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Project 80 – Stony Creek Restoration

Final Hearing Minutes

Monday June 26, 2023

Managers Present: Peter Fjestad; Catherine Affield; John Hanson; William Davis.

Managers Absent: Troy Larson; Gerald Van Amburg; Mark Hanson.

Staff Present: Kristine Altrichter, Administrator; Matthew Schlauderaff, Watershed Specialist.

Consultants Present: Bennett Uhler, Engineer; Ted Rud, Engineer; Houston Engineering, Inc. (HEI).

Others Attending: Gary Forsberg; Shirley Peterson; Curtis Jalbert; Jeanette Just; Kenneth Just; Tim Aakre; Lisa Hoelzer; Noah Hoelzer; Joe Robertson; Christy Robertson; Steve Thompson; Michael Dohn; Mark W. Dohn; Peter Lewis; Mike Lewis; Chuck Anderson; David Janssen; Carol Janssen; Alex Hanson; Kenneth Lemke; John Seitz; Dave Ackerson; Paul Krabbenhoft, Clay County Commissioner; John Thompson (remote); Jackie (remote); Darin Dillion (remote).

President Fjestad called meeting to order at 7:00 PM.

Altrichter noted that Hearing is for the establishment of Project No. 80 – Stony Creek Restoration. Project proposes to restore 5.4 miles of channel in Sections 2, 3, 4, 5, 11, 12, and 13 in Barnesville Township, Clay County. All parties were invited to provide comment following project presentation. Board of Managers will consider an Order to establish the Stony Creek Restoration Project at their next Board Meeting scheduled July 10, 2023. If an Order is signed, individuals wishing to appeal the Order may file a notice of appeal with the court administrator of the district court within 30 days of the date of the Final Order. If project moves forward, following the 30-day appeal period, BRRWD will issue payment to those receiving damage payments and record easements with Clay County. BRRWD will then put the project out for bid and hire a contractor.

Rud presented project history and design. Stony Creek has a drainage area of 131 square miles. Stony Creek, Hay Creek, and Spring Creek are within the Stony Creek watershed. Current problems include repeated agricultural flooding; too much sediment in channel; breakout flows causing erosion and sedimentation in downstream channel; spoilbanks along Clay County Ditch No. 31 disconnect channel from natural floodplain; poor water quality; limited habitat; and contributes to peak flooding on South Branch Buffalo River, Buffalo River, and Red River. Project has been identified in Buffalo-Red River Comprehensive Watershed Management Plan (CWMP) and developed through Mediation Project Team process.

Project proposes a two-stage channel restoration in Sections 2, 3, and 4; restoring old channel meanders in Sections 5 and 12; pushing back spoil piles to increase floodplain in Section 11; and a potential off channel storage site. Bankfull width of meandering channel is 22 feet; sinuous channel depth varies from 3 to 5.5 feet; and valley width is estimated to be 160 to 210 feet. Side inlet pipes are proposed to reduce sedimentation in channel. Riffles are proposed in 16 locations to slow water as elevation changes across the landscape. Buffer proposed to contain the 10-year flood event.

BRRWD will acquire US Army Corps of Engineers Section 404 Permit; MN Department of Transportation (MnDOT) Drainage Permit; approval from Clay County for Wetland Conservation Act; Clay County Land Alteration Permit; and MN Pollution Control Agency (MPCA) Stormwater Construction Permit.

Project seeks to improve drainage and conveyance; contain the 10-year flood event; reduce sediment; reduce phosphorus; establish 165 acres of expanded buffers; restore 5.4 miles of Stony Creek.

Uhler presented project funding. Project is currently estimated to cost \$3 million. MN DNR Stream Habitat Program through the Lessard-Sams Outdoor Heritage Fund is providing \$1.6 million. MN DNR Flood Hazard Mitigation Grant Program is funding \$400,000.00; with a 50 percent match provided by the water management district (wmd). BRRWD District-wide assessment will provide \$600,000.00.

