

**MINUTES OF THE ROSEAU RIVER WATERSHED DISTRICT BOARD OF  
MANAGERS MEETING HELD AUGUST 7 , 2019**

**ORDER:** Chairman Jason Braaten called the meeting to order at 8:00 a.m. and led the Pledge of Allegiance.

**MANAGERS PRESENT:** Carter Diesen, Tony Wensloff, LeRoy Carriere, Cody Schmalz, and Jason Braaten.

**STAFF PRESENT:** Administrator Halstensgard, Specialist McCormack, and Assistant Bergstrom

**OTHERS PRESENT:** Roger Falk, Roseau County Commissioner; Russel Walker, Roseau County Commissioner, Erik Magnusson, Landowner; Randy Prachar, MNDNR; Brian Opsahl, Brady Martz; Douglas Erickson, Landowner; Jordan Erickson, Landowner; John Harder, Landowner; Greg Braaten, Landowner

**CONSULTING STAFF:** Michelle Moren, Attorney; Jake Huwe, HDR, Nate Dalager, HDR

**DELEGATIONS PRESENT:** Joe Laurin, Landowner

**AGENDA:** A **motion** was made by Carriere and seconded by Manager Wensloff to approve the agenda as presented. The motion carried unanimously.

**CONSENT AGENDA:**

A **motion** to approve the Consent Agenda was made by Manager Wensloff and seconded by Manager Schmalz. The motion carried unanimously. Adoption of the Consent Agenda included approving the July 3, 2019 minutes, July 18, 2019 special board meeting minutes, permits #19-22 (R. Monsrud), #19-24 (Norland Township), #19-25 (T. Johnson); the Treasurer's Report with the addition of two bills Verizon (\$40.01) and True North Steel (\$549.34) , and manager and employee expense vouchers.

**DELEGATIONS:**

At the July 3, 2018 meeting, landowner, Joe Laurin requested that Specialist McCormack contact ACOE regarding jurisdiction of the legal drainage system (SD69) and the Duxby Levee. Specialist McCormack reported that attempts at contacting ACOE have not been successful. He will continue to try and report back at the next meeting.

**OLD BUSINESS:**

Brian Opsahl from Brady Martz & Associates, P.C. gave a presentation regarding the 2018 Audit. He covered the audit communication letter which includes procedures for the audit. As in the past, the audit identified the best management practice of journal entries being reviewed as an area needing improvement. He noted that it is a typical finding when staff is low in numbers. The RRWD does have a consultant that periodically checks entries. Mr. Opsahl went over general fund balances and discussed the changes that have taken place noting that fund balances change depending upon district reimbursements and disbursements. Mr. Opsahl did not note any other deficiencies.

## **NEW BUSINESS:**

Spraying: Specialist McCormack has been in contact with Larsons regarding helicopter spraying. Spraying will take place on the West Intercept, connection channel, exterior on the south side of Norland Impoundment, and WD3. Spraying will be for cattails this fall. Wensloff made a **motion** to hire Larson for spraying. Manager Diesen seconded the motion which passed unanimously. Landowners have contacted board managers regarding thistle and foxtail near Norland. Kvien Ag mowed in July. Specialist McCormack discussed options of spraying and precision grazing. Mr. Robertson has hayed a portion of the West Intercept and plans to finish in the immediate future. There was board discussion about spraying out thistle and foxtail and reseeding the areas.

Charman Braaten handed the meeting over to Acting Chair Wensloff at 8:30 a.m. for the public hearing. Manager Wensloff called for a motion to open the public hearing. Manager Carriere made a **motion** to open the hearing. Manager Schmalz seconded the motion which passed unanimously.

