

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

BARNESVILLE, MINNESOTA 56514

1303 4<sup>th</sup> AVE NE  
E-mail: General@brrwd.org

PO BOX 341

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

---

## **MINUTES FOR MANAGERS' MEETING**

**January 11, 2016**

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their annual meeting on Monday, January 11, 2016, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Mark T. Anderson, John E. Hanson, Troy E. Larson, Catherine L. Affield, and Peter V. Fjestad. BRRWD Staff attending included: Bruce E. Albright, BRRWD Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI). Others attending included: Lyle Hovland, Wilkin County Commissioner; Jenny Mongeau, Clay County Commissioner, Robert Zimmerman, Engineer, and Michael Redlinger, Manager, City of Moorhead; Eric Dodds, Advanced Engineering & Environmental Services, Inc. (AE2S); Don Nelson, Shelly Lewis, Andrew Briesin, and Marcus Larson, MnDak Upstream Coalition, and landowners: Jay Nord, John Ready, and Kevin Olsgaard.

The Board met with their Attorney, Tami Norgard, Vogel Law Firm, in a closed session at 5:30 PM to discuss issues pertaining to the Fargo-Moorhead (FM) Diversion Authority's (DA) Fiscal Year (FY) 2016 Budget and the preliminary study (Phase 1) grant contracts from the City of Fargo retention project funds for three BRRWD upstream retention projects, including Stony Creek, Barnesville Township Area Drainage Study, and the South Branch of the Buffalo River.

Chairman Van Amburg called the annual meeting to order at 7:05 PM and announced that the proceedings were being recorded to aid in the preparation of the minutes.

**Secretary's Report.** The Board reviewed draft minutes for the 12/28/15 regular meeting. Affield noted a few minor corrections. **Motion** by Anderson to approve the minutes, subject to correction. **Seconded** by Affield. **Approved.**

**Treasurer's Report.** The Board reviewed the 2015 annual financial reports, and the 01/12/16 financial reports, including the project account balance sheet, administrative disbursements, summary of income, and the accounts receivable report. Cash on hand at the end of the year was \$582,594.18 and current cash on hand, as of 01/11/16, is \$589,597.23. Total 2015 income was \$5,273,096.83; administrative expenses totaled \$359,646.80; and earned interest was \$909.44. Income since 01/01/16 totaled \$7,003.05, primarily from the North Dakota Department of Health for the Red River Stressor Response program (\$5,135) and North Dakota State University (NDSU) for the Sustainable Agriculture Research and Education (SARE) program (\$1,000). Albright noted that the total projected 2016 accounts receivable of approximately \$9.5 million reflects the \$5.5 million Minnesota Department of Natural Resources (DNR) 2016 grant for the completion of Phase 4 of Project No. 49, Oakport Flood Mitigation.

The Board reviewed the year-end financial transactions. After average account balances for the year are calculated, accounts with a negative average are charged interest at the rate of 2.75% (Midwest Bank loan rate), and accounts with positive balances were allocated interest. The office also prepared a worksheet showing the individual account financial activity for 2015 and allocated an administrative fee (1%) based on the amount of the expenses for each account. Year-end account transfers from the Minnesota Statutes Annotated (M.S.A.) 103D.905, Subd. 3, accounts were completed for a number of programs/projects that do not have assessment areas. Albright noted that the BRRWD is scheduled to present the 2016 petitions for funding in accordance with M.S.A. 103D.905 Subd. 3, to the Clay County Board of Commissioners tomorrow at 8:35 AM for their review and approval. The general levy will raise \$626,927. A second special levy under this same taxing authority will raise \$450,000 for the Watershed Office, Stony Creek

Comprehensive, Barnesville Township Investigation, Manston Slough Restoration, Otter Tail River Planning, and Reinvest in Minnesota/Wetland Restoration Enhancement investigations. Albright will notify Wilkin, Becker, and Otter Tail Counties about Clay County's action. **Motion** by Fjestad to approve the Treasurer's Report and the referenced interest allocations and account transfers. **Seconded** by Anderson. **Approved**.

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

**Permits.** Albright noted that the BRRWD has not received any new permit applications and the status of the pending applications has not changed.

