

BUFFALO-RED RIVER WATERSHED DISTRICT

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MINUTES FOR MANAGERS' MEETING July 27, 2015

The Board of Managers, Buffalo-Red River Watershed District (BRRWD), held their regular meeting on Monday, July 27, 2015, at 7:00 PM in the Barnesville office. BRRWD Managers present were Gerald L. Van Amburg, Mark T. Anderson, John E. Hanson, Breanna L. Kobiela, Catherine L. Affield, Troy E. Larson, and Peter V. Fjestad. BRRWD Staff attending included: Erik S. Jones, Engineer, and Wade S. Opsahl, Technician, Houston Engineering, Inc. (HEI).

Chairman Van Amburg called the meeting to order at 7:03 PM. He announced that the proceedings were being recorded to aid in the preparation of the minutes. BRRWD Administrator Bruce E. Albright was not present at the meeting, but provided a memo for the Board's review regarding tonight's agenda items.

Secretary's Report. The Board reviewed draft minutes for the 07/13/15 regular BRRWD meeting. Manager Kobiela noted one minor correction. **Motion** by Affield to approve the minutes, subject to correction. **Seconded** by Anderson. **Approved.**

Treasurer's Report. The Board discussed setting up a checking account with Midwest Bank. Albright contacted Pam Bice, Manager, Wells Fargo Bank, regarding a possible adjustment of the interest rates we receive for our checking and savings accounts. Bice indicated Wells Fargo can't match the interest rates quoted from Midwest Bank. Albright and Manager Anderson signed the necessary paperwork last Tuesday to setup a checking account with Midwest, and Albright ordered new checks. For the time being, Albright advised that the Board maintain both checking and savings accounts with Wells Fargo and Midwest. **Motion** by Anderson to open a checking account with Midwest Bank. The BRRWD will keep the Wells Fargo Bank accounts open until we can change our State automatic deposit settings. **Seconded** by Larson. **Approved.**

The Board also discussed setting a date for the annual budget hearing and the inclusion of a possible Red River Watershed Management Board (RRWMB) 2016 levy in the hearing notice. Van Amburg noted that the Board could list the potential RRWMB levy in the hearing notice, and then decide if we wish to rejoin at the budget hearing. The Board had an extended discussion regarding the RRWMB membership issue. Van Amburg explained that by listing the RRWMB levy in the hearing notice, it could illicit public feedback regarding RRWMB membership. Anderson noted that he wasn't opposed to listing it in the hearing notice, but preferred to meet with all the County Commissions prior to a vote on RRWMB membership.

Van Amburg noted that the Managers have already met with Clay and Wilkin County Commissioners to distribute our 2014 annual report and financial audit, and to discuss RRWMB membership. Meetings have also been scheduled with Becker and Otter Tail Counties prior to 9/15/15 when the 2016 levies must be filed with the County Auditors for preliminary certification. The final certification deadline is 12/15/15. Anderson observed that the membership issue has two facets: Should the BRRWD rejoin the RRWMB, and if we are going to rejoin, when would be the best time to do so. Larson said that one of the Wilkin County Commissioners asked Larson to delay a decision to rejoin the RRWMB until the County had information regarding the actual dollar amounts involved with the RRWMB membership. Larson will forward the financial information Albright provided tonight for the Board's review to Wilkin County. When the BRRWD Managers met with Wilkin County, Commissioner, Lyle Hovland, told the Managers that the County trusts the Managers they appointed to make the right decision on this issue. Jones said that Hovland made a similar statement at the Local Water Plan Advisory Committee (LWPAC) meeting today.

