

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

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## MINUTES FOR MANAGERS' MEETING

November 27, 2017

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, November 27, 2017, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Mark T. Anderson, Peter V. Fjestad, Jay A. Leitch, Troy E. Larson, and John E. Hanson. Others attending included: Erik S. Jones, Engineer, and Wade S. Opsahl, Technician, Houston Engineering, Inc. (HEI); and landowners Shirlee Holland and Dusty Nordick. Bruce E. Albright, BRRWD Administrator, was absent.

Chair Van Amburg called the meeting to order at 7:03 PM and announced that the proceedings were being video recorded to aid in preparation of the minutes.

**Secretary's Report.** The Board reviewed draft minutes for the 11/13/17 regular meeting. Manager Leitch noted one minor correction. **Motion** by Leitch to approve the minutes, subject to correction. **Seconded** by Anderson. **Approved.**

**Treasurer's Report.** The Board reviewed the BRRWD's financial status. Cash on hand is \$1,197,902.44. No new income was received since the 11/13/17 meeting. Total 2017 income is \$2,631,437.26.

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

**Braton Property Acquisition.** Shirlee Holland discussed a possible BRRWD purchase of her family's 40-acre parcel in the SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, Section 22, Barnesville Township, Clay County, which has been enrolled in Reinvest In Minnesota (RIM) since 1993. Approximately 4.6 acres of the tract is under a BRRWD easement for Clay County Ditch (C.D.) No. 34 and could not be enrolled in RIM. The Braton family is working with realtor Ted Ducharme, who contacted the BRRWD office recently to find out if the Board was interested in making an offer on the property. Jones explained that the BRRWD is eventually going to need additional ditch right-of-way (R/W) on this tract for the Barnesville Township Comprehensive project, plus an inlet channel for the project retention site could potentially be located there. Typically, once land is enrolled in RIM, changing the land use is difficult. Jones has discussed a RIM easement alteration request with John Voz, RIM Easement & Working Lands Specialist, Minnesota Board of Water and Soil Resources (BWSR), who thought that if we could demonstrate how we plan to restore the old channel alignment, and improve wildlife habitat and water quality, BWSR would be willing work with the BRRWD. Jones noted that we have a phone conference scheduled with Bill Penning, Conservation Easement Section Manager, BWSR, for later this week on other issues, and we could include this proposal in the discussion. Van Amburg commented that changes are coming to the RIM rules in the next few weeks that will make easement alterations easier to accomplish. Holland explained that if the BRRWD isn't interested in acquiring this parcel, her family will list it for public sale. She noted that The Nature Conservancy (TNC) has agreed to purchase some of their RIM land south of Barnesville in Section 32, Humboldt Township, Clay County. Van Amburg indicated that the BRRWD is interested in this parcel, and he felt we should actively pursue the acquisition. Manager Anderson noted that typically he is against Watershed Districts purchasing private land, but since this tract is already in RIM, he didn't view it as a problem. Holland indicated that the property has a value of about \$18,500, which is the current taxable market value. She estimated that the property taxes are about \$100 per year. Van Amburg encouraged Holland to return to the 12/11/17 meeting when the Board should be able to make an offer on the property.

Later in the meeting, the Board discussed the land purchase in regard to property taxes, hunting land values, etc.

**Permit No. 17-119, Robert Yaggie.** Yaggie filed a permit application to install pattern tiling in the SW $\frac{1}{4}$ , Section 26, Manston Township, Wilkin County, on 10/11/17. Concerns were raised by downstream operator Dustin Nordick, Terry Nielsen/Jerry Abel (operator), and Ron Conzemius (operator) regarding the adequacy of the proposed outlet route that would drain the tile water in the north ditch of County State Aid Highway (CSAH) No. 26 west to a natural waterway in Section 27, eventually to the Manston Slough Restoration project. Dustin Nordick felt that there was a potential for breakouts in the SE $\frac{1}{4}$ , Section 27, where there is very little separation between the CSAH No. 26 road ditch and the field edge, and he wanted the north ditch cleaned before the proposed tiling was installed. Prior to the 10/23/2017 BRRWD meeting, the Wilkin County Highway Department conducted a ditch/culvert elevation survey, and Jones provided a drawing of the existing conditions for the Board. Based on the existing survey, Jones said there was adequate fall to install a ditch with an improved gradeline to Section 27. At the 10/23/17 BRRWD meeting, the Board postponed action on the application, pending a review of the outlet conditions. There are wetland issues further downstream on the Nielsen/Abel property in the NW $\frac{1}{4}$ , Section 27, which could be addressed by side-casting the spoil outside of the wetland areas during the cleanout. HEI has completed a wetland delineation for this property. Jones has prepared the Local/State/Federal (LSF) notification forms for the landowner to submit to the Wilkin County Environmental Office and the Army Corps of Engineers (COE) for this work.