**Duane Boeder Complaint.** Albright visited with Kevin Boeder regarding their complaint about Frank Schindler's removal of an approach in Section 33, Barnesville Township, Clay County. He also got updated addresses for the Boeder family, so they can be contacted regarding the Barnesville Township Area Drainage Study. Albright plans to draft a list of options regarding the Schindler complaint to forward to Schindler and the Boeder family for their review.

**Bryan and David Henderson Waterway Concern.** A landowner informational meeting has been scheduled for Friday, January 22, 2016, at 8:00 AM in our Barnesville office. The purpose of the meeting is to present HEI's survey information to the landowners and to gather input from them regarding possible options regarding Ron Conzemius' farming in the waterway in the SW<sup>1</sup>/<sub>4</sub>, Section 27, Manston Township, on the north side of County State Aid Highway (CSAH) No. 26, which restricts the natural flow of water from the Henderson property on the south side of the road in the NW<sup>1</sup>/<sub>4</sub>, Section 34.

**Approach Removal Complaint.** Albright sent a letter to Dan Nordick regarding his removal of a dry approach in the NE<sup>1</sup>/<sub>4</sub>, Section 10, Deerhorn Township, Wilkin County, off from County Road (C.R.) No. 32 without a BRRWD permit. Nordick has indicated that they plan to reinstall the approach next spring when conditions allow. Albright explained the permitting process to the landowners, pointing out that they should have applied for a BRRWD permit to remove the approach.

**Clay/Wilkin County Line Drainage Concerns.** An informational meeting has been scheduled for Friday, January 15, 2016, at 8:00 AM in our Barnesville office to review HEI's survey information and discuss possible options regarding the Luther Blilie drainage concerns on the west side of Trunk Highway (T.H.) No. 75 along the line between Wolverton and Holy Cross Townships.

**Clay C.R. No. 95 Repairs.** The Clay County Highway Department plans to lower C.R. No. 95 approximately 7"-8" in preparation for paving the road in about two years. The project will start at C.R. No. 18 and run north to C.R. No. 26 for a total of 5 miles. The northern mile of the proposed project has raised some concerns about floodplain issues. C.R. No. 95 acts as a dike between Sections 2 and 3, Oakport Township, and the County is concerned about liability issues west of the road if we have a significant flooding event while the road is lowered. Albright and Jones met with the County last week and they decided to bring the road back up to its current height.

In addition, the intersection of C.R. Nos. 95 and 26 is the only part of this area that is in the 100-year floodplain. Tim Magnusson, Director, Clay County Planning and Zoning, had suggested that the County consider working with the DNR and the BRRWD to raise the road and this intersection above the base flood elevation (BFE) to remove the direct floodplain connection between Sections 2 and 3, and possibly making it possible to remove Sections 3 from the floodplain. The County also considered this proposal, but tabled it because of the associated added planning and construction costs.

**Project No. 77, Clay C.D. No. 51-Lateral No. 3.** Albright gave a brief history of the project development and Norby appeal/lawsuit. Our insurance agent, John Hoffman, Waypoint Insurance Advisors, is still checking on which company will provide a defense for the lawsuit. Attorney Norgard clarified the

insurance coverage issues regarding the various court actions associated with the Minch/Norby lawsuits over the past several years. The group discussed options to cover the litigation costs. Norgard reported that she has filed all the legal briefs for the current litigation, and we are just waiting for the Court to schedule a hearing date. There is also a possibility that the two litigants might work out a land deal that could put an end to this ongoing drainage dispute.

**Project No. 56, Manston Slough Restoration.** The stop logs will be put in place prior to next spring's potential runoff, according to the Operation and Maintenance (O&M) Plan. Gladen Construction Inc., the project contractor, is on notice regarding a possible warranty claim to repair the soft spots in the roads they reconstructed. The staff will work on the final project budget to determine if the costs exceeded the bond sale amount. If so, the BRRWD will split the overage with the local landowners, according to the Appraisers' Report (1/3 benefited landowners-2/3 BRRWD).

**Project No. 49, Oakport Flood Mitigation.** Albright reported that the Pierce Family has signed the 2016 stockpile lease (\$3,000/year). Most of the material has been removed, and Albright thought that the sight could be restored next fall, if some more material is removed this summer.

