

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING

June 8, 2020

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, June 8, 2020, at 7:00 PM in the Barnesville office. Due to the Coronavirus protocols for public meetings, the Board held an electronic meeting in accordance with Minnesota Statutes Annotated (M.S.A.) Section 13D.021. BRRWD Managers present in the office were Mark T. Anderson, Peter V. Fjestad, Catherine L. Affield, Troy E. Larson, John E. Hanson, and Gerald L. Van Amburg. BRRWD staff attending were Kathleen K. Fenger, Interim Administrator, Erik S. Jones, Engineer, and RaeAnn E. Berg, Administrative Assistant, Houston Engineering, Inc. (HEI). Others attending via conference line included Attorney Brent Edison, Vogel Law Firm, Archie Tanner, Riverton Township Supervisor, and landowner Don Nelson.

BRRWD Vice President Fjestad called the meeting to order at 7:02 PM and announced the proceedings were being video recorded to aid in the preparation of the minutes. He conducted a roll call of the Managers and asked all the online attendees to state their names for the record.

Agenda. Fjestad asked for comments or additions to the meeting agenda. Items added: Turtle Lake Outlet project update, Minnesota Department of Natural Resources (DNR) Contested Case update, and Project No. 79, Wolverton Creek Restoration, grant agreement review. With those additions, **motion** by Larson, **seconded** by Affield to adopt the agenda. **Approved** by unanimous roll call vote.

Election of Officers. In light of Clay County's recent decision to remove Jay Leitch from the BRRWD Board of Managers, the Board considered their options for reorganization. After a brief discussion and consideration of comments from Attorney Edison, **motion** by Anderson, **seconded** by Larson to appoint Peter Fjestad to be the BRRWD's Acting President, and Cathy Affield to be Acting Vice President, pending the appointment of a new Clay County Manager. **Approved** by unanimous roll call vote.

Secretary's Report. The Board reviewed draft minutes for the 5/26/20 regular meeting. Affield noted corrections to the minutes. **Motion** by Affield, **seconded** by Anderson to approve the minutes, subject to correction. **Approved** by unanimous roll call vote.

Treasurer's Report. The Board reviewed the BRRWD's 6/8/20 financial statements, including the project account balance sheet, administrative disbursements, and summary of income.

- Cash on hand: \$1,978,790.72.
- Income received since the 5/11/20 meeting totaled \$625,936.70 and for the year, totals \$954,857.76.
- Current Administrative Disbursements since 5/11/20 totaled \$34,810.30, and the total for the year is \$185,419.33.

Van Amburg discussed the expenses incurred to date for the Diversion Authority (DA) lawsuits. Currently, the account balance is at a negative \$261,658.84. He pointed out that we transferred \$100,000 into this account in December 2019, so we have spent more than \$350,000 already on this litigation. Tonight's bill list contains additional invoices for both the permit denial lawsuit (Fremstad Law Firm, \$22,611.50) and the DNR contested case (Larry Prather, \$19,950.00). He felt the Board should be aware of how much the DA lawsuits are costing the BRRWD. Anderson agreed the Board should be aware of the costs and commented

that lawsuits can be expensive. **Motion** by Van Amburg, **seconded** by Larson to approve the Treasurer's Report. **Approved** by unanimous roll call vote.

Bank Signatories and Credit Card. Fenger asked the Board to authorize Administrative Assistant RaeAnn Berg to be added as a signer on the Midwest Bank accounts and for Berg to have a BRRWD credit card in her name. The Board discussed Fenger's recommendation. **Motion** by Anderson, **seconded** by Van Amburg to add Berg as a bank account signatory and to obtain a second office credit card in her name. **Approved** by unanimous roll call vote.

COVID-19 BRRWD Action Plan. The Board discussed options for holding the Becker County Ditch (C.D.) No. 15 ditch system hearing for the Hamden Slough Restoration structure repairs to be in compliance with COVID-19 protocols. The United States Fish and Wildlife Service (USFWS) has asked the Board to expedite the public hearing so they can move forward with the repair project. Staff will handle the meeting arrangements.