Kobiela felt frustrated that the Board has not had time on previous meeting agendas to discuss this issue thoroughly, so that we could make a decision without time pressures. The Board discussed the timing of RRWMB membership with current project development funding needs. Anderson observed that if we rejoin, it might take some time for our projects to receive funding because there would be member watershed districts' funding requests ahead of ours. Jones discussed the various State programs/funding sources that are allocated in part through the RRWMB, for example, the Regional Conservation Partnership Program (RCPP). He explained that in order to qualify for RRWMB cost sharing, projects would have to be developed in accordance with their guidelines. Van Amburg noted that the 2015 Farmstead Ringdike program will also be funded through the RRWMB. The Board had an extended discussion regarding RRWMB membership, the cost of membership to the taxpayers, and how the funding could be used. Jones explained that if the Board includes the RRWMB levy in the budget hearing notice, the Board actually has until December 15, 2015, to make a final decision regarding RRWMB membership. After 09/15/15, the Board's 2016 levy can't be raised, but can be lowered in December. **Motion** by Anderson to schedule the 2016 annual budget hearing for Monday, August 24, 2015, at 9:00 PM in the Barnesville office, and to list the RRWMB levy in the budget hearing notice. **Seconded** by Hanson. Voting in favor: Anderson, Hanson, Affield, and Larson. Opposed: Kobiela and Fjestad. **Approved.**

Business brought before the Board included:

Permit No. 15-076, Robert Mattson, Mattson Brothers, Inc. Applicant proposes to install 64 acres of random tiling in the NE¼, Section 8, Cuba Township, Becker County, outletting via a lift station to a natural waterway, and eventually to the Buffalo River.

Permit No. 15-077, Moorhead Public Service. Applicant proposes to directionally bore an electrical service conduit under Clay County Ditch (C.D.) No. 41 on the north side of County Road (C.R.) No. 18 in the SE¼, Section 29, Oakport Township, for the expansion of electrical service to Oakport Township due to the expansion of the City of Moorhead.

Permit No. 15-078, Jeff Yaggie. Applicant proposes to install 246 acres of pattern tiling in the N½, Section 18, Meadows Township, Wilkin County, outletting via gravity flow to Wilkin C.D. No. 6A, to which the property is assessed.

Permit No. 15-079, Ray Amundson. Applicant proposes to install 80' lines of 18" dia. corrugated metal pipe (CMP) to widen his existing driveway in the Amber Waves Estates subdivision in Section 3, Oakport Township, Clay County. Amundson plans to connect the 80' CMPs to either side of his existing driveway and use leftover fill from his building project to widen and slope his driveway to facilitate safer mowing conditions. The Board had concerns about the length of the culvert and how it would function over time. **Motion** by Fjestad to table permit approval, pending contact with Amundson to discuss his project. **Seconded** by Kobiela. **Tabled,** pending Opsahl field review.

Permit No. 15-080, Jim Miller. Applicant proposes to install pattern drain tile in the S½, Section 27, Nilsen Township, Wilkin County, outletting via gravity flow to Wilkin C.D. No. 3, Lateral No. 2, to which the property is assessed.

Permit No. 15-081, Todd Klein. Applicant proposes to install 60 acres of pattern tiling in the N½NE¼, Section 21, Nilsen Township, Wilkin County, outletting via gravity flow to C.D. No. 31 to which it is assessed.

Permit No. 15-082, Charles Steiner. Applicant proposes to install 160 acres of pattern tiling in the NE¼, Section 9, Andrea Township, Wilkin County, with four 6" dia. mains that will connect to an existing 12" dia. tile main, located along the south line of the NW¼, outletting west via gravity flow to C.D. No. 31-Lateral No. 1 along 300th AVE to which the property is assessed.

Motion by Larson to approve Permit Nos. 15-076, 15-077, 15-078, 15-080, 15-081, and 15-082, subject to the applicable standard disclaimers and road authorities' permission to work within their road right-of-way (r-o-w). **Seconded** by Fjestad. **Approved.**

Scott McCaslin Tiling Outlet Concerns. At the 7/13/15 BRRWD meeting, the Board authorized BRRWD Attorney Tami Norgard, Vogel Law Firm, to seek a court order for Duane Hanson to remove the tile block on his property in the NE¹/₄, Section 23, Hamden Township, Becker County. Norgard and Attorney Jordan Weir are preparing the complaint for submission to the Becker County District Court.

