

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING May 14, 2018

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, May 14, 2018, at 7:00 PM in the Barnesville office. BRRWD Managers present were Jay A. Leitch, Gerald L. Van Amburg, Mark T. Anderson, John E. Hanson, Catherine L. Affield, and Peter V. Fjestad. Others attending included: Bruce E. Albright, BRRWD Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI); Tammi Sather, Clerk, and Trevor Sorenson, Alderman, City of Georgetown; Arvid Thompson; and landowners Charlotte Nelson, Leonard Nelson, and Chuck Anderson.

Chair Leitch called the meeting to order at 7:01 PM and announced that the proceedings were being video recorded to aid in the preparation of the minutes.

Agenda. Chair Leitch asked for comments or additions to the meeting agenda. There being none, the agenda was adopted.

Secretary's Report. The Board reviewed draft minutes for the 4/23/18 regular Board meeting. **Motion** by Anderson to approve the 4/23/18 minutes. **Seconded** by Affield. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's monthly financial statements, including the project account balance sheet, administrative disbursements, summary of income, and the accounts receivable report. Cash on hand is \$1,795,592.36. Administrative disbursements for the month are \$31,785.68, and for the year total \$137,687.21. Current 2018 accounts receivable are \$5,873,008. Our total income for the year is \$451,395.20. Income since the 4/09/18 meeting was \$17,349.06 from the Minnesota Pollution Control Agency (MPCA) for the Otter Tail River Planning 319 Grant. The balance of the income came from bank account interest (\$1,547.97) and HEI office rent (\$225). Albright noted that since we closed the Wells Fargo Bank accounts, a number of banks have contacted him to solicit our business. Northwestern Bank, Moorhead, MN, provided information for the Board's review. The Board agreed to keep our accounts at Midwest Bank for now. **Motion** by Fjestad to approve the Treasurer's Report. **Seconded** by Anderson. **Approved.**

The Board received draft copies of the 2017 Audit from Harold J. Rotunda, Certified Public Accountant (CPA), at the 4/23/18 meeting for review. None of the Managers had any revisions. **Motion** by Van Amburg to approve the 2017 Audit. The audit will be posted on the BRRWD's Website and added to the 2017 Annual Report. **Seconded** by Fjestad. **Approved.** Manager Anderson noted that he appreciated Rotunda's comments regarding the management of our ditch system accounts.

Business brought before the Board included:

Arvid Thompson Retirement. The Board presented a commemorative plaque to Arvid Thompson in recognition and appreciation for his service to the BRRWD as a Viewer/Appraiser for 29 years and as a member of the Advisory Committee for 35 years. Thompson recently decided to retire from both positions. During his tenure as a Viewer/Appraiser, Thompson worked with Eddie Bernhardson and Lauren Peterson to determine benefits for the majority of the BRRWD's projects. As a member of the Advisory Committee, he provided valuable support and assistance to the BRRWD Board of Managers. Thompson commented that his time on the Advisory Committee and as a Viewer has been a valuable learning experience, and he enjoyed working with the BRRWD staff and Managers. Thompson has been an active community leader for many years, including 16 years as a Clay County Commissioner.

City of Georgetown. At the 4/23/18 Board meeting, representatives from the City of Georgetown were in attendance to discuss project financial issues. The Board asked the City to come back to tonight's meeting and to provide written requests to address their concerns, which were forwarded to the Managers prior to tonight's meeting for their review. The City requested that the BRRWD contribute \$27,000 to cover their remaining project account balance and to transfer the buyout properties to the City, which were acquired with Minnesota Department of Natural Resources (DNR) funding. Albright also forwarded a list to the Managers showing past BRRWD project contributions as a comparison to Georgetown's request. Albright noted that levee certification could cost nearly \$1 million to complete, since it would require several permanent road closures, including two on Trunk Highway (T.H.) No. 75.

