

# ***BUFFALO-RED RIVER WATERSHED DISTRICT***

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## **MINUTES FOR MANAGERS' MEETING December 27, 2011**

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held a special meeting on Tuesday, December 27, 2011, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. VanAmburg, Roger G. Ellefson, Curtis M. Nelson, John E. Hanson, and Breanna L. Paradeis Kobiela. Others attending included: Bruce E. Albright, BRRWD Administrator, Erik S. Jones, Engineer, and Julie Jerger, Resident Secretary, Houston Engineering, Inc. (H.E.); Ronald Salber, Salber & Associates, Inc.; and landowners: Polly Thorsness and Tim Thompson

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

**Polly Thorsness Culvert Concern.** Albright gave a brief history of this drainage dispute. Polly Thorsness distributed photographs of her neighbor's attempts to restore the ditch slope by her driveway culvert in the SE¼, Section 19, Tansem Township, Clay County. She informed the Board that her neighbor, Brian Holt, did not restore the ditch/culvert according to the Board's specifications. The sides of the ditch have not been filled in or properly sloped, as directed, and all the spoil was placed in the ditch downstream of the culvert so that no excess water can now drain south to the next outlet. Thorsness stated that she doesn't want Holt to do any more work on the erosion, as the sides of her road are so steep that it has created a road hazard. She plans to make the repairs herself next spring. Thorsness also addressed statements made at the 12/12/11 BRRWD meeting where she had been criticized for hiring an attorney. She stated that everyone has the right to an attorney when they feel they are being treated unfairly. She felt it was unfortunate that this situation was allowed to go as far as it did. Thorsness stated that landowners have the right to be treated fairly, no matter what their gender. They also have a right to an attorney at any time for any reason, and attorneys wouldn't be necessary if there weren't neighbors like Holt.

The Board briefly reviewed the restoration specifications discussed at the 12/12/11 meeting. Thorsness stated that according to a recent property survey, her fence is not on Holt's property, as previously alleged. The centerline of the driveway is not in the middle of Thorsness' 33' easement, with slightly more ditch on the east than on the west. Her property line has now been staked. She explained that Holt placed the spoil from the culvert excavation in the east ditch, which now restricts water from naturally draining south. Thorsness feels that the issue is closed, and she plans to hire a contractor to complete the road bank restoration next spring. She also plans to add an extension on the culvert to make it possible to put a better slope on the ditch.

The Board discussed the history of the erosion problems from Holt's property, which Thorsness stated started in 2002 when Holt improved his field ditches without the proper BRRWD permits. VanAmburg acknowledged Thorsness' statements and commented he felt the record should reflect that the Board acted in haste when they ordered her to remove the rocks she placed by her driveway culvert for erosion control.

**Tim Thompson Ditching.** Albright and Managers VanAmburg and Ellefson conducted a field review last week regarding Brad Cook's complaint about Thompson's ditching activities in Section 14, Barnesville Township, Clay County, along the north side of County Road (C.R.) No. 55, and Sections 1, 12, and 13, Alliance Township, Clay County. Ellefson felt that the road ditch along C.R. No. 55 did appear to be steep/deep, but he added that the neighbors on other side of road also cleaned their ditch extensively.

Albright noted that Thompson wasn't able to attend the previously scheduled meeting. He discussed Thompson's work in the road ditch. He noted that when the ditch is graded culvert to culvert with a scraper, the work will widen the v-shaped ditch bottom and expose clay on the sides of the ditch, while leaving the actual original ditch elevation intact. He added that the cattails roots are still showing on the ditch bottom. Albright explained that ditch maintenance doesn't require a permit.

Thompson discussed his work and acknowledged that the ditch is deep, which could present a hazard. He said he was willing to restore the C.R. No. 55 ditch grade. Albright recommended that Thompson could file a permit application for the restoration work, and the Board could approve the application, subject to County approval to work within their road right-of-way (r-o-w). Albright also noted that Thompson should smooth out the ditch slopes.

The Board also discussed the cleanout work Thompson did near Cook's farmstead in Alliance Township. Cook was concerned that Thompson's work has created a possible snowmobile hazard. Albright suggested that a reflective steel post could be installed near the culvert, but road safety is under the County's jurisdiction. Thompson will contact the Clay County Highway Department regarding the signage.

