

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING October 26, 2015

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, October 26, 2015, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Mark T. Anderson, Breanna L. Kobiela, Catherine L. Affield, and Peter V. Fjestad. BRRWD Staff attending included: Erik S. Jones, Engineer, and Wade S. Opsahl, Technician, Houston Engineering, Inc. (HEI). Others attending included: Clay Commissioner Jenny L. Mongeau.

Chairman Van Amburg called the meeting to order at 7:02 PM and announced that the proceedings were being recorded to aid in the preparation of the minutes. BRRWD Administrator Bruce E. Albright was absent.

Secretary's Report. The Board reviewed draft minutes for the 10/13/15 BRRWD meeting. **Motion** by Affield to approve the minutes. **Seconded** by Anderson. **Approved.**

Treasurer's Report. The Board reviewed the BRRWD's financial status. Cash on hand is \$981,686. The total income for the year is \$3,967,747.66, and total administrative disbursements for the year total \$300,126.36. Income since the last meeting totaled \$67,928.02, including a cost share payment from the City of Hawley for repairs on Rodeo Drive (\$56,871.68), a payment from the North Dakota Department of Health for the Red River Stressor Response study (\$11,011.00), and a 2014 delinquent tax payment from Otter Tail County (\$45.34).

Other business brought before the Board included:

Permit No. 15-127, Raymond Johnson. Applicant proposes to create a new north-south ditch along the east side of his farmstead in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, Morken Township, Clay County, that will drain to the inlet of an existing ditch into Clay County Ditch (C.D.) No. 39 to which the property is assessed.

Permit No. 15-128, Jeffrey Holt. Applicant proposes to add an 8" dia. perforated tile line to an existing tile system to drain a low area in his field in the N $\frac{1}{2}$ NW $\frac{1}{4}$, Section 22, Norwegian Grove Township, Otter Tail County. The tile will outlet to a township road ditch along property owned by Brad Tollerud, who is aware of the project.

Permit No. 15-129, Clay County Highway Department. Applicant proposes to replace the existing bridge over the South Branch of the Buffalo River in the SE $\frac{1}{4}$, Section 9, Alliance Township, and complete minor grading for approximately 350' east and west of the bridge. The new bridge will be slightly longer with better hydraulics than the existing bridge and will provide passage for a 10-year event.

Permit No. 15-130, Fred Janssen. Applicant proposes to install approximately 37 acres of pattern tiling in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Skree Township, Clay County, outletting through County Road (C.R.) No. 126 to a private ditch in Section 3, Humboldt Township, Clay County, eventually to Stony Creek. Natural Resources Conservation Service (NRCS) has determined the wetland areas and has provided setback allowances.

Permit No. 15-131, Shane Thompson. Applicant proposes to install seven lines of 4" dia. tile in his existing east-west field ditches in the NE $\frac{1}{4}$, Section 8, Barnesville Township, Clay County. The 4" lines

will connect on the west side of his field and outlet to three proposed north-south tile lines in the east 10 acres of his property, draining eventually via gravity flow to a natural waterway/ditch.

Motion by Anderson to approve Permit Nos. 15-127 through 15-131, subject to the applicable standard disclaimers, state/federal agency permitting requirements, and road authorities' permission to work within their road right-of-way (r-o-w). **Seconded** by Kobiela. **Approved.**

Clay County Commissioner Jenny Mongeau, who acts as the Commission's Liaison to the BRRWD, arrived at approximately 7:15 PM to observe the meeting.

Project No. 77, Clay C.D. No. 51-Lateral No. 3. The Board approved the Order to construct the project at their 09/14/15 meeting. The 30-day appeal period expired on 10/14/15. On 10/13/15, Attorney Zenas Baer, who represents Robert Norby, filed an appeal of the project and also filed a Summons and Complaint against the BRRWD, as a municipality, and Bruce Albright, individually, as the BRRWD Administrator. BRRWD Attorney Tami Norgard, Vogel Law Firm, will respond to the complaint and has submitted the claim to the BRRWD insurance carrier, Allied World.