Project No. 77, Clay C.D. No. 51-Lateral No. 3. The Final Hearing is scheduled for Thursday, August 27, 2015, at 7:00 PM, in the Moorhead City Hall. The hearing notices will be mailed to the affected parties and newspaper publishers next week.

Project No. 75, Wilkin C.D. No. 31-Lateral. Sharon Josephson has reviewed her easement with the understanding that the term of the easement will be changed from perpetual to 30 years. Josephson has a family member, who still needs to review the change.

Project No. 61, Clay C.D. No. 11. The ditch system repair hearing was held on 07/21/15. Jones explained that the hearing discussions centered around three repair components: replacement of the outlet structure on the north branch, a slope failure along the Duane Walker residence on the south side of County State Aid Highway (CSAH) No. 8, and the repair of 700' of slope failure east of Trunk Highway (T.H.) No. 75 along land owned by the Klemedtson Farm Limited Partnership. Jones noted that since the ditch flow is not affected by the slope failure along the Walker residence, the consensus of the landowners was to continue to monitor the site.

Following the hearing, landowner Kevin Olsgaard contacted Jones to ask him to consider a plan to recreate the pre-1975 summer flood project design by installing a bridge/culvert in C.R. No. 59, removing the outlet pipe, and replacing it with an open channel. Jones looked at some alternatives in regards to Olsgaard's request, but the costs estimates were substantially higher than replacing the existing outlet structure. Albright will prepare a repair order for the Board's signature at the next meeting. The repair costs will be spread out over a 3-year period (2016-2018). Jones noted that he will have construction bid results for the Board's review at their 09/14/15 meeting. Fjestad commented that no one at the hearing voiced any opposition to the proposed repairs. **Motion** by Fjestad to approve the Findings and Order to make the referenced C.D. No. 11 repairs. **Seconded** by Anderson. **Approved.**

Project No. 56, Manston Slough Restoration. Jason Ehlert has been hired to reset three inlet culverts on the Briks property north of Tower Road (210th ST) in the SE¹/₄, Section 1, Nordick Township, Wilkin County. One new open inlet will be installed for Tim Buth and one open inlet will also be deepened on his property. Cody Zarak, HEI, will be onsite to supervise the repairs. B&J Landscaping has completed the native grass seeding and mulching. HEI submitted Pay Request No. 2 for B&J Landscaping for \$10,055.05, including Change Order No. 2 for \$750. **Motion** by Anderson to approve Pay Request No. 2 and Change Order No. 2. **Seconded** by Fjestad. **Approved.**

To date, there has been nothing new regarding the Terry Czichotzki crop loss claim.

Project No. 54, Whiskey Creek Tributaries. The "east tributary" repairs in Section 14, Barnesville Township, Clay County, have been completed. Opsahl noted that there were spots with 4'-5' of sediment in the channel. He also discussed the proposed repairs for the Scott and Betty Anderson property in the N¹/₂N¹/₂, Section 14, Barnesville Township. He explained that the original 2006 project design for the Anderson property never worked very well. The repair recommendations are to fill in the existing ditch on the Anderson property and regrade the ditch back to the west through their pasture into a stock pond and then eventually north to the road ditch (140th AVE S). The Andersons agreed to this proposal and expressed their appreciation for the Board's commitment to addressing their concerns. The estimated repair

cost is \$6,000-\$8,000. **Motion** by Hanson to approve the Anderson repair. **Seconded** by Affield. **Approved.** Jones briefly described the features of the original Whiskey Creek Tributaries project for the newer Board members.

Opsahl also reported that as soon as the crop is harvested, the Keith Ernst request for the berm repairs on Whiskey Creek and a culvert inlet gate in the south berm will be completed in the N½, Section 21, Barnesville Township.

Project No. 49, Oakport Flood Mitigation. Albright field verified the additional areas beside the Fischer stockpile that they claim has been impacted by the project. He is working on preparing an analysis of the easement payments for both the Fischer and Pierce properties to determine a fair easement payment for the Fischer stockpile for the Board's review at the 08/10/15 meeting.