Other Business brought before the Board included:

Permit No. 19-003, FM Diversion. Attorney Edison reported on the BRRWD's DNR contested case. In regard to the lawsuit costs discussed earlier in the meeting, Edison explained the Attorneys are trying to be as economical as possible, but the case preparation has required a significant effort in staffing and time. The contested case hearing began today (6/8/20) via video with attendees logging in remotely, using WebEx. The DA witnesses were the first to testify. Additional DA and Richland/Wilkin Joint Powers Authority (JPA) witnesses will testify on Wednesday and Thursday. The BRRWD witnesses could start on Friday and might continue into next week. Edison noted if anyone else wants to watch the proceedings online, they should let him know by 8:30 AM, and he'll work with the Administrative Law Judge to provide access.

The next Minnesota-Clay County Joint Powers Agreement (MCCJPA) meeting will be held on 6/25/20 at 1:00 PM. They are currently uncertain if it will be held in person or virtually. The group discussed appointing a new BRRWD representative for the MCCJPA. **Motion** by Larson, **seconded** by Van Amburg to appoint Manager Anderson to serve on the MCCJPA. **Approved** by unanimous roll call vote.

Permit No. 20-012, Dennis Aksamit. Applicant proposes to install 158 acres of pattern tile in the SE¼, Section 27, Akron Township, Wilkin County, outletting to Wilkin C.D. No. 3 to which the property is assessed. Aksamit forwarded a revised tile plan eliminating the need for a lift station. The project will outlet along the road ditch along the Ross Johnson property in the SW¼, Section 27, Akron Township. Aksamit provided a signed downstream landowner approval notification form from Johnson. Jones recommended permit approval, subject to our standard tiling disclaimer.

Permit No. 20-035, Michael Steiner. Applicant proposes to install a new gravity tile line along the west side of the field from the existing gravity outlet near a waterway on the south end of the field to a new lift station installed in the northwest corner of the NW¼, Section 3, Andrea Township, Wilkin County. Discharge from the new lift station is proposed to pump tile water west along the south side of the township road, eventually to Wilkin County Ditch No. 3. Larson had questions about the proposed outlet. Jones recommended the Board postpone action on this permit, pending Manager field review. **Action Postponed.**

Permit No. 20-036, Wilkin County Highway Department. Applicant proposes replacement of an existing wooden bridge in the NE¼, Section 35, Akron Township, with a 12' x 6' reinforced concrete box culvert (RCB). The new structure will provide slightly better hydraulics. Larson noted there is an undersized culvert downstream of this structure through the township road. Jones suggested the County should investigate the hydraulics at the downstream township road crossing. Depending on the replacement size, the cost of upgrading this culvert might qualify for State Township Bridge funds. Jones recommended permit approval.

Permit No. 20-037, Don Yaggie. Applicant proposes to tile the NE¼, Section 22, Nordick Township, Wilkin County. This project is in conjunction with Thomas Radig's tiling permit (20-022). They both worked with their neighboring landowners to obtain downstream landowner approval for their tiling projects, subject to the landowners' request to turn off the pumps during downstream flooding. Jones recommended permit approval, subject to our standard tiling disclaimer and noting the downstream landowners' concerns.

Permit No. 20-038, Todd Andresen/Becker Soil and Water Conservation District (SWCD). Applicant proposes to install Natural Resources Conservation Service (NRCS) designed water and sediment control basins in the NE¼, Section 23, and the NW¼, Section 24, Hamden Township, Becker County, with surface intakes and underground outlet. The project will also involve a culvert change in the township road. Jones noted the project will only affect Andresen's property and recommended permit approval, subject to township approval to work within their road right-of-way (R/W).