The Fischer Family has not responded to the BRRWD's lease offer (\$650/acre or about \$21,000). The Fischers have requested \$10,000/year for the four year lease. At their 12/28/15 meeting, the Board discussed possible condemnation of the stockpile temporary easement acreage (approximately 8 acres) if we couldn't come to an agreement on the lease rate. The group discussed the process to obtain a temporary easement for the stockpile lease. Attorney Norgard's opinion was that since the BRRWD has attempted to negotiate a lease payment with the Fischers in good faith, the BRRWD could just table action on this issue until the stockpile is removed and restored when Phase 4 is completed in 2016. Albright questioned if it would be prudent for the BRRWD to have the site appraised in case of a future Fischer lawsuit. Norgard thought that it might be of benefit for the Board to wait on an appraisal. If the Fishers wish to negotiate before then, they will need to contact the BRRWD. The Managers discussed Norgard's suggestion. They agreed to delay any further action until the project is finished and to wait for the Fischers' reply.

Ulteig Engineers, Inc. (UEI) will hold the preconstruction meeting next spring prior to Phase 4 construction start up. Attorney Corey Elmer, Vogel Law Firm, has about three temporary easements for Phase 4 that still need to be acquired.

**Project No. 39, Georgetown Levee.** Albright received the signed DNR grant amendment that adds \$109,000 to cover the final project costs, which will expire on 03/31/16. Albright will prepare a final billing to the DNR to close out the project. The balance of the project costs will come from Federal Emergency Management Agency (FEMA) and local assessments. Wade Opsahl, Technician, HEI, is working on a final billing for 2011 Spring flood for FEMA.

The Board discussed the Greywind house condemnation. US Bank is working with Greywind to revise his old home loan by amending the legal description to include his new house.

**Project No. 38, Farmstead Ring Dikes.** The State Legislature has allocated \$400,000 in 2016 for ringdike cost share funding. Farmstead ringdikes should also qualify for Environmental Quality Incentives Program (EQIP) funds. Opsahl and Thomas Eskro, Engineer, HEI, are in the process of meeting with some of the landowners on the ringdike list to determine their interest in a 2016 ringdike program and to complete some preliminary survey work. The Red River Watershed Management Board (RRWMB) will administer the funds. The funding will be ranked and dispersed based on need.

**Project No. 30, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1).** Albright has contacted landowner Bryan Kritzberger regarding the status of the diversion petition to take water west along the south side of the County line to Wolverton Creek. Based on discussions with Attorney Norgard, the petition will be redrafted using Chapter 103E, MN Drainage Law. If the petitioners are still interested in moving forward

with the proposed diversion after reviewing the revised petition, their first step will be to post a \$10,000 bond (M.S.A. 103E.202, Subd. 5).

**Project No. 24, Wilkin C.D. No. 44.** Albright is still working on a draft petition for Manston Township to abandon the north ditch, remove a deteriorated centerline pipe, and relocate the ditch on the south side of 170<sup>th</sup> ST as part of the legal ditch system in Sections 3 and 10, Manston Township. This project will require a hearing with all of the ditch system landowners. In conjunction with the Mediation Project Team (PT), discussions are ongoing regarding a larger river restoration in this area, so other parts of the ditch system might also be affected, which would have to be addressed under a separate proceeding.

**Mediation PT.** The next PT meeting will be held on Thursday, January 28, 2016, in the Barnesville office at 1:30 PM.

**South Branch of the Buffalo River.** Jones is investigating the possibility of restoring the river channel east of T.H. No. 9 and at the retention capabilities in Sections 10 and 11, Manston Township. Albright reported he and Jones are working with the Natural Resources Conservation Service (NRCS) to obtain area landowner information to move forward with the project design. We have run into some difficulties with the NRCS' processing procedures for the required release of information.

**Barnesville Township Area Study.** Jones will continue to work with the pipeline companies regarding the depth of their facilities. Albright suggested that since Attorney Norgard has investigated the State and Federal laws governing pipeline depths, she should sit in on any meetings with the pipeline companies. The absolute minimum depth for interstate pipelines is 30", and both the Williams and NuStar pipelines are interstate facilities. HEI has established that 70%-80% of the pipeline in the study area is less than 30" deep.

