

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING July 10, 2017

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, July 10, 2017, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Jay A. Leitch, Mark T. Anderson, John E. Hanson, Catherine L. Affield, Troy E. Larson, and Peter V. Fjestad. Others attending included: Bruce E. Albright, BRRWD Administrator, and Erik S. Jones, Engineer, Houston Engineering, Inc. (HEI); and Richard Anderson and Denise Tollefson, Serenity Manor Assisted Living.

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

Secretary's Report. The Board reviewed draft minutes for the 6/26/17 regular meeting. Jones noted some minor corrections. **Motion** by Affield to approve the minutes, subject to correction. **Seconded** by Leitch. **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 \$2,168,010.28. Administrative disbursements for the month are \$48,503.54 and for the year total \$271,335.88. Albright noted that we are tracking permit archiving and M-files expenses separately on the administrative disbursement sheet, as these should be one-time expenditures. Current accounts receivable for 2017 totals \$4,663,013.67. Our total income for the year is \$1,686,660.73. Income since the 6/12/17 meeting is \$487,989.05, primarily from Clay County for their first half property tax proceeds (\$460,683.45). We also received reimbursements from Minnesota Pollution Control Agency (MPCA) for the Otter Tail River Planning 319 Grant (\$14,295.50) and the Red River Watershed Management Board (RRWMB) for Mediation Project Team (PT) expenses (\$11,625.89). The balance of our receipts came from bank account interest, HEI office rent reimbursement, and mileage reimbursements from the Lessard-Sams Outdoor Heritage Council (LSOHC) for Albright's trip to Bloomington to attend their WorkGroup meeting. Albright noted that the Midwest Bank line of credit loan will be coming up for annual renewal in August. He and Treasurer Anderson will work with the bank in this regard. **Motion** by Anderson to approve the Treasurer's Report. **Seconded** by Fjestad. **Approved.**

Other business brought before the Board included:

Serenity Assisted Living Expansion. The Serenity Manor owners/operators, Richard Anderson and Denise Tollefson, discussed their proposed facility expansion to the south of their current location in Dilworth over Clay County Ditch (C.D.) No. 50. Their current facility is on the north side of the ditch, and they want to expand their operation to include a memory care unit to be constructed on the south side of C.D. No. 50 with a crossing and adjacent sidewalks to link their two facilities. Before moving forward with property acquisition and architectural designs, they wanted feedback from the BRRWD regarding their concept to cross C.D. No. 50.

Albright discussed their options for a crossing. He noted that the concrete lined C.D. No. 50, which was built to carry a 100-year event, is crucial to Dilworth's flood protection/drainage, so the crossing can't impede the ditch's function. Jones explained that currently, the owners are considering a pre-fabricated bridge that would be set in place on foundation footings. He advised that the bridge span would need to be at least 60', and the bottom of the structure should be set above the 100-year flood elevation. Jones stated that a bridge meeting

the referenced criteria will not affect the ditch system hydraulics. Since the proposed bridge would be private crossing, it would not be a ditch system expense. As far as other agency permits, or City regulations, Jones thought that the BRRWD would be the only entity involved with permitting. Manager Anderson asked about ditch maintenance. Albright explained that since the ditch has a concrete liner, maintenance can be accomplished with a "skid steer" working in the channel underneath the bridge. Jones noted that the ditch didn't overtop during the 2000 summer flood, which was near a 100-year flood event, and he feels the floodplain mapping in this area is accurate.

Anderson and Tollefson mentioned that Jones visited the site today and recommended that they have geotechnical testing done to determine the load bearing capacity of the soils in each ditch bank. Anderson explained that without the bridge, they probably won't do the expansion. Manager Leitch asked if there is any precedent for a project like this, or if the BRRWD Rules cover anything similar. Albright said the Minnesota Drainage Law doesn't mention anything specific regarding this type of project. He didn't think the crossing costs could be attributed to the ditch system, but he pointed out that both he and Jones have billable time associated with this project that will be a C.D. No. 50 expense. He noted that Serenity Manor does pay taxes to the ditch system. Jones added that there was a similar private crossing on Clay C.D. No. 41-Lateral 1 near the Centennial baseball field in Moorhead, which was paid for by the group who wanted the crossing. At this point in their project development, Anderson and Tollefson just want assurance from the BRRWD that if they submit a permit for the bridge, the BRRWD would approve their application. **Motion** by Anderson to approve the Serenity Manor's bridge crossing concept with the understanding that if they decide to move forward with the project, they will still need to go through the BRRWD permitting process. **Seconded** by Fjestad. **Approved.**

