

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

BARNESVILLE, MINNESOTA 56514

1303 4th AVE NE  
Email: general@brrwd.org

PO BOX 341

PHONE 218-354-7710  
Website: www.brrwd.org

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## MINUTES FOR MANAGERS' MEETING May 11, 2020

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, May 11, 2020, at 7:00 PM in the Barnesville office. Due to the Coronavirus protocols for public meetings, the Board held an electronic meeting in accordance with Minnesota Statutes Annotated (M.S.A.) Section 13D.021. BRRWD Managers present in the office were Jay A. Leitch, Mark T. Anderson, Peter V. Fjestad, Catherine L. Affield, Troy E. Larson and on the conference line: John E. Hanson, and Gerald L. Van Amburg. BRRWD staff attending in person: Kathleen K. Fenger, Interim Administrator, Houston Engineering, Inc. (HEI) and via conference line: Erik S. Jones, Engineer, HEI. Others attending via conference line included Jenny Mongeau, Clay County Commissioner, and landowner Chuck Anderson.

BRRWD President Leitch called the meeting to order at 7:00 PM and announced the proceedings were being video recorded to aid in the preparation of the minutes. He did a roll call of the Managers and asked all the online attendees to state their names for the record.

**Agenda.** Leitch asked for comments or additions to the meeting agenda. Items added: Clay Soil and Water Conservation District (SWCD) technical assistance request, a Wilkin County drainage issue, Stinking Lake downstream repairs, the Stony Creek project, and priority list update. With those additions, **motion** by Larson, **seconded** by Affield to adopt the agenda. **Approved** by unanimous roll call vote.

**Secretary's Report.** The Board reviewed draft minutes for the 4/27/20 regular meeting. Leitch noted corrections to the minutes. **Motion** by Anderson, **seconded** by Fjestad to approve the minutes, subject to corrections. **Approved** by unanimous roll call vote.

**Treasurer's Report.** The Board reviewed the BRRWD's 5/11/20 financial statements, including the project account balance sheet, administrative disbursements, and summary of income.

- Cash on hand-\$1,719,012.53.
- Administrative disbursements since 4/13/20-\$33,800.02, and this year-\$150,609.03.
- Income received since the 4/13/20 meeting totaled \$38,990.78.
- Total income this year is \$328,921.06.

**Motion** by Van Amburg, **seconded** by Anderson to approve the 5/11/20 Treasurer's Report. **Approved** by unanimous roll call vote.

Signatory change to remove Bruce Albright from the Midwest Bank accounts was discussed. **Motion** by Anderson, **seconded** by Fjestad to remove Albright from the bank accounts. **Approved** by unanimous roll call vote.

Harold Rotunda has not yet forwarded the 2019 Audit.

**COVID-19 BRRWD Action Plan.** There are currently no changes regarding the COVID-19 office/staff protocols.

**Other Business brought before the Board included:****Permit No. 19-003, FM Diversion.** Leitch reported on the BRRWD lawsuits:

- Attorney Fremstad has a 5/25/20 due date for document submission to the Court for the permit denial lawsuit. Court date is 6/22/20 at 2:00 PM, Becker County Court.
- Leitch, Albright, and Anderson (written) gave depositions regarding the Contested Case lawsuit. The hearing before the Administrative Law Judge is tentatively scheduled for 6/8/20, but the meeting format is still under discussion.
- Minnesota-Clay County Joint Powers Agreement (MCCJPA) right-of-entry process is ongoing. The City of Moorhead voted to move forward using court action at their meeting last week.

**Permit No. 20-026, Shaun Thomssen.** Applicant proposes to clean the south township road ditch in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 26, Elkton Township, Clay County, to the original elevation to improve drainage. The work will be completed along the north side of Thomssen's property. Jones recommended permit approval, subject to township approval to work within their road right-of-way (R/W). **Motion** by Anderson, **seconded** by Affield to approve Permit No. 20-026, subject to the referenced disclaimers and conditions. **Approved** by unanimous roll call vote.

**Permit No. 20-012, Dennis Aksamit.** Permit approval is delayed, awaiting receipt of the signed downstream landowner notification form. Larson contacted the landowners and renters. He has made Aksamit's renter aware the permit has not yet been issued for their project because the downstream landowner form has not been turned in yet.

**Project No 79, Wolverton Creek Restoration.** HEI opened Phase 2 construction bids today. The low bidder was Gladen Construction, Laporte, MN with a bid of \$864,833.00. The Engineer's estimate was \$1,227,599. Jones recommended awarding the bid to Gladen. **Motion** by Fjestad, **seconded** by Affield to award the referenced construction bid to Gladen Construction. **Approved** by unanimous roll call vote. The earthwork is to be completed by 6/30/2021 with the seeding to be completed by 7/20/21. Phase 1 work is progressing. Landowner Ed Askegaard signed his easement last week.

