

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING October 23, 2017

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, October 23, 2017, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Mark T. Anderson, Peter V. Fjestad, Jay A. Leitch, Catherine L. Affield, and John E. Hanson. Others attending included: Erik S. Jones, Engineer, and Wade S. Opsahl, Technician, Houston Engineering, Inc. (HEI); and landowners: Shawn Norman and Dusty Nordick. BRRWD Administrator Bruce E. Albright was absent.

Chair Van Amburg called the meeting to order at 7:06 PM and announced that the proceedings were being video recorded to aid in preparation of the minutes.

Secretary's Report. The Board reviewed draft minutes for the 10/10/17 regular meeting. Manager Affield noted a few minor corrections. **Motion** by Leitch to approve the minutes, subject to correction. **Seconded** by Anderson. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's financial status. Cash on hand is \$1,632,136.33. Income since the 10/10/17 meeting was from Minnesota Pollution Control Agency (MPCA) for the Otter Tail River Planning 319 Grant (\$24,121.32) and a refund from the Western National Insurance (\$5). Total 2017 income is \$2,553,597.08.

Other business brought before the Board included:

Wilkin County Ditch (C.D.) No. 44. Landowner Shawn Norman discussed his concerns about the buffer/side inlet installations proposed for C.D. No. 44 on his property and the BRRWD's acquisition of additional ditch right-of-way (R/W). Norman indicated that he doesn't want the BRRWD to seed the buffer on his property and said that he was prepared to do the work. He said the land was his property, and it wasn't for sale. He objected to the BRRWD's acquisition process. Norman thought the BRRWD should have contacted him personally and negotiated a value for his land, instead of assigning a value and sending him a check in the mail without any warning. A hearing was held regarding the proposed work on 9/26/17. Jones explained at the hearing, they discussed the proposed incremental installation of buffers/side inlets and easement acquisition for Wilkin C.D. Nos. 40, 41, 42, 43, and 44, according to Minnesota Drainage Law. All landowners on the various systems were sent hearing notices and had an opportunity to bring up concerns at that time. Norman commented that he didn't attend the hearing because it wouldn't have done any good since whenever the BRRWD plans a project, it goes forward even if landowners object. Jones explained that the Board has approximately \$150,000 remaining in our 2013 Minnesota Board of Water and Soil Resources (BWSR) Clean Water Fund (CWF) grant for the Upper South Branch of the Buffalo River. BWSR approved the use of these funds to pay for a portion of the proposed work. In this way, the landowners will save the cost of seeding their ditch buffers associated with the 2015 Buffer Law requirements. The CWF Grant can also be used cover a portion of the costs to update the ditch R/W acquisition for the buffers.

Manager Anderson explained that when the Buffer Law was passed, the BRRWD felt that the landowners shouldn't have to be responsible for the installation of the buffers on the legal ditch systems. Norman wasn't interested in the BRRWD helping with his buffer seeding. He added that he plans to tile the field in question in the next few years, and if he agrees to the proposed R/W acquisition, he wouldn't be able to place his tile

pump on the R/W. Norman added that he didn't think maintenance for C.D. No. 44 would ever take place because the upstream landowners are environmental agencies who are not interested in improved drainage. The Board Order was dated 10/10/17, and the appeal period expires 11/10/17. Norman told the Board he wanted to appeal their Order. Van Amburg advised Norman that he should submit his appeal formally in writing to the Wilkin County Auditor. Anderson suggested that he discuss this issue with Bruce Albright when Albright returns to the office on 10/30/17. Norman said he would contact Albright next week.

Permit No. 17-119, Robert Yaggie. Applicant proposes to install pattern tiling in the SW $\frac{1}{4}$, Section 26, Manston Township, Wilkin County, outletting in the southwest corner of the quarter via a lift station through the township road to the north ditch along County State Aid Highway (CSAH) No. 26, then draining west, eventually to a natural waterway in Section 27, and then to the Manston Slough Restoration project. Dusty Nordick received a downstream landowner notification form from Yaggie regarding the proposed tiling project. He discussed his concerns about the project with the Managers. Wade Opsahl, Technician, HEI, explained that the tile water from the project could break out across cropland in the SE $\frac{1}{4}$, Section 27, Manston Township, because there is very little separation between the ditch and the field edge. Currently, high water in the ditch runs north across Nordick's field and tile water could make that problem worse. Nordick suggested that the road ditch needs to be cleaned to provide enough depth to convey the water as designed. He has already checked with the County to review the cleaning process. Opsahl added that another downstream landowner also had some concerns about using this ditch as a tile outlet because of its condition. The landowner thought that the ditch should be cleaned for approximately 0.75 miles along the north side of CSAH No. 26 and the culverts lowered in order for the proposed tile water to drain west on the north side of the road. Other drainage problems exist further north on the natural waterway in the NW $\frac{1}{4}$, Section 27, Manston Township, where more cleaning probably needs to be done.