Permit No. 17-055, Curt Nelson. Applicant proposes to install pattern tile in the E¹/₂SE¹/₄, Section 28, Deerhorn Township, Wilkin County, outletting in the northeast corner to the 190th AVE road ditch then west for nearly 3.5 miles to Wilkin C.D. No. 5A to which the property is assessed. Nelson has a number of downstream landowners to contact before the Board can act on his application. Nelson is the operator of the land, and he still needs to get permission for the tile project from the owner, Janice Getz.

There is approximately 0.3 acres of wetlands on the Getz land that is part of a larger wetland site that the Briks Family LP is trying to mitigate with banking credits from the Elkton wetland restoration. Briks would need Getz's 0.3 acres to complete their wetland banking credit purchase associated with the Manston Slough project. The Board discussed the possibility of selling 0.3 acres of Elkton banking credits to Getz in order to finalize the Briks mitigation. The cost of the wetland credits is \$10,000 per acre. Van Amburg cautioned the Board not to set a precedent about selling our credits because we will need those credits to mitigate for future BRRWD projects. Albright noted that this transaction would help finalize a long-standing easement acquisition deal with the Briks family associated with the Manston Slough project. He will work with the landowners to get this issue resolved. The Board agreed to postpone action on this application, pending landowner approval of the project and downstream landowner notification.

BRRWD Rules Update. Manager Leitch requested that the Rules Update and the strategic planning items be moved up on the agenda, since we never seem to have time to address these issues. He suggested that only those items that the Board needs to act on should be listed on future agendas.

Albright gave a brief report on the status of the Rules update. Last Friday, the Clay County Commissioners held a meeting to discuss the new Buffer Law. The BRRWD has agreed to accept the authority and administrative responsibility to implement the Buffer Law for the legal ditch systems within our boundaries and to use an Administrative Penalty Order (APO) plan to carry out corrective actions if necessary to ensure compliance with the buffer requirements. Clay County is looking for enforcement consistency within the County. The Wild Rice Watershed District (WRWD) has indicated that they are not interested in acting as the enforcement authority for their legal ditch systems. Manager Anderson noted that the BRRWD should only have to assume responsibilities for ditches within the BRRWD.

Albright explained the Rules revision process. The BRRWD must advertise and hold a public hearing. Prior to adoption, we need to submit the revised Rules to Minnesota Board of Water and Soil Resources (BWSR) for a 45-day advisory review/comment period and to provide notice of hearings and a copy of the proposed Rules to all public transportation entities within the watershed district. Albright explained that currently, the Rules update is on hold until Clay County provides us with language regarding the new Buffer Law, which we can incorporate into our new Rules. Clay County expects their legal counsel to have their Buffer documents drafted in August, and then they must hold the required public hearings, etc., after which the BRRWD will have the information we need to incorporate into our Rules update process. The County expects to have their Rules adopted by 9/1/17. The Board asked Albright to provide a current draft of the revised Rules for their review at the 7/24/17 meeting. Albright estimated that we could have our Rules update finished by the end of the year.

Strategic Planning. The Board discussed hiring an assistant administrator to help Albright considering the number of projects currently in development, including the 2015 Buffer Law implementation and the One Watershed, One Plan (1W1P) efforts. Albright commented that before he retires, he would like to have the current workload completed, and to that end, he agreed that the Board should start the process to hire an assistant administrator with the goal of having someone in place possibly by the end of the year.

Albright distributed copies of the 7/11/16 BRRWD goals list, including our Short Term Goals (0-6 months), Intermediate Goals (1-2 years), and Long Term Goals (3-5) years. The Board had an extended discussion about updates/changes to the goals. Albright will provide an updated list for the Board's review at their next meeting.

