

MINUTES FOR MANAGERS' MEETING
May 22, 2006

A regular meeting of the Board of Managers, Buffalo-Red River Watershed District (BRRWD), was held on Monday, May 22, 2006, at 8:00 PM in the Barnesville office. BRRWD Managers present were Roger G. Ellefson, E. Robert Olson, Curtis M. Nelson, Gerald L. VanAmburg, and John E. Hanson. Others attending included: Erik S. Jones, Wade Opsahl, and Julie Jerger, Houston Engineering, Inc. (H.E.); Bradley Nelson, Clerk, Deerhorn Township; and landowners: David Heng and Raymond Heng.

Chairman Ellefson called the meeting to order at 8:00 PM. He noted that the proceedings were being taped to aid in preparation of the minutes.

Secretary's Report. The Board reviewed draft minutes for the 5/08/06 regular meeting and the 2/16/06 Riverton Township preliminary resolution hearing. **Motion** by VanAmburg to approve the minutes. **Seconded** by Nelson. **Approved.**

Treasurer's Report. The Board briefly reviewed the BRRWD current financial status. Jerger noted that all bills are paid and that there is enough cash on hand to pay tonight's bills. We are still holding H.E.'s May check until we receive our share of the first-half tax proceeds from the counties in early June.

Other Business brought before the Board included:

Permit No. 06-31, Arne Peterson. Applicant proposes to replace an 18" dia. culvert through the township road (180th AVE) in the northwest corner Section 28, Deerhorn Township, Wilkin County, with a 24" dia. corrugated metal pipe (CMP). Peterson claims the existing culvert sizing is inadequate. The downstream ditch was recently cleaned to convey water flows to the west. Manager Olson and Opsahl conducted a field review of this application and advised the Board to meet with the neighboring downstream landowners to discuss this proposal. Albright invited the neighboring landowners to tonight's meeting to discuss this project.

Two landowners visited the office last week to discuss their concerns with Peterson's proposal. Ed Ernst's main concern was that he be allowed to maintain his quarterline dike between the NW¹/₄ and NE¹/₄, Section 29, Deerhorn Township. Tom Arnhalt felt Peterson could improve his drainage by cleaning his own field and road ditches. Both Ernst and Arnhalt feel that if Peterson gets a larger culvert, they would also need larger culverts in their downstream crossings.

Bradley Nelson, Deerhorn Township Clerk, whose property is at the lower end of this drainage flow, and immediately upstream of Wilkin County Ditch No. 5A, was concerned that larger upstream culverts could increase the water's velocity and cause more overland flooding on his property in Sections 19 and 30. Nelson explained that the Township decided to replace the existing 18" dia. culvert with a longer structure to accommodate wider machinery and improve safety. He thought that the new culvert elevation could be slightly lower, which might improve Peterson's drainage. Nelson added that area drainage would be improved if Arnhalt continued the ditch cleanout that he started last

fall in conjunction with his field tiling project along the NE¹/₄, Section 29. Nelson noted that Arnhalt installed a 24" dia. culvert downstream from the 18" dia. pipe for his tiling project. The next structure is a 30" dia. crossing under County Road (C.R.) No. 3. The water continues west along the south side of C.R. 186 past Nelson's quarter in Section 30, and then goes north through C.R. 186, eventually outletting to Ditch No. 5A.

Ellefson questioned why Peterson was applying for a larger culvert if the Township was doing the culvert replacement project. Nelson noted that Peterson is also a Deerhorn Township Supervisor, but couldn't comment on Peterson's actions. Ellefson felt that Arnhalt should clean his portion of ditch west of the 18" dia. culvert, but assumed that this work wouldn't take place until after the crops were off this fall. The Board thanked Nelson for his information. This permit application will be tabled until a field meeting can be held with the neighboring landowners/Township Supervisors. **Tabled.**

Project No. 51, Clay County Ditch No. 68-City of Glyndon. Raymond and David Heng discussed concerns about the \$50/acre benefit rate for their property in NE¹/₄, Section 14, Glyndon Township, east of the old Burlington Northern Sante Fe (BNSF) railroad grade. They met with Albright recently regarding why their benefits in Section 14 were double the benefits for the adjoining lands to the east. Originally, all of the Heng property in the E¹/₂, Section 14, was assessed at \$50/acre, but at the 3/02/06 Final Hearing, Heng questioned their benefits for the project, and the Viewers agreed to take a second look at this property. Prior to the Final Order, the Viewers lowered the benefits for the Heng property in the SE¹/₄, Section 14, to \$35/acre. The Board made the Final Order to construct the project at their 3/13/06 meeting. The 30-day appeal period ended on 4/13/06, and bids were opened for this project on 4/24/06.