Project No. 75, Wilkin C.D. No. 31-Lateral. The Wilkin County Highway Department has completed the earthwork. The bufferstrip and disturbed areas will be seeded and mulched as soon as conditions permit. The County has requested that our seeding contractor, HCI Commercial Landscape Contractors, Inc., do some additional seeding along Trunk Highway (T.H.) No. 9 on some of the County's other construction sites. Jones will contact HCI regarding this work and noted that since the seed mix is the same for all the sites, it shouldn't be difficult for HCI do to the additional seeding.

Project No. 61, Clay C.D. No. 11. Jones reported that the contractor, Riley Brothers Construction, Inc., started construction today. He estimated that it will be about 10 days before they get to the outlet work and he thought that the contractor should have no problem completing the project by the end of the year.

Project No. 49, Oakport Flood Mitigation. Van Amburg noted that Jason Hearn contacted him regarding hunting permission on the BRRWD's buyout properties. The office will forward the hunting permission form and paperwork to Hearn. Ulteig Engineers, Inc. (UEI) is working with R. J. Zavoral and Sons, Inc. of East Grand Forks, MN (low bidder) on the contracts for Phase 4.

Project No. 42, Clay C.D. No. 67. The contractor, Olson Construction of Lake Park, Inc., finished the project at the end of last week. HEI will submit a final pay request for Olson at the next meeting.

Project No. 39, Georgetown Levee. Reiner Contracting, Inc., has completed their work, and HEI submitted a Final Pay Request and Change Order. The Pay Request is for \$99,133.38, and the Change Order No. 5 was for an additional \$35,685.41. Olson Construction of Lake Park, Inc., was awarded the contract for the final grading for the ball diamond, and they still have work to do on that project. **Motion** by Fjestad to approve the Final Pay Request and Change Order No. 5, as referenced. **Seconded** by Anderson. **Approved.**

Acting Secretary. In Secretary John Hanson's absence, the Board appointed Manager Kobiela as Acting Secretary. **Motion** by Fjestad to appoint Kobiela to be Acting Secretary. **Seconded** by Anderson. **Approved.**

Project No. 30, Clay/Wilkin Judicial Ditch No. 1 (J.D. 1). Opsahl reported that William Nichol Excavating, Inc., is working on the last 0.5 miles of the ditch repair in Clay County with just a small amount of cleanup left to complete.

Project No. 23, Becker C.D. No. 15. Contractor Chad Mattson is essentially done with the C.D. No. 15 repairs. Later this fall, after deer hunting, he will come back to finish site cleanup, including some tree debris removal.

Wilkin C.D. No. 5A, 26 and 22 (Laterals No. 1 and 2). The construction contracts with the William Nichol Excavating, Inc., for the incremental implementation of vegetated buffer strips and side inlet controls have been prepared and are ready for the Board's signature. When signed, Jones will forward the contracts to the contractor for signature.

Project No. 37, Clay County C.D. No. 41-Lateral No. 1. Jones submitted Pay Request No. 1 in the amount of \$14,060 for American Enterprises, Inc. **Motion** by Fjestad to approve the referenced pay request. **Seconded** by Kobiela. **Approved.**

Project No. 34, Clay C.D. No. 41. Jones submitted Pay Request No. 3-Final in the amount of \$16,918.12 for Johnson Excavating, Inc. and Change Order No. 1 for a net contract increase of \$4,135.12. **Motion** by Anderson to approve the Pay Request and Change Order. **Seconded** by Fjestad. **Approved.**