Wolverton Creek Restoration. Albright met with BRRWD Attorney Tami Norgard, Vogel Law Firm, who provided a recommendation for the legal process we will need to follow to move the project forward. Jones submitted a request for a one-year extension of the Ecofootprint Grant from Enbridge Pipeline, which expires at the end of 2017. To date, we haven't received a response. Albright noted that we have started to receive the LSOHC Grant paperwork. He added that we are still searching for project funding. The Board hopes to have some project construction done yet this fall.

Whiskey Creek Restoration. Albright suggested that we move forward with the legal project development so that when the time comes to find funding, the project will be ready to construct. The Board briefly discussed the large number of beaver dams that were found during the channel survey, and how we could currently work on addressing this problem.

Project No. 78, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1) Outlet Improvement. Albright met with Attorney Norgard today regarding her review of the revised petition for a diversion to take water west at the County line to Wolverton Creek. Albright noted that the petition appears to be valid. Since at least 53% of the landowners' signatures were valid, he felt the project could move forward. Only 26% of the landowners within the affected area are needed for a valid petition. Once Norgard has completed her review, the next step will be to appoint an Engineer to do the preliminary survey report in accordance with Minnesota Drainage Law.

Wilkin County Ditch Repairs. Albright explained that the BRRWD has a BWSR grant for the South Branch of the Buffalo River that expires on 12/31/17. Jones suggested that the money could be used for the incremental installation of buffer strips and side inlets for several ditches that outlet to the South Branch: Wilkin C.D. Nos. 40, 41, 42, 43, 44, and possibly a few side inlet installations for Project Nos. 2 and 21, Wilkin C.D. Nos. 13 and 13-Lateral.

Jones noted that a meeting with Julie Aadland, Minnesota Department of Natural Resources (DNR), and her staff is scheduled for 7/12/17 at 10:00 AM to consider maintenance options for Wilkin C.D. No. 44, which is near the DNR's Lawndale Trout Stream Restoration. In conjunction with the Public Drainage Update program, there is a possibility that DNR might have some funding for this type of ditch restoration work.

Bryan and David Henderson Waterway Concern. Mark Aanenson, HEI, has completed his analysis of the Board authorized wetland investigation in the NW¼, Section 27, Manston Township, on the Terry Nielson property, operated by David Abel. Aanenson is preparing the Local-State-Federal (LSF) forms. Albright noted that the parties will also need to review a map showing the location of the wetlands. The survey was conducted in response to an issue from last year regarding Ron Conzemius' farming through the waterway in the SW¼, 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 CSAH No. 26 in the NW¼, Section 34. Albright had contacted Abel about cleaning the natural waterway to help drain area water west to the Manston Slough project. Abel was told by the Natural Resources Conservation Service (NRCS) that the waterway on his property couldn't be cleaned because of wetlands.

Aksamit Tile Complaint. Albright conducted an inspection of the outlet for a joint neighborhood 2012 tiling project in the N½, Section 3, Akron Township, Wilkin County. He reported that the outlet is functional, but dry, so it appears that the tiling is either damaged or plugged on Steven Wiese's property upstream of the outlet/non-perforated tile on Avis Wiese's land. Albright will notify the affected landowners about the results of his review. The Board agreed that since this is a private drainage system, the landowners are responsible for the maintenance of the tile. Jones thought that if the landowners discover a man-made blockage in the tile line, which would be a Rule violation, then they could come back to the BRRWD for assistance.

Ed Haick Complaint. Albright noted that Jones has recommended using the Minnesota Department of Transportation's (MNDOT) 0.05% grade in both ditches going south along Trunk Highway (T.H.) No. 9 from the NE¼NE¼, Section 4, Manston Township, Wilkin County, to address water problems on Ed Haick's property downstream of a lift station installed by Mark Yaggie a few years ago (Permit No. 12-142). Water in the area should flow south to the Buffalo River. Albright will forward the information to Dave Yaggie for his review, encouraging him to work with Haick and MNDOT to clean the road ditch to create an adequate outlet for the tile water.