The Flood Damage Reduction Grant application and BRRWD resolution for the \$5.53 million to complete Phase 4 has been sent to the Minnesota Department of Natural Resources (DNR). Once we have a signed contract, Ulteig Engineers, Inc. (UEI) will start work on the plans and specifications to let bids possibly in mid-September to complete Phase 4 in 2016. The Phase 4 easements have also expired and will need to be renewed.

Project No. 42, Clay C.D. No. 67. Jones is working to prepare plans and specifications to let bids for both alternatives for the outlet replacement.

Project No. 39, Georgetown Levee. The condemnation hearing for the Greywind house was held on 07/23/15. Judge Vaa authorized immediate possession of the property. The condemnation commissioners will tentatively view the property on 07/29/15. Immediately after that, the hazardous materials can be removed, and once that is completed, Reiner Construction, Inc., can make plans to demolish the house. Clay County needs a 10-day window of time to do a final inspection of the property before it can be demolished. Reiner Construction, Inc., plans to be on site sometime in mid-August. Opsahl is working on a cleanup list for the contractor. He's also working with the City of Georgetown to finalize the 2011 FEMA payment.

Georgetown Mayor Brian Witthoeft has been updated regarding the proceedings. Michael Greywind was at the hearing and was told that the BRRWD can no longer just trade house for house, since we incurred additional costs plus the \$20,000 down payment on his mortgage through the condemnation proceedings. He is aware that he will need to absorb those additional costs. Attorneys Jordan Weir and Tami Norgard, Vogel Law Firm, suggested that the Watershed enter into a Contract for Deed with Greywind for the condemnation proceedings costs, plus the \$20,000 mortgage down payment. We could keep the terms of the Contract for Deed relatively simple, such as one payment annually and divide it out over 10 years. Greywind has indicated that he would be agreeable to that proposal, which would allow the BRRWD to retain ownership of the property until his debt is paid. This arrangement was also acceptable to the City.

Project No. 38, Farmstead Ring Dikes. The 2015 Legislature allocated \$400,000 for farmstead ringdikes in the Red River Valley to be administered by the RRWMB. Ron Harnack, RRWMB Project Coordinator, has asked for a list of potential projects by 09/15/15. Opsahl will contact the landowners we have on our potential ringdike list to see if they are still interested in the program.

Project No. 30, Clay/Wilkin Judicial Ditch (J.D.) No. 1. William Nichol Excavating, Inc. is working on the J.D. No. 1 repairs in Clay County. Albright is redrafting the petition for the proposed county line diversion project to Wolverton Creek/Comstock Coulee. The petitioners haven't contacted the office recently in this regard.

Project No. 24, Wilkin C.D. No. 44. Albright has a draft petition prepared for Manston Township to partially abandon the north ditch along 170th ST and to remove the centerline pipe. He plans to forward the

document to the Township when he returns next week. Once the Township files the petition, the BRRWD will schedule a ditch system hearing.

Project No. 23, Becker C.D. No. 15 Repair. Opsahl has had no response to the letters he sent to the affected landowners for permission to enter their land, spoil placement, etc., regarding the repair work south of the Hamden Slough National Wildlife Refuge (NWR) on the remaining portions of the ditch system, including the SW¹/₄SE¹/₄, Section 11, Audubon Township, as petitioned for by Kraig Nelson. He plans to visit with some of the landowners this week. Opsahl is working with Chad Mattson to complete the repairs.

Project No. 01, Wilkin C.D. No. 22. Albright met with the Viewers on 07/22/15. They set a value of \$6,000 per acre for the easements needed to install the one-rod grassed buffer strips on Wilkin C.D. Nos. 26, 5A, and 22 (Lateral Nos. 1 and 2). The Viewers Report will be tabulated and presented to the Board at the 08/10/15 meeting, at which time they can schedule the required hearings. The Board briefly discussed how the buffer strip easements payments are funded.