Permit No. 20-039, Wilkin County Highway Department. Applicant proposes replacement of an existing bridge on C.D. No. 3 in the NE¼, Section 31, Akron Township, with a 12' x 6' RCB. The new structure hydraulics will match the adjacent area drainage structures. Jones recommended permit approval.

Permit No. 20-040, Tyson Trosvik, Trosvik, Inc. Applicant proposes to install a perforated 12" dia. main tile line in the NE¼, Section 1, Tanberg Township, Wilkin County, to provide an improved outlet for existing tile in Section 6, Trondhjem Township, Otter Tail County. Jones recommended permit approval.

Permit No. 20-042, Bill Riestenberg. Applicant proposes to replace a deteriorated culvert in the NE¼, Section 33, Oscar Township, Otter Tail County, sized to match the new 15" dia. upstream culvert the Township recently installed. He also plans to add random tile lines to existing tile in Sections 29, 33, and 34, Oscar Township. The Section 33 tile will outlet to a low area in the field, and the tile in Sections 34 and 29 will drain to the existing tile outlets along the township road ditch. Jones recommended permit approval.

Permit No. 20-044, Luther Blilie. Applicant proposes to install a field entrance off County Road (C.R.) No. 30 for Sandra Bolgrea in the NE¼, Section 34, Deerhorn Township, Wilkin County, with an 18" dia. corrugated metal pipe (CMP). The Wilkin County Highway Department has already granted a permit for the work. The culvert sizing matches the adjacent culverts. Jones recommended permit approval, subject to County approval to work within their road R/W.

Motion by Larson to approve Permit Nos. 20-012, 20-036 through 20-040, 20-042, and 20-044, subject to the referenced disclaimers and conditions. **Seconded** by Hanson. **Approved** on a unanimous roll call vote.

Becker C.D. No. 19. Jones discussed a letter from Holmesville Township requesting the culverts between Rock and Rice Lakes on Rock-Rice Road on the C.D. No. 19 system be replaced, as they are undersized and deteriorating. The structures are 43" x 27" (36" dia. equivalent) and 53" x 43" (48" dia. equivalent) culverts with an 18 sq. ft. total waterway area. The downstream culvert at the outlet of Rice Lake has a waterway area of 34.2 sq. ft. The landowners are concerned about low water levels on the lakes, especially Rock Lake. Jones explained the dam on Buffalo Lake has the most effect on the lakes' elevations. He recommended an additional culvert could be added in Rock-Rice Road or the existing culvert could be upsized to increase the waterway area to 35 sq. ft. to match the downstream crossings. Jones suggested a meeting be setup with the Township to determine how they would like to proceed and how the costs could be shared. The structures could possibly be configured to qualify for State Township Bridge funds.

Clay County Ditch Channel Liner Repairs. Key Contracting, Inc. has completed approximately 60% of the channel liner repairs for C.D. Nos. 41, 47, and 50. Jones submitted Pay Request No. 1 in the amount of \$91,836. **Motion** by Anderson, **seconded** by Larson to approve the referenced pay request. **Approved** by unanimous roll call vote.

Project No. 56, Manston Slough Restoration. Jones explained the Project Management Team, which was set up in accordance with the Project Partners' Memorandum of Understanding (MOU), held a meeting on 6/4/20 to discuss the concerns about the ongoing maintenance problems for the fish barrier on a waterbody on Henry Baumgartner's property in Deerhorn Township, Wilkin County, associated with the Manston Slough project. If periodic monitoring takes place to ensure fish don't become a problem, the group agreed the structure could be removed. Jones recommended the Board authorize him to amend the project's DNR permit and to hire a contractor to remove only the fish barrier component of the structure. **Motion** by Larson, **seconded** by Van Amburg to authorize the referenced changes to the MOU and to remove the fish barrier, as a project expense. **Approved** by unanimous roll call vote. Jones will contact both the property owner and the renter to inform them of the Board's decision.

