

BUFFALO-RED RIVER WATERSHED DISTRICT

BARNESVILLE, MINNESOTA 56514

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MINUTES FOR MANAGERS' MEETING

July 29, 2010

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a special meeting on Monday, July 29, 2010, at 7:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, Gerald L. VanAmburg, Curtis M. Nelson, John E. Hanson, and Breanna Paradeis Kobiela. Others attending included: Bruce E. Albright, BRRWD Administrator, Erik Jones and Rick St. Germain, Engineers, and Julie Jerger, Administrative Assistant, Houston Engineering, Inc. (H.E.); Mark Sellin and Scott Sellin, Sellin Brothers, Inc.; George H. Peters, John Posch, Brian Giere, and Carol Schoff, Cromwell Township; Tyson Hajicek, Moore Engineering, Inc.; Gary E. Johnson, John Young, Jr., and C. J. Holl, City of Hawley Council; Joe Kelly, Hancock Concrete Products; and Frank Schindler and Ronald Butenhoff, Barnesville Township.

Chairman Ellefson called the meeting to order at 7:00 PM. He announced that the proceedings were being recorded to aid in preparation of the minutes.

Project No. 50, Cromwell Township Highwater Investigation. Albright gave a brief history of the highwater concerns in Cromwell Township associated with the Grefsrud farmstead and "cemetery road". The group discussed the two alternate plans. A hearing has been tentatively scheduled for this project on Monday, August 30, 2010, at 8:00 PM in the Hawley Community Center. The Redetermination of Benefits hearing for Project No. 32, Hawley EDA Diversion, will be held prior to this meeting at 7:00 PM in the same location. Albright noted that Minnesota Department of Natural Resources (DNR) might provide a grant for 50% of the project costs. The BRRWD is also considering a 25% contribution from their Minnesota Statutes Annotated (M.S.A.) 103D.905, Subd. 3, taxation. The City of Hawley Economic Development Administration (EDA) Diversion would be the outlet for the Cromwell project. An Operation and Maintenance (O&M) plan would need to be adopted regarding the operation of the project during highwater events. The O&M would be coordinated with the City of Hawley.

Albright explained that it now appears that the current design will not be able to dewater the township road completely, as previously hoped. Brian Giere pointed out that Cromwell Township isn't satisfied with the project plans if there will still be almost 1' of water over their road. The Federal Emergency Management Agency (FEMA) wants the road dry before they will help fund the Township road repairs. Giere felt that project will not benefit the Township at all. Giere said the Township understands the City of Hawley's position about using their Diversion as an outlet, but we need to work together to find a way to get the water off the township road. John Posch pointed out that the only reason the project attained emergency status was to address the township road situation, and now only private landowners will benefit. Albright noted that FEMA had discussed a possible funding contribution to help pump water off the road. Giere pointed out that there isn't any place to pump water. The whole area is inundated. Albright offered a copy of the proposed project design to the Township for their review. Albright commented that if the Township doesn't see any benefits for the road, the Board should probably just drop the project and move on to other pending projects. Giere acknowledged that the private homeowners had a right to get help to protect their homes and agreed that the project would be beneficial in this regard.

Ellefson asked about how the wetlands are configured in this area. He also asked what it would take to pump the water off the road to the Grefsrud wetland, if that gets lowered by Project No. 50. Jones

explained how the project would operate. He said that there are four separate wetland basins involved with Project No. 50. He explained that the bottom of the outlet structure (elevation 1162.26) dictates how much water can be drained off the area. The investigations show that the area is just too flat to drain enough water to expose the township road.

Giere noted that FEMA might assist the Township with the costs associated with pumping the remaining water off the road to the Grefsrud wetland, which is a short distance. The group discussed the pumping process. Manager Nelson asked who would pay for pumping. Ellefson felt the Township would be responsible for the pumping costs with possible FEMA assistance. He didn't think it would be too expensive. Jones commented that the gravity drainage would be through open channels or pipes, and that there is no cushion in the plan regarding elevations. It has been designed to drain as much water as possible from the wetland areas in relation to the outlet elevation of the Diversion channel. Because of the flat terrain, water velocities in the channel would be low. Jones explained that with the project in place, there would still be about 250' of the township road under about 1' of water. Currently, about 500' of the road is underwater.