Tammi Sather, Clerk, City of Georgetown, noted that the project took longer and cost more than the City had anticipated, and asked if the BRRWD could help with the unexpected costs. Albright noted that all the water in the BRRWD eventually flows through Georgetown, as the northern most City in the BRRWD on the Red and Buffalo Rivers. Albright explained that the 2011 flood Federal Emergency Management Agency (FEMA) reimbursement is still pending. When the City receives their FEMA reimbursement, they should remit \$69,776.98 to the BRRWD to cover Project No. 39, Georgetown Levee, account 2011 flood expenses. To date, no one has heard from FEMA regarding the payment status. Attorney Corey Elmer, Vogel Law Firm, estimated that it would cost approximately \$2,000-\$3,000 to prepare the property transfer paperwork for the buyout properties. Jones noted that the largest tract (5-6 acres) is the former Ziegler property east of the north stormwater pond.

The Board discussed the levee certification issue. Albright explained that the DNR is not concerned if the levee is certified or not, and they do not pay for levee certification. The DNR would contribute funding for the permanent road closures and road raises because those features would still be considered protection to the 100-year flood level. The costs to the City and the BRRWD to provide temporary road closures during a flood event is time consuming and expensive. FEMA would only consider certification after the road closures are permanent.

The City's proposal is that the BRRWD transfer the buyout properties (10-15) to the City, not to include the project easement areas, and that the BRRWD contribute \$27,000 to the project account. Levee maintenance, mowing, etc., will be coordinated between the City, landowners, and HEI. **Motion** by Anderson to contribute \$27,000 to the Georgetown Levee project from the BRRWD's Minnesota Statutes Annotated (M.S.A.) 103D.905, Subd. 3, account and to transfer the referenced buyout property to the City of Georgetown. **Seconded** by Van Amburg. **Approved.**

Project No. 49, Oakport Flood Mitigation. Charlotte and Leonard Nelson discussed their concerns about the spoil storage site that was located on their land. Albright gave a brief history of the BRRWD's involvement with the Fischer family and their property associated with the Oakport Levee project. In the fall of 2016, the spoil was removed, and in 2017, the BRRWD and the Fischer family reached a \$30,000 settlement regarding the storage lease for the spoil site. The Fischers still have concerns about soil compaction conditions and the lack of black dirt on the spoil site. Last year, their renter, John Jones, deducted 4.5 acres from his rental payment (\$125/acre) because his corn yields were much lower on the spoil site. The Fischers feel that they have lost a significant amount of their topsoil on the site. The Board had an extended discussion regarding the site and possible action by the BRRWD regarding the Fischers' concerns. Albright will contact the contractor, Ulteig Engineers, Inc. (UEI), to investigate this issue further.

Permit No. 18-028, Barry Nelson. Applicant proposes to install Natural Resources Conservation Service (NRCS) designed water and sediment control basins with surface inlets and underground outlets in the NE¹/₄SE¹/₄, Section 7, Lake Park Township, Becker County. Surface water drainage will not be altered by this project. Jones recommended permit approval.

Permit No. 18-029, Mike Schouville. Applicant proposes to install a Becker Soil and Water Conservation District (SWCD) designed erosion control structure in the SW¼, Section 35, Callaway Township, Becker County. Jones recommended permit approval.

Permit No. 18-030, WBI Energy Transmission, Inc. Applicant proposes to construct a 16" dia. east/west natural gas pipeline. A pipeline valve will be placed in the SW¼, Section 2, Kragnes Township, Clay County. A new approach is needed to access the valve site, located off County State Aid Highway (CSAH) No. 5. It will be 20' wide with a culvert sized according to BRRWD recommendations. Jones recommended permit approval with a 30" dia. culvert to maintain consistency with the upstream and downstream structures, subject to County approval to work within their road right-of-way (R/W). The actual pipeline was approved by Permit No. 17-053.

Permit No. 18-031, Chad Okeson. Applicant proposes to install Becker SWCD designed water and sediment control basins with surface intakes and underground outlets to a grassed waterway with a rock stilling basin and outlet protection in Sections 20 and 21, Callaway Township, Becker County. Jones recommended permit approval, subject to township approval to work within their road R/W.

Permit No. 18-032, Kevan Nelson. Applicant proposes to install NRCS designed water and sediment control basins with surface intakes and an underground outlet in the SW¼, Section 17, Lake Park Township, Becker County. Jones recommended permit approval.