BRRWD hired HEI to develop wmd. HEI reviewed local drainage, non-contributing lands, current land use compared to pre-settlement condition, soil type, and change in runoff to develop assessment rates. Up to \$135,000.00 could be assessed annual from wmd. Annual cost per acre ranges from \$0.00 to \$2.44. Non-contributing land was considered in calculations. Based on project needs, BRRWD will annually determine whether to assess project and how much to assess. Funds from wmd could be used for construction and maintenance of restoration project, construction and maintenance of future off channel storage site, and maintenance of existing storage sites in the watershed: Spring Creek Detention, Stony Creek Detention, and Hay Creek Detention.

Tim Aakre farms in eastern Parke Township and property is in the \$2.00-\$2.44 assessment range. His property is bordered by buffer strips and grassland, so does not think his property should be assessed at the highest rate. Uhler noted assessment is determined based on sediment and where water flows. Flows from upland that outlet into Stony Creek can cause increased maintenance. Aakre asked for clarification on areas excluded from assessment as presented. Uhler noted if entire parcel is in agricultural land, land would be assessed in water management district (wmd). If some of parcel is in grasslands or farmstead, then those acres may have been removed from assessment area or assessed at a reduced rate.

Kenneth Lemke owns land in Section 31 and 32 Elkton Township where Hay Creek and Whisky Creek converge. Lemke stated work east of his property causes water to come faster towards his property. His land is in the highest assessment range. Uhler noted BRRWD could look at completing work in this area. Future storage site could help alleviate some of the flooding downstream. Lemke stated he liked the large storage site proposed in previous plans.

Michael Dohn owns land in Section 5, Barnesville Township at the end of the project area. He is not interested in participating in Project. He stated that he received offer in 2019 that was significantly higher than amount listed in Property Owner's Report. Michael Dohn stated BRRWD will take 47 percent of his land. He said project does not benefit his property. He also asked if BRRWD would consider discussion on land values.

Aakre asked if land purchased by federal government and developed into wetlands and water detention basins were taken into consideration in the assessment area. Uhler noted BRRWD has access to this information due to Watershed Permit process. Even with these detention basins, water eventually outlets into Stony Creek. It is clean water, but it still uses Stony Creek as an outlet.

John Seitz owns property in eastern Parke Township. Seitz asked if there are other projects like this in Clay County and if they are also assessed maintenance fees annually. He also asked for clarification on project funding. Uhler noted BRRWD has completed the Wolverton Creek Project and the Glyndon East Tributary Projects in Clay County. Both projects are assessed in a similar way. Project cost is estimated to be \$3 million. BRRWD has received grant funding for \$2 million. With the wmd, BRRWD Board of Managers can assess up to \$135,000.00 annually. However, based on maintenance needs, BRRWD Board of Managers may assess less or not at all. Early on in project, expect Board to assess, but once constructed, expect to reduce assessments if there is no need.

Aakre asked if project is moving forward. Fjestad stated that hearing is held to solicit feedback from affected landowners. Board of Managers will consider feedback before a decision is made. Board of Managers will consider feedback at their July 10, 2023 Board Meeting. Landowners have 30 days to appeal Order to District Court after an Order is signed.

Joe Robertson owns land in Section 18, Parke Township. His land has a buffer wider than what is required by the State and is bordered by U.S. Fish and Wildlife Service (USFWS). Robertson asked if we considered working with USFWS to build storage area. Fjestad stated that building these types of projects is complicated.

Alex Hanson farms land along Stony Creek. In Section 31, Elkton Township channel is full of sediment which causes water to back up and something needs to be done. Project will not fix individual issue and land will receive more water, however, supports the project because it is a start.