Posch noted that it appears that the BRRWD is doing all they can with this project.

George Peters suggested that a gate could be installed so that water would not run west and backfill while they pump water off the township road to the east. Albright thought that an approach with a screw gate would hold back the pumped water.

Nelson mentioned that Kenny Wouters has written a letter objecting to the proposed project. Giere didn't understand why Wouters would object to the project, as his property is also affected. Albright forwarded the project plans to Wouters with a letter discussing his concerns.

Ellefson felt that the BRRWD should still pursue a project for this area. He suggested that Jones continue to gather information, especially for the proposed gate/approach/pumping for the township road, so that these issues can be discussed in more detail at the upcoming 8/30/10 hearing. Jones will have the revised project plans ready for the meeting.

Project No. 32, Hawley EDA. Ellefson introduced the BRRWD Managers and Staff. The attendees introduced themselves. Ellefson noted that the purpose of tonight's meeting was to discuss possible solutions for the deteriorating 60" dia. corrugated metal pipe (CMP) associated with the Hawley EDA Diversion. He did not want the group to engage in placing blame on anyone. The pipe is currently functioning, but we've noticed problems with the material since it was installed, and it could potentially fail. Ellefson proposed that the repair costs be split five ways among the participating parties to resolve this issue. Hancock Concrete Products, Sellins Brothers, Inc., and H.E. could contribute their services/products as part of or in lieu of their share of the costs, and the BRRWD and the City of Hawley would make monetary contributions. Jones explained the proposed work, which includes a tile line installation along the outside of the culvert to drain any possible excess seepage water away from the pipe. Jones' cost estimate is \$110,400. Each entity would be asked to contribute approximately \$22,000 in either goods/services, or funds. Ellefson thought that since the tiling was not part of the original project, this cost should be a new project expense, and it shouldn't be calculated in the cost-share proposal. Jones estimated that the tiling would cost about \$11,600.

John Young, Jr., City of Hawley, asked about the 8/30/10 redetermination of benefits hearing. Albright said the hearing would be to expand the benefit area for the Diversion project to add land that was not included in the original Appraisers' Report at the time the project was developed. Albright gave a brief history of the EDA project, which Sellins Brothers, Inc., completed in May 1998. He noted that in August

1998, the BRRWD sent their first letter to Sellins Brothers regarding a crack and scaling concrete in the 60" dia. culvert.

Young said that the City would like to see the damaged pipe replaced. There is a good possibility that a street could cover the pipe if the land is developed in the future. They fear an unexpected collapse.

The group examined the City of Hawley's photographs of the deteriorated pipe and Sellin's photographs of the pipe when it was first installed in 1998.

Joe Kelly, Hancock Concrete Products, discussed possible explanations for the structure failure. He said that their tests showed that 6,000-pound concrete was used to build the pipe, which is actually the specification for the very best class of pipe they manufacture. It could be that the pipe was overloaded, or that possible erosion along the outside of the pipe affected its strength. Kelly asked if the pipe had stabilized since 2007. Albright said it was hard to guarantee/document that the pipe is stable. He noted that we haven't seen erosive material coming out from around the pipe at the outlet. Kelly said that this is the third time since 1966 that similar problems occurred with their culverts. He mentioned that it appears that Sellins installed the pipe correctly. He briefly discussed the other two instances where there were obvious reasons for pipe failure.

Mark Sellin stated that the culvert joints are tight, and the pipe was installed perfectly straight. He questioned if the deteriorating pipe sections, numbered 15-25, were stressed because of overburden on the pipe, and if they should have been Class III instead of Class II pipe. Jones said the overburden is nearly the same throughout the pipe. Rick St. Germain felt that H.E.'s design was not the cause of the pipe failure. Kelly felt that the Class II pipe should have been adequate.

Young noted that the pictures taken on 3/31/10 shows that Sections 15 and 16 did look like they have squashed down more. Jones explained that Hancock removed all the concrete rubble and patched the pipe. H.E. has continued to take vertical deflection tests, but since 2008, they switched to taking horizontal tests, as they felt this was a more accurate measurement.

Ellefson commented that the BRRWD was tired of dealing with this issue. He reiterated his initial proposal of a five-way split. He didn't want to find fault with anyone connected with the project. We just want the problem resolved in the cheapest and most cost effective manner.