Permit No. 18-033, Terry Kohler. Applicant proposes to install Becker SWCD designed water and sediment control basins with surface intakes and an underground outlet in the NE¼, Section 13, Audubon Township, Becker County. Some of the tile will cross onto neighboring lands, outletting to the same low area as it currently does via surface drainage. The NRCS has an agreement with the neighboring landowner for the tiling. Jones recommended permit approval.

Permit No. 18-034, Matthew Bjerke. Applicant proposes to install NRCS designed water and sediment control basins with surface intakes and an underground outlet in the SE¼, Section 22, Lake Park Township, Becker County. The project will not change current drainage patterns. Jones recommended permit approval.

Permit No. 18-035, Travis Schauer. Applicant proposes to install NRCS designed water and sediment control basins with surface intakes and an underground outlet in the SE¼, Section 20, Lake Park Township, Becker County. The project will not change current drainage patterns. Jones recommended permit approval.

Motion by Fjestad to approve Permit Nos. 18-028 through 18-035, subject to the referenced disclaimers and conditions. **Seconded** by Affield. **Approved.**

Kevin Kuehl Complaint. Last fall, Albright and Manager Van Amburg met with representatives from the Minnesota Department of Transportation (MNDOT) regarding a cleanout project completed by the Kuehls for 0.5 miles along T.H. No. 9 about two miles north of T.H. No. 10 up to County Road (C.R.) No. 87 to improve the outlet for their tiling project. MNDOT was satisfied with the work, but the next mile of ditch needs to be cleaned (Section 28) to drain the water north to County Ditch (C.D.) No. 2 to which the land is assessed. The goal of the meeting was to encourage the landowners along the second mile of T.H. No. 9 to apply for a MNDOT permit to clean their ditch, which didn't happen. Now the tile water is blocked at C.R. No. 87. Kuehl asked the BRRWD to schedule a meeting with the downstream landowners along T.H. No. 9 to convince them to work with MNDOT to clean their ditch. The Board authorized Albright to schedule a field meeting.

Bob Westfall Drainage. Albright noted that last week, Bob Westfall contacted the office regarding a shallow berm installed by his neighbor's renter in Section 24, Meadows Township, Wilkin County, a couple of years ago. The group discussed area drainage patterns. Albright suggested that he send a letter to the renter, Larry Wiertzema, notifying that either he open the dike to allow water to flow west in the field or work with the

neighboring landowner to clean out the ditch along 260th ST. **Motion** by Van Amburg to authorize Albright to send the referenced letter. **Seconded** by Fjestad. **Approved.**

Permit No. 18-007, Roger Hanson. Hanson received a permit to install an approach/30" dia. culvert along C.R. No. 21 to provide access to his property to move in a house. There were some concerns about the elevation of the culvert. HEI surveyed the ditch and the culvert has been installed approximately 0.5' deeper than the ditch grade, so there's no problem with the elevation. Albright noted that he added a provision to the BRRWD Revised Rules stating that if a landowner installs a drainage structure or culvert that is not deep enough, the applicant must lower the pipe at their own expense.

220th ST Ditch Investigation. Earlier this year, HEI provided information to State Senator Torrey Wenstrom and Representative Jeff Backer regarding a proposed ditch along 220th ST that would route water west in Sections 31, 32, 33, 34, and 35, Mitchell Township, Wilkin County, outletting to Whiskey Creek. Recently, Albright was notified that the Legislators could not get an allocation for \$1.4 million for the ditch project. The Board authorized Albright to schedule another landowner informational meeting to discuss the proposed project after Memorial Day.

Rick Gandrud Complaint. The Board has scheduled a permit hearing on 5/29/18 regarding the Rick Gandrud/Kraig Nelson tile drainage dispute in Hamden Township, Becker County. Notices have been mailed to the affected parties.

Project No. 79, Wolverton Creek Restoration. Albright hopes to mail the Phase 1 temporary construction and easement options to the landowners this week. He expects that we should be able to open bids at the 6/11/18 Board meeting.