The Board discussed the landowners' concerns. Opsahl noted that the Viewers thought the new box culverts, adjacent to their property in 12th Street on the south side of Section 11, would provide a much better outlet for their drainage, and would be of significant benefit to their property in the NW¹/₄, Section 14. Heng felt that his land, which is located at the beginning of the ditch system, will stay wet longer than the property east of Section 14 as all this water has to flow through his property. Opsahl pointed out that the water will move much faster because of the project. The Board discussed how the total benefits were split between landowners (20%) and the City of Glyndon (80%).

Jones explained that the time for them to bring up any further concerns would have been prior to the Board's Final Order, or during the 30-day appeal period. As it stands, the project costs must be assessed according to the current Viewers' Report. In the future, if the Hengs are still unhappy with their benefits, they could request a redetermination of benefits for future ditch system projects. Opsahl noted that the actual assessment will be less than \$50/acre because the construction bid was lower than the engineer's estimated project cost, which reduces the cost/benefit ratio.

The group discussed project benefits and individual assessments. VanAmburg pointed out that the Board has to assess benefits according to the current Viewers' Report. Ellefson explained that in order to change their benefit rate, the Board would have to hold another hearing and any changes would only apply to future work on the ditch system. The group discussed alternative alignments for the project.

The Board discussed the contract status. Jones has not received the signed contract documents or the required construction bond from Allstate Excavating, Inc. He pointed out that the project bids are effective for 60 days. He advised that if Allstate doesn't provide the contract documents by the 6/12/06 BRRWD meeting, the Board should reject Allstate's bid and award the contract to the next lowest bidder, Riley Brothers, so we have time to process the contract paperwork with them. Ellefson was

concerned that Allstate should be notified about the 6/12/06 deadline. Jones will contact them tomorrow.

Jerger noted that the office has started preparing a project budget for the bond sale. Albright plans to meet with Carolyn Drude, Ehlers and Associates, in the near future.

Permit No. 05-107, Daniel Pavelko. Applicant wants to add a 15" dia. culvert through the township road (157th ST S) to relieve water pressure in the E¹/₂NE¹/₄, Section 34, Riverton Township, Clay County. When the application was filed last fall, Pavelko indicated that he didn't plan to do the work until this spring. Manager Olson and Opsahl conducted a field review on 5/19/06. They met with Township Supervisor Archie Tanner, who indicated that the Township and downstream landowners are opposed to this proposal. The Township thought Pavelko's drainage would be improved if he cleaned his ditch. The adjacent upstream and downstream culverts sizes are more than adequate to carry Pavelko's water. Olson discussed area drainage patterns and Pavelko's various attempts to find an outlet for his water. **Motion** by VanAmburg to disapprove Permit No. 05-107. If Pavelko wants to come back with a different option, the Board would be willing to consider another proposal. **Seconded** by Nelson. **Disapproved.**

Permit No. 06-39, Brad Pake. Applicant wants to install 70 acres of patterned tiling in the E¹/₂NE¹/₄, Section 5, Morken Township. The tile will drain into Clay County Ditch No. 5, where the property is assessed. Manager Olson and Opsahl conducted a field review on 5/19/06. They found no problems with the project. Opsahl noted that Pake will need to install the tile line through the downstream neighbor's property to access Ditch No. 5. **Motion** by Olson to approve Permit No. 06-39, subject to neighboring landowner approval. **Seconded** by Hanson. **Approved.**

Permit No. 06-40, MSUM Science Center. Applicant proposes to construct a roof drainage collection piping and outfall structures for their Minnesota State University-Moorhead (MSUM) Regional Science Center facility in Section 11, Riverton Township, Clay County. The project consists of reroofing the Center and capturing roof storm water in downspouts and collection pipes. The storm water runoff is not expected to impact the local watershed. Jones found no problems with the proposal and recommended permit approval. **Motion** by Nelson to approve Permit No. 06-40. **Seconded** by Hanson. **Approved.**

Minch and Johnson Lawsuits. Based on attorney/client privilege, and in accordance with Open Meeting Law, the Board went into closed session at 8:55 PM to discuss the status of both lawsuits. At 9:05 PM, the Board reopened the meeting. The Board unanimously approved a motion to authorize Attorney Tami Norgard, Vogel Law Firm, to request that the proceeds from the BRRWD's judgement award for legal expenses regarding the Minch lawsuit be deposited to an escrow account with Vogel Law Firm until Minch's appeals have been settled.