Michael Dohn stated water is working how it is supposed to on his land and project will destroy 14 acres of natural habitat on his property. Habitat will restore itself on its own. Michael Dohn stated it would take 20 years to reestablish habitat. Uhler noted the intent of project is not to destroy habitat. Habitat may be impacted during construction, however, it will be restored. Work in this area is to maintain drainage and provide an adequate outlet to the project. BRRWD has had success reestablishing habitat on other projects. Michael Dohn stated there is no sediment at the bridge north of his property and it has not accumulated on his property. He asked if anyone has been out on his property, noting there is a rubble pile near the proposed restoration site that would need to be removed as part of the project, adding to the cost. Uhler explained that property has been surveyed. Stony Creek appears to be trying to establish itself in the channel, however, sediment in the channel is preventing establishment. Michael Dohn also stated there is no runoff coming off his property and the 10-year and 100-year maps show no change to his property. Uhler noted that the Engineer's Report is only for the channel restoration, not for a storage site. BRRWD needs to make sure they are not causing impacts downstream of project. Michael Dohn commented that he sees sediment coming into his property from upstream reaches of Stony Creek. He stated he notified BRRWD that people were digging in the wetland and BRRWD did not do anything. Altrichter noted that BRRWD does not have jurisdiction over wetlands. BRRWD previously advised him to contact the Clay Soil and Water Conservation District, the entity responsible for administering the Wetland Conservation Act in Clay County. Michael Dohn stated that he won't be able to replace 14 acres of land because no one is selling around him. Uhler noted that BRRWD is seeking to hold an easement for construction and maintenance of Project. Landowners will maintain rights to use property for activities such as hunting. Michael Dohn asked where water goes during construction. Uhler noted that the contractor is required to keep water in the channel and cannot adversely impact landowners. Michael Dohn read an email exchanged from 2019 with past administrator. Altrichter noted that proposed project from 2019 is different than project proposed at this hearing. Uhler noted that BRRWD hired third party appraisers to determine land values.

Peter Lewis noted that all landowners on the channel are giving up land for project, however, the project is needed.

Chuck Anderson noted that 140th St South often washes out, so there has been significant sediment deposit in Section 5, Barnesville Township.

Landowner asked if USFWS included in assessment when they purchase land. Fjestad noted that they are not. Uhler noted that the State is included in the assessment area when they purchase land.

Landowner asked for clarification on funding. Fjestad and Uhler noted that MN DNR Stream Habitat Program through the Lessard-Sams Outdoor Heritage Fund is funding \$1.6 million; MN DNR Flood Hazard Mitigation Program is funding \$400,000.00; wmd is funding \$400,000.00; and BRRWD District-wide Funding is funding \$600,000.00.

Landowner asked if bids have been let. Fjestad noted that bids have not been let. Hearing to solicit feedback has to be held and an Order signed before bids can be let and a contract awarded.

Landowner asked for clarification on what defines maintenance and what maintenance has been for similar projects such as Wolverton Creek Restoration. Altrichter noted that BRRWD responds to landowner calls regarding maintenance requests. BRRWD routinely conducts inspections of projects, if repair needs are identified maintenance will be completed. Uhler noted that very little maintenance has been required of past projects. Assessment is determined at the annual budget hearing. If maintenance is required, there will be an assessment. If funds are available, there will not be an assessment.

Lemke stated that he is against the project because there are no answers for downstream flooding concerns. He stated that project will make water reach his land faster. Uhler noted BRRWD is aware of the issues, however, project development depends on landowner interest, funding, and Board approval. Project will slow water flow to his property. His property may have the same flooding issues but it should not be worse because project cannot cause negative impacts downstream. Altrichter noted that previously proposed large storage site is estimated to cost \$15 to \$17 million. Board of Managers decided to move forward with channel restoration and table storage site due to funding limitations.

Mark Dohn asked BRRWD to identify the main benefactor of the project. Uhler noted that landowners in the watershed benefit from project. 5.4 miles of channel restoration benefits landowners on the channel, the three storage sites upstream of the restoration benefit the entire sub watershed. Water from landowners high in the sub watershed outlets into these basins before entering Stony Creek. Landowners downstream receive flood protection benefits. Landowners downstream of

restoration receive benefits in reduction of sediment load. Mark Dohn commented he does not see a benefit for land in Section 5, Barnesville Township. Mark Dohn asked about tree removal and stated that it would take 40 years to recover habitat. Uhler noted that trees in the easement area would need to be removed for construction and BRRWD has had success reestablishing habitat on other projects.

Landowner asked what vegetation replaces tress. Uhler noted that habitat will be reestablished with native grass mix.

Landowner asked the likelihood of project costs exceeding estimate. Uhler noted that BRRWD has bid projects similar in the last year and bids have been favorable.

Landowner asked if BRRWD needs to secure funds and if they need to be spent in a certain time frame. Uhler noted that BRRWD has been awarded funding from MN DNR Stream Habitat Program and Flood Hazard Mitigation Program and is under contract. Both funding sources need to be used within a particular time frame.

President Fjestad adjourned meeting at 8:27 PM.

/s/ John E. Hanson
Secretary