Project No. 78, Clay/Wilkin Judicial Ditch (J.D.) No. 1 Improvement. Bryan Kritzberger renewed the project petition bond and increased the amount to \$60,000. Albright reported that the petitioners are currently circulating the revised petition for signatures. Once the petition has been filed and reviewed by our attorney, Jones will prepare the Preliminary Engineer's Report. Jones noted that most of the survey work has already been completed.

Stony Creek Comprehensive Project. The Board reviewed two alternatives for easement acquisition. Jones noted that Albright, Manager Anderson, and he met recently with Chuck Anderson, who owns most of the land affected by the project, to discuss the possible project design options.

Alternative 1-One Pool: Permanent (construction/features) easements would be valued at the County Tax Assessment Value multiplied by 1.2 plus the drain tile value (\$900/acre if tile existed). Flowage (water storage) easements, or land that the landowner could farm at their own risk, would be valued at the Tax Assessment Value plus drain tile value. Alternative 2-Two Pools: Permanent easements would be valued at the Tax Assessment Value multiplied by 1.2 plus the drain tile value. Flowage easements in the upper pool and emergency spillway areas would have a value of Tax Assessment Value plus drain tile value. For land in the lower pool area, the easement value would be the Tax Assessment Value plus drain tile value. Another possible option for the flowage easement in the lower pool area would be the Tax Assessment Value multiplied by 0.6 or less plus the drain tile value to lower the cost to reflect the additional costs to create the dividing embankment and the reduction of property benefits for this alternative. With this option, natural resource enhancement (nre) and flood damage reduction (fdr) benefits would be reduced.

Albright noted that while Alternative 2 provides more protection for Anderson's land in the lower pool and would allow him to farm it more often, it falls short of the BRRWD's goal of optimum flood reduction for Stony Creek, which Alternative 1 provides. Anderson agreed that the Board should probably consider Alternative 1 because it fulfills the original intent of the Stony Creek project, is less expensive than Alternative 2, and provides more flood reduction for the Stony Creek watershed. There was a brief discussion regarding options for the Nick Manston property on the east side of the project area. **Motion** by Van Amburg

to move forward with the development of Alternative 1 and to authorize HEI to prepare the easement option details. **Seconded** by Anderson. Anderson suggested that it might be possible to study the storage/drainage capacity of drain tile on this site since the majority of the property in the permanent pool area is tiled. Chair Leitch discussed his concerns about HEI's draft benefit/cost analysis, which proposed a 4.85 benefit cost ratio. Leitch conducted his own analysis and his calculations show a 0.36 benefit cost ratio. He pointed out that he wasn't trying to stop project development, but he wanted the Board to move forward with transparency about the project's benefits and its potential return on the investment. Manager Anderson asked if the drainage tile study data might add to the project benefits. Leitch didn't think it would be significant. Van Amburg noted that biologists and economists disagree on the value of nre benefits. He didn't disagree with the analysis method but would disagree on the values. Leitch had no doubt his calculations were correct and suggested that since we are spending taxpayers' money, the Board should be more concerned about the cost/benefit ratios of future projects. The Board had an extended discussion regarding this issue. **Approved.**

Project No. 21, Wilkin C.D. No. 13-Lateral. The Board discussed scheduling a meeting on Tuesday, May 29, 2018, at 8:00 PM in conjunction with our regular Board meeting regarding Whisky Creek Farms' refusal to allow our contractor access to C.D. No. 13-Lateral along their property in Section 36, Deerhorn Township. A repair project was completed in 2017, and all the other ditch system landowners allowed the contractor to access the ditch R/W. The BRRWD paid for additional R/W from the landowners to complete the repair. The Thompsons returned their R/W checks, and a year later, the only section of the ditch still in disrepair is on their property. Albright prepared a letter in this regard to the Thompsons to ask them to reconsider their noncompliance with Minnesota Drainage Law and to notify them of the meeting. **Motion** by Anderson to send the referenced letter. **Seconded** by Hanson. **Approved.**

BRRWD Rules. Albright reported current projects have taken precedence over his work on the Rules, but once the upcoming hearing notices/easement mailing deadlines have been met, he plans to refocus on completing the draft Rules for final Board adoption.