The Board also discussed some options to improve the connection between the USFWS structure in C.R. No. 26 to the north wetland basins on DNR property. The work would include some excavation and vegetation removal on the DNR property. In addition, the Management Team wants to provide a better connection of the wetland basins west of the Wilkin C.D. No. 13-Lateral to fill the Moist Soils Unit on the site and to improve water level management in this area of the project. Jones recommended the Board authorize the survey to develop a plan for the Management Team's review, as a project expense. The DNR suggested that they could pay for the excavation and vegetation removal with Duck Stamp funds. **Motion** by Van Amburg, **seconded** by Affield to authorize HEI to conduct the survey as referenced, as a project expense. **Approved** by unanimous roll call vote. The agencies plan to draw down the pool elevation to control vegetation this year, according to the operation and management plan.

Project No. 78, Clay-Wilkin Judicial Ditch (J.D.) No. 1. Dennis Drewes, Inc. submitted Final Pay Request No. 6 in the amount of \$25,457.88, which includes Change Order No. 2 for \$6,132 for additional riprap and Class 5 aggregate. **Motion** by Anderson, **seconded** by Larson to approve the referenced final pay request/change order to Dennis Drewes, Inc. to close out the project contract. **Approved** by unanimous roll call vote. Anderson noted Drewes did a really good job on the project.

Project No 79, Wolverton Creek Restoration. Sellin Brothers, Inc. submitted Pay Request No. 11 for Phase 1 construction in the amount of \$191,956.81. **Motion** by Anderson, **seconded** by Hanson to approve the pay request. **Approved** by unanimous roll call vote.

The Board discussed Jones' proposal to address the Mark Krupich driveway issue, which will be addressed in a future change order. He suggested gravel be added to re-crown the driveway, and in the stretch of driveway where water now overtops, to install a flatter slope off the driveway to slow the water, making it less erosive. Riprap would be installed to armor the channel around the pipes. Krupich would like larger culverts in the driveway, but Jones explained larger culverts are cost prohibitive. Jones suggested we try the proposed plan, which should cost approximately \$5,000, and watch for good used pipes coming out of other construction projects that could be installed in the future, if necessary. The Board discussed the frequency of the driveway overtopping. Jones explained the project will not prevent the driveway from overtopping, but it shouldn't happen as often.

Gladen Construction, Inc., LaPorte, MN, was the low bidder on Phase 2 with their bid of \$864,833. The Board awarded the contract to Gladen at an earlier meeting. Jones submitted the construction contract for the Board's signature. **Motion** by Anderson, **seconded** by Affield to sign the contract with Gladen for Phase 2 construction. **Approved** by unanimous roll call vote.

The Minnesota Board of Water and Soil Resources (BWSR) has agreed to extend the deadline for the BRRWD's FY2016 Targeted Watershed grant (\$1.4 million) for Wolverton Creek. Jones submitted the grant agreement for signature. **Motion** by Larson, **seconded** by Hanson to authorize Fenger to sign the BWSR grant agreement extension on behalf of the Board. **Approved** by unanimous roll call vote.

Fenger explained the Board needs to designate a signee for the Todd Blilie Reinvest In Minnesota (RIM) easement documents with BWSR. **Motion** by Anderson, **seconded** by Affield to designate Fenger to sign the easement documents on behalf of the Board. **Approved** by unanimous roll call vote.

Whiskey Creek Enhancement. Jones explained that a few years ago, the BRRWD was selected to receive a Minnesota Pollution Control Agency (MPCA) 319 Grant for the Whiskey Creek Enhancement project. Jones worked with MPCA on a workplan and budget for the project. He has prepared an official proposal to submit to MPCA to apply for the funding. The anticipated 319 grant amount is \$280,000. BWSR Clean Water Funds (CWF) obtained by the Wilkin SWCD are expected to provide the required 40% non-federal grant match. **Motion** by Anderson, **seconded** by Affield to authorize Jones to submit the referenced MPCA grant funding application. **Approved** by unanimous roll call vote.