Frank Schindler Dike Concern. The Board reviewed a memo Albright prepared regarding Schindler's 5/08/06 office visit.

Kurtz Township Drainage Complaint. Albright plans to check with the Clay County Auditor's office regarding the old Sub-Ditch No. 1 records. Albright met with Kurtz Township's 2005 contractor, Fitzgerald Construction Company last week. They claim they replaced a 36" dia. culvert in the township road between Sections 9 and 10, along 28th Street South, with the same size pipe at the same elevation. Fitzgerald also noted that the top of the culvert was rusted out, and it was about 80%-90% functional when they replaced it. The Board discussed the landowners' options. Ellefson suggested that old Sub-Drain No. 1 could be cleaned along the quarterline in Section 9. Another

suggestion was that the landowners could petition for a ditch improvement project for Sub-Drain No. 1. Jerger noted that one of the homeowners in Section 9, Rollie Cooper, had called the office today questioning the status of their complaint. Manager Olson noted that Clay County Ditch No. 32 on the south line of Section 9 along the south side of C.R. 67 needs work. **Tabled** pending receipt of more information.

Project No. 60, Swede Grove Lake. Another landowner informational meeting will be scheduled in late June or early July. The office will prepare a mailing list. Jones noted that he sent Ducks Unlimited (DU) Shallow Lakes Coordinator, Bob Usgaard, information regarding the various project alternatives.

Project No. 58, Riverton Township Retention. Jones forwarded the draft Preliminary Engineer's Report to Brian Winter, Program Director, The Nature Conservancy (TNC) on 5/08/06. When Jones receives Winter's comments, he will try to incorporate them into his project design. The report includes drafts of an Operation and Maintenance Plan (O&M) and a Monitoring Plan.

Project No. 57, Moorhead/I-94 Flood Control. Jones reported that the contractor, Raymond Weidenborner, All Seasons Contracting, Inc., Blackduck, MN, plans to start work at the end of June. Ziegler Construction, Inc., started work today on the Clay County Ditch No. 41 repairs along the BNSF railroad tracks south of Dilworth. Opsahl also noted that the contractor cut into the golf course water line when they started to lower the liner wall. The water line was only buried 6" below the top of the liner wall, and will have to be lowered. Nelson questioned if a permit for the water line included the BRRWD's standard utility disclaimer. The Board questioned who would have to pay for lowering the water line.

Project No. 56, Manston Slough Restoration. Some of the Minnesota Department of Natural Resources (DNR) appraisals have been completed. It appears that the DNR offers may be lower than expected, which could affect the BRRWD's offer for Donald Holubok's property in the SE¼, Section 30, Manston Township, Wilkin County. The Natural Resource Conservation Service (NRCS) would like Holubok to sign the Wetland Reserve Program (WRP) application form before 6/01/06, or the State might lose this funding, which could also affect our purchase offer. Jones noted that Holubok is not obligated to go ahead with the WRP process if he signs the program application.

Jerger reported that Holubok called the office today and said that his father was ready to sell his property to the BRRWD for \$750,000. Holubok added that his father is willing to take installment payments. His father also wants \$250,000-\$280,000 earnest money before he will sign the WRP application. The Board discussed their last offer, which was approximately \$680,000.

Jones discussed the results of his investigation of aerial photographs the DNR took during the 2006 spring flood regarding the high water elevations in the project area. Water on the north side of the proposed dike was at elevation 974, and near Holubok's property in Section 30, the water was slightly higher. Jones thought it would be useful to visit with the area landowners who might be able to provide more data. Jones felt that the pool drawdown would have been slower with the project. Nelson noted that this spring's flood was higher than the 1997 spring flood. The reason for this flood could have been the fast thaw.

Jones noted that the soil boring work is currently on hold until the DNR's drill rig is available.