**Wetlands Reserve Program (WRP).** The Conservation Reserve Enhancement Program (CREP) has been allocated funding from Minnesota Board of Water and Soil Resources (BWSR) for the next 2-3 years. BWSR is interested in using CREP money to acquire easements for a right-of-way (r-o-w) corridor for the Wolverton Creek/Comstock Coulee Restoration project.

**Stony Creek Comprehensive Project.** Albright discussed the need for the Board to decide easement values for our proposed retention projects. Jones is evaluating the Stony Creek project, based on the RRWMB Star Value scoring to see how the project would rank in terms of contributions to the main stem of the Red River. This information will be used to determine how much funding would be available from the RRWMB for the project if the BRRWD were a member. Albright observed that the retention projects would be operated differently if they were developed according to RRMWB scoring, which is based on storage operation and impacts/timing on the main stem. Jones expects to have his analysis done by the last Board meeting in January.

Jones has been working with the DNR regarding their preliminary classification of the off-channel impoundment dam as a Class 1, high hazard structure. The project plans might have to include flood protection (ring levees approximately 2'-3' high) for some downstream properties. In the past, if a downstream property was flooded during a high water event with or without the proposed dam, the dam wasn't considered high hazard. Now, the DNR has taken a more conservative approach to the dam breach analysis. Jones commented that their approach would probably provide for a safer project. He briefly discussed possible funding sources for the ringdike construction. Jones was also able to address DNR's flooding concerns associated with the proposed new Interstate-94 (I-94) culvert without conducting a Probable Maximum Flood (PMF) event analysis. Albright noted that once the Board sets easement values, we can hold a landowner informational meeting to discuss the proposed project.

**Revised Watershed Management Plan (RWMP)/Watershed District Enlargement (WDE).** Jones and Albright continue their review of the draft Plan and will have it ready for the Board's review in the near

future. Albright noted that the BWSR Northern Committee has the BRRWD's RWMP on their 01/13/16 agenda. Since it's not ready, we'll have to reschedule with BWSR for either their April or June meetings. Jones noted that the final draft is nearly finished. Following the presentation to BWSR, there is a 60-day review period. The next BRRWD steps will be to hold the Citizen Advisory Committee (CAC) and Technical Advisory Committee (TAC) meetings. The petition to revise the new BRRWD southern boundary with Wilkin and Otter Tail Counties is also on the Northern Committee's upcoming agenda. BWSR doesn't plan to hold any further hearings on this issue because of the preliminary landowner meetings we held last year. Once BWSR makes its decision, there would be an appeal period.

**Buffalo River TMDL/WRAPS.** Albright checked with Jim Ziegler, MPCA, regarding the status of TMDL for the Buffalo River. It appears that MPCA is still working on the comment process.

**Upper Red River TMDL.** The BRRWD and MPCA held a public informational meeting for the Upper Red River TMDL Study on 01/07/16 in our Barnesville office. Albright thought the meeting was successful and generated some good discussions. About 35 landowners attended, and a number of them completed the meeting questionnaires with all positive comments. The final process should be completed by 06/30/16.

**Elkton Township Wetland Restoration.** Albright contacted Corey Elmer, Attorney, Vogel Law Firm, who is handling the BWSR easements. He plans to contact BWSR regarding the status of the title opinions.

Chuck Anderson is still waiting for a response from Ziegler Construction's insurance company regarding his crop loss claim. Wade Opsahl, Technician, HEI, contacted the Auto Owners claim adjustor, who indicated the company needs to contact the contractor for more information and plans to bring in a third party to review Anderson's damages claim.