Jones explained that the Wilkin County Highway Department conducted a survey of the CSAH No. 26 north road ditch. He discussed their survey and possible options to address the ditch capacity and lack of separation from the ditch and the field levels. The Board discussed alternatives and agreed to wait on a decision regarding the permit until the outlet concerns can be resolved. Nordick asked to be contacted before the Board acts on the permit. **Action postponed.**

Permit No. 17-104, Paul Daugherty. Applicant proposes to install 144 acres of pattern tiling in the SW $\frac{1}{4}$, Section 2, Roberts Township, Wilkin County, outletting via a lift station to an existing field ditch on his Conservation Reserve Program (CRP) acreage, then north in the field ditch to 160th ST, eventually flowing east approximately 0.25 miles to Wolverton Creek. The Board approved this permit at their 9/25/17 meeting, subject to our standard tiling disclaimer, and downstream landowner notification. The project work was postponed until the Board received the signed downstream landowners' notification form. Jones noted that the downstream landowner, Ross Aigner, called the office recently to give his approval, so that Daugherty could complete his project. Jones recommended that the Board issue the permit, subject to our standard tiling disclaimer and road authority approval to work within their R/W.

Permit No. 17-120, Donald Sakry. Applicant proposes to add a flapgate on the east end of an existing 24" dia. culvert in the northeast corner of the NE $\frac{1}{4}$, Section 36, Atherton Township, Wilkin County, on a minimum maintenance road. Sakry is concerned about tile water backing up to the west onto their property. Jones recommended permit approval.

Permit No. 17-121, Richard Sorby. Applicant proposes to pattern tile the west 97 acres of the NW $\frac{1}{4}$, Section 25, Oakport Township, Clay County, outletting to the south side of C.R. No. 22 via gravity flow to C.D. No. 35 to which it is assessed. Jones recommended permit approval, subject to our standard tiling disclaimer and road authority approval to work in their R/W.

Permit No. 17-122, Don Yaggie. Applicant proposes to install pattern tiling in the NE $\frac{1}{4}$, Section 32, Andrea Township, Wilkin County, outletting via gravity flow to C.D. No. 7 to which it is assessed. Jones

recommended permit approval, subject to our standard tiling disclaimer and road authority approval to work within their R/W.

Permit No. 17-123, Tyson Trosvik, Trosvik, Inc. Applicant proposes to install random tile to connect to existing tiling in the NW¼, Section 6, Trondhjem Township, Otter Tail County, outletting via gravity flow to a natural waterway and then to the C.R. No. 21 ditch. Jones recommended permit approval, subject to our standard tiling disclaimer.

Permit No. 17-124, LeRoy Turner. Applicant proposes to install an 18" dia. culvert adjacent to a gravel pit west of Rothsay in the NW¼, Section 3, Akron Township, Wilkin County. The culvert will be used to help control water levels in the pit. The water runs west into Minnesota Department of Natural Resources (DNR) property. Jones recommended permit approval.

Permit No. 17-125, Tim Deal. Applicant proposes the removal of a 24" dia. culvert from the intersection of 240th AVE and 230th ST on the north side of the road in the SW¼, Section 4, Meadows Township, Wilkin County, and replace it with a 24" dia. culvert placed diagonally across the intersection, eventually draining to C.D. No. 6A. This culvert would be an outlet for a tiling lift station in S½, Section 4, for which Deal already has a permit. Jones suggested that since this proposal could change area drainage patterns, the Board should postpone action until he gets a response from the Natural Resources Conservation Service (NRCS) regarding the possible effect the proposal could have on the Lucke Wetlands Reserve Program (WRP) in the SE¼, Section 5, Meadows Township. Jones suggested that instead of moving the culvert, the landowners could clean along the south side of Section 5 to the west up to Trunk Highway (T.H.) No. 9, which would maintain the hydrology of the WRP in the S½, Section 5, and keep the additional tile water out of the C.D. No. 6A system. **Action postponed.**

Jones noted that the downstream landowners have already agreed to the proposed culvert change, and if NRCS is opposed to the ditch cleaning, Deal could still go ahead with his original proposal to relocate the culvert.