Wilkin/Otter Tail J.D. No. 2. The construction deadline was today (6/8/20). Due to high water levels last fall/winter, the ditch flows were still high this spring, so work on the spring erosion, slope repair and added rock protection areas were delayed. States Borders Construction, Inc., submitted a request to the Board to extend the contract deadline until 7/15/20. The extension would also allow the contractor to complete the pipe installations requested for the upstream areas. **Motion** by Larson, **seconded** by Hanson to approve the contract extension. **Approved** by unanimous roll call vote.

Project No. 46, Turtle Lake Outlet. Anderson noted Turtle Lake property owners contacted him with questions about the recent work done on the siphon system and their project tax assessments. Jones reported Wade S. Opsahl, Technician, HEI, recently installed the new compressor, a venturi valve, and other various components, which represents the main project expenditures this year. Jones noted the Turtle Lake project has a page on the BRRWD's website where landowners can check on the lake elevations.

Rustad Drainage Investigation. Jones gave a letter report, prepared by Bennett Uhler, Engineer, HEI, with the field survey results HEI conducted to gather information about the existing drainage conditions through the community of Rustad. The Board reviewed a plan to address the landowners' concerns. The Opinion of Probable Cost for the proposed drainage improvements is approximately \$67,000. After an extended discussion, the Board directed Jones to share the survey information and proposed plan with the landowners. The landowners could develop a drainage improvement project by petition according to Drainage Law (M.S.A. 103E.202) or a BRRWD permit. The Board could also develop the project according to Watershed Law (M.S.A. 103D.602). Anderson noted the landowners would probably need help from the BRRWD to deal with the Burlington Northern Sante Fe (BNSF) Railroad issues.

Paul Friederichs Drainage Concern. Jones reported Fenger and he met with Paul and Chad Friederichs regarding the excavation work Bob Yaggie completed in Section 22, Sunnyside Township, along Wilkin County State Aid Highway (CSAH) No. 17 and 370th ST. Using the overhead monitors, Jones explained Yaggie's work and the landowners' concerns. The Board was concerned about Yaggie not having a permit for the work. Jones contacted Yaggie to discuss how to address his drainage violations. Yaggie plans to contact Friederichs to discuss potential fixes for the area drainage and then submit a joint BRRWD permit application. Staff will contact Paul Friederichs to be sure Yaggie has addressed his concerns.

Drainage Violation. The Board had an extended discussion regarding the results of the survey HEI conducted to investigate alternative repairs for a drainage violation committed last year by Duane Hanson in Section 16, Riverton Township, Clay County. Staff will forward the information to Hanson, the Township, and the neighboring landowners for review. Archie Tanner, Riverton Township Supervisor, noted Hanson expects the Township to be responsible for doing the work and paying for all the costs. The Township Supervisors don't think Hanson will be cooperative. Tanner will provide the survey information for the Township's review at their meeting tomorrow night.

River Watch Budget. The Board reviewed the proposed 2020-2021 River Watch Budget. The total program cost is \$5,553.80. **Motion** by Anderson, **seconded** by Larson to approve the proposed River Watch budget. **Approved** by unanimous roll call vote.

HR Committee Report. Affield asked Fenger if she thought the current office staffing was adequate. Fenger said staff is currently keeping up with the work. Once the COVID restrictions are lifted and we are able to schedule ditch hearings, staffing needs might have to be reevaluated.