**2015 Bufferstrip Legislation.** Albright reported that two meetings were held last week with the Becker and Wilkin Soil and Water Conservation Districts (SWCD) to put together strategies to implement the new legislation. One landowner indicated that he had heard there will be some changes in 2016 to the new laws. The first step to address the new legislation is to update new buffer maps to identify non-legal ditch system areas that need buffers. The DNR recently changed the protected waters maps to add and delete areas that were on the 1985 protected water inventory. The second part of the legislation is to install buffers on all legal drainage systems by conducting r-o-w surveys, determining the r-o-w requirements, holding ditch system hearings, easement acquisition, seeding and staking the r-o-w, and finally recording the r-o-w with the Counties. The Board discussed which agency will need to assume the Administrative Penalty Order (APO) authority to apply fines for non-compliance with the new buffer law. The SWCDs can't assume that role, which leaves the County Commissioners, the BRRWD, or BWSR. Albright observed that the buffer legislation implementation will need to be applied consistently. The State has also suggested that the Counties prepare maps where buffers are recommended, but not required, and they should be included in the bufferstrip implementation plan. The Counties will decide if this third level of mapping will be used to enforce mandatory buffering on this tier of waterways. The final question regarding the new legislation is the meaning of the law's language suggesting that all the ditches within a legal ditch system benefit area also have to be buffered. At this point, the meaning of this item is up for interpretation. There are also alternative practices that could be used to substitute for a bufferstrip. For example, a culverted inlet could be considered an alternative practice, eliminating the need for a buffer on a field drain entering a legal drainage system.

**Wolverton Creek/Comstock Coulee.** Albright reported that we closed out the Wolverton Creek FY2011 Clean Water Fund (CWF) Runoff Reduction BWSR Grant (\$365,923). Jones will submit an application for BWSR's 2016 Targeted Drainage Water Management program funding by the 03/04/16 deadline. He plans to visit with Pete Waller, BWSR, regarding their priorities for sediment loading reduction features for Wolverton Creek and Stony Creek to make the grant applications more competitive. We have also

completed the quarterly reporting by the 12/31/15 deadline for the 2015 Enbridge Ecofootprint Grant (\$100,000). Jones will submit a Phase 2 Enbridge Ecofootprint grant application for Wolverton Creek by the 01/28/16 deadline. Albright noted that the Staff will continue to search for funding sources for this project, including the Legislative-Citizen Commission on Minnesota Resources (LCCMR), Lessard-Sams Outdoor Heritage Council (LSOHC), and EQIP funding. He noted that the Board needs to meet with the Phase 1 landowners and assist them in submitting EQIP applications to NRCS by the 08/01/16 deadline. Jones mentioned that the LCCMR and the LSOHC work together to fund worthy projects. Albright added that the Board needs to implement the watershed management district (wmd) taxing authority (M.S.A. 103D.729) to use as the local match for all of the referenced funding sources.

Albright reported that we now have another new Army Corps of Engineers (COE) representative, Robert Maroney, handling our project permitting process. After individual reviews, the first two project managers both determined that the Wolverton project would require one comprehensive General COE permit to cover all the phases of the project. Jones is working with Maroney with the hope that we won't have to start the process over again.

**Otter Tail River Restoration.** The BRRWD has scheduled a landowner informational meeting for Thursday, February 25, 2016, at 7:00 PM in the County Court Room, Breckenridge. Notices will be sent to the affected landowners. The COE acknowledged receipt of our Section 1135 Habitat Restoration project request.

**BRRWD Rules Update.** The Board plans to spend time discussing the Rules update at their 01/25/16 meeting. Albright will forward a copy of the draft Wild Rice Watershed District's Rules update to the Managers prior to the meeting to use as a working template.

**Red River Basin Commission (RRBC) Annual Land & Water International Summit Conference.** The RRBC is holding their Annual Conference at the Alerus Center in Grand Forks on January 19-21, 2016. The office has made reservations for Albright and Managers Hanson, Fjestad, and Van Amburg.

The Hawley Buffalo River Restoration project and the Minnesota Agricultural Water Quality Certification Program (MAWQCP) will both be recognized as one of the RRBC's Success Stories. Albright will also make a "Lightening Talks" presentation about the MAWQCP during the Conference.

**COE F-M DA 2016 Budget.** Earlier in the evening, the Board held a closed session meeting with BRRWD Attorney Tami Norgard regarding the FM DA's FY2016 Budget and the preliminary study (Phase 1) retention project funding contracts from the City of Fargo for three BRRWD upstream retention projects, including Stony Creek (\$86,800), Barnesville Township Area Drainage Study (\$60,746), and the South Branch of the Buffalo River (\$74,022). Albright noted that Manager Kobiela is absent tonight due to health issues.