**Whiskey Creek Restoration.** The group discussed the Whiskey Creek Environmental Assessment Worksheet (EAW). **Motion** by Fjestad, **seconded** by Larson to authorize signature and distribution of the EAW and to publish the EAW availability notice in the Wahpeton Daily News with a 30 day comment period. **Approved** by unanimous roll call vote. Following the comment period, a decision will be made regarding the need for a full Environmental Impact Statement (EIS).

**Wilkin County Ditch (C.D.) No. 3 Repair.** Jones reported on a repair investigation HEI conducted for Wilkin C.D. No. 3. The estimated repair cost is \$3,000 to \$4,000. The ditch financial account has a \$96,000 balance. **Motion** by Larson, **seconded** by Anderson to approve the referenced repair. **Approved** by unanimous roll call vote.

**Clay C.D. Nos. 9, 11, and 40 Repairs.** Jones reported on repair investigations conducted for C.D. Nos. 9, 11 (Project No. 61), and 40. The estimated cost for C.D. No. 9 is \$4,500-\$5,500; C.D. No. 11 is \$1,500-\$2,500; and C.D. No. 40 is \$2,500-\$3,500. The work will consist of cleaning sediment away from the outlet ends of field side inlets. The ditch system financial account balances are negative, so the Board will have to address those deficits when they set the 2021 tax levies at their annual budget hearing in August. Anderson conducted a field review with Wade Opsahl, HEI. **Motion** by Anderson, **seconded** by Van Amburg to approve the referenced repairs. **Approved** by unanimous roll call vote.

**Clay C.D. No. 51 Buffer Appeals.** Fenger discussed the appeals filed by Duane/Morton Brendemuhl and Robert Norby, based on their concerns that the R/W values were not consistent with current land sales in Georgetown Township near the Brendemuhl property. Managers Anderson and Hanson volunteered to work

with Fenger and the landowners to address these appeals. The Board discussed the landowners' proposed R/W value. Leitch suggested the appellants should be made aware that, according to the 2015 State Buffer Rule, the landowners are responsible for ditch system buffer strip installation, not the BRRWD. We are only assuming the responsibility to install the buffers as a courtesy to the ditch system landowners. Jones provided an estimate of \$300 per acre for their potential costs if the landowners were to pay for the buffer install without the assistance of the BRRWD.

**Clay SWCD Technical Assistance Request.** Fenger presented a request from the Clay SWCD for technical assistance regarding a streambank erosion problem on Greg Johnson's property in Section 36, Moland Township. They are asking for up to \$8,000 for Jones' time to provide technical assistance to get a solution in place for Johnson. Jones noted some funding for this work could come from a 2019 Minnesota Board of Water and Soil Resources (BWSR) Clean Water Fund (CWF) grant with the BRRWD. Fenger noted the Board also has Technical Assistance funding set aside in their 2020 budget. During the application process for the CWF grant, the Board previously approved up to \$41,400 in technical assistance and design funding at a Board meeting in August. **Motion** by Van Amburg, **seconded** by Larson to provide up to \$8,000 in technical assistance for Jones to work with the Clay SWCD. **Approved** by unanimous roll call vote.

**Baumgartner Lake Fish Trap.** The Board discussed an issue with the fish trap on a waterbody in Deerhorn Township, Wilkin County, on Henry Baumgartner's property, which has been an ongoing maintenance problem associated with the Manston Slough project. Jones reported HEI is working with the property owner and the Minnesota Department of Natural Resources (DNR) to find a solution to this problem.

**Project No. 16, Stinking Lake Repairs.** Jones submitted a repair recommendation for a field crossing washout over Hay Creek downstream of Stinking Lake. There is also a washout on an access trail adjacent to the Lake that was installed as part of the project where the culverts have failed and washed out. This repair will require a new culvert and clay fill. Both repairs are estimated to cost \$4,500-\$5,500. **Motion** by Van Amburg, **seconded** by Larson to approve the referenced repairs. **Approved** by unanimous roll call vote.

**Project No. 80, Stony Creek Water Resource Comprehensive Management Project (WRCMP).** Manager Affield asked for more discussion on the Stony Creek project for clarification purposes regarding the exact description of the proposed project and the issue of the benefit/cost ratio. She also has concerns about the potential for reduced project funding availability due to the COVID-19 state expenditures, accepting grant agreements before the final hearing, the Board's involvement in the easement option acquisition process, the need for an updated project factsheet, and the need to focus only on the creek restoration feature of the project. The Board had an extended discussion regarding these issues, including comments from Jenny Mongeau, Clay County Commissioner. **Motion** by Leitch, **seconded** by Fjestad to remove the two Stony Creek option payments from tonight's bill list because it is premature to take those options, given the situation and to slow down project development. Manager Anderson noted since the Board has already acquired options from two of the four landowners involved with the project option process, it could be considered unfair to the remaining landowners not to go forward with their options. Leitch and Fjestad disagreed. Roll call vote: Van Amburg and Anderson-no. Affield, Fjestad, Hanson, and Larson-yes. Leitch announced the motion was **approved** by a vote of 4-2.