One Watershed, One Plan (1W1P). Albright reported that the Policy Committee approved the draft workplan, budget, and schedule at their 5/04/18 meeting. Those documents were forwarded to the Minnesota Board of Water and Soil Resources (BWSR) for approval and grant allocation. To date, they have not responded.

Next steps will be to organize the Technical and Citizen Advisory Committees. Leitch submitted a couple of suggestions for possible membership.

2015 Buffer Law. Albright reported that we have several ditch systems ready for the hearing process. Our goal for 2018 is to address the ditch systems within the BRRWD that don't have an adequate buffer. There are a number of ditch systems in the BRRWD where repairs and easement acquisitions were just recently completed.

Leitch brought up the issue of landowners farming the road R/W. Albright explained that initially the State plans to address the legal ditch systems and protected waters, leaving the road R/W for future enforcement. Manager Anderson commented that the Townships and Counties should be responsible for R/W enforcement on their roads. The Board had an extended discussion regarding the "Other Waters" enforcement issue.

The Wilkin SWCD forwarded a conservation practice assistance contract for cost sharing for buffers on Wilkin C.D. Nos. 40, 41, 42, 43, 13, and 13-Lateral. **Motion** by Fjestad to authorize signature of the contract. **Seconded** by Van Amburg. **Approved.**

Parking Lot Repairs. The Board briefly discussed quotes from Richard Seidel (\$1,525) and Madson Specialties (\$2,984) for parking lot repairs and sealing. **Motion** by Anderson to accept the low bid from Richard Seidel. **Seconded** by Fjestad. **Approved.**

Comments/Announcements.

Fjestad asked about the landowner informational meeting for Wilkin/Otter Tail J.D. No. 2. Albright said that that the meeting for J.D. No. 2 has been scheduled for Monday, June 4, 2018, at 7:00 PM at the Government Services Center, Commissioners Room, Fergus Falls, and notices will be sent to the benefited landowners in Wilkin County and the landowners within the drainage area in Otter Tail County.

Manager Hanson commented on a newspaper article regarding a report from the American Farmland Trust about the loss of farmland due to urban development.

Wilkin C.D. No. 40. Albright noted that at the 4/26/18 Mediation Project Team (PT) meeting, the group discussed the Upper South Branch of the Buffalo River and focused on concerns regarding the 2009 spring flood erosion problems on Dave Yaggie's property. The water that caused the washouts on the Yaggie land came from C.D. No. 40 breakouts in Section 1, Manston Township, and Section 6, Tanberg Township. The Board authorized HEI to inspect the south spoilbank for any erosion sites. Five locations were identified where culverts could be installed and covered with small berms. The proposed side inlets won't contain the 100-year flood, but they will improve water quality, frequency breakout, etc. The culvert installation cost estimate is approximately \$30,000. Don Bajumpaa, District Manager, Wilkin SWCD, suggested that if the BRRWD would authorize the installation of the inlets, the Wilkin SWCD could provide a 75% cost share. **Motion** by Fjestad to work with the Wilkin SWCD to install the referenced side inlets, subject to landowner approval. **Seconded** by Hanson. **Approved.** Jones will work with Bajumpaa regarding paperwork needed for the cost share agreement.

Becker C.D. No. 9 and Clay C.D. No. 16 Viewers' Reports. The Board received the Viewers' Reports regarding the redetermination of benefits for Becker C.D. No. 9 and Clay C.D. No. 16. **Motion** by Hanson to accept the Viewers' Reports and to authorize Staff to schedule the hearings. **Seconded** by Anderson. **Approved.**