Bob Westfall Drainage. Albright met with Bob Westfall last week regarding a proposal to reroute a natural waterway in the northwest corner of Section 2, Andrea Township, Wilkin County. Westfall will need to file a BRRWD permit application for this work. Fjestad felt Westfall also needed to check with NRCS.

Schindler Drainage Concern. Manager Anderson and Albright conducted separate field review last week in response to a complaint regarding Ron Erdman's excavation in a waterway on his property in the W½SE¼, Section 1, Barnesville Township, Clay County, which includes a wetland. Erdman's work has caused erosion and sedimentation on the downstream property because of the steep gradeline in this area. Albright and Anderson plan to contact Erdman regarding this violation.

June Rainfall Event Photographs. Albright circulated photographs of the recent rainfall event to the Managers for their review.

Lauren Peterson's Retirement. The office has scheduled a retirement party for Lauren Peterson on Thursday, July 13, 2017, at 2:00 PM at the Farmstead Estates in Moorhead. Peterson recently retired as a BRRWD Viewer after 30 years of service.

Elkton Township Field Entrances. At the 6/26/17 meeting, the Board reviewed Jones's recommendations regarding his investigation of the long-standing drainage issues in the area where the Kenneth Johnson family previously owned land in the NE¼, Section 14, Elkton Township, Clay County. Ted Rud, Engineer, HEI, forwarded his recommendations to the affected parties for their review. Inez Johnson sent a letter to the Board to point out what she claimed were factual errors in the letter that accompanied Rud's recommendations, including past land sales and other items. Jones noted that given Johnson's corrections, Rud's recommendations regarding the installation of the dry approach along 160th ST S were still valid.

Project No. 77, Clay C.D. No. 51-Lateral. On advice of their attorney, **motion** by Anderson to go into closed session to discuss the Norby lawsuit. **Seconded** by Leitch. **Approved.** The Board went into closed session at 8:30 PM. **Motion** by Anderson to go back into open session at 8:36 PM. **Seconded** by Hanson. **Approved.**

Project No. 49, Oakport Flood Mitigation-Phase 4. Albright noted that in response to weed complaints, last fall's seeding has been mowed.

Project No. 30, Clay/Wilkin J.D. 1/Clay C.D. No. 53 Outlet Stabilization. Albright reported that Sellin Brothers, Inc. returned the signed contract for erosion control outlet repairs on Clay C.D. No. 53 and Clay/Wilkin J.D. No. 1, both outletting to Wolverton Creek. The total bid was for \$45,829. **Motion** by Leitch to authorize Chair Van Amburg and Secretary Hanson to sign the contracts. **Seconded** by Anderson. **Approved.**

Manager Larson joined the meeting at 8:40 PM.

Project No. 21, Wilkin C.D. No. 13-Lateral/Project No. 02, Wilkin C.D. No. 13. William Nichol Excavating, Inc.'s continues his work on the ditch repair. Wade Opsahl, Field Technician, HEI, recommended that the last section of the ditch on DNR property also needs repair. The Board agreed to extend the cleanout for an additional 1.5 miles to the inlet in Section 19, Manston Township, subject to DNR approval to work along their property. **Motion** by Anderson to approve the referenced additional repairs. **Seconded** by Hanson. **Approved.**

Mediation PT. The next PT meeting is tentatively scheduled for July 20, 2017, at 7:00 PM in the Barnesville office. The Fall Tour is tentatively scheduled for Thursday, September 21, 2017, beginning at 1:30 PM.

Upper South Branch of the Buffalo River. Jones noted that the LSOHC will make a decision regarding our grant application later this month. The next round of interviews will tentatively take place August 22-24, 2017.

Barnesville Township Area Retention. The staff is still working on a potential acquisition of the Reinvest In Minnesota (RIM) property owned by the Braton family the SE¹/₄SE¹/₄, Section 22, Barnesville Township, Clay County. Whisky Creek/Clay C.D. No. 34 crosses the RIM easement. The BRRWD is going to need additional R/W on this parcel for our Barnesville Township Comprehensive project.