**Priority List.** Affield requested the staff provide the Managers with an updated priority list of projects by the next meeting. Fenger will work with Affield to prepare the requested list. The Board briefly discussed office staffing needs.

**Roger Finch Road Raise.** Jones discussed options to address a concern from Roger Finch, who contacted the BRRWD last fall with a request to raise 2<sup>nd</sup> ST N (township road) in Section 6, Oakport Township, Clay County, along the Oakport Coulee. The purpose of the road raise was to improve access to his home during times of flooding. Jones has been in contact with Finch and has discussed the potential alternatives that would work while meeting floodplain and floodway criteria.. The Board felt the BRRWD has done as much as we can for Finch by providing him with some options for his consideration. Finch will need to work with

the Township and Clay County to address his concerns. The Board requested that Jones contact Finch to explain the Board's decision.

**HR Committee Report.** Affield provided a report on the HR Committee's activities since the last meeting regarding the transition of the three current HEI office staff members to BRRWD employees. They plan to meet with representatives from the BRRWD Advisory Committee, which include County Commissioners, to solicit input before making recommendations to the Board at the 5/26/20 meeting.

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

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
AmeriPride	#160568329, April Rug Billing	Admin.	\$ 95.92
City of Barnesville	#10047900, April Phone Utilities	Admin.	\$ 810.57
Fitzgerald Construction Inc.	#34228, Clean Ditch	Clay C.D. 11	\$ 510.00
Fuchs Sanitation	#45050, April Billing	Admin.	\$ 56.16
HEI	May Billing	Varies-See attached	\$ 185,208.58
Jon Yeske	#700, Beaver Control	Clay C.D. No. 34	\$ 300.00
LREC	04/01/20-05/01/20 Service	Pj. 79, Wolverton Crk.	\$ 26.22
Marco	#INV7431591, Annual Support & Maint.	Admin.	\$ 5,100.31
MPS	3/18/20-4/16/20 Service, FL #21	Pj. 49, Oakport	\$ 30.13
New Century Press	Ad for Bids-Phase 2 (2)	Pj. 79, Wolverton Creek	\$ 393.75
Petty Cash	Office Supplies, Postage, Etc.	Admin.	\$ 200.00
Pitney Bowes	#3103907388, Postage Meter Rental	Admin.	\$ 129.00
Purchase Power	Postage Meter Refill	Admin.	\$ 150.00
Pure Health Solutions Inc.	#10566079, April Water Billing	Admin.	\$ 59.06
Quill Corporation	#6699373, Office Supplies	Admin.	\$ 132.42
Randall's Excavating, Inc.	#3101, Clean Ditches	Varies	\$ 7,075.00
Robert Bowers	Beaver Control	Varies	\$ 2,000.00
RRVCPA	04/01/20-05/01/20 Service	Pj. 49, Oakport	\$ 114.40
Tim Crompton Excavating, Inc.	Dam Repairs & Inlet Culvert	Becker C.D. No. 5	\$ 4,879.92
U.S. Bank Equipment Finance	04/27/20-05/27/20 Copier Lease	Admin.	\$ 274.65
Vogel Law Firm	#254853, April Billing	Admin.	\$ 742.50
Peter Fjestad	Voucher 20-10, 3/1/20-4/30/20	Admin.	\$ 608.95
WREC	03/18/20-04/18/20 Service (2)	Pj. 46, Turtle Lake	\$ 68.50
Xcel Energy	03/26/20-04/26/20 Gas Service	Admin.	\$ 62.99
			<b>\$ 209,029.03</b>

**Motion** by Anderson, **seconded** by Fjestad to approve payment of the bills. **Approved** by unanimous roll call vote.

**Comments and Announcements.** Fjestad and Leitch had comments regarding the HR Committee meetings and proposed staffing changes.

**Next Meeting.** In observance of the Memorial Day Holiday, the next regular BRRWD meeting is scheduled for Tuesday, May 26, 2020, at 7:00 PM in our Barnesville office via teleconferencing, depending on the COVID-19 meeting restrictions.

**Upcoming Meeting Agenda Items.** Leitch added the HR Committee report to the next meeting agenda. Fjestad noted the updated priorities list should be on the next agenda. Jones wanted to add the Wilkin County Highway Department's request for beaver control assistance on Whiskey Creek near Kent.

**Adjournment.** President Leitch adjourned the meeting at 8:35 PM.

Respectfully submitted,

John E. Hanson, Secretary