Following the 10/23/17 meeting, Max Fuxa, Ellingson Drainage, contacted the Wilkin County Highway Department to request that they be allowed to clean the CSAH No. 26 road ditch. Ellingson Drainage modified Jones's plan to show a culvert to culvert cleanout. The County agreed that the Yaggies should be able to go ahead with their work. At the 11/13/17 meeting, the Board agreed to postpone action on the Yaggie's application until downstream landowners' concerns were addressed.

On 11/15/17, Jones attended a field meeting with Assistant Wilkin County Engineer Steve Nepl and Maintenance Superintendent Tim Christopher, Dustin Nordick, Ron and Matt Conzemius, and Bruce and Robert Yaggie along the north side of CSAH No. 26 on the south side of Section 27, Manston Township, to discuss Yaggie's permit application. At the time, the Yaggies were nearly finished with the road ditch cleaning and were starting to level spoil for about 4,000' from Section 26 to the point where the water turns north to flow across the W $\frac{1}{2}$ , Section 27, on the Conzemius and Nielsen/Abel properties. The cleanout was not graded according to Jones's recommendations/profile, but from culvert to culvert. During the meeting, the Yaggies agreed to clean the waterway from culvert to culvert this fall, and then adjust the grades next spring to address their neighbors' concerns. In this way, they could install their tile project yet this fall. Wilkin County was willing to provide the culverts for the lowered ditch grade project but would not do the installation. The understanding in the field was for an approximate 0.09% grade starting from the southeast corner of Section 27 and proceeding west to the quarterline field entrance in Section 27 and then a flatter 0.05% slope from there to minimize the depth of cut along the SW $\frac{1}{4}$ , Section 27, in accordance with Ron Conzemius' request. While the tile could be installed, there would be no tile pump operation until the ditch was lowered to the recommended grade and the cleanout on the Nielsen land was completed. The BRRWD would not issue an approved permit until the road ditch was regraded according to Jones's plan and profile recommendations, and the tile pump couldn't be operated until Yaggie has an approved permit. Jones and Nordick both thought that this was the agreement that came out of the field meeting.

According to Nordick, sometime prior to the field meeting, Max Fuxa, Ellingson Drainage, added the "culvert to culvert" grades to Jones's plan and profile sheet of the existing conditions, based on the County's ditch/culvert survey. Fuxa submitted this modified plan to the County for the Yaggies' road drainage permit and sent a copy to Nordick. Nordick rejected this proposal and contacted the BRRWD. Albright told Nordick that the Yaggies had been given verbal permission (10/27/17) to install their tile, but they couldn't operate the pump until the road ditch was cleaned. However, Albright was under the impression that the plan and profile sheet Fuxa had circulated was Jones's plan.

A few days following the field meeting, Bruce Yaggie contacted Jones regarding the project and was apparently backing out of the agreement. He explained that Jones's recommended lower ditch grades were unnecessary and not fiscally responsible. He referenced the waste of tax dollars to complete the project with the proposed lower grades and possible fiber optic impacts. He claimed that the "modified" culvert to culvert plan, was fair and fiscally responsible. Bruce Yaggie also questioned the accuracy of the County's survey. In that regard, HEI rechecked a few spots along the ditch to verify the County's grade elevations, including the culvert/apron ends and some shots in the field. Once this work was completed, HEI prepared a field profile in line with the power poles. Jones noted that the LiDAR results show slightly different elevations (within 6 inches), but there weren't significant changes to the County's original survey elevations on the west end of the Nordick/Norman property. Culvert elevations were also within a tenth of a foot of the original County survey. He added that if the landowners could agree to a solution regarding their drainage concerns, the BRRWD would not stand in their way.