Project No. 54, Whisky Creek Tributaries. The Board discussed Greg Settlemeyer's driveway erosion concerns. Ellefson noted that the BRRWD has an agreement with Settlemeyer that if he has problems with his driveway culvert, we would replace it as a project expense. Jones thought that H.E.

should conduct a hydraulic analysis and recommend a pipe size. We may also need a DNR permit to work in the waterway, which could take about 30 days to process. The NRCS plans to complete the Nichols WRP restoration project upstream of Settelmeyer's farmstead this summer. This site is the final component of the Whisky Creek Tributaries project. When completed, it will provide increased protection from flooding and erosion for several downstream landowners. **Motion** by Olson to authorize H.E. to conduct a hydraulic analysis, recommend a culvert size, and submit the DNR permit application. **Seconded** by Hanson. **Approved.**

Project No. 49, Oakport Flood Mitigation Project. The "Open House"/informational meeting was held 5/11/06. Albright has scheduled a meeting with Kevin Campbell, Clay County Commissioner; Greg Anderson, Oakport Township Chairman; and Appraiser Guy Miller on 5/26/06 regarding home buyouts. Ellefson discussed the need to resolve the Township's concerns regarding Ulteig Engineers, Inc. (UEI) role as project engineer. He felt that we need a good working relationship with UEI in order to develop a successful project. UEI recently contacted BRRWD Attorney Tami Norgard regarding easements and property titles. UEI told Norgard that one of their staff would be handling the title work. Norgard informed UEI that the BRRWD had authorized her to do this work. The Board discussed keeping the lines of communication open with UEI. It was suggested that the BRRWD could ask UEI to prepare a scope of services for this project.

There are about 21 properties signed up for a buyout. Albright will be working with Oakport Township to determine a priority list. Oakport Township is also collecting permission to survey forms from the landowners along the dike alignment. UEI could start surveying the dike alignment in early June.

Project No. 38, Farmstead Ringdikes. Opsahl is working on collecting preliminary survey data and signing applications. The City of Kragnes is very interested in a ringdike. The Board discussed possible dike alignments. They felt we should schedule a landowner informational meeting to discuss this issue. **Motion** by Hanson to authorize H.E. to explore possible ringdike alignments for the City of Kragnes. **Seconded** by VanAmburg. **Approved.** As soon as we know how many ringdikes we plan to build in 2006, Albright will submit our request for funding to Ed Fick, FDR Hydrologist, DNR Waters. Opsahl noted that the 2005 ringdike projects should be completed this week. Mark Rustad has decided not to raise the ringdike around his farmstead.

RWMP. The office has not had time to contact possible Citizen Advisory Committee (CAC) and the Technical Advisory Committee (TAC) members. Letters are expected to go out next week. A kickoff meeting will be scheduled as soon as all TAC and CAC members have agreed to participate.

Minnesota Statutes Annotated (M. S. A.) 103D.905, Subd. 3. BRRWD Lobbyist, Joel Carlson, notified the Board that the State Legislature has passed the bill for a levy increase of our taxing authority. This statute allows Watershed Districts to fund local projects through a district wide tax levy initiated by a petition from local government units or 50 property owners within the district. The Legislature's action increases the BRRWD's levy for 2 years.

Gary Smith Flooding Concerns. Smith was in the office on 4/25/06 to discuss his concerns regarding his farmstead flooding in Section 18, Barnesville Township, along Clay County Ditch No. 34 (Whisky Creek). At their 5/08/06 meeting, the Board authorized H.E. to conduct a GPS survey for both ditch banks and the field drainage on the outside ditch edges along the one mile stretch of the channel downstream of Joe Gilbertson's farmyard in Sections 18 and 19. Jones reported that the survey has been completed, and he is working on repair recommendations.

International Water Institute. Chuck Fritz, Director, International Water Institute (IWI), has asked the BRRWD for a letter of support regarding a grant they are seeking from the National Science Foundation for Watershed Education funding. Jerger read a letter Albright drafted for the Board's review. The grant application deadline is 6/01/06. **Motion** by VanAmburg to send the letter of support. **Seconded** by Nelson. **Approved.**

Beaver Control Grant. The Minnesota Board of Water and Soil Resources (BWSR) has approved the BRRWD's grant application for beaver damage control funding for 2006 in the amount of \$15,000. Earlier this year, the BRRWD signed a Joint Powers Agreement with the Clay and Wilkin County Soil and Water Conservation Districts (SWCD) for this grant. The BRRWD has agreed to match the grant on a 1:1 basis and provide a \$2,000 in-kind match for program administration. The County SWCD's have agreed to contribute \$2,000 of in-kind services, and the Clay County Highway Department has also offered to contribute a \$2,000 1:1 cash match to help deal with problem beavers on their road systems. **Motion** by VanAmburg to authorize Ellefson to sign the grant agreement. **Seconded** by Olson. **Approved.**

Project Record Drawings. H.E. has completed the record drawings for Project No. 48, Clay County Ditch No. 59; Project No. 47, Clay County Ditch No. 53; and Project No. 54, Whisky Creek Tributaries. Copies of the drawings are on file in the BRRWD office.