The Board also discussed Cook's concerns about several laterals ditches Thompson installed in the W½, Section 1, Alliance Township, Clay County. Ellefson felt that Thompson wouldn't need to file a permit application for this work. Thompson explained the area drainage patterns. There is a steep slope from the buried pipeline south to the corner of the section. There were also concerns about work Thompson did in Section 13, Alliance Township. Thompson was willing to smooth the area near the approach that Cook is concerned about. In the spring, he could do the ditch cleanup from the road. The Board felt that Thompson has attempted to follow the Rules, and most of his work was ditch cleaning, which doesn't require a BRRWD permit. **Motion** by Hanson to adopt the recommendations for the restoration work Thompson has agreed to in order to address the noted concerns, and to approve a permit application (Permit No. 12-15) for Thompson to restore the ditch side slope along the north side of C.R. No. 55 in Section 14, Barnesville Township, Clay County, according to his agreement with the Board of Managers, BRRWD, subject to the County's approval to work within their road r-o-w. **Seconded** by Ellefson. **Approved.**

**Meeting Recordings.** The Board had an extended discussion regarding the practice of recording meetings. Their consensus was to continue the current procedure. Some Managers felt that sometimes things are said that shouldn't be part of the record.

**Secretary Hiring.** The Board discussed payroll issues for the new part-time secretary with Ron Salber, Salber and Associates, Barnesville. Salber described payroll options and Public Employees Retirement Association (PERA) requirements. His fee for administering the new employee's payroll would be \$25/month. **Motion** by Nelson to hire Salber and Associates to do the new employee's payroll. **Seconded** by Ellefson. **Approved.**

The Board discussed how to handle the interview process and candidate scoring. Nelson felt the entire Board should participate in the interviews. The interviews were scheduled for January 5, 2012. Albright said that he and Chairman Van Amburg will be in St. Paul that day for a meeting. Some Board members felt their attendance was not necessary. Paradeis Kobiela will prepare questions and conduct the interviews. The Board discussed payroll/benefit options and reviewed the draft employee handbook. They discussed work assignments/meeting attendance.

The Board reviewed a draft Employee Handbook, prepared by the Human Resources Committee (Paradeis Kobiela and Van Amburg). They also discussed pay rates, pay periods, benefits, and time record keeping. **Motion** by Hanson to offer a payment rate of \$12.00 to \$14.00 per hour for a 30-hour part-time position,

based on qualifications, with no benefits, to include a reevaluation after a six-month probationary period. **Seconded** by Nelson. **Approved**. Ellefson opposed.

Albright will forward a check list for hiring a new employee to Ron Salber. The group also reviewed the job description and discussed the office setup/work station for the new employee. John Murray, Information Technology (IT), H.E., estimated that a computer workstation would cost approximately \$2,300 installed. There will also be office furniture costs. **Motion** by Paradeis Kobiela to authorize H.E. to install the referenced computer setup after the hiring process has been completed. **Seconded** by Hanson. **Approved**.

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. Since the 12/12/11 meeting, we have received \$187,952.12. Clay County remitted their 2<sup>nd</sup> half tax payment (\$129,083.79) and the Clay Soil and Water Conservation District (SWCD) forwarded the remainder of the Phase 1 Wolverton Creek Clean Water Fund (CWF) grant (\$58,881.80), which was allocated to a number of projects. The total cash on hand is -\$1,140,984.44. Albright explained that we are holding two checks for work on Project No. 49, Oakport Flood Mitigation totaling \$960,903.71. The office submitted Pay Requests for these expenditures on 12/06/11, and as soon as we receive reimbursement from the State, we will release the payments. The remainder reflects the outstanding balance of our Midwest Bank operating loan (\$191,080.73). Albright added that the office also submitted pay requests to the Minnesota Department of Natural Resources (DNR) for work on Project No. 39, Georgetown Levee, Project No. 68, Lake Jacobs Outlet, Project No. 65, County Line Outlet, Project No. 50, Cromwell Highwater Outlet, and Project No. 67, HRBP Lake Outlets for a total of \$2,234,630.74. Once those payments are received, the cash on hand should be \$1,093,636.00. Tomorrow, the office will submit a pay request for Project No. 56, Manston Slough Restoration. Albright noted that by the end of the year, all the DNR grants billings will be current.