Affield reported on the HR Committee activities since the last meeting regarding the transition of the three current HEI office staff members to BRRWD employees. She solicited an opinion letter on whether the current BRRWD staffing arrangement creates a conflict of interest issue from Attorney Edison, who is representing the BRRWD on the DNR Contested Case. Affield contacted Eide Bailey regarding an analysis of HEI contracted staff versus BRRWD inhouse staff costs. Van Amburg contacted a couple of other companies from Minneapolis/St. Paul who could conduct the cost comparison analysis, and he visited with staff from Eide Bailey. None of the firms he talked to have ever done an analysis of this kind, so he felt whoever the HR Committee hires, we will have to work with them to be sure they provide an accurate comparison. Fenger suggested the HR Committee should solicit proposals from the firms, so the Board knows what they're going to get. The Board had an extended discussion regarding the cost comparison process.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
American Enterprises Inc.	#1946, Snow Removal	Pj. 14, Clay C.D. No. 10	\$ 2,212.50
AmeriPride	#160572157, May Rug Billing (2)	Admin.	\$ 95.92
Brett Loewen	Permanent Easement Payment	Pj. 79, Wolverton Crk.	\$ 4,085.09
Charles Wentz	Water and Sediment Control Basins	Upper BR Sed. Red. 319	\$ 23,133.00
City of Barnesville	#10049274, Office Building Utilities	Admin.	\$ 621.35
Dennis Drewes Inc.	Pay Request #6, Change Order #2	Pj. 78, J.D. No. 1	\$ 25,457.88
Fremstad Law Firm	May Billing & Retainer	COE	\$ 22,611.50
HEI	June Billing	Varies-See attached	\$ 158,209.20
Jay A Leitch	Voucher 20-13, 3/1/20-4/30/20	Admin.	\$ 1,225.32
Jay A Leitch	Voucher 20-20, 5/1/20-6/30/20	Admin.	\$ 580.77
Key Contracting, Inc.	Pay Request No. 1	Clay C.D, Nos. 41, 47, 50	\$ 91,836.00
Larry J. Prather	Consulting Fee	COE	\$ 19,950.00
LM Road Services	#1207, #1208 - Cattail Spraying	Varies	\$ 532.20
LREC	05/01/20-06/01/20 Service	Pj. 79, Wolverton Crk.	\$ 27.16
MPS	04/16/20-05/14/20 Service, FL #21	Pj. 49, Oakport	\$ 29.75
Pure Health Solutions Inc.	#10666564, May Water Billing	Admin.	\$ 59.06
RMB Environmental Labs.	#501100, Water Analysis	MSA 103D0905, Sub. 3	\$ 603.00
RMB Environmental Labs.	#500948, Water Analysis	MSA 103D0905, Sub. 3	\$ 553.00
RMB Environmental Labs.	#500830, Water Analysis	MSA 103D0905, Sub. 3	\$ 711.00
RRR Mattson Partnership	Water and Sediment Control Basins	Upper BR Sed. Red. 319	\$ 31,383.00
RRVCPA	05/01/20-06/01/20 Service	Pj. 49, Oakport	\$ 78.00
Sellin Brothers, Inc.	Pay Request No. 11	Pj. 79, Wolverton Crk.	\$ 191,956.81
U.S. Bank Equipment Finance	#415904507 Copier Lease	Admin.	\$ 274.65
WREC	04/18/20-05/18/20 Service (2)	Pj. 46, Turtle Lake	\$ 158.56
Xcel Energy	04/26/20-05/26/20 Gas Service	Admin.	\$ 62.99
			\$ 576,447.71

Motion by Anderson, **seconded** by Van Amburg to approve payment of the bills. **Approved** by unanimous roll call vote.

BRRWD 60th Anniversary. The Board briefly discussed possible options to recognize the BRRWD's 60th Anniversary.

Upcoming Calendar Items. Anderson asked if the office would email a weekly event reminder to the Managers.

Next Meeting Agenda Items. No items were noted.

Next Meeting. The next regular BRRWD meeting is scheduled for June 22, 2020, at 7:00 PM in our Barnesville office via teleconferencing, depending on the COVID-19 meeting restrictions.

Adjournment. Acting President Fjestad adjourned the meeting at 9:13 PM.

Respectfully submitted,

John E. Hanson, Secretary