Krebs Spoilbank Raising. H.E. has completed a survey of the north/west spoilbank elevation in the SW¼, Section 17, Barnesville Township. Water from "west tributary" overtopped the spoilbank this spring and flowed north in Section 17, causing flooding concerns for Kenny Krebs, including his home, outbuildings, and cabinet business. Jones recommended raising the north/west spoilbank to elevation 943.0 beginning at C.R. 55 and continuing northeast for approximately 2,000'. The maximum fill will be 2' with an average fill of 1'. Jones' opinion of probable cost is \$3,500 to \$4,000. Opsahl explained that by raising the spoilbank, water will be directed south to C.R. 55 instead of overtopping the spoil bank and heading overland towards Krebs' farmstead. **Motion** by Hanson to approve this repair as a Project No. 54 expense. **Seconded** by Nelson. **Approved.**

LCMR. The Legislative Commission on Minnesota Resources (LCMR) has a link on their website where citizens can provide input regarding future funding priorities for Minnesota's environment and natural resources. Beginning in 2007, there will be approximately \$22 million available each year from the Environment and Natural Resource Trust Fund. Albright has submitted input to the questionnaire.

RRBC 2006 Funding. The Red River Basin Commission (RRBC) submitted a request for the BRRWD to release our \$25,000 funding contribution. Albright will notify the RRBC that when we receive our share of the first half property/ditch taxes in June, we will send their share of the payment in accordance with the M.S.A. 103D.905, Subd. 3, levy.

Jacobson Control Basins. The Becker SWCD sent the BRRWD plans and specifications for the installation of four water and sediment control basins for Mike Jacobson/Hein Farms, Inc., in the E½NW¼, Section 9, Audubon Township. The BRRWD has provided funding for these types of projects in the past, but BRRWD funding is not being requested for this project.

Stream Health and Restoration Workshop. The DNR is sponsoring this workshop to evaluate information gathered by the Stream Habitat Program on over 90,000 miles of Minnesota's rivers and streams. One of the primary program objectives is to ensure that an adequate amount of water is flowing in rivers and streams throughout the year to protect fish and wildlife. The workshop on

Fluvial Geomorphology and Stream Classification will be held July 17-21, 2006 in Fergus Falls, MN, and a Stream Assessment Monitoring workshop will be held August 21-2006 in Whitewater State Park, Altura, MN.

2006 Lakes and Rivers Conference. This conference, entitled "The Changing Landscapes of Minnesota's Lakes and Rivers" will be held September 7-9, 2006, at the Duluth Entertainment and Convention Center (DECC).

Norby Correspondence. Robert Norby, a landowner in Section 28, Kragnes Township, sent a response to the BRRWD's letter regarding his concerns about trespassing/drainage work on his property last fall.

The following bills were presented for approval:

Accounts Payable	Description	Account	Amount
Petty Cash	Postage, supplies, etc.	Admin	\$ 100.00
J&J Braton Properties	June 2006 office rent	Admin	\$ 490.00
Bruce E. Albright	MS ABC rental	Pj. 49, Oakport	\$ 200.00
Johnston Fargo Culvert	#142711, Manston Culvert	Clay 31	\$ 568.18
Pro Landscapers, LLC	Ditch seeding	Pjs. 35 and 42	\$ 1,140.00
H&S Contracting, Inc.	#6123, flapgate repairs	Pj. 14, Clay 10	\$ 2,278.75
H&S Contracting, Inc.	#6124, flapgate repairs	Clay 21	\$ 794.00
Joel Carlson	June 2006 Lobbyist fees	Admin	\$ 716.00
			\$ 6,286.93

Motion by Nelson to approve payment of the bills. **Seconded** by Olson. **Approved.**

Next Meeting. The next regular meeting of the Board of Managers, BRRWD, is scheduled for Monday, June 12, 2006, at 8:00 PM in the Barnesville office.

Adjournment. Chairman Ellefson adjourned the meeting at 10:35 PM.

Respectfully submitted,

John E. Hanson, Secretary