## **PUBLIC HEARING**

### Conduct and Order of the Preliminary Hearing

#### **for the Proposed Improvement of Roseau County Ditch #16**

#### **1. Call to Order**

The Roseau River Watershed District (RRWD) Acting Chairman, Tony Wensloff called the meeting to order at 8:30 a.m. Following introductions Manager Wensloff read the following:

On February 6, 2019 a petition for the proposed improvement of Roseau County Ditch #16 was presented to the Board of Managers (Board) of the RRWD. The petition was reviewed by RRWD Legal Counsel, Michelle Moren and counsel requested that petitioners provide clarifications regarding the petition for improvement. The petition was discussed at the regular Board meeting on March 6, 2019, and the Board again requested that petitioners provide additional information regarding the requested improvement. Petitioners provided the requested information on March 29, 2019. The RRWD reconvened on April 3, 2019 at which time the petition with the additional information was reviewed by RRWD Counsel Michelle Moren and approved by the Board as it was determined that the petition met the legal criteria of Minnesota Statutes section 103E.215. HDR Engineering was appointed as engineer for the project and was instructed to draft a preliminary survey report.

The preliminary report was submitted to the Board on July 3, 2019. An *Order and Notice of Hearing for Preliminary Hearing* was issued on July 3, 2019.

Manager Wensloff stated the purpose of today's meeting is to review the engineer's reports and take testimony from all parties to determine whether to proceed with the project or dismiss the petition.

#### **2. Determine the Sufficiency of the Petition**

Michelle Moren, attorney for the RRWD has reviewed the petition. All legal requirements have been met. The petition has been deemed adequate.

### **3. Determine Sufficiency of Bond**

Manager Wensloff read the following:

On March 21, 2019 the petitioners submitted a cost bond of \$40,000.00.

The funds provided to date are adequate to cover costs incurred through the preliminary hearing. Should the Board vote for continued proceedings, additional funds will likely be needed to cover the costs of the final survey and viewers. The costs will be monitored on a monthly basis and an additional bond would be required of petitioners pursuant to Minn. Stat. 103E.202, Subd. 6, if the costs incurred before the proposed drainage project is established will exceed the amount of the petitioner's bond.

### **4. DNR Commissioner's Report**

Administrator Halstengard read the following:

On August 5, 2019, DNR Eco-Waters Regional Manager, Nathan Kestner provided comments on the preliminary survey report.

In the detailed survey, the engineer should address the following concerns raised by the DNR:

1. Clarify whether any work is proposed below the bank of the Roseau River. If so, a DNR Public Water Work Permit may be needed.
2. Clarify how or if the improved ditch system would affect the design and operation of the Whitney Lake and Roseau Lake Projects. The DNR and RRWD have been working on the
  - a. Will improvements to the CD 16 ditch system change planned operations for the Roseau Lake Bottom project? Will improvements jeopardize downstream landowners (i.e. releasing too much water downstream at the same time)? Roseau Lake Bottom project located just upstream of the proposed County Ditch 16 project. According to this preliminary engineer's report, the County Ditch 16 project will move early water into the Roseau River. This is also the plan for the Roseau Lake Bottom project.
  - b. DNR recommends that further investigation into how these projects will work in tandem. The final engineer's report should discuss and consider potential interactions and cumulative effects of these projects.
3. Describe how increasing the conveyance of County Ditch 16 will affect inundation in the Big Swamp.
4. Currently the Roseau River backs-up water in smaller rain events such as 2.26". Increasing the capacity of the CD 16 system will send additional early water into the Roseau River, which appears to have a capacity problem in smaller rain events. In the final engineer's report please describe the outlet capacity of the Roseau River and its effect on drainage in the CD 16 system during 5-, 10-, 25-, and 50-year flood events.
5. Describe whether the system will have continuous flows. If it does, this can affect channel stability and we would then recommend consideration of measures such as the use of a two-stage

ditch designs with a low-flow channel. Low-flow channels mimic natural stream design and prevents sedimentation build-up within the system. Trade-offs are they require additional right away and reduce maintenance needs.

6. 103E.015 requires consideration of wetland impacts. Item number 5 on page 35 only indicates that the project does not propose to drain public waters. The project mentions potential wetland impacts in Figure 20. Further review of the wetland delineation report in cooperation with the Wetland Conservation Act Local Government Unit (LGU) will be needed. The LGU may also desire a field delineation.

7. We recommend consulting with the State Historic Preservation Office for a review of the location before the project begins. Being this close to historic Roseau Lake, unanticipated cultural resources could occur. We also recommend contacting Roseau County SWCD for determination of wetland impacts.