Stony Creek Retention. The Board authorized an appraisal of the Michael Dohn property in regards to a possible acquisition of Dohn's property in the project area (Pt. NE¹/₄, Section 5, Barnesville Township). Albright has not had time to contact an appraiser.

Jones plans to submit billings to the Fargo-Moorhead Diversion Authority (FMDA) for the Upper South Branch, Barnesville Township, and Stony Creek.

Easement Consultant. Albright is working with Steven J. Taff, Associate Professor Emeritus, Department of Applied Economics, University of Minnesota, on a draft consultant contract. Taff will not be available to work on BRRWD projects until September.

1W1P. The BRRWD has been selected by BWSR to complete the 1W1P effort. The Bois de Sioux Watershed District (BDSWD) will also be working on a 1W1P. The BRRWD has an extensive comprehensive plan, revised in 2010, and we have been advised to retain the valuable content we have already incorporated into that plan. BWSR plans to hold an orientation meeting in August to include both the BRRWD and the BDSWD. The Board briefly discussed the various steps in the process to complete the 1W1P. The planning effort is expected to take 2-3 years. Once completed, it will cover the entire 1,800

square miles of the Watershed District, located in parts of Clay, Becker, Wilkin, and Otter Tail Counties. The purpose of the 1W1P is to have one document that the Watershed District and counties can use regarding water management for our area. The planning ties in with a grant the BRRWD received last year from BWSR in the amount of \$168,000 titled "Prioritizing and Targeting Conservation in the Buffalo-Red: PTMApp and Geomorphic Assessment." Jones noted that the PTMApp portion of the grant work should be completed by August.

FM Diversion Project. Albright noted that there is a hearing regarding the Diversion lawsuit on 7/18/17. The Board discussed the current proposals for easement acquisition/buyouts in the upstream staging area.

Otter Tail/Buffalo/Upper Red Rivers Total Maximum Daily Load (TMDL)/Watershed Restoration and Protection Strategies (WRAPS). We are still waiting for MPCA to complete the Upper Red River TMDL. Jones has been in contact with Tim James, MPCA, to update information in the WRAPS document, which has been completed already.

Wilkin C.D. No. 7 Repairs. Jones reported that the contractor, States Border Construction, has nearly completed the repairs. The two-week extension deadline runs until 7/15/17. Jones noted there will be one punch list item to be completed later this fall after harvest for better drainage on the back side of a berm adjacent to a sugar beet field.

Otter Tail River Restoration. Chair Van Amburg signed the Army Corps of Engineers (COE) Section 1135 Grant Agreement last week. Attorney Norgard reviewed the grant agreement and suggested some language clarifications regarding BRRWD financial obligation and payment rates. **Motion** by Fjestad to authorize Attorney Norgard to work with the COE to clean up the contract language. **Seconded** by Affield. **Approved.**

Whiskey Creek Restoration. Albright reported that the 6/27/17 informational meeting went well. Attendees appeared to be most interested in how soon the project could be completed. Albright suggested that the next steps would be to start discussions with the DNR regarding permitting for the restoration. This winter, the Board should also consider the legal process for the project development, so that is done and won't delay us in the future like Wolverton Creek.

Wilkin C.D. No. 22. Landowners contacted the office regarding the performance of the ditch system following the June rainfall event. Jones and Opsahl conducted some research of the maintenance records and found that only minimum maintenance has been completed on the main ditch since it was improved back in 1980. **Motion** by Fjestad to authorize HEI to conduct an analysis regarding repairs that may be needed on the Wilkin C.D. No. 22 main, upstream of County Road No. 3. **Seconded** by Leitch. **Approved.**

2017 Ditch Spraying. Opsahl prepared maps showing where spraying is needed on various BRRWD drainage systems and projects. Spraying will be for cattails, trees, and leafy spurge. **Motion** by Fjestad to authorize the recommended spraying, per Opsahl's recommendations. **Seconded** by Affield. **Approved.** L&M Road Service, Lake Park, handles the spraying for the BRRWD.