Hawley Buffalo River Restoration-Phase 2. HEI opened bids today for Phase 2 of the Buffalo River Restoration along the Hawley golf course. Jones explained that the BRRWD met with the City of Hawley, the Hawley Golf Course staff, and the Minnesota Department of Natural Resources (DNR) regarding the development of Phase 2 of the restoration project on 10/16/15. Recently, the DNR informed us that there was funding available (\$320,000) for the Phase 2 work from the Lessard-Sams Outdoor Heritage Council (LSOHC) Conservation Partners Legacy Grants (CPLG) Program, but it has to be spent by 06/30/16. The Managers reviewed the bid results, and the low bidder is Sellin Brothers, Inc., Hawley, MN, with a bid of \$244,852.75. The Engineer's estimate was \$214,826.50. The golf course plans to do the seeding for a section of the restoration that is currently part of the course for a cost of \$11,500. The contractor will seed the rest of the project to native grasses. Jones briefly discussed the project budget, noting that he has allowed \$25,000 in the project budget for unforeseen costs, depending on any unanticipated DNR requirements. Jones has forwarded the budget to the DNR, and if they approve it, they will prepare a grant agreement for the Board's review and signature. He suggested that the BRRWD could award the construction contract to Sellins Brothers, Inc., subject to DNR approval of the budget and grant agreement. Sellins Brothers, Inc., have indicated that they can start construction by the second week in November. Jones advised that the Board authorize Chairman Van Amburg to sign the grant contract as soon as we receive it from the DNR, so that work can begin as soon as possible in light of the short construction timeline for this project. **Motion** by Anderson to award the construction contract to Sellins Brothers, Inc., contingent on DNR funding and to authorize Van Amburg to sign the DNR grant agreement as soon as we receive it. **Seconded** by Affield. **Approved.**

Using LiDAR imagery, Jones showed the Board an aerial view of the Phase 1 project area we completed earlier this year.

Army Corps of Engineers (COE) F-M Diversion. A public informational meeting to review the DNR's Draft Environmental Impact Statement (DEIS) was held on 10/14/15. The DNR made a formal presentation of the DEIS, followed by public comments.

The Board discussed providing a formal response to the DEIS. Attorney BRRWD Attorney Tami Norgard, Vogel Law Firm, suggested that if the Board wanted to make comments, we should do so by the 10/28/15 deadline. Commissioner Mongeau noted that Clay County did not comment because the DNR is seeking input on the adequacy of their review regarding environmental impacts, which is not within the County's purview. The Board agreed that it wasn't our role to comment on the environmental aspects of the DEIS, and that we will have an opportunity for input when the COE comes to the BRRWD for project permits and potential imminent domain issues.

Mediation Project Team (PT). The next PT meeting will be held on 12/10/15 in the Barnesville office at 1:30 PM when the PT will go to their winter daytime meeting schedule.

Barnesville Township Area Study. HEI will be able to finish the pipeline survey now that corn harvest is complete. Jones will continue to work with the pipeline companies regarding the depth of their facilities.

Stony Creek Comprehensive Project. Jones continues to work with the Minnesota Department of Transportation (MNDOT) regarding their requirements for installing a culvert through Interstate-94 (I-94). He is also working with the Minnesota Dam Safety office to determine the dam design classification and the preliminary dam breach analysis.

Wetlands Reserve Program (WRP) Sites. Managers Van Amburg and Fjestad, BRRWD Administrator Bruce Albright, and Jones conducted a tour of the BRRWD with Cathee Pullman, NRCS State Conservationist, on 10/20/15 to acquaint her with the BRRWD and to discuss possible retention/project funding. The Board briefly discussed the issues addressed with Pullman, including Farm Bill funding for the Wolverton Creek/Comstock Coulee Restoration project.

Revised Watershed Management Plan (RWMP)/Watershed District Enlargement (WDE). The Minnesota Board of Water and Soil Resources (BWSR) responded to the Bois de Sioux Watershed District concerns about having the boundary changes in place to be reflected on the 1st half 2016 county tax statements. BWSR said that the changes will not go into effect until 2017. Albright and Jones continue to work on proofing the draft RWMP, which should be ready by the next full BWSR Board hearing in January 2016.

Upper Red River Total Maximum Daily Load (TMDL). The draft reports are finished for the Upper Red TMDL and Watershed Restoration and Protection Strategies (WRAPS). Both documents have been forwarded to the MPCA for their review and comment. The public informational meeting regarding both reports has been postponed, due to the lack of time for proper notification/publication.