Albright explained to the audience that the DA met on 12/15/15 to present their FY2016 Budget, totaling \$237.5 million. Five of the six agencies involved in the Joint Powers Agreement (JPA) on the DA have already approved the budget. The City of Moorhead took action on the budget approval at their meeting tonight, and a few of the City officials plan to attend our meeting later tonight at about 9:00 PM. The DA is made up of the six agencies who are signers of the JPA, including the BRRWD, Clay County, the City of Moorhead, the City of Fargo, Cass County, and the Southeast Cass County Joint Water Resource District.

The other issue before the BRRWD tonight is the possible approval of grant contracts from the City of Fargo for preliminary study (Phase 1) funding for three BRRWD upstream retention projects. Albright explained that the City appropriated \$25 million several years ago for upstream agencies to develop flood retention projects, in accordance with the RRBC's 20% upstream flood reduction initiative. The DA is managing this funding, which for Phase 1 is nonrefundable, meaning if the project is not developed, we don't have to pay the money back. Attorney Norgard reviewed the contracts and made a few

comments/proposed changes regarding the grant contract language. After discussion, **motion** by Anderson to accept the Phase 1 grant funding from the DA for the three referenced projects. **Seconded** by Hanson. In favor: Anderson, Larson, and Hanson. Opposed: Fjestad and Affield. **Approved.**

At 8:46 PM, the Board took a short break to allow time for the City of Moorhead officials to arrive. At 9:00 PM, the meeting reconvened.

The Board opened up the floor to questions from the audience regarding the issue of the DA's FY2016 budget. Van Amburg stated that the City of Moorhead representatives informed him that the City did approve the budget at their meeting tonight.

Lyle Hovland, Wilkin County Commissioner, asked if anything has changed in the 2016 budget from last year that might cause the BRRWD to approve the budget this year. Van Amburg stated that the BRRWD received the budget earlier this year, so that we have had more time to review it. He added that the budget is broken down into similar categories as last year's budget, but the biggest difference is the three assumptions that the DA has made in submitting this budget: the DNR would issue its final Environmental Impact Statement (EIS) and a record of decision, the preliminary injunction on the Oxbow, Hickson, Bakke (OHB) Ringdike construction would be lifted, and that federal appropriations will be identified. Albright observed that the DA is making the assumptions that these actions will be taken sometime in the first or second quarter of 2016. Hovland also asked if the DA would have to apply for a project permit from the BRRWD at some point. Van Amburg said that the Board did expect to see a permit application for the project, and at that point, our permitting authority could be used as a tool to advocate for the affected landowners within the BRRWD.

Albright discussed the JPA and subsequent amendments (2013, 2014), which included the BRRWD as a signer. The DA is currently working on a new JPA. The BRRWD will have to decide if they wish to sign the new agreement to keep their "seat at the table".

In response to Hovland's question about changes from the 2015 budget, Robert Zimmerman pointed out that the draft EIS has been distributed, which stated that the DNR didn't identify any other kind of project that could replace the proposed project and yield similar results. The final EIS could be slightly different. Once the EIS is completed, then the permitting process for the project would begin, which would allow for more opportunity to continue the review process for the project design. Hovland noted that there are parts of the budget that are necessary and should be approved, for example, the flood control work within the City of Fargo. Hovland also noted that there are significant portions of the budget that shouldn't move forward, including any expenditure related to the OHB dike.

Shelly Lewis asked what work will be delayed, according to the three contingencies. Norgard pointed out that the wording of the BRRWD's motion will be important as it relates to the noted budget "assumptions". The Board has also discussed possibly doing a "line item" motion.

Marcus Larson asked if the Board has discussed the proposed diversion project with the DNR in an effort to avoid complicating relations with the DNR. Van Amburg thought that because a BRRWD motion regarding the FY16 budget contains the proposed contingency language, the BRRWD's budget approval would not complicate the process. Larson also pointed out that the DA created the Dakota Finance Board, which financed the 2015 budget, and circumvented the BRRWD's 2015 vote. Since they didn't need the BRRWD's approval last year, what has changed in 2016. Van Amburg explained that if the BRRWD continues to be an obstruction to the DA's project development, we would probably be dropped from future JPA and DA membership, losing our ability to influence the direction of the project and to advocate for the landowners within the BRRWD. Van Amburg thought it was important for the BRRWD to remain on the DA.