2018 Clean Water Fund Grants. BWSR announced that their Fiscal Year 2018 Clean Water Fund competitive grant process is now open. They have \$6 million available for BWSR projects and practices and \$675,000 for multi-purpose drainage management. The application deadline is August 9, 2017. If selected, projects will not receive funding until March 2018. The BRRWD has several projects that they are working on or past submittals that have not been approved that we could consider submitting. Recommendations will be brought to the 7/24/17 BRRWD meeting. Jones suggested a few sites that have been identified in the Whiskey Creek area near Kent for potential best management practices (bmps) applications.

Meeting Agenda. Manager Leitch suggested that we rework the meeting agenda to place action items that require Board attention on the first page and passive items on the second page of the agenda. The passive items would only be discussed if there is a question or need for additional information. Leitch would like to

see the Board meetings adhere closer to parliamentary practices. He feels that there are too many items on the current agenda that don't require Board action and are never addressed. Going over the same items meeting after meeting isn't a good use of peoples' time. Van Amburg noted that even though the Board doesn't act on all the agenda items, in the past, we have kept them on the agenda to help keep track of our active projects. The Board spent some time discussing this change. Albright will revise the next meeting agenda to reflect the Board's requested changes.

2018 Budget Hearing. Albright suggested that the Board hold their annual budget hearing on August 28, 2017, to allow time to file the budget with the Counties by September 15. **Motion** by Hanson to schedule the 2018 annual budget hearing for 08/28/17 and to authorize Albright send hearing notices to the newspapers. **Seconded** by Fjestad. **Approved.**

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
AmeriPride	#160411905, June Rug Billing (2)	Admin.	\$ 64.14
City of Barnesville	#10000603 6/25/17 billing	Admin.	\$ 709.49
Clay SWCD	FY 2018 Farm Bill Grant Contribution	M.S.A. 103D.905, Subd. 3	\$ 2,166.00
Deluxe	#2040156235-Checks/Envelopes	Admin.	\$ 313.56
EverBank Commercial Finance	#4548311, late charge	Admin.	\$ 95.34
Fuchs Sanitation	#5233-May Garbage Service	Admin.	\$ 51.48
Gerald L. Van Amburg	#17-21, 05/01/17-06/30/17	Varies	\$ 894.62
HEI	July Billing Summary	Varies-See attached	\$ 162,237.61
Jay A. Leitch	#17-20, 05/01/17-06/30/17	Varies	\$ 662.99
John E. Hanson	Voucher #17-18, 05/01/17-06/30/17	Varies	\$ 1,397.10
Marco	Sales tax	Admin.	\$ 326.56
Mark T. Anderson	#17-16, 05/01/17-06/30/17	Varies	\$ 608.27
NetWork Center Communications	#0000047206 camera issues	Admin.	\$ 42.50
Peter V. Fjestad	#17-17, 05/01/17-06/30/17	Varies	\$ 584.64
Purchase Power	June Postage	Admin.	\$ 150.00
RRVCPA	Service 6/1/17-7/1/17	Pj. 49, Oakport	\$ 84.09
United States Treasury	2nd Qtr. Form 941 Taxes	Admin.	\$ 849.15
WREC	05/17/17-06/17/17 Service	Pj. 46, Turtle Lake	\$ 75.18
Xcel Energy	05/24/17-06/25/17 Service	Admin.	\$ 67.89
Xcel Energy	05/24/17-06/25/17 Service	Pj. 49, Oakport	\$ 76.89
Xcel Energy	05/28/17-06/26/17 Service	Pj. 49, Oakport	\$ 58.36
			\$ 171,515.86

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

Next Meeting. The Board will hold their next regular meeting on Monday, July 24, 2017, at 7:00 PM in our Barnesville office. Albright noted that he will be on vacation that week at Lake of the Woods, and Wade Opsahl, HEI, will fill in on his behalf.

Adjournment. **Motion** by Leitch to adjourn the meeting. **Seconded** by Affield. **Approved.** Chairman Van Amburg adjourned the meeting at 9:20 PM.

Respectfully submitted,

John E. Hanson, Secretary