

**MINUTES OF THE ROSEAU RIVER WATERSHED DISTRICT BOARD OF  
MANAGERS SPECIAL MEETING HELD May 14<sup>th</sup>, 2010**

Chairman Miller reconvened the meeting at 9:30. Managers present were, Floyd Haugen, Allison Frislie, LaVerne Voll, LeRoy Carriere and Todd Miller. Staff present was Administrator Sando and Administrative Assistant Halstensgard. Consultants present were Engineer Dalager, Attorney Michelle Moren and Attorney Pat Moren. For others in attendance, please refer to attendance sheet.

Attorney Pat Moren handed copies of e-mail correspondence between their office and the attorney for Wagner Construction. Attorney Michelle Moren stated that the attorney for Wagner is basically demanding that the Watershed District allow Wagner to withdraw their bid. Attorney Pat Moren discussed the four factors required to excuse a bidder from their bid.

There was discussion on rebidding and the funding requirements to pay for the project. Manager Frislie made a **motion** to accept the apparent low bid from Wagner Construction, seconded by Manager Carriere. After some discussion, Dennis Wagner stated that they would not be able to accept the contract and do the job for the bid amount. Motion carried unanimously.

Chairman Miller stated the next issue was whether to rebid, or accept the next lowest bidder. The board asked Wagner Construction to submit to the board in writing their intention concerning the award of this bid. After conferring with his legal counsel, Dennis Wagner stated that he would have to withdraw from the contract and would be willing to reimburse the board for legal costs. There was discussion on the amount of settlement.

Engineer Dalager discussed the reduction in retainage requested by North Pine aggregate. There was additional work required to finish the project. Engineer Dalager stated there was a punchlist items that need to be done this spring. Whatever the cost, could be deducted from the retainage at the board's discretion. Manager Frislie made a **motion** directing Administrator Sando to move forward with hiring a contractor to start on the punchlist as soon as possible, seconded by Manager Voll. Motion carried unanimously. The seeding of phase one was discussed. The board directed Administrator Sando to order the seed required for the project. In Engineer Dalager's opinion the mitigation portion of the project could be delayed due to the current situation with phase 2 of the project. Manager Haugen made a **motion** to set the bid bond at 10% for the rebidding process, seconded by Manager Frislie. Motion carried with Manager Voll opposed. Manager Voll made a **motion** to keep the rebid as one contract, seconded by Manager Haugen. Manager Frislie suggested having the incidental ditch cleaning as a separate contract. Nate will review the contract price and assess the issue at that time. Motion carried unanimously.

Dennis Wagner returned to the Board with an offer of turning down the bid and offering \$5,000.00 reimbursement. Wagner stated that he was directed by his attorney not to sign any documents at today's meeting. The board was in receipt of an email from Wagner's attorney stated that Wagner construction does not accept the award of contract for this project. The board directed Chairman Miller to sign the email as evidence of receipt. It was the consensus of the board to reject the offer of \$5,000.00 and directed the attorney's to communicate the board's offer of \$45,000.00 to settle the matter of reimbursement of expenses. After Attorney's Michelle and Pat Moren's discussion with Jerry VonKorff, a response was expected sometime next week. Dennis Wagner stated that there would be no response and he also had expenses of about \$10,000 in attorney's fees into this issue. A **motion** by Manager Haugen to initiate the rebid process based upon the refusal of Wagner Construction to accept the award, seconded by Manager Frislie. The project end date will be extended until July 15th of 2012. Motion carried unanimously.

A **motion** to adjourn the meeting at 12:20 p.m. was made by Manager Voll, seconded by Manager Haugen. Meeting recessed at 12:10 p.m..

Respectfully submitted,

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LeRoy Carriere, Secretary

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Tracy Halstensgard, Administrative Assistant