Kelly indicated that Hancock would provide the replacement pipe at their cost. Albright explained that Ellefson's proposal would take the estimated repair costs minus the cost of the drain tile and split the balance five ways. A discussion followed regarding how the costs could be allocated.

Kelly explained a way to use a junction box to avoid having to reconnect the section joints so we wouldn't have to remove the entire length of pipe. He added that the area around the drop structure should be excavated and packed/sealed with clay. Kelly feels that water is seeping into the pipe near the drop structure, washing away the pipe's bedding materials, weakening its strength.

Albright commented that in order to resolve this problem, we need cooperation from all affected parties. If negotiations fail, we could all spend more on attorneys than it would cost to fix the culvert. If we can't reach an amicable solution, the only party the BRRWD is going to deal with is Sellin Brothers Construction, Inc., who was the project contractor. They would have to deal with the design engineer, H.E., and the pipe supplier, Hancock Concrete Products, LLC.

Ellefson suggested that Jones should provide a cost estimate for replacing and resetting the pipe. He should include Kelly's recommendation for a junction box transition structure. Approximately sixteen sections

need to be replaced. There was a brief discussion regarding structure costs. St. Germain noted that no one should make any profit on the work. Young asked if heavier pipe would be installed. Kelly felt that either Class II or Class III would have reacted that same way under similar conditions.

Mayor Gary Johnson commented that the discussion so far regarding a five-way split sounded like a reasonable solution, and all that we need to do is iron out the actual costs.

Ellefson asked Sellins if they could estimate what the repair work would cost. Mark Sellin objected to the idea that they should come back and fix a project that they completed 12 years ago. He stated that if they agree to fix this project at cost, they could other clients demanding similar treatment. Sellin said that the problem is not their fault, and they should receive payment for their work. He pointed out that the project would be unconventional, as they will have to dig up and remove sections of the structure without damaging the rest of the pipe. There was a brief exchange between Sellins and St. Germain regarding the project construction. Ellefson reiterated his statement about not wanting to place blame for the pipe failure and the BRRWD's desire to work together to negotiate a way to split the repair costs. He added that this solution was not a "good deal" for anyone, but it would be a way to resolve the problem once and for all. He discussed how the costs could be split.

Johnson asked if it would be possible to let bids for the repair if Sellins don't want to do the work. He questioned if the agreement could go forward with four of the five parties participating. The group agreed that it would be necessary to prepare a cost estimate for the project.

Young noted that the project area was seeded to wheat, so we would be able to access the work area earlier this fall. There was a question about how the City's share of the project costs would be assessed. Ellefson explained that until the Redetermination of Benefits is adopted after the 8/30/10 hearing, the old benefiting area would be liable for any project costs assumed before the date of the redetermination. Albright noted that there is about \$10,000 still in the project account. Johnson suggested that the project wouldn't have to be done until the new benefiting area is in place.

Ellefson suggested that the recommended tiling feature for the culvert repair should be a BRRWD project cost because it was not part of the original project design. Mark Sellin asked how we know for sure that the tile is needed, or are we just assuming that the tile will help. Albright pointed out that the current site conditions are much wetter than when the project was originally constructed. He observed that the repairs might have to wait until next spring/summer. VanAmburg agreed that conditions might be better next year. Albright added that if the crop is off early and the weather cooperates, we might be able to work with landowner to get the work done yet this year.

Mark Sellin questioned how to estimate the repairs necessary for the drop structure. Ellefson thought that they should estimate their work based on an hourly rate. St. Germain pointed out that they should calculate the hourly rate at cost. Ellefson hoped the group would assume the attitude that no one would be making a profit on this project repair.

Kelly commented that the reason for his idea about water seeping along the outside of the drop structure was that there is a photograph of icicles coming off from the top of the culvert. Albright said that with the level of saturation in the area, it would be hard to guess where the water is coming from until we start the repair.

Ellefson questioned how we would handle a cost overrun. Albright said that if all the parties just provide their services/materials at cost, there shouldn't be an overrun. The City of Hawley and the BRRWD will contribute their share of the funds based on the final costs.