Upper South Branch Clean Water Fund (CWF) BMP Grant. Aaron Larson, Farm Bill Technician, West Otter Tail Soil and Water Conservation District (SWCD), submitted bills for five landowner buffer incentive projects funded by the CWF Grant, which are listed on tonight's bill list (\$4,030.50).

Van Amburg mentioned that there is a report coming out from the DNR regarding the new buffer law implementation.

Minnesota Agricultural Water Quality Certification Program (MAWQCP). The SWCDs in the Technical Service Area (TSA) No. 1 will be taking over the future lead position for this program. Wilkin County has hired a person to work with the program that will cover the four southern counties in the TSA No. 1. The BRRWD will no longer be involved with the administration of this program, but the Minnesota Department of Agriculture (MDA) has requested that the BRRWD act as their fiscal agent for the incentive funds. **Motion** by Fjestad to approve the referenced agreement. **Seconded** by Affield. **Approved.**

Wolverton Creek/Comstock Coulee. The Board reviewed a formal letter from the LSOHC notifying the BRRWD that they did not fund the Wolverton Creek Habitat Restoration Project this year. The Board discussed the Council's decision.

Conservation Corps Minnesota. BWSR has appropriated \$500,000 for the Conservation Corps to provide funded labor to cities, counties, SWCDs, watershed districts, etc., to undertake projects designed to protect, enhance, and restore water quality. BWSR is accepting applications for 2016 field projects until 12/15/15. Opsahl noted that there may be some work to install signs on the Oakport dike. Jones will look

into other work the Corps might be able to do for the BRRWD, and bring recommendations to the Board at their next meeting.

Wilkin/Otter Tail County J.D. No. 2. Manager Fjestad noted that there is a beaver dam on J.D. No. 2. Opsahl will investigate.

Jones noted that he received a response from DNR regarding a proposal to raise the spoil bank in the low areas on the east berm of J.D. No. 2 in Sections 7 and 18, Orwell Township, Otter Tail County, along Dan Bradow's property. Julie Aadland, Area Hydrologist, DNR, responded with concerns about the adjacent wetland area. The Board discussed the flooding concerns in this area.

Scott McCaslin Tiling Outlet Concerns. Opsahl received a phone call from Scott McCaslin asking for an update regarding the Hanson tile outlet block removal. When Albright returns, he will field review Hanson's recent tiling work to see if the block has been removed.

David Janssen Drainage Concern. Opsahl reported on an ongoing drainage/dike issue involving Janssen and his neighbor, Robert Softing. HEI has completed an elevation survey of a berm between their fields. Albright met with Janssen last week. This issue will be addressed when Albright returns.