**Other business brought before the Board included:**

**Tom Trosvik Tiling.** Albright called Tom Trosvik to see if Trosvik and his neighbor, Orrin Sorum, had discussed a solution to Sorum's concerns about Trosvik's tiling project in Section 32, Norwegian Grove Township, Otter Tail County. Trosvik's 2010 project routed water onto his downstream neighbor, Orrin Sorum, who had concerns about the tiling project's impact on his property. The Board suggested a new route for the tiling last summer, which would outlet the water north along 110<sup>th</sup> AVE for approximately 1,300' to a natural waterway on Sorum's property. Trosvik assured Albright that after the holidays, he would contact Sorum to work out their differences.

**Minch Lawsuit.** Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 10:27 PM to discuss the status of this issue. At 10:32 PM, the Board reopened the meeting.

**Norby Diking Complaint.** Manager Van Amburg still plans to contact Norby regarding his alleged diking activities along the Buffalo River in Section 22, Kragnes Township, Clay County. Norby doesn't have a land phone line, and Van Amburg has finally found Norby's cell phone number, so he plans to contact him in the near future.

**Project No. 71, City of Moorhead/50<sup>th</sup> AVE S Flood Control.** Albright noted that the Appraisers met today to work on their Report. Appraiser Loren Peterson has been recuperating from an illness, and the Board discussed a possible temporary replacement for Peterson until he is ready to resume his duties.

**Project No. 68, Lake Jacobs Outlet.** Jones reported that the project was operational as of 12/22/11, and the water level has already dropped 4".

**Project No. 65, County Line Outlet.** Jones reported that the project was stopped on 12/15/11, as the water elevation has reached the allowed Ordinary High Water Level (OHWL) of 1105.3. Both the affected Townships agreed that the project could be stopped for the winter.

**Project No. 61, Clay County Ditch No. 11N-Improvement.** Tami Norgard, Vogel Law Firm, has notified the BRRWD that she has a conflict of interest and can't represent us in our attempt to recover payment from John Leseth for his share of the cost to install driveway culverts for his former farmstead. The Board had agreed to contact Attorney Paul Skatvold, who also appears to have a conflict. Norgard suggested Attorney Ken Norman, who might be able to take the case.

**Project No. 56, Manston Slough Restoration.** Albright plans to work on easement acquisitions before the end of the year. Albright discussed the BRRWD funding shortage for this project with Pete Waller, Minnesota Board of Water and Soil Resources (BWSR) recently. Waller suggested the possibility that BWSR might be able to contribute more funding through the Reinvest In Minnesota (RIM) program. Jones prepared a letter to BWSR requesting the added funding (\$682,365) for the Board's review and authorization. **Motion** by Paradeis Kobiela to authorize Van Amburg to sign the letter and to forward it to BWSR. **Seconded** by Hanson. **Approved.**

**Project No. 50, Cromwell Township Outlet.** The channel is excavated all the way to the last pond by cemetery road. The pipe and the crossing on the west end still need to be installed. Jones noted that the contractor is waiting for a gate to be delivered to install on the east end of the culvert in the basin. On 12/15/11, the water on cemetery road was at elevation 1162.7 and at the Grefsrud's property, the water elevation was 1162.26 with approximately 6" to go before it reaches the target drawdown elevation.

**Project No. 49, Oakport Flood Mitigation.** A construction meeting was held on 12/22/11. Kris Carlson, Engineer, Ulteig Engineers, Inc. (UEI), and Albright prepared a budget showing how much funding is needed to finish the project (\$6.1 million). Albright will forward the budget to Pat Lynch, FDR Hydrologist, DNR, and State Senator Keith Langseth.