Motion by Anderson to approve Permit No. 17-104, and 17-120 through 17-124, subject to the referenced disclaimers and conditions. **Seconded** by Fjestad. **Approved.**

Rick Gandrud Complaint. Rick Gandrud contacted the office regarding a tile project Kraig Nelson installed last year that crosses the Gandrud property in the SE¼, Section 20, Hamden Township, Becker County. Nelson installed an 8" dia. basin control structure outlet tile in 2016 (Permit No. 16-123). Manager Hanson explained that Nelson added at least 11 more tile lines in the northwest corner of Section 20, which will use the same outlet, including a 12" dia. main line, exceeding the scope of his approved permit. Gandrud is concerned that the added tile water will overload his 10" dia. tile outlet in the SE¼, Section 20, Hamden Township. He was also upset that no one contacted him about the new tiling. At their 10/10/17 meeting, the Board authorized Albright to send Nelson a letter indicating that he will need to submit a permit application for the new tiling, and if this new tile water causes problems for the downstream landowner, other outlet options will have to be considered. Gandrud would like to see Nelsons install a 12" dia. main line alongside his 10" dia. tile to the outlet to convey the water from their additional tile. Hanson noted that Gandrud had planned to attend tonight's meeting, but decided to wait until the next meeting when Albright will be available. Opsahl observed that Nelson should submit a current tiling plan with a new BRRWD permit application. Jones thought that a field review should also be conducted.

Wentz Tile Complaint. The Board discussed enforcement options regarding John Steffl's tiling project violation. Steffl installed a tiling project last year without a BRRWD permit that outlets via existing ditches to NRCS designated wetlands on Harlan Wentz's property in the SE¼, Section 3, Callaway Township, Becker County. The preferred option would be to send a final letter regarding his tile operation violation, stating that we will review the matter once more at a hearing to be held in conjunction with an upcoming Board meeting (probably 12/11/17), and if he doesn't appear to defend his actions, the BRRWD intends to turn the

matter over to the Becker County Attorney's office to seek a temporary injunction to force Steffl to stop the tile operation. This process would establish proper notice and give him adequate time to respond before we resort to legal remedies. After discussion, the Managers decided to authorize Albright to send the referenced hearing notice to Steffl.

Project No. 79, Wolverton Creek Restoration. Jones noted that the Wilkin County Environmental Office has scheduled the Conditional Use Permit (CUP) hearing for December 6, 2017, at 8:30 AM.

Project No. 78, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1) Diversion. HEI plans to file the preliminary survey report in December.

Project No. 49, Oakport Flood Mitigation. The Board reviewed the results from the stockpile removal bid opening held this morning at the HEI office. The low bidder was Gladen Construction, Inc., LaPorte, MN, with their bid of \$163,103.25. The Engineer's estimate was approximately \$250,000. There was a wide range of bids with the highest at \$481,009.75. Gladen plans to complete the work yet this fall. The project deadline is 6/30/18. Jones prepared a Notice of Award for the Board's review and signature. **Motion** by Anderson to award the contract to Gladen Construction. **Seconded** by Fjestad. **Approved.** Jones explained that the Pierce stockpile will be removed first to avoid another lease payment in 2018 and to make the acreage available for cropping next spring. If there is material left, the rest of the spoil will be moved to a parcel the BRRWD already owns where it will be more accessible.

Opsahl noted that the drainage work in Tim Van Raden's yard has been completed. Holland Landscaping will be handling the site seeding in the next few days.

Ulteig Engineers, Inc. (UEI) is still working with Federal Emergency Management Agency (FEMA) on the dike certification process.