Minnesota Association of Watershed Districts (MAWD) Annual Meeting. The MAWD Annual Meeting and Trade Show is scheduled for December 3-5, 2015, at the Arrowwood Conference Center, Alexandria, MN. Managers Anderson, Van Amburg, Hanson, Kobiela, and Fjestad plan to attend the meeting. The office has already taken care of the Managers' hotel reservations and meeting registrations.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
American Enterprises Inc.	#1454, 2nd mowing	Pj. 39, Georgetown	\$ 750.00
American Enterprises Inc.	Pay Request No. 1	Pj. 37, C.D. No. 41-Lat. 1	\$ 14,060.00
Bruce E. Albright	10/20/15 NRCS Dinner (5)	RIM/WRP	\$ 54.97
Chris Hoppe Lawn Care	September mowing (3)	Admin.	\$ 320.63
Chris Hoppe Lawn Care	Fertilizing/weed control-spraying	Admin.	\$ 203.06
City of Dilworth	#50-2015, mowing, cleanup	Pj. 33, Clay C.D. No. 50	\$ 7,250.00
City of Dilworth	#41-2015, Mowing	Pj. 37, C.D. No. 41-Lat. 1	\$ 799.50
City of Dilworth	#Lat. 2-2015, brushing	Pj. 36, C.D. No. 41- Lat. 2	\$ 875.00
Eagle Café	Tour Supper	Mediation PT	\$ 454.22
IRS	3rd Qtr. Form 941 taxes	Admin	\$ 493.43
Joel Carlson, Inc.	November Lobbyist Billing	Admin	\$ 850.00
Johnson Excavating, Inc.	Pay Request No. 3-Final, Repairs	Pj. 34, Clay C.D. 41	\$ 16,918.12
Mattson Farms, Inc.	Pj. 23, Becker C.D. 15 - Repairs	Pj. 23, Becker C.D. 15	\$ 29,130.00
MAWD	Conference/Workshop registrations	Admin	\$ 1,485.00
Reiner Contracting, Inc.	Pay Request No. 8	Pj. 39, Georgetown	\$ 99,133.38
Richards Transportation Service	#9363, 10/15/15 Fall Tour	Mediation PT	\$ 600.00
RMB Laboratories, Inc.	#285116, WQ Analysis	M.S.A. 103D.905, Subd. 3	\$ 506.00
RMB Laboratories, Inc.	#285130, WQ Analysis	M.S.A. 103D.905, Subd. 3	\$ 316.00
RMB Laboratories, Inc.	#285325, WQ Analysis	M.S.A. 103D.905, Subd. 3	\$ 158.00
RMB Laboratories, Inc.	#285266, WQ Analysis	M.S.A. 103D.905, Subd. 3	\$ 316.00
Sellin Brothers, Inc.	#11797, Clean up	Hawley Buffalo River Rest.	\$ 2,651.25
UEI	#53749, thru 09/30/15, Phase 4	Pj. 49, Oakport	\$ 23,906.85
UEI	#53753, thru 09/30/15, Wetland	Pj. 49, Oakport	\$ 1,661.23
Vogel Law Firm	#163157 October Billing	Admin.	\$ 713.00
Vogel Law Firm	#163158, October Billing	Pj. 49, Oakport	\$ 690.00
Vogel Law Firm	#163159, October Billing	COE	\$ 207.00
Vogel Law Firm	#163160, October Billing	Pj. 77, Clay 51-Lat. 3	\$ 2,909.30

West Otter Tail SWCD	Landowner buffer incentives (5)	S. Branch CWF	\$ 4,030.50
William Nichol Excavating, Inc.	#181 Repairs	Pj. 30, Clay-Wilkin J.D. 1	\$ 5,170.00
			\$ 216,612.44

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

Special Meeting Topics. Manager Anderson asked Commissioner Mongeau about a proposed F-M Diversion Authority (DA) medical hardship buyout in Clay County. It appears that the DA has decided to put a moratorium on buyouts until the State of Minnesota has made a determination on the project.

The Board discussed scheduling meetings to address Rules, Red River Watershed Management Board (RRWMB) membership, etc. They would like to hold special meetings in December, January, and February. Fjestad suggested that the office could provide the current BRRWD Rules for the Managers' review and discussion. The group discussed how detailed they thought the Rules needed to be to address most important issues without being too restrictive. The Managers also discussed possible penalties/fines for Rule violations and permit applications fees.

Van Amburg also brought up succession planning for the Administrator's position. The Board spent some time talking about this issue. Jones suggested that we will need to discuss delegating responsibilities and other succession issues with Albright. The group agreed that Albright was a very valuable asset/resource for the BRRWD.

The group also discussed funding opportunities for our upcoming projects, including Wolverton Creek Restoration.

Fjestad suggested that the Board could appoint a subcommittee to review the Rules and come back to the Board with recommendations. Jones suggested that the group could review the sample Rules Albright already provided to the Managers from other Watershed Districts and go through the Rules as a group to determine revisions. The group discussed that proposal and agreed to schedule a special Board meeting to do the review. Anderson suggested that we set aside an hour at the 11/23/15 Board meeting to discuss the Rules revision.

Next Meeting. The next regular meeting will be held on Monday, November 9, 2015, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 9:16 PM.

Respectfully submitted,

John E. Hanson, Secretary