Manager Larson was very concerned that Jones's original ditch drawing had apparently been modified and portrayed as HEI and BRRWD approved plans. Larson felt that the Yaggies took advantage of the BRRWD's willingness to work with the landowners to expedite the completion of their fall project. He added that in his opinion, by completing their tiling project this fall, the Yaggies accepted any changes that needed to be made to their project according to the 11/15/17 agreement, and it was too late now for them to attempt to negotiate a new deal. Larson felt this type of behavior makes it harder for the BRRWD to help other landowners in the future who want to get their projects completed in a timely fashion.

Nordick noted that the tile has been installed, the ditch has been cleaned culvert to culvert, and the lift station pump is in place. There is no power to the pump, but it appears that Ellingson had been pumping tile water into the ditch via a gas powered 2" trash pump during the tile installation.

Jones notified the Yaggies by e-mail that they don't have an approved permit to run their tile pump until the BRRWD and downstream landowners are satisfied with the project. Manager Anderson suggested that the office should send them a letter to that effect. He added that as part of the BRRWD Rules revision, the Board should include a provision that the tiling companies are also subject to the permitting process and must be sure it is followed. The Board authorized the staff to send the Yaggies a written notice stating that they currently don't have a permit to operate their tile system, and that the BRRWD will not be issuing a permit until the downstream ditch is graded according to Jones's recommendations per the lower ditch grades and the 11/15/17 meeting agreement. **Action postponed.**

**Duane Boeder Complaint.** Jones noted that he has had e-mail contact with the Boeders regarding their concerns about Frank Schindler's removal of a dry approach on their property in the SW<sup>1</sup>/<sub>4</sub>, Section 33, Barnesville Township, Clay County. He suggested that the Board will probably need to invite the Boeders and Schindler to a meeting this winter to discuss this issue further.

**Project No. 79, Wolverton Creek Restoration.** The Wilkin County Environmental Office has scheduled the Conditional Use Permit (CUP) hearing for December 6, 2017, at 8:30 AM.

**Project No. 78, Clay/Wilkin Judicial Ditch No. 1 (J.D. No. 1) Diversion.** HEI plans to file the preliminary survey report at the 12/11/17 Board meeting.

**Project No. 49, Oakport Flood Mitigation.** The preconstruction meeting is scheduled with Gladen Construction, Inc., on Tuesday, December 5, 2017, at 10:30 AM in the Fargo HEI office for removal of material from the project temporary spoil storage sites.

**Project No. 21, Wilkin C.D. No. 13.** Opsahl contacted landowner John Thompson regarding the channel repair and inlet pipe installation along his property on C.D. No. 13. Thompson still refuses to allow the contractor access to his property. Jones noted that the Board will need to acquire adequate ditch R/W in this

area to allow for future ditch maintenance when we acquire easements in accordance with the 2015 Buffer Law.

**Project No. 1, Wilkin C.D. No. 22 Repair.** William Nichol Excavating, Inc., plans to start the main ditch repair in the next two weeks, and work will continue upstream as the crops are harvested. Opsahl mailed permission to level spoil forms to several ditch system landowners.

**F-M Diversion.** Manager Anderson noted that a Technical Group meeting is scheduled for tomorrow (11/28/17) and the Task Force will be meeting on Wednesday (11/29/17). As a Task Force member, Anderson received a possible design to divert the Wild Rice River, and he asked Manager Leitch and Jones to review the plan. The Board agreed to authorize the HEI to review the design for Anderson as a BRRWD expense. The Board discussed the Task Force/Technical Group progress regarding project alternative review.

**Upper South Branch of the Buffalo River.** Jones noted that a conference call is scheduled with BWSR tomorrow (11/28/17) regarding the Phase 1 restoration work in Section 11, Manston Township, Wilkin County, east of T.H. No. 9. Manager Fjestad and Thomas Eskro, HEI, plan to meet with the Rogelstad family regarding their interest in a project on their property.

**Wilkin County Ditch Repairs.** Jones reported that DM Enterprises has completed the Wilkin Ditch buffer/side inlet installations for C.D. Nos. 40, 41, 42, 44, 13, and 13-Lateral. They will submit a final pay request at the 12/11/17 Board meeting. There's one remaining side inlet on C.D. No. 13-Lateral that we might possibly hire William Nichol Excavating, Inc., to install.

**Easement Consultant.** The Board will schedule a special meeting with Steven J. Taff, Associate Professor Emeritus, Department of Applied Economics, University of Minnesota, to review his final easement value study. Dr. Taff has been hired to provide consulting services to look at the value of easements on flood damage reduction (fdr) and natural resource enhancement (nre) projects.