8. A portion of the project lies within the Roseau River floodplain. DNR recommends ensuring that the proposed 1' to 2' berm will not cause a rise in the stage of the Roseau River.

9. To aid in wildlife and pollinator habitat as well as improve water quality, DNR recommends planting of BWSR Seed mix 32-241, native construction for the ditch, berm, and buffer areas.

**5. Senior Water Resources Engineer, Tom Wenzel from the Board of Water and Soil Resources (BWSR):**

Administrator Halstensgard read the following:

On behalf of the Minnesota Board of Water and Soil Resources, I offer this advisory report in accordance with Minnesota Statutes, Section 103D.711, Subdivision 5. As indicated in Subdivision 5, the advisory report shall include:

- 1) A statement about the completeness of the report in relation to statutory requirements;
- 2) A statement as to whether or not the report presents a practical plan;
- 3) Recommendations for changes, if considered advisable, and
- 4) A recommendation as to whether a soil survey appears advisable.

**General Comments**

A soil survey is probably not necessary for the entire project. It may be advisable to perform some geotechnical work to determine a suitable minimum side slope of the ditch that will reduce costs yet ensure stability. The project plan nonetheless appears practicable and the report adequate in relation to statutory requirements, subject to the following specific comments.

**Specific Comments**

The report suggests this project, in conjunction with other work in the watershed will work together to reduce flooding problems downstream such that adequacy of the outlet is not in question. Peak flow rates for the 10 year and other events are projected to increase substantially, under the project. A quantified assessment of these increased flows and their impact to the Roseau River should be considered. It is reasonable to assume that several projects, like this one, would cumulatively impact peak flows and downstream flood elevations. Incorporating upstream temporary storage as part of this design, if applicable, might help to mitigate these increases. It

has been stated that the Whitney Lake project, if completed, would do just that. The question that perhaps needs to be asked is what happens if the Whitney Lake project is not completed? Is there a contingency plan for other measures that can be considered or required to reduce the downstream impact?

And finally, it is reported that the current outlet channel for the CD 16 ditch is experiencing head cutting and bank failures. These issues are attributed to the fairly steep profile of the ditch and its side slopes from the last culvert crossing at station 8+71 to the ditch's confluence with the river at station 0+00. The project proposes to generally keep this same profile along this stretch of ditch. Coupled with the potential significant increase in peak flows it is questioned why the project does not include design measures to stabilize this fairly steep reach of ditch and address the head cutting issue. Arguably, this will likely become a more significant issue should an improvement be approved as flow rates within the ditch will become significantly greater.

## **6. Take and Consideration of the Evidence**

Project Engineer, Jacob Huwe, of HDR gave a presentation explaining the engineer's preliminary survey report.

Testimony was taken from petitioners or objectors to the petition. The following comments were offered:

- a. Petitioners Jason Braaten and Greg Braaten were asked what the purpose of bringing forth the petition was. Mr. Jason Braaten explained that the reason for this petition was because of crop loss and financial hardship due to inadequate conveyance. Mr. Greg Braaten commented that they would like to reduce the number of days that crops are inundated.
- b. Douglas Erickson: Mr. Erickson commented that since he can remember, there has been difficulty in this area. He indicated that improved conveyance would reduce crop damage and loss.
- c. Jordan Erickson: Mr. Jordan Erickson indicated that he farms on leased land near Mr. Jason and Mr. Greg Braaten and has seen how a 3-4" rain affects crops and has experienced loss. He also indicated that this project would be beneficial for following generations of farmers in the area.
- d. Erik Magnusson: Mr. Magnusson farms on rented land and indicated that he is in support of the project. He questioned how the project cost per acre was figured. Administrator Halstengard indicated that the viewers will determine benefit. A portion of the levy will remain for maintenance so the fund balance in the ditch system is not depleted. Mr. Magnusson reiterated that farmers in the area are losing money each year.
- e. John Harder: Mr. Harder farms rented land and is in favor of the project. He has lost crops due to inadequate drainage. Estimated crop loss is 60 acres.
- f. Joe Laurin: Mr. Laurin asked if the CD16 project will make things better or worse for the WD3 system.