Lewis observed that it appears only groups that vote "yes" get to be on the DA. Kevin Olsgaard asked if there were any other DA members who voted "no". Van Amburg felt it was important for the BRRWD to be part of the process.

Marcus Larson asked if the BRRWD actually has a vote on DA decisions. Van Amburg said that at this point in the project development, the BRRWD does not have a vote on regular DA decisions. But Van Amburg does have opportunities to serve on committees where he has a vote and where he can express his opinions. Nelson pointed out that it would be in the best interest of the DA to have the BRRWD as a member because ultimately, the DA will need permits from the BRRWD. Lewis thought that the BRRWD's permitting authority would be a "bargaining chip" when dealing with the DA.

Norgard discussed the BRRWD's "permitting authority" and the DA's legal remedies if the BRRWD denied a permit application for the project. She said the DA could appeal the BRRWD decision and challenge our jurisdiction. The COE could claim that the project is federal, and that they have jurisdiction. Hovland suggested that the Board's budget motion should include some way to make the DA come to the BRRWD for permitting, and not attempt to change the jurisdiction. Norgard explained that the Diversion project is a long way from the permitting stage, and that this budget deals with work that would eventually lead up to a project that would need BRRWD permits to move forward. Van Amburg observed that most of the funding in the 2016 budget is for work within the City of Fargo and Phase1 work in the northern part of the project.

John Ready asked about the motion language referring to the record of decision for the EIS. He thought the BRRWD should include a condition not to approve the budget until after the DNR makes a decision regarding their project permitting. Albright pointed out that legally, environmental regulations reference completion of an EIS, not permitting. Zimmerman thought that there are still questions regarding the DNR permitting process for the proposed project.

Lewis asked again what was different from the 2015 budget that might make the BRRWD consider approval. Van Amburg said the contingencies noted in the proposed motion, which were already discussed, could make it possible for the BRRWD to add language to their motion to approve only work within the City of Fargo and certain hardship/opportunistic buyouts.

Van Amburg noted that Manager Kobiela is absent tonight, and the Board felt that it would be best to make a decision regarding this issue when all Managers have the opportunity to cast their vote. Albright suggested that the staff could work on a draft motion with concise language for the Board's consideration. **Motion** by Anderson to table a decision on the 2016 DA budget until the 01/25/16 BRRWD meeting with the vote taking place no sooner than 9:00 PM. **Seconded** by Larson. In favor: Anderson, Hanson, Larson, Affield. Opposed: Fjestad. **Approved.**

### **2016 BRRWD Annual Meeting.**

**Election of 2016 Officers.** Chairman VanAmburg called for nominations for Board officers. **Motion** by Larson to cast a unanimous ballot to reelect the current officers. **Seconded** by Affield. **Approved.** The BRRWD officers for 2016 will be as follows: Chair-Gerald VanAmburg, Vice Chair-Peter Fjestad, Treasurer-Mark Anderson, and Secretary-John Hanson.

**Appointment of 2016 Consultants.** Jones presented HEI's 2016 proposal for engineering services. The BRRWD receives a discount from HEI's regular hourly rates. Albright discussed changes in the office staffing, which include Albright (Administrator), Julie Jerger (full-time administrative assistant), Kathy Fenger (full-time administrative assistant), and Danielle Scheffler (part-time administrative assistant). He noted that staff is productive and working well together. **Motion** by Anderson to appoint HEI as the BRRWD's 2016 engineering consultant. **Seconded** by Fjestad. **Approved.**

Vogel Law Firm also submitted a proposal for 2016 legal services with a \$5/hour (2%) rate increase from 2015. Norgard discussed staff assignments for the BRRWD. **Motion** by Fjestad to hire Vogel Law Firm as the BRRWD's legal consultant for 2016. **Seconded** by Anderson. **Approved.**

Harold Rotunda, Certified Public Accountant (CPA), submitted a letter of agreement regarding his services to conduct the 2015 audit. He indicated that the fee for his services would be the same as last year at \$2,100. **Motion** by Anderson to hire Rotunda to complete the 2015 audit and Salber and Associates, Inc., to prepare the 2015 W-2s and 1099s. **Seconded** by Hanson. **Approved.**