**One Watershed, One Plan (1W1P).** The Memorandum of Agreement (MOA), draft By-Laws, and scope of work have been completed and are ready to be distributed to the Soil and Water Conservation Districts (SWCD) and Counties for their review and signature.

**Minnesota Association of Watershed Districts (MAWD) Annual Meeting.** The MAWD Annual Meeting will be held November 30 through December 2, 2017, in Alexandria.

Later in the meeting, the Managers discussed the proposed resolutions that will be voted on during the annual meeting.

**Elkton Wetland Restoration.** Fjestad asked about the wetland violations that took place earlier this summer on the Poehls and Lamb easements by Kyle and Chad Johnson. Albright hasn't had time to check with Johnsons regarding a plan to correct the situation.

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

| Accounts Payable           | Description                        | Account                  | Amount       |
|----------------------------|------------------------------------|--------------------------|--------------|
| American Enterprises, Inc. | #1685, Second Mowing               | Pj. 49, Oakport          | \$ 600.00    |
| American Enterprises, Inc. | #1696, Beaver Dam Removals         | Varies                   | \$ 900.00    |
| American Enterprises, Inc. | #1711, Mowing                      | Varies                   | \$ 3,360.00  |
| City of Moorhead           | 2017 Ditch System Mowing           | Varies                   | \$ 45,476.39 |
| DM Enterprises             | Repairs/Beaver Dam Removal         | Varies                   | \$ 17,187.50 |
| Joel Carlson               | December Lobbyist Fees             | Admin.                   | \$ 850.00    |
| Larry Henry                | Grade Stabilization/Lined Waterway | M.S.A. 103D.905, Subd. 3 | \$ 5,145.03  |
| Mark T. Anderson           | Voucher #17-30, 09/01/17-10/31/17  | Varies                   | \$ 442.61    |

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|----------------------------|--|------------------------|----------------------|
| Quill                      | #2472771, Desk Calendars/Toner         | Admin.                 | \$ 194.84            |
| SDG Systems                | #10784-Shipping cost for battery       | Admin.                 | \$ 6.75              |
| Sellin Brothers, Inc.      | Payment No. 2                          | Pj. 71, 50th AVE S     | \$ 11,577.89         |
| TrueNorth Steel            | Tommerdahl driveway                    | Clay C.D. No. 5        | \$ 11,482.86         |
| TrueNorth Steel            | Brendemuhl crossing                    | Clay C.D. No. 51       | \$ 6,301.30          |
| TrueNorth Steel            | Inlet/gate                             | Wilkin C.D. No. 13     | \$ 1,189.77          |
| Turner Sand & Gravel, Inc. | #36881, Repairs                        | Pj. 56, Manston Slough | \$ 2,829.34          |
| Turner Sand & Gravel, Inc. | #36882, Repairs                        | Pj. 56, Manston Slough | \$ 2,000.79          |
| Wm. Nichol Excavating      | #242, Repairs                          | Varies                 | \$ 11,209.00         |
| Xcel Energy                | 10/23/17-11/21/17 billing/lift station | Pj. 49, Oakport        | \$ 114.33            |
|                            |  |                        | <b>\$ 120,868.40</b> |

**Motion** by Anderson to approve payment of the listed bills. **Seconded** by Larson. **Approved.**

**City of Moorhead Ditch Mowing.** The Board discussed 2017 ditch system mowing bill from the City of Moorhead. **Motion** by Fjestad to have a discussion with the City regarding the mowing costs and the number of times the ditch is mowed. **Seconded** by Leitch. **Approved.**

**Mediation Project Team (PT).** The next PT meeting will be held on 12/14/17 at 1:30 PM in the BRRWD office.

**Office Staffing.** The Board discussed possible options/timeline regarding the hiring of an assistant administrator. Jones has provided administrator job descriptions to Albright for his review and comment. Anderson hoped we would be ready to conduct interviews in the spring before field work begins. The Board also discussed the issue of the new hire being a BRRWD employee or continuing the current arrangement with HEI for office staff.

**Next Meeting.** The next regular meeting will be held on Monday, December 11, 2017, at 7:00 PM in our Barnesville office.

**Adjournment.** Chairman Van Amburg adjourned the meeting at 8:30 PM.

Respectfully submitted,

John E. Hanson, Secretary