Manager Wensloff closed the meeting to public comment. The Board reviewed and considered evidence in the form of the petition, the preliminary engineering report, the report of the DNR, BWSR, and the testimony of petitioners or objectors to the petition.

## 7. Action by the Board

The Board was polled on each proposed finding:

### **Proposed Findings on Required Considerations:**

- a. Based upon the evidence, the Board finds that the private and public benefits will exceed the costs of the proposed drainage project;
- b. Based upon the evidence, the Board finds that anticipated agricultural land acreage availability and use in the drainage project or system will be increased from the present availability and use of the land;
- c. Based upon the evidence, the Board finds that anticipated land use within the drainage project or system will be improved the present use of the land;
- d. Based upon the evidence, the Board finds that the flooding characteristics of property in the drainage project or system and downstream for 5- and 10-year flood events will be improved, and for 25- and 50-year flood events will be insignificantly affected;
- e. Based upon the evidence, the Board finds that there are no viable alternative measures to drain the waters in the project area, nor that there are feasible alternative measures to conserve, allocate, and use the waters in the project area, including storage and retention of drainage waters;
- f. Based upon the evidence, the Board finds that there is a positive effect on water quality of constructing the proposed drainage project;
- g. Based upon the evidence, the Board finds that there is a positive effect upon fish and wildlife resources affected by the proposed drainage project;
- h. Based upon the evidence, the Board finds that the shallow groundwater availability, distribution, and use in the drainage project or system will be unaffected; and
- i. Based upon the evidence, the Board finds that the overall environmental impact of the above criteria relating to the proposed drainage project is positive.

### **Determination of public utility, benefit, or welfare**

Based upon the evidence, the Board finds that the proposed drainage project will be of public utility, benefit, or welfare in that it will protect agricultural lands from overflow and will reclaim or render suitable for cultivation agricultural lands which are normally wet and needing drainage.

### **Adequacy of Outlet**

Based upon the evidence, the Board finds that the outlet for the proposed drainage project is adequate to sustain the flow of water that is anticipated by the improvement.

Manager Diesen made a **motion** to adopt proposed findings a - i above. The motion was seconded by Manager Carriere and passed unanimously.

### **Proposed Finding for Continued Proceedings**

Based upon the evidence, the Board finds that the proposal as stated in the petition, is feasible, and there is a necessity for it. Additionally, the Board finds that the public benefit is greater than the environmental impact of the drainage project and that the outlet is adequate; therefore, it is appropriate for the Board to direct the engineer to proceed with a detailed survey and to issue its order appointing viewers.

Manager Diesen made a **motion** to continue with proceedings including the necessity of the engineer to address concerns raised by the DNR and BWSR as stated earlier in the proceedings. Manager Carriere seconded the motion. The motion passed unanimously.

Manager Diesen made the following **motion**: Based upon the findings, the Board's order directing the engineer to proceed with a detailed survey and appointing viewers to be determined shall issue forthwith. Petitioners shall post additional bond in the amount of \$40,000. The motion was seconded by Manager Schmalz and passed unanimously.

Manager Carriere made a **motion** to close the preliminary hearing. Manager Schmalz seconded the motion which passed unanimously.

Chairman Braaten resumed his position at the meeting at 9:35 a.m.

### **PROJECTS:**

Whitney Lake: Burl and Charles Peckman came to the RRWD on August 6, 2019. Administrator Halstengard spoke with them regarding retention area C. There was discussion related to easement and fee title. Administrator Halstengard asked if the Land Use Committee would be interested in getting together to begin the framework for a policy regarding the purchase of land for projects. The board is favorable to the land use committee meeting. Few watershed districts have steadfast policies because of the variation in purchasing situations. The land use committee will bring recommendations to the board for consideration.

An Open House for both the Whitney Lake and WRAPS projects will be on September 19, 2019. Step 2 for retention site C will be submitted to the RRWMB for consideration and then to TAC. CP3 has been submitted to CORPS. RCPP plan will be submitted by the end of September.

Retention site A is moving forward as well, however with the addition of the CD16 petition, retention site C is moving more quickly.