Opsahl prepared a final pay request for demolition costs (\$61,000) from Key Contracting, Inc. for the Board's review. **Motion** by Nelson to approve the Pay Request, which has already been processed. **Seconded** by Paradeis Kobiela. **Approved.**

**Mediation Project Team (PT).** The next PT meeting will be held Thursday, January 19, 2012, at 1:30 PM at the MSUM Science Center. The Board discussed possible funding for the Wetlands Reserve Program (WRP). Albright suggested that the BRRWD prepare a list of 10-15 potential WRP projects that could be ready to develop, if funding becomes available. Ellefson commented that the BRRWD should make landowner contacts before listing a site as a potential project to see if there is any interest in WRP.

Albright noted that Eddie Bernhardson has agreed to accept an appointment to the Red River Basin Flood Damage Reduction Work Group (RRBFDRWG) as a Citizen Representative. The Board discussed compensating Bernhardson for serving in this capacity. **Motion** by Nelson to pay Bernhardson at the rate of \$75/day plus an Internal Revenue Service (IRS) mileage stipend. **Seconded** by Hanson. **Approved.**

The Annual RRBFDRWG/Red River Watershed Management Board (RRWMB) Conference will be held on March 13-14, 2012, in Moorhead.

**Watershed District Enlargement.** The Board reviewed a Petition from Otter Tail and Wilkin Counties to add portions of those counties to enlarge the BRRWD. Once the BRRWD signs the Petition, it will be forwarded to BWSR for their consideration. The petition includes a request to increase the number of Managers from 5 to 7. Ellefson was concerned about the possibility that Otter Tail County wouldn't get a

new Manager, and that Clay County would get a fourth Manager. Albright pointed out that the appointments will be at the discretion of BWSR, and it is assumed that Otter Tail County will be represented. **Motion** by Ellefson to sign the Petition. **Seconded** by Hanson. **Approved.**

**Buffalo River TMDL Phase 2.** The Minnesota Pollution Control Agency (MPCA) has scheduled a public open house the Total Maximum Daily Load (TMDL) water quality process in the BRRWD for January 17, 2012, in Barnesville, Hildebrand Hall, Assumption Catholic Church. A press release will be published and invitations will be sent.

**Anderson Wetland Banking Investigation.** At the 12/12/11 meeting, the Board agreed to offer the landowners \$3,500/acre for their wetland easements. Jones has prepared draft easement options for Albright's review.

**Wolverton Creek/Comstock Coulee Clean Water Legacy (CWL).** Phase I has been closed out, and now work will begin on Phase II.

**New Office.** Architect Margaret Follingstad is working on the building plans, and the bid opening has been scheduled for Tuesday, February 7, 2012, at 4:00 PM.