Thank You Note. The Lego League sent the Board a thank you note for the use of our facilities last winter.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
AmeriPride	#160459034, April Rug Billing	Admin.	\$ 64.42
Bruce E. Albright	MAWD Summer Tour Reg. (5)	Admin.	\$ 875.00
Bruce E. Albright	Policy Committee Binders (9)	1W1P	\$ 48.00
Bruce E. Albright	Admin. Professionals Day Flowers (2)	Admin.	\$ 64.43
Carmen Pattengale	April Cleaning (2)	Admin.	\$ 120.00
Catherine L. Affield	#18-08, 03/01/18-04/30/18	Varies	\$ 377.33
City of Barnesville	4/25/18 Billing - Phone/Utilities	Admin.	\$ 918.95
Clay County Auditor-Treas.	2018 Property Taxes	Pj. 49, Oakport	\$ 924.00
COE	1135 Feasibility Cost Share	OTR	\$ 50,000.00
Dakota Mailing	#AR22539, Postage Meter Ink	Admin.	\$ 79.15
Fargo Rubber Stamp Works	Thompson Plaque	Admin.	\$ 74.95
Fuchs Sanitation	#16558, April Garbage Billing	Admin.	\$ 51.48
Gerald L. Van Amburg	#18-14, 03/01/18-04/30/18	Varies	\$ 1,107.62
Houston Engineering, Inc.	April Billing	Varies-See Attached	\$ 208,740.13
Jay A Leitch	Voucher #18-13 03/01/18-04/30/18	Varies	\$ 998.17
Julie Jerger	V-Pedal Transcription Foot Pedal	Admin.	\$ 82.27
Mark T. Anderson	#18-09, 03/01/18-04/30/18	Varies	\$ 1,155.43
Moorhead Public Service	03/19/18-04/19/18 Service	Pj. 49, Oakport	\$ 30.93
Moorhead Public Service	04/03/18-05/02/18 Service (4)	Pj. 49, Oakport	\$ 400.03
Peter V. Fjestad	#18-10, 03/01/18-04/30/18	Varies	\$ 1,233.45
Premium Waters, Inc.	#366590-04-18 April Water Billing	Admin.	\$ 41.62
Quill Corporation	#6748460, Office Supplies	Admin.	\$ 113.32

Richard Seidel	Parking Lot Repairs	Admin.	\$ 762.50
RMB Laboratories, Inc.	#388991, Water Quality Analysis	M.S.A. 103D. 905, Sub. 3	\$ 680.00
RMB Laboratories, Inc.	#388607, Water Quality Analysis	M.S.A. 103D. 905, Sub. 3	\$ 632.00
RMB Laboratories, Inc.	#388599, Water Quality Analysis	M.S.A. 103D. 905, Sub. 3	\$ 579.00
RMB Laboratories, Inc.	#389105, Water Quality Analysis	M.S.A. 103D. 905, Sub. 3	\$ 410.00
RMB Laboratories, Inc.	#389549, Water Quality Analysis	M.S.A. 103D. 905, Sub. 3	\$ 184.00
RMB Laboratories, Inc.	#389480, Water Quality Analysis	M.S.A. 103D. 905, Sub. 3	\$ 460.00
RRVCPA	04/01/18-05/01/18 Service	Pj. 49, Oakport	\$ 90.97
Ryan Beattie	#400, Beaver Control	Varies	\$ 660.00
Wm. Nichol Excavating	#255, repairs	Wilkin C.D. No. 22	\$ 21,925.00
WREC	03/17/18-04/18/18 Service (2)	Pj. 46, Turtle Lake	\$ 75.38
Xcel Energy	03/27/18-04/25/18 Office gas service	Admin.	\$ 67.63
			\$ 294,027.16

Motion by Fjestad to approve payment of the bills. **Seconded** by Van Amburg. **Approved.**

Legislative Bonding Bill. Albright noted that our local Legislators have added language for preliminary funding for the Heartland Trail project in the 2018 bonding bill.

Board Training. Chair Leitch presented a 20-minute training session on taxes. The Board had an extended discussion on the topic.

Next Meeting. The next regular meeting will be held on Tuesday, May 29, 2018, at 7:00 PM in our Barnesville office. The meeting date has been moved in observance of Memorial Day.

Adjournment. **Motion** by Fjestad to adjourn the meeting. **Seconded** by Anderson. **Approved.** Chair Leitch adjourned the meeting at 9:28 PM.

Respectfully submitted,

John E. Hanson, Secretary