Randy Prachar brought up one of the DNR recommendations to study the cumulative impacts of all the watershed projects. He encouraged the board to begin addressing how the projects will work together. Operation plans will likely need to be adjusted accordingly.

Engineer Dalager commented that discussion on stitching the hydraulics of the individual projects has been taking place. Manager Wensloff asked if some of the work has been done already. Administrator Halstengard commented that Houston has run models up to the Roseau Lake area. Both Houston and HDR have most of the necessary information. A meeting with the engineering firms will be forthcoming to discuss ways to stitch the information together. Specialist McCormack asked if a watershed wide model is part of the One Watershed, One Plan process.

Roseau Lake:

There was a brief discussion regarding LSOHC funding.

## **NEW BUSINESS:**

September meeting: The regular meeting of the RRWD Board of Managers will be held on September 10, 2019 at 8:00 a.m. due to Specialist McCormack and Administrator Halstensgard presenting at an LSOHC hearing on the Roseau River Restoration Project.

Budget: Administrator Halstensgard presented a proposed budget to the board for discussion. Manager Wensloff made a **motion** to accept the proposed budget and to schedule the budget hearing for September 10, 2019 at 8:30 am. Manager Carriere seconded the motion which passed unanimously. Administrator Halstensgard presented proposed ditch levies and current fund balances. Manager Wensloff made a **motion** to accept the proposed ditch levy percentages. Manager Schmalz seconded the motion which passed unanimously.

## **PERMITS:**

Permit #19-16 (Grimstad Township): Grimstad Township submitted a permit application to build a new road and install 5 culverts on the section line between sections 13 and 14. Elevation data was collected in late July. Manager Wensloff made a **motion** to approve permit #19-16. The motion was seconded by Manager Diesen and passed unanimously.

Permit #19-20 (RCHD): The Roseau County Highway Department submitted a permit application to lower an existing culvert along 520th Avenue along with cleaning the road ditch. Manager Wensloff made a **motion** to approve permit #19-20. The motion was seconded by Manager Schmalz and passed unanimously.

Permit #19-21 (K. Solberg): Mr. Solberg submitted a permit application to replace an existing culvert with a larger culvert and trap. Manager Schmalz made a **motion** to approve permit #19-21. The motion was seconded by Manager Carriere and passed unanimously.

Permit #19-23 (RCHD): The Roseau County Highway Department submitted a permit application to replace an 8' x 5' box culvert with a 48" round through the former railroad bed on CD18. Manager Wensloff made a **motion** to approve Permit #19-23. Manager Schmalz seconded the motion which passed unanimously.

## **REPORTS:**

Attorney Moren informed the board of paperwork received by the RRWD for an Assent to Title Registration. Upon her recommendation to sign the assent, Manager Wensloff made a **motion** to sign the assent. Manager Carriere seconded the motion which passed unanimously.

Attorney Moren asked for clarification on the match responsibility on behalf of the City of Roseau for the Outdoor Recreation Grant awarded in June 2019. 256

Specialist McCormack informed the board that mowing will be completed on the West Intercept. Pry bars for traps on WD3 Lat2 were installed. A quote for a half stainless half rubber trap was sent to the office by Intercept Industries. After discussion, Manager Diesen made a **motion** to purchase the "half-trap". Manager Schmalz seconded the motion which passed unanimously.

The Arpin / Lost River Forest Restoration was approved for LCCMR funding pending legislative approval. There was discussion regarding the purchase of an ATV with tracks for work in sensitive areas. There was discussion regarding debris removal at Mickelson Bridge.

Chairman Braaten discussed the meeting with NRCS National Watershed Program Manager, Kevin Farmer and NRCS National Water Management Center Director, Doris Washington who were in ND and MN to discuss RCPP plans and processes.

**OTHER BUSINESS:**

The next RRWD Board meeting will take place on September 10, 2019 at 8:00 am.

Manager Carriere made a **motion** to adjourn at 10:20 a.m. The motion was seconded by Manager Diesen, and passed unanimously.

Respectfully submitted,

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Cody Schmalz, Secretary

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Tracy Halstensgard, Administrator