Project No. 21, Wilkin C.D. No. 13 and 13-Lateral. The Board discussed the status of a few items that need to be completed yet this fall. The channel repair is finished except for spoil pile leveling. Bradley Nelson's C.D. No. 13-Lateral crossing in the NW¹/₄SW¹/₄, Section 23, Deerhorn Township, to the east line of the SW¹/₄ should also be started next week. The dike for the Czichotzki farmstead should also be completed in the next few weeks.

Project No. 1, Wilkin C.D. No. 22 Repair. Opsahl reported that once the corn is harvested, the contractor will get started on the main ditch repair.

Wilkin County Ditch Repairs. Jones submitted Pay Request No. 1 for DM Enterprises for inlet pipe installation. The request for is \$34,834.63 with 10% retainage, totaling \$31,351.17. **Motion** by Leitch to approve the referenced pay request. **Seconded** by Anderson. **Approved.**

F-M Diversion. Manager Anderson attended the first Governors' Forum today. State Representative Paul Marquardt asked Manager Anderson to be on the task force. He reported that this first meeting was used to set down ground rules, procedures, project background, and member introductions. One of the main discussion topics was the discrepancy between the Army Corps of Engineers (COE) and FEMA's 100-year flood hydrology. FEMA's 100-year flood is equivalent to the COE's 50-year elevations. Anderson also noted that DNR Commissioner Landwehr stated that the project in its present form would not be permitted by Minnesota Law.

Easement Consultant. Steven J. Taff, Associate Professor Emeritus, Department of Applied Economics, University of Minnesota, will be at the BRRWD office on 11/10/17 at 1:00 PM to review his preliminary easement value study. Dr. Taff has been hired to provide consulting services to look at the value of easements on flood damage reduction (fdr) and natural resource enhancement (nre) projects.

International Water Institute (IWI) River Watch Forum. Van Amburg suggested that the BRRWD contribute \$500 to the 2018 IWI River Watch Forum to be held at the Alerus Center in Grand Forks. **Motion** by Hanson to approve the referenced contribution. **Seconded** by Affield. Managers Leitch and Van Amburg abstained because they are IWI Board Members. **Approved.**

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
City of Dilworth	#50-2017, Mowing	Clay C.D. No. 50	\$ 10,565.00
Dakota Mailing	#AR18004, Postage Meter Supplies	Admin.	\$ 73.77
International Water Institute	River Watch Forum Donation	M.S.A. 103D.905, Subd. 3	\$ 500.00
Interstate Engineering	#32512, Ditch R/W	Admin.	\$ 475.00
Joel Carlson	November Lobbyist Fees	Admin.	\$ 850.00
Moorhead Public Service	09/05/17-10/03/17 Service	Pj. 49, Oakport	\$ 37.05
Moorhead Public Service	09/05-10/03/17 Service-5704 Bdwy	Pj. 49, Oakport	\$ 53.14
Northern States Excavating, Inc.	#952, Repairs	Varies	\$ 8,372.00
Northern States Excavating, Inc.	#953, Repairs	Pj. 49, Oakport	\$ 8,345.00
RMB Environmental Labs	#375777, WQ Analysis	M.S.A. 103D.905, Sub. 3	\$ 948.00
RMB Environmental Labs	#376806, WQ Analysis	M.S.A. 103D.905, Sub. 3	\$ 316.00
RMB Environmental Labs	#375792, WQ Analysis	M.S.A. 103D.905, Sub. 3	\$ 474.00
Ulteig Engineers, Inc.	#68438, Phase 4 thru 9/30/17	Pj. 49, Oakport	\$ 175.00
Ulteig Engineers, Inc.	#68440, Wetlands thru 9/30/17	Pj. 49, Oakport	\$ 944.24
Ulteig Engineers, Inc.	#68439, Levee Cert. thru 9/30/17	Pj. 49, Oakport	\$ 700.00
Vogel Law Firm	#204475, September Billing	Pj. 49, Oakport	\$ 110.50
Vogel Law Firm	#204474, September Billing	Admin.	\$ 69.00
			\$ 33,007.70

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

Minnesota Association of Watershed Districts (MAWD) Annual Meeting. The MAWD Annual Meeting will be held November 30 through December 2, 2017, in Alexandria. Albright and Managers Fjestad, Van Amburg, Hanson, and Leitch plan to attend.

Next Meeting. The next regular meeting will be held on Monday, November 13, 2017, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 8:37 PM.

Respectfully submitted,

John E. Hanson, Secretary