Both Young and Johnson thought that the proposal was reasonable. Albright suggested that we get estimates from Hancock and Sellins. Jones will provide the information to the other parties. Ellefson said the BRRWD is just looking for an agreement to the five-way split. St. Germain said that H.E. would agree to the proposal as long as it is understood that the agreement does not indicate acceptance of blame for the problem.

Sellins felt that they would be taking on the most risk by working on an hourly cost basis. They were concerned that they would have to work at cost and then have to put in extra cash to make the five-way split. Albright explained how the costs would be split. The group had an extended discussion regarding Sellins concerns about having to put in extra money. Albright noted that the other parties wouldn't hold Sellin's to their estimate if the work takes longer than expected. Ellefson reiterated that we need to work together to address this problem. Sellins felt that they needed to discuss the issue further before they could commit to an agreement. Ellefson pointed out that all we need is Sellin's hourly rate at cost for Jones to prepare an estimate.

Sellin didn't feel that they had any liability regarding their work on the project. Albright observed that the pipe started to deteriorate about two months after Sellins completed the project while it was still under the one-year warranty. A discussion followed regarding specific repair options and possible culvert costs. Kelly asked if the BRRWD would consider contributing more to the repair costs than 20%. Nelson pointed out that the BRRWD is accountable to the district taxpayers. He noted that the BRRWD has already spent money for meetings, studies, etc., on this issue. Kelly said that they have also done pipe investigations/repairs free of charge.

Ellefson thought that the 20% contribution per party would be fair. Ellefson commented that we probably should have addressed the problem when it was first noticed.

Paradeis Kobiela commented that Sellins feel that they are already sacrificing profits by doing the repair work for cost. Sellins suggested that they would be willing to do the work at cost if it was agreed that there was no possibility they would have to pay more than their 20% liability.

Johnson suggested that the contractors and engineers could do their work at cost, and the City of Hawley/project and the BRRWD could split the difference 50/50.

Albright summarized the discussion by asking Sellins and Kelly to provide estimates for their work to Jones so that he can prepare a cost estimate for the project. He said that we didn't expect any one party to suffer financially more than another from the agreement. Albright added that we all need to work together to solve this problem amicably and fairly.

Revised Watershed Management Plan (RWMP). The City of Hawley and the Board discussed the City's appeal of BWSR's approval of the BRRWD's Revised Watershed Management Plan (RWMP). They also discussed statements that the City's Attorney, Zenas Baer, made regarding the RWMP that were published in the Hawley Herald. Albright pointed out that the statements were inaccurate. The Board offered to sit down with the City and discuss their concerns about the RWMP at a separate meeting.

Project No. 54, Whisky Creek Tributaries. Frank Schindler and Ron Butenhoff, Barnesville Township, discussed the repair of a deteriorating culvert on "east tributary" that washed out yesterday. Currently, the culvert has been removed, and the road is temporarily closed. The culvert is on a DNR protected channel, associated with the project. Albright explained that the BRRWD has set a precedent of paying 50% of culvert replacement costs for repairs directly in the project area. For culverts located within the project area, the BRRWD had paid 100% of repair/replacement costs at the time of initial construction.

Barnesville Township asked the BRRWD if they would pay 50% of the costs for this crossing if they installed a structure according to BRRWD's design recommendations.

Schindler estimated that a 72" dia. x 56' culvert with mitered ends from Johnston Fargo Culvert would cost approximately \$9,000 installed. The project information will have to be sent to Robert Merritt, Area Hydrologist, DNR, for his review and recommendations. According to Merritt, the DNR has a general permit for flood damages for in-kind replacements that could be approved quickly. If the new pipe is the same size, etc., the permit could be approved within a couple of days. H.E. will provide a grade recommendation. The Township signed the DNR permit application and decided to keep the road closed until repairs can be completed.

The group discussed cost sharing the culvert/installation costs with the Township. **Motion** by Nelson to cost share 50% of the installation and culvert costs with Barnesville Township as a Project No. 54, Whisky Creek expense. **Seconded** by Paradeis Kobiela. **Approved.**

Adjournment. **Motion** by Nelson to adjourn the meeting. **Seconded** by Hanson. **Approved.** The meeting was adjourned at 9:20 PM.

Respectfully submitted,

John E. Hanson, Secretary