**The following bills were presented for approval:**

Accounts Payable	Description	Account	Amount
Arvid Thompson	Voucher #1136, 2/02/11-12/13/11	Varies	\$ 375.00
Bruce E. Albright	12/27/11 Appraisers' dinner	Pj. Nos. 39/65/71	\$ 38.09
City of Barnesville	10/31/11-11/29/11 utilities (2)	Admin	\$ 380.57
City of Barnesville	12/25/11 telephone/DSL (2)	Admin	\$ 151.09
Clarks Excavating	6301 Broadway well sealing	Pj. 49, Oakport	\$ 830.00
Clay County Auditor	4th Qtr. HMGP match	Clay County Buyouts	\$ 39,903.57
Eddie Bernhardson	Voucher #1135, 2/02/11-12/13/11	Varies	\$ 611.55
Elvin Anderson	Cost share incentive	M.S.A. 103D.905, Subd. 3	\$ 2,570.00
Gary Myers	Incentive Payment	Hay Crk/Stinking LK CWF	\$ 1,920.00
H.E.	#0009846, 12/05/11-12/18/11	Wolverton Creek CWF	\$ 434.80
Joel Carlson	January 2012, Lobbyist fees	Admin	\$ 850.00
Johnson Excavation	Pay Request No. 2 correction	Pj. 38, Ringdikes	\$ 546.00
Kevin Lunde	Incentive Payment	Hay Crk/Stinking LK CWF	\$ 1,080.00
Key Contracting, Inc.	#2339, Johnk inlet	Pj. 27, Clay 55	\$ 5,319.80
Key Contracting, Inc.	#2340, Aigner/Nord repairs	Pj. 01, Wilkin 22	\$ 13,794.75
Key Contracting, Inc.	#2341, beaver dam removal	Pj. 24, Wilkin 44	\$ 733.50
Larry Enget	Cost share incentive	M.S.A. 103D.905, Subd. 3	\$ 1,426.00
Lauren Peterson	Voucher #1134, 2/02/11-12/13/11	Varies	\$ 549.00
Midwest Helicopter	2011 spraying	Varies/RRWMB Const.	\$ 35,388.00
Moorhead Public Service	11/07/11-12/-6/11 service (2)	Pj. 49, Oakport	\$ 63.70
Northern States Excavating, Inc.	#439, ditch repairs	Clay County Ditch No. 20	\$ 5,760.00
Northern States Excavating, Inc.	#440, seeding	Various projects/ditches	\$ 2,040.00
Randy Rick	#841580, gate, Phase 3A	Pj. 49, Oakport	\$ 20.00
Randy Rick	#841580, winterize (5)	Pj. 39, Georgetown	\$ 580.00
RRVCPA	11/10/11-12/09/11 service (3)	Pj. 49, Oakport	\$ 242.83
RRVCPA	11/22/11-12/11/11 service (4)	Pj. 39, Georgetown	\$ 193.10
Tom Bergren	Incentive Payment	Hay Crk/Stinking LK CWF	\$ 989.95
TrueNorth Steel	#85040015, flap gate	Pj. 1, Wilkin 22	\$ 537.50
TrueNorth Steel	#8504078, Colony inlet	Pj. 02, Wilkin 13	\$ 1,613.25
TrueNorth Steel	#8504093, 18" dia. band	Pj. 01, Wilkin 22	\$ 29.19
UEI	#26205, thru 11/30/11, Phase 1	Pj. 49, Oakport	\$ 15,456.63

UEI	#26207, thru 11/30/11, Phase 2	Pj. 49, Oakport	\$ 4,726.08
UEI	#26209, thru 11/30/11, Phase 3	Pj. 49, Oakport	\$ 23,347.34
UEI	#26210, thru 11/30/11, Phase 4	Pj. 49, Oakport	\$ 1,863.13
Vogel Law Firm	#75510, November billing	Pj. 39, Georgetown	\$ 2,933.00
Wm. Nichol Excavating	#108, repairs	Pj. 1, Wilkin 22, Pj. 2, Wilkin 13	\$ 5,935.00
			<b>\$ 173,232.42</b>

**Motion** by Ellefson to approve the bills and pay them as funding becomes available. **Seconded** by Paradeis Kobiela. **Approved.**

**Performance Review And Assistance Program (PRAP).** Albright distributed the annual PRAP questionnaire from BWSR for the Board's review. He encouraged the Managers to fill out their questionnaires, so we can submit the summary report to BWSR.

**BWSR Article.** Albright distributed a copy of a BWSR article regarding targeting best management practices (bmps) on the upper South Branch of the Buffalo River using the new LiDAR Stream Power Index (SPI) data.

**CWL 2012 Grant.** The BRRWD received a 2012 CWL grant to continue the LiDAR aerial mapping work in the BRRWD.

**Non-Profit Exemption.** Midwest Bank has asked if the BRRWD has a "Certificate of Exemption", indicating our status as a non-profit organization. According to the banking industry perspective, if the BRRWD had that status, we would be eligible for a lower interest rate on our line of credit. Albright will contact Ray Bohn, Minnesota Association of Watershed Districts (MAWD), to discuss this issue.

**BWSR RIM.** A meeting with the Clay SWCD was held last week regarding a BWSR CWL program to promote RIM bufferstrips. The County would need to submit an application for funding. For each approved contract in the approved protected areas, the SWCD receives an additional \$2,000 in funding. The Clay SWCD selected to designate Wolverton Creek as Priority Area 1 and the South Branch of the Buffalo River as Priority Area 2.

**Next Meeting.** The next regular meeting, which is also the 2012 annual meeting, will be held on Monday, January 9, 2012, at 7:00 PM.

**Adjournment.** Chairman Van Amburg adjourned the meeting at 11:15 PM.

Respectfully submitted,

John E. Hanson, Secretary