**2016 Financial Designation.** **Motion** by Fjestad to designate Midwest Bank and Wells Fargo Bank, Barnesville, as the official 2016 BRRWD depositories, subject to the use of any other depositories within the District as needed throughout the year, provided they are FDIC insured. **Seconded** by Larson. **Approved.**

**River Watch Forum.** The International Water Institute (IWI) requested a contribution from the BRRWD for the 21<sup>st</sup> Anniversary River Watch Forum on 03/15/16 at the University of Minnesota-Crookston Campus. **Motion** by Hanson to donate \$500. **Seconded** by Anderson. **Approved.**

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

<b>Accounts Payable</b>	<b>Description</b>	<b>Account</b>	<b>Amount</b>
AmeriPride	#160327341, December rugs (3)	Admin.	\$ 80.16
Barnesville Phone Co.	12/25/15 billing	Admin.	\$ 288.55
Breanna L. Kobiela	#1547, 11/01/15-12/31/15	Admin.	\$ 636.64
Bruce E. Albright	Van Amburg room (MAWD)	Admin.	\$ 191.12
Bruce E. Albright	dinner-Flour Box Bakery & Bistro	URRW TMDL/WRAPS	\$ 29.22
Carl A. Pierce	1/3/16 storage lease	Pj. 49, Oakport	\$ 1,000.00
Catherine L. Affield	#1543, 11/01/15-12/31/15	Admin.	\$ 287.14
City of Barnesville	10/31/5-11/28/15 utilities	Admin.	\$ 554.40
Curtis Nelson	#CWL-25-2013, grade stabilization	Hay Crk-Stinking Lake CWL	\$ 2,290.61
Daily News	Open House notice	URRW TMDL/WRAPS	\$ 247.20
Fergus Falls Daily Journal	#1215, Open House Notice	URRW TMDL/WRAPS	\$ 177.00
Fuchs Sanitation	December garbage billing	Admin.	\$ 42.12
HEI	December billing summary	Varies-see attached	\$ 112,218.17
James Nelson	Storage lease, 10/10/15-10/10/16	Pj. 08, Stony Creek	\$ 50.00
Jason Rick	December snow removal (8)	Admin.	\$ 715.00
Joan E. Lazorekno	01/03/16 Storage lease	Pj. 49, Oakport	\$ 1,000.00
New Century Press	#3000874-78, Open House Notice	URRW TMDL/WRAPS	\$ 126.00
Peter V. Fjestad	#1545, 11/01/15-12/31/15	Varies	\$ 994.19
Premium Waters, Inc.	#366590-12-15	Admin.	\$ 34.37
Quill	#1871476, office supplies	Admin.	\$ 38.42
Richard L. pierce	01/03/16 Storage lease	Pj. 49, Oakport	\$ 1,000.00
River Keepers	2016 appropriation	River Keepers	\$ 55,000.00
Troy E. Larson	#1548, 11/01/15-12/31/15	Admin.	\$ 359.85
United States Treasury	4th Qtr. Form 941 Taxes	Admin.	\$ 895.05
Vogel Law Firm	#167755, 11/01/15-12/31/15	Pj. 39, Georgetown	\$ 151.00
WREC	11/18/15-12/15/15 Service (2)	Pj. 46, Turtle Lake	\$ 62.93
Xcel Energy	11/22/15-12/27/15 office	Admin.	\$ 70.37
Xcel Energy	11/23/15-12/28/15 service (1)	Pj. 49, Oakport	\$ 64.37
Gerald L. Van Amburg	#1549, 11/01/15-12/31/15	Varies	\$ 1,394.58
Agassiz Mechanical, Inc.	#217976, fall furnace maintenance	Admin.	\$ 410.00
RRVCPA	12/01/15-01/01/16 service (3)	Pj. 49, Oakport	\$ 246.84
IWI	2016 River Water Forum	M.S.A. 103D. 905, Subd. 3	\$ 500.00
			<b>\$ 181,155.30</b>

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

**Next Meeting.** The BRRWD will hold their next regular meeting on Monday, January 25, 2016, at 7:00 PM in our Barnesville office.

**Adjournment.** Chairman Van Amburg adjourned the meeting at 9:55 PM.

Respectfully submitted,

John E. Hanson, Secretary