Mediation PT. The next PT meeting will be held on September 10, 2015, in the Barnesville office. The Fall Tour is tentatively scheduled for October 15, 2015.

Revised Watershed Management Plan (RWMP)/Watershed District Enlargement (WDE). Jones reported that he and Albright are working on proofing the draft RMWP in an effort to complete the document. Once it's completed, we will schedule one more meeting with the Technical and Citizen Advisory Committees for their final review.

Army Corps of Engineers (COE) F-M Diversion. Van Amburg noted that the Diversion Authority has been in the news lately regarding the buyouts in Oxbow.

Wilkin/Otter Tail J.D. No. 2. Jones presented an update on the ditch repair investigation regarding Dan Bradow's concerns about flooding in Sections 7 and 18, Orwell Township, Otter Tail County. Bradow suggested that BRRWD explore to possibility of raising the east berm in the low areas on J.D. No. 2 along his property. After investigation of the original construction plan, it appears that a berm was not constructed on the east side of the ditch because that portion of J.D. No. 2 lies within Shaw Slough/Lake Alice, which are DNR protected waters (wetlands). The DNR permit for the 1978-1979 ditch improvement allowed the west berm to be built up and reinforced, but prohibited any construction through the protected waters. The DNR had expected that Lake Alice and Shaw Slough would provide local water storage. The August 2014 HEI survey picked up a profile of the existing channel bottom and the east and west spoil banks. Jones explained that the existing ditch channel profile is approximately 1'-2' lower than the original design in Section 7 and approximately 2'-4' lower through Section 18. In addition, the east spoil bank through the wetlands is 2.5' to 3.5' higher than the 1980 Record Drawing. Jones' conclusion is that there isn't much that can be done to address the east spoil bank or channel capacity, as there is no east spoil bank shown in the 1980 design. To raise the east berm, it would be necessary to go through a DNR permitting process, which is not likely to be approved. Jones noted that he has asked the DNR to clarify the permit requirements and if a permit appeared possible. He commented that he isn't surprised that this area floods on a regular basis, given that the protected waters, which were supposed to retain water, are 1'-3' lower than Bradow's property. Jones thought that the culverts/flapgates didn't appear to be a problem, especially during flood events.

Jones also inspected a culvert along 190th ST near Bradow's property. He didn't see any issues with the culvert except the accumulation of some gravel. Jones said he would contact Bradow to follow up with him on his culvert concerns, and the requested ditch repairs.

Jones also inspected Carlisle Township's concern about the road sideslope on 240th ST. He observed that this area is approximately 4,500'-5,000' upstream of J.D. No. 2, Lateral No. 1, and doesn't appear to be part

Manager Appointments. Van Amburg noted that Managers Kobiela (Clay County), Larson (Wilkin County), and Fjestad (Otter Tail County) have been reappointed for three-year terms by their respective County Commissioners. Manager Hanson's reappointment was tabled at the 07/21/15 Becker County Commission meeting. The Board discussed concerns brought up by a group of landowners at the Commission meeting regarding the BRRWD's decision not to abandon Becker C.D. No. 19. Jones pointed out that most of the costs incurred for this ditch system involve beaver control and cattail "bogs" that block drainage. Van Amburg plans to attend the 08/04/15 Becker County Commission meeting to address any questions that may come up regarding this issue.

2014 Audit/Annual Report. The Board has scheduled meetings with the Otter Tail County Commissioners on 08/11/15 at 8:30 AM in Fergus Falls and the Becker County Commissioners on 09/01/15 at 8:30 AM in Detroit Lakes to present our 2014 audit and annual report and to discuss possible RRWMB membership.

Next Meeting. The next regular meeting will be held on Monday, August 10, 2015, at 7:00 PM in our Barnesville office.

Adjournment. Chairman Van Amburg adjourned the meeting at 9:31 PM.

Respectfully submitted,

John E. Hanson, Secretary