting. When it got down to the middle of March, and a decision to actually bill what was given to him on January 11, 2018, which was different then the last two months and at that point in time knowing the software wasn't able to accommodate to put something on the statement, unfortunately to the detriment of the taxpayers, the Grant County Treasurer did not have the ability to include the MLIRD assessments on the statement like they wanted to. He apologized for the circumstances that the ratepayers were put through; however, he said unfortunately, it is tough to bill out something when you don't know what to bill. When the Grant County Treasurer's Office found out what MLIRD wanted to bill, unfortunately, with the deadline and because Grant County was the last county to send out tax statements, and the problem still had to be fixed, the Grant County Treasurer's Office did not have the ability to include the MLIRD assessments like MLIRD wanted it. He also noted that MLIRD is the largest district in the state in regards to parcels with over 11,100 parcels and said they were not able to get them done in a two week time period. He was sorry that in the time frame that was given to the Grant County Treasurer's Office, they weren't able to accomplish it based on the damage that was happening to taxpayers by delaying the statements and to the taxing Districts that were wanting the revenue and was not getting it because the Grant County Treasurer's Office hadn't put out the tax statements yet.

Glen Carrigan who lives off Firouzi Drive with one acre is tired of being taxed. He said he is going to go ahead and pay the MLIRD assessment but is going to protest his assessment.

Jeff Strawn said he was looking at the District Map and he lives on Road F NE, and his property lies on the other side of the District Boundaries and would like to know why the MLIRD tax statement even showed up on his doorstep. Chairman Foster said that the property has been in the District probably since 1929 and the MLIRD Directors didn't set the boundaries. Director Selmann also noted that when Mr. Strawn bought the property, it was a condition on his deed.

Paul Kirkendall believes he is getting charged way too much even though it is only \$200. He asked why MLIRD is taxing on the total assessed value and not just on the land value. When he got the MLIRD tax statement, he went to the Treasurer's Office, and they said that MLIRD screwed up then

found out after he spoke with an MLIRD employee what really happened. However, he said every time he turns around, he is getting taxed more. Mr. Kirkendall did speak with the Grant County Assessor's Office, and they are going to get him on a Senior/Disabled discount. Chairman Foster reminded everyone that MLIRD lowered the assessment rate for 2018.

John Stout wanted to know why the MLIRD Board Meeting was not more publicized in the paper. Chairman Foster mentioned that the MLIRD Board Meetings are the second Tuesday of every month. He is saying that he already paid his property taxes and now he has to pay more because it wasn't included. Legal Counsel, Brian Iller stated that the MLIRD assessment was not included in the County Tax Notice and so nobody is getting extra taxes or paying MLIRD twice; everyone is paying two separate times, however, paying exactly the same amount everyone would have paid had the MLIRD assessment been included in the original County Tax Notice. Legal Counsel, Brian Iller said that he does not agree with Grant County Treasurer, Mr. Darryl Pheasant's characterization of what happened. He stated that MLIRD sent its assessment roll to Grant County Treasurer, Mr. Pheasant on January 11, 2018. Mr. Pheasant was not going to include the MLIRD assessments because of the land vs. improvement issue, no matter what. Legal Counsel, Brian Iller said he had multiple phone conversations where Mr. Pheasant admitted on the telephone in the presence of his attorneys and other parties that all it would take him to include the assessments would be 5 seconds and two buttons. This is why the MLIRD Board is frustrated and is why the MLIRD Board has adopted this Public Statement to explain to the ratepayers why everyone is receiving a second bill from the Grant County Treasurer. He reiterated that the ratepayers are just receiving two bills instead of one and the MLIRD Board did everything it could, including himself, to not let this happen. An audience member asked if this was going to happen every year. Chairman Foster stated that the Board hopes this does not happen again. Legal Counsel, Brian Iller expressed that there is an agreement that Grant County Treasurer, Darryl Pheasant will include the MLIRD assessments on the regular Grant County Tax Notices next year and all following years. He explained there is a lawsuit between Mick Hansen v. MLIRD regarding the methodology and when that case is final the District will do whatever the final judgment tells them to do and then the Grant County Treasurer won't have any basis to refuse to include the MLIRD assessments on the Grant County Tax Notices. So as of right now, there is an agreement in place that it won't happen next year.

Bert Holman asked if MLIRD is selling water to the Tri-Cities area, why isn't that money coming back to MLIRD. Chairman Foster stated that MLIRD does not sell water, Moses Lake is a reservoir and MLIRD is holding the USBR's water. Chairman Foster wanted everybody to understand that MLIRD does not own the water. MLIRD is charged by the RCW's to be an Irrigation and Rehabilitation District and with maintaining 50,000 acre-feet of water in Moses Lake for recreational purposes, irrigation purposes and for the beautification of Moses Lake. Mr. Holman also mentioned that he does not abuse the water he gets from his well because he believes in it. However, he gets concerned that Moses Lake could get into a catch-22 like they are in California, where the price of water is getting out of hand. Chairman Foster said the MLIRD Board has gone to the City of Moses Lake and said Moses Lake is in a water crisis, why don't both of the entities work together to figure out how to water the yards in the city of Moses Lake using MLIRD's water rights coming out of Moses Lake. Chairman Foster stated that if Moses Lake is in a water crisis, then the Moses Lake community should figure out how to make that happen.

Marlo Reyna asked why the MLIRD Board cannot waive the fee for this year. He said that the MLIRD Budget is balanced, so it wouldn't hurt if it

was waived for 2018. Vice Chairman Bailey said that the MLIRD Budget is balanced assuming the 2018 assessments are paid.

An audience member spoke up and thanked the Board for lowering the 2018 assessment rate and asked if the Board decided to raise the assessment again if the ratepayers had a say in it. Chairman Foster said the ratepayers say comes in the manner of who the ratepayers elected. Chairman Foster said he believed the Board wouldn't have to go back to the ratepayers to get an approval to go up a dime or a quarter. An audience member asked if the ratepayers would be made aware of the assessment rate increase if the Board decided to raise it again next year. Chairman Foster agreed and made the ratepayers aware that MLIRD publishes its Equalization Roll each November for equalizing the Assessment Roll and then in the January Meeting is where the Board of Directors will discuss the budget and what will be sent to the Grant County Treasurer that coming year for assessments.

Nathan Pack asked if it would be safe to say that the MLIRD Board should educate the general public about what MLIRD does and what the assessments go towards to help alleviate some of the questions. Chairman Foster said the Board would love to see the Board Meeting filled every second Tuesday of each month, has an informative website and has advertised on numerous occasions on what MLIRD does.

Director Teals stated that the MLIRD Board is a representative body that one to two members go off every year. To be a member of the Board, you need to get a petition of about 20 names of people who are ratepayers, and your name will go before a ballot. The MLIRD would love to have people put their name on the ballot and become more involved in the District.

The Board thanked everyone for coming.

ADJOURNMENT

The meeting was adjourned at 8:29 PM.

Jeffrey B. Foster, Chairman

Bill Bailey, Vice Chairman

Kris Dexter, Director

Richard Teals, Director

Kaj Selmann, Director

By: _____